Volume 2

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1986

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 3, 1986
and General Election, November 4, 1986

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

1985–86 Regular Session
1985–86 First Extraordinary Session

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CHAPTER 454

An act to amend Sections 21575 and 21577 of, and to add Section 20527.91 to, the Water Code, relating to irrigation districts.

[Approved by Governor July 22, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 20527.91 is added to the Water Code, to read:

20527.91. Notwithstanding Section 20527 or any other provision of law, in the Big Springs Irrigation District in Siskiyou County and in the Princeton-Codora-Glenn Irrigation District every owner of real property within the district, but no others, may vote at elections for directors or otherwise. Owners need not be residents of the district in order to qualify as voters. The last equalized county assessment role is conclusive evidence of ownership of the real property so owned. Where land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of the land shall designate in writing which one of the owners shall be deemed the owner of the land for purposes of qualifying as a voter.

The legal representative of a corporation or estate owning real property may vote on behalf of the corporation or estate. As used in this section, legal representative means an official of a corporation owning real property or a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who is all of the following:

(a) Appointed under the laws of this state.

(b) Entitled to the possession of the estate's real property.

(c) Authorized by the appointing court to exercise the particular right, privilege, or immunity which the legal representative seeks to exercise. Before a legal representative votes at a district election, the legal representative shall present to the precinct board a certified copy of his or her authority which shall be kept and filed with the returns of the election.

Every voter, or his or her legal representative, may vote at any district election either in person or by a person duly appointed as his or her proxy, but shall be entitled to cast only one vote. The appointment of a proxy shall be as provided in Section 35005.

Notwithstanding Section 21100 or any other provision of law, any voter as defined in this section is eligible to be a member of the Board of Directors of the Big Springs Irrigation District or the Board of Directors of the Princeton-Codora-Glenn Irrigation District.

SEC. 2. Section 21575 of the Water Code is amended to read:

21575. Any district having less than 2,500 acres within its boundaries, having less than 100 electors residing within it, and having only three divisions may abolish the divisions in it pursuant

to this article.

Any district having not more than 15 freeholders who are voters shall have no divisions.

SEC. 3. Section 21577 of the Water Code is amended to read:

21577. The board of supervisors shall thereupon find whether or not there are less than 2,500 acres in the district, less than 100 electors residing in it, and only three divisions in it.

SEC. 4. The provisions of Section 1 are necessary because a substantial portion of the land in the Big Springs Irrigation District and the Princeton-Codora-Glenn Irrigation District is owned by persons who are not residents within the district and the owners, and not the resident nonowners, are primarily concerned with the affairs and support of the district. This problem is not common to all districts formed under the Irrigation District Law. It is therefore hereby declared that a general law cannot be made applicable and that the enactment of this section as a special law is necessary for the solution of problems existing in the Big Springs Irrigation District and the Princeton-Codora-Glenn Irrigation District.

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 455

An act to amend Sections 1429 and 1439 of, and to repeal and add Sections 1425 and 1435 of, the Water Code, relating to water rights.

[Approved by Governor July 22, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 1425 of the Water Code is repealed.

SEC. 2. Section 1425 is added to the Water Code, to read:

1425. (a) Any person, whether or not an applicant, permittee, or licensee under provisions of this division other than this chapter, who has an urgent need to divert and use water may apply for, and the board may issue, a conditional, temporary permit without complying with other procedures or provisions of this division, but subject to all requirements of this chapter.

(b) Prior to issuing a permit pursuant to this chapter, the board shall make all of the following findings:

(1) The applicant has an urgent need for the water proposed to be diverted and used.

(2) The water may be diverted and used without injury to any lawful user of water.

(3) The water may be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses.

(4) The proposed diversion and use are in the public interest, including findings to support permit conditions imposed to assure that the water is diverted and used in the public interest, without injury to any lawful user of water, and without unreasonable effect upon fish, wildlife, and other instream beneficial uses.

(c) "Urgent need," for the purposes of this chapter, means the existence of circumstances from which the board may in its judgment conclude that the proposed temporary diversion and use is necessary to further the constitutional policy that the water resoures of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented; except that the board shall not find an applicant's need to be urgent if the board in its judgment concludes, if applicable, that the applicant has not exercised due diligence either (1) in making application for a permit pursuant to provisions of this division other than this chapter, or (2) in pursuing that application to permit.

(d) The board may delegate to any employee of the board, including, but not limited to, individual members of the board, all or any of its functions under this chapter, except that the board shall, at a board meeting held not later than 30 days following issuance, review and validate any temporary permit issued by an employee.

SEC. 3. Section 1429 of the Water Code is amended to read:

1429. The board shall supervise diversion and use of water under the temporary permit for the protection of all lawful users of waters and instream beneficial uses and for compliance with permit conditions.

SEC. 4. Section 1435 of the Water Code is repealed.

SEC. 5. Section 1435 is added to the Water Code, to read:

1435. (a) Any permittee or licensee who has an urgent need to change a point of diversion, place of use, or purpose of use from that specified in the permit or license may petition for, and the board may issue, a conditional, temporary change order without complying with other procedures or provisions of this division, but subject to all requirements of this chapter.

(b) Prior to issuing a change order pursuant to this chapter, the board shall make all of the following findings:

(1) The permittee or licensee has an urgent need to make the proposed change.

(2) The proposed change may be made without injury to any other lawful user of water.

(3) The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses.

(4) The proposed change is in the public interest, including findings to support change order conditions imposed to assure that the change is in the public interest, and may be made without injury to any other lawful user of the water, and without unreasonable effect upon fish, wildlife, and other instream beneficial uses.

(c) "Urgent need," for the purposes of this chapter, means the existence of circumstances from which the board may in its judgment conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented; except that the board shall not find a petitioner's need to be urgent if the board in its judgment concludes, if applicable, that the petitioner has not exercised due diligence either (1) in petitioning for a change pursuant to provisions of this division other than this chapter, or (2) in pursuing that petition for change.

(d) The board may delegate to any employee of the board, including, but not limited to, individual members of the board, all or any of its functions under this chapter, except that the board shall, at a board meeting held not later than 30 days following issuance, review and validate any temporary change order issued by an employee.

SEC. 6. Section 1439 of the Water Code is amended to read:

1439. The board shall supervise diversion and use of water under the temporary change order for the protection of all other lawful users of water and instream beneficial uses and for compliance with change order conditions.

CHAPTER 456

An act to add Section 7444.1 to, and to add Article 7.5 (commencing with Section 7386) to Chapter 10 of Division 3 of, the Business and Professions Code, relating to cosmetology, and making an appropriation therefor.

[Approved by Governor July 22, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Article 7.5 (commencing with Section 7386) is added to Chapter 10 of Division 3 of the Business and Professions Code, to read:

Article 7.5. Mobile Cosmetological Units

7386. For purposes of this article, "mobile cosmetological unit" or "mobile unit" means any self-contained, self-supporting, enclosed mobile unit which is at least 24 feet in length wherein is practiced any branch or any combination of branches of cosmetology, or the occupation of a cosmetologist, except the branch of manicuring as practiced in barbershops, licensed by the board and complying with this article and all sanitary regulations established by the board.

7386.1. (a) Any person, firm, or corporation desiring to operate a mobile cosmetological unit shall make an application to the board for a certificate of registration and license containing the information and data set forth in subdivision (b). The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure under Section 480. A certificate issued pursuant to this section shall authorize the operation of the unit only within those geographical boundaries designated by the board. Operation of the unit outside of the geographical boundaries for which the certificate is issued shall be unlawful, unless a certificate for the expanded geographic area has been obtained upon compliance with this article applicable to the issuance of a certificate in the first instance.

(b) Each application shall include the following:

(1) A detailed floor plan showing the location of doors, windows, restrooms, facilities, sinks, lift or ramps, ventilation, equipment, and dimension of the mobile unit in compliance with this article.

(2) Proof of purchase of the mobile unit and shop equipment.

(3) The required fee.

(4) Copies of applicable county and city licenses or permits to provide the mobile cosmetological services in each county and city of operation and the locations therein where the services will be offered.

(5) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(6) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

(7) A permanent base address from which the mobile unit shall operate.

(c) After initial approval of the floor plan and application has been granted, the applicant shall schedule an appointment to show the mobile unit to the board, or representative of the board, for final approval.

7386.2. An application to transfer ownership of an existing licensed unit shall be filed by the purchaser with the board within 10 days after purchase. Each application shall include the following:

(a) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit.

(b) Bills of sale proving purchase of existing equipment and mobile unit.

(c) The existing shop license.

(d) The required fee.

(e) Copies of applicable city and county licenses or permits to provide the mobile cosmetological services in each county and city of operation issued in the new owner's name.

(f) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(g) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

7386.3. (a) Mobile units shall comply with regulations adopted by the board that assure that the unit shall be kept clean, in good repair, and in compliance with this article.

(b) Each mobile unit shall be equipped with each of the following functioning systems:

(1) An ultraviolet sterilization system.

(2) A self-contained, portable water supply. The portable water tanks shall be not less than 100 gallons, and the holding tanks shall be of adequate capacity. In the event of depletion of portable water, operation shall cease until the supply is replenished.

(3) Continuous, on-demand hot water tanks which shall be not less than six-gallon capacity.

(4) Self-contained, recirculating, flush chemical toilet with holding tank.

(5) A covered galvanized, stainless steel, or other noncorrosive metal containers for purposes of depositing hair clippings, refuse, and other waste materials.

(6) A split lead generator having a capacity of not less than 6500 watts, with a remote starter, muffler, and a vent to the outside.

(7) A sealed combustible heater unit of not less than 30,000 BTU with an outside vent.

7386.4. A mobile cosmetological unit shall, at all times, be in the charge of a licensed cosmetologist, except that if the operations within the unit are limited to the practice of electrology, the unit may, at all times, be in the charge of a licensed electrologist, and if the operations within the unit are limited to the practice of manicuring, the unit may, at all times, be in the charge of a licensed manicurist, and if the operations within the unit are limited to the practice of a cosmetician, the unit may, at all times, be in the charge of a licensed cosmetician.

7386.5. It is unlawful to operate a mobile cosmetological unit that is not duly registered and licensed by the board.

It is unlawful for any person to employ, or allow to be employed, or permit to work, in or about a mobile cosmetological unit, any person who performs cosmetology services and is not duly registered or licensed by the board.

Any person who violates this section is guilty of an infraction.

7386.6. No person having charge of a mobile cosmetological unit, whether as an owner or an employee, shall permit any room or part thereof in which any of the branches or practices of cosmetology are conducted, practiced, or taught, to be used for sleeping or residential purposes or for any other purpose that would make the unit unsanitary.

This section shall not apply when the mobile cosmetological unit is used for purposes other than the practice of cosmetology or any of its branches outside of the designated geographical boundaries for which it is licensed.

7386.7. All laws governing cosmetological establishments in this chapter, except Article 7 (commencing with Section 7380), apply to mobile cosmetological units, unless otherwise provided.

SEC. 2. Section 7444.1 is added to the Business and Professions Code, to read:

7444.1. The amount of the fees payable under this chapter relating to licenses to operate a mobile cosmetological unit are as follows:

(a) The application fee shall be not more than fifty dollars ($50).

(b) The initial inspection and license fee shall be not more than one hundred dollars ($100).

(c) The renewal fee shall be not more than thirty dollars ($30).

(d) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

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 457

An act to amend Section 29154 of the Food and Agricultural Code, relating to bees.

[Approved by Governor July 22, 1986 Filed with Secretary of State July 23, 1986]

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

SECTION 1. Section 29154 of the Food and Agricultural Code is amended to read:

29154. The inspector, if a disease is brought to his or her attention in writing, shall, or if he or she deems it necessary, may enter any premises and make an inspection of any apiary within his or her jurisdiction. He or she shall report his or her inspection and findings to the beekeeper in person or by mail within five days. If any disease is found in the apiary, the inspector making the inspection shall plainly mark the hives or combs which contain evidence of disease. The inspector may place a band with a seal around a diseased hive. If the inspector finds American foulbrood disease has infected more than two hives of 99 colonies or less, or 2 percent or more of colonies of 100 or more, he or she shall make a complete inspection of all the hives in the apiary and the owner of the hives in the apiary shall pay the cost of the complete inspection. If the inspector finds American foulbrood disease has infected less than 2 percent of colonies of 100 or more as the result of an inspection made after the disease was

brought to the inspector's attention in writing, the commissioner may assess the costs of the inspection on the person who brought the disease to the inspector's attention.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 2. 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 458

An act to amend Section 23355.2 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 22, 1986 Filed with Secretary of State July 23, 1986]

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

SECTION 1. Section 23355.2 of the Business and Professions Code is amended to read:

23355.2. (a) For purposes of this section, "controlled access alcoholic beverage cabinet" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, and access to the interior of which is (1) restricted by means of a locking device which requires the use of a key, magnetic card, or similar device, or (2) controlled at all times by the licensee.

(b) Notwithstanding any other provision of this division, a hotel or motel having an on-sale license may sell alcoholic beverages to its registered guests by means of a controlled access alcoholic beverage cabinet located in the guestrooms of those registered guests, provided that each of the following conditions is met:

(1) Access to a controlled access alcoholic beverage cabinet in a particular guestroom is provided, whether by furnishing a key, magnetic card, or similar device, or otherwise, only to the adult registered guest, if any, registered to stay in the guestroom.

(2) Prior to providing a key, magnetic card, or other similar device required to attain access to the controlled access alcoholic beverage cabinet in a particular guestroom to the registered guest thereof, or prior to otherwise providing access thereto to the registered guest, the licensee shall verify, in accordance with Article 3 (commencing with Section 25657), of Chapter 16 of this division, that each registered guest to whom a key, magnetic card, or similar

device is provided, or to whom access is otherwise provided, is not a minor.

(3) All employees handling the alcoholic beverages to be placed in the controlled access alcoholic beverage cabinet in any guestroom, including, but not limited to, any employee who inventories or restocks and replenishes the alcoholic beverages in the controlled access alcoholic beverage cabinet, shall be at least 21 years of age.

(4) There is no replenishing or restocking of the alcoholic beverages in any controlled access alcoholic beverage cabinet between the hours of 2 a.m. and 6 a.m. of the same day.

(c) Notwithstanding any other provision of this division, a hotel or motel having an on-sale general license may, upon issuance of a permit from the department, sell from its controlled access alcoholic beverage cabinets distilled spirits in containers of 50 milliliters or less, or in containers of comparable size. The department shall charge an annual fee for a permit issued pursuant to this subdivision equal to the annual renewal fee applicable to an off-sale general license pursuant to Section 23320.

(d) Notwithstanding any other provision of this division, a hotel or motel having an on-sale general license and an off-sale general license may sell from its controlled access alcoholic beverage cabinets distilled spirits in containers of 50 milliliters or less, or in containers of comparable size, without having to obtain the permit specified in subdivision (c).

(e) A controlled access alcoholic beverage cabinet may be part of another cabinet or similar device, whether refrigerated, in whole or in part, or nonrefrigerated, from which nonalcoholic beverages or food may be purchased by the guests in hotel or motel guestrooms. However, in that event, the portion of the cabinet or similar device in which alcoholic beverages are stored shall be a controlled access alcoholic beverage cabinet, as defined in this section.

(f) For purposes of this section, "hotel" or "motel" shall mean an establishment which is licensed to sell alcoholic beverages and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this subdivision, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial.

CHAPTER 459

An act relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1986. Filed with Secretary of State July 23, 1986]

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

SECTION 1. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Monterey County Service Area No. 74, Zone 1 (Prunedale Central) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 2. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Monterey County Service Area No. 74, Zone 2 (Prunedale Central) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 3. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Monterey County Service Area No. 74, Zone 3 (Prunedale Central) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 4. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Monterey County Service Area No. 74, Zone 4 (Prunedale Central) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 5. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Sonoma County Service Area No. 24 (Fitch Mountain Water Company, Inc.) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 6. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section

13819 of the Water Code to the Sonoma County Service Area No. 32 (Salmon Creek Water Company) for the purpose of improving its domestic water system to meet, at a minimum, safe drinking water standards.

SEC. 7. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Sonoma County Service Area No. 33 (Freestone Water Users, Inc.) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 8. The Department of Water Resources shall determine eligibility for the grants authorized in Sections 1 to 7, inclusive, in accordance with the California Safe Drinking Water Bond Law of 1984 (Chapter 10.2 (commencing with Section 13810) of Division 7 of the Water Code) and may make those grants in accordance with the bond law.

SEC. 9. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there are critical needs within the entities identified in Sections 1 to 7, inclusive, to immediately undertake certain improvements necessary to enable residents of those communities to have a dependable and potable water supply.

SEC. 10. The Legislature further finds and declares that the water systems of the entities identified in Sections 1 to 7, inclusive, have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within those communities and that these entities are only barely meeting the demand for water within those communities.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize grants from the California Safe Drinking Water Fund to the entities identified in this act to resolve the critical water supply problems of those communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 460

An act to amend Sections 1102, 1102.1, 1102.2, 1102.4, 1102.6, and 1102.12 of, to add Section 1102.14 to, and to repeal Section 1134.5 of, the Civil Code, relating to real property.

[Approved by Governor July 22, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 1102 of the Civil Code is amended to read:

1102. Except as provided in Section 1102.1, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property, or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

SEC. 2. Section 1102.1 of the Civil Code is amended to read:

1102.1. The provisions of this article do not apply to the following:

(a) 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 and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) 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 any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(e) Transfers from one co-owner to one or more other co-owners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) 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.

(j) Transfers or exchanges to or from any governmental entity.

SEC. 3. Section 1102.2 of the Civil Code is amended to read:

1102.2. The transferor of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

With respect to any transfer subject to subdivision (a) or (b), the transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, or any addendum attached thereto or on a separate document.

If any disclosure, or any material amendment of any disclosure, required to be made by this article, 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 a written notice of termination to the transferor or the transferor's agent.

SEC. 4. Section 1102.4 of the Civil Code is amended to read:

1102.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed

engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

SEC. 5. Section 1102.6 of the Civil Code is amended to read:

1102.6. The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF_____, COUNTY OF_____, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF _____, 19____. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:_____

_____

_____

_____

(list all substituted disclosure forms to be used in connection with this transaction)

II

SELLERS INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller __is __is not occupying the property.

A. The subject property has the items checked below (read across):

__Range	__Oven	__Microwave
__Dishwasher	__Trash Compactor	__Garbage Disposal
__Washer/Dryer Hookups	__Window Screens	__Rain Gutters
__Burglar Alarms	__Smoke Detector(s)	__Fire Alarm
__T.V. Antenna	__Satellite Dish	__Intercom
__Central Heating	__Central Air Cndtng.	__Evaporator Cooler(s)
__Wall/Window Air Cndtng.	__Sprinklers	__Public Sewer System
__Septic Tank	__Sump Pump	__Water Softener
__Patio/Decking	__Built-in Barbeque	__Gazebo
__Sauna	__Pool	__Spa __Hot Tub
__Security Gate(s)	__Garage Door Opener(s)	__Number Remote Controls
Garage: __Attached	__Not Attached	__Carport
Pool/Spa Heater: __Gas	__Solar	__Electric
Water Heater: __Gas		__Private Utility or
Water Supply: __City	__Well	
Gas Supply: __Utility	__Bottled	Other_____

Exhaust Fan(s) in_____ 220 Volt Wiring in_____ Fireplace(s) in_____
Gas Starter_____Roof(s): Type:_____ Age:_____(approx.)
Other:_____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? __Yes __No. If yes, then describe.

(Attach additional sheets if necessary.):_____
_____
_____
_____

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? __Yes __No. If yes, check appropriate space(s) below.

__Interior Walls __Ceilings __Floors __Exterior Walls __Insulation __Roof(s) __Windows __Doors __Foundation __Slab(s) __Driveways __Sidewalks __Walls/Fences __Electrical Systems __Plumbing/Sewers/Septics __Other Structural Components (Describe:_____
_____)
If any of the above is checked, explain. (Attach additional sheets if necessary):___
_____
_____
_____

C. Are you (Seller) aware of any of the following:

1. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property..... __Yes __No
2. Any encroachments, easements or similar matters that may affect your interest in the subject property..... __Yes __No
3. Room additions, structural modifications, or other alterations or repairs made without necessary permits..... __Yes __No
4. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes..... __Yes __No
5. Landfill (compacted or otherwise) on the property or any portion thereof..... __Yes __No
6. Any settling from any cause, or slippage, sliding, or other soil problems..... __Yes __No
7. Flooding, drainage or grading problems..... __Yes __No
8. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides..... __Yes __No
9. Any zoning violations, nonconforming uses, violations of "setback" requirements..... __Yes __No
10. Neighborhood noise problems or other nuisances..... __Yes __No
11. CC&R's or other deed restrictions or obligations..... __Yes __No
12. Homeowners' Association which has any authority over the subject property..... __Yes __No
13. Any "common area" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)..... __Yes __No
14. Any notices of abatement or citations against the property..... __Yes __No
15. Any lawsuits against the seller threatening to or affecting this real property..... __Yes __No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.): _____

_____

_____

_____

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller _____ Date _____

Seller _____ Date _____

III

AGENTS INSPECTION DISCLOSURE

(To be completed only if the seller is represented by an agent in this transaction.)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

_____

_____

_____

Agent (Broker Representing Seller)_____ By_____ Date_____
(Please Print) (Associate Licensee or Broker-Signature)

IV

AGENTS INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than the agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

_____

_____

_____

_____

Agent (Broker obtaining the Offer)_____ By_____ Date_____
(Please Print) (Associate Licensee or Broker-Signature)

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller_____ Date_____ Buyer_____ Date_____
Seller_____ Date_____ Buyer_____ Date_____

Agent (Broker Representing Seller) _____ By_____ Date_____
(Associate Licensee or Broker-Signature)

Agent (Broker obtaining the Offer)_____ By_____ Date_____
(Associate Licensee or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

SEC. 6. Section 1102.12 of the Civil Code is amended to read:

1102.12. (a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the disclosure required by this article to the transferee, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the disclosure document required and does not have written assurance from the transferee that the disclosure has been received, the broker shall advise the transferee in writing of his or her rights to the disclosure. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions Code.

SEC. 7. Section 1102.14 is added to the Civil Code, to read:

1102.14. (a) As used in this article, "listing agent" means listing agent as defined in subdivision (f) of Section 1086.

(b) As used in this article, "selling agent" means selling agent as defined in subdivision (g) of Section 1086, exclusive of the requirement that the agent be a participant in a multiple listing service as defined in Section 1087.

SEC. 8. Section 1134.5 of the Civil Code is repealed.

CHAPTER 461

An act to amend Sections 14400, 14409, 14602, 14700, and 14703 of the Financial Code, relating to credit unions.

[Approved by Governor July 22, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 14400 of the Financial Code is amended to read:

14400. (a) The savings capital of a credit union shall consist of the payments made by members on shares.

The credit union shares may be structured to include shares with a par value and shares with no par value.

The par value of credit union shares and the stated value of credit union shares without a par value shall be set out in the credit union's written savings capital structure policy pursuant to Section 14862.

(b) The equity capital of the credit union shall consist of all consideration paid for memberships in the credit union, all entrance fees paid to become a member of a credit union, all moneys held in the credit union's regular reserve account, all dues, fees, and

assessments paid by credit union members, other than fees charged in connection with member share accounts or loans, and held in any contingency reserve account established by the credit union's board of directors or at the direction of the commissioner, and all retained earnings in the credit union's undivided profits account less all losses in excess of the credit union's regular reserve account.

SEC. 2. Section 14409 of the Financial Code is amended to read:

14409. Every credit union shall:

(a) Obtain adequate surety bond coverage for the treasurer or chief financial officer conditioned upon the honest performance of his or her trust. The amount of such bond shall be based on the gross assets of the credit union and shall be established by a formula or schedule set forth in regulations adopted by the commissioner.

(b) Obtain adequate fidelity bond coverage for each officer and employee having control of or access to funds or securities owned by or pledged with a credit union commensurate with risks involved.

(c) Obtain fidelity bond coverage for its credit manager.

SEC. 3. Section 14602 of the Financial Code is amended to read:

14602. (a) No credit union shall create any obligation with a credit union member, without the written approval of a majority of the members of the credit committee or the credit manager or of a loan officer appointed as provided in this section.

(b) The credit committee or the credit manager may, with the approval of the board of directors, appoint one or more loan officers who shall be authorized to approve obligations with credit union members. Unless the credit union bylaws provide for the position of credit manager, any loan officer appointed pursuant to subdivision (b) shall be a member of the credit union and may, but need not be, a member of the credit committee.

(c) A credit committee, a credit manager, and any loan officer shall not have the power to approve membership applications.

(d) No loan officers shall be permitted to approve any extension agreement of any delinquent obligation or the refinancing of any delinquent obligation except as prescribed in regulations promulgated by the commissioner.

(e) The credit committee, or in the alternative, the credit manager shall be provided with a record of each obligation approved or not approved by any loan officer, within 30 days of the approval or disapproval.

SEC. 4. Section 14700 of the Financial Code is amended to read:

14700. Every credit union shall create and maintain a regular reserve as follows:

(a) All entrance fees remaining after the payment of organization expenses shall be set aside to the reserve.

(b) At the close of each accounting period, 10 percent of the gross income of the credit union shall be transferred to the reserve until it equals or exceeds 20 percent of the credit union's gross assets. When the regular reserve falls below 20 percent of the credit union's gross assets, it shall be replenished by contributions of 10 percent of

the gross income of the credit union or in lesser amounts as may be needed to maintain a level of 20 percent of gross assets, except that any credit union participating in a program of share insurance or guaranty approved by the commissioner may, in lieu of compliance with this section, maintain a regular reserve as may be specified by the commissioner.

(c) Any sums recovered on obligations previously charged to it shall be used as an offset against any increases in the allowance for loan losses account required pursuant to Section 14703 or, in the absence of any increases in the allowance for loan losses account, these recovered sums shall be credited to the regular reserve.

SEC. 5. Section 14703 of the Financial Code is amended to read:

14703. (a) A credit union shall establish an allowance for loan losses account based upon the credit union's previous loss experience, or based upon its foreseeable losses. The allowance for loan losses account shall initially be established by charging the regular reserve account, and thereafter, any increases or decreases in the balance shall be charged or credited to a provision for loan losses expense account.

(b) At the close of an accounting period, an adjustment shall be made in an amount equal to the balance in the provision for loan losses expense account. If the balance is a debit, regular reserves shall be charged, and undivided profits shall be credited, and, if the balance is a credit, undivided profits shall be charged and regular reserves shall be credited.

(c) For the purpose of calculating required transfers of income to regular reserves pursuant to Section 14700, any balances in the allowance for loan losses account may be included with the balance in the regular reserve account.

CHAPTER 462

An act to add Section 11564.5 to the Government Code, relating to state officers.

[Approved by Governor July 22, 1986 Filed with Secretary of State July 23, 1986]

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

SECTION 1. Section 11564.5 is added to the Government Code, to read:

11564.5. Notwithstanding any other provision of law, whenever a member of a board, commission, committee, or similarly constituted body created by executive order or statute, is authorized to receive a per diem salary or allowance in excess of expenses incurred by the member, that rate shall be established at one hundred dollars ($100) per day unless a higher rate is provided by statute. This section shall

not apply to those boards or commissions provided an annual salary in this chapter, nor to the board specified in Section 1150 of the Harbors and Navigation Code.

CHAPTER 463

An act to amend Sections 25502, 25503, 25503.5, 25504, 25505, 25506, 25507, 25508, 25509, 25510, 25512, 25513, and 25517 of, to add Sections 25501.1, 25501.2, 25505.1, 25505.2, 25509.1, 25513.1, 25515.1, 25515.2, 25516.1, 25516.2, and 25517.5 to, and to add and repeal Section 25505.3 of, the Health and Safety Code, relating to hazardous materials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 25501.1 is added to the Health and Safety Code, to read:

25501.1. Notwithstanding Section 25501, for purposes of this chapter, a hazardous substance specified in paragraph (3) of subdivision (k) of Section 25501 means those hazardous materials or substances listed in Parts 172 and 173 of Title 49 of the Code of Federal Regulations.

SEC. 2. Section 25501.2 is added to the Health and Safety Code, to read:

25501.2. For purposes of the inventory requirements of this chapter, "store," as used in subdivision (h) of Section 25501, does not include the storage of hazardous materials which are in transit or which are temporarily maintained in a fixed facility for a period of less than 30 days during the course of transportation.

SEC. 3. Section 25502 of the Health and Safety Code is amended to read:

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 or resolution, 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. The ordinance shall require that any person who violates Section 25507 shall be subject to the penalties specified in Section 25515. A city which assumes responsibility for implementation of this chapter shall provide notice of its ordinance

or resolution to the office and to the administrating agency of its county. It shall also 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.

No city may assume responsibility for the implementation of this chapter unless it has enacted an implementing ordinance or adopted an implementing resolution not later than 60 days after the office adopts regulations pursuant to Section 25503, except that a city may enact an implementing ordinance or adopt an implementing resolution after this 60-day period, if it has an agreement with the county to do so. Any new city has one year from the date of incorporation to enact an ordinance or adopt a resolution implementing this chapter.

(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.

SEC. 4. Section 25503 of the Health and Safety Code is amended to read:

25503. (a) Not later than September 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. All business plans and area plans shall meet the standards adopted by the office.

(b) The standards for business plans in the regulations 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 and nature of the business, the proximity of the business to residential areas and other populations, 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) Define what releases and threatened 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. An area plan is not a statute, ordinance, or regulation for purposes of Section 669 of the Evidence Code. The standards for area plans in the regulations adopted pursuant to subdivision (a) shall provide 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.

(9) Requirements for notification to the office of reports made pursuant to Section 25507.

(d) The administering agency shall submit a copy of its proposed area plan, within 180 days after adoption of regulations by the office establishing 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.

The administering agency shall certify to the office every three years that it has conducted a complete review of its area plan and has made any necessary revisions. Any time an administering agency makes any substantial changes to its area plan, it shall forward the changes to the office within 14 days after the changes have been made.

(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 designated entity. These inspections shall ensure compliance with this chapter and shall identify existing safety hazards that could cause or contribute to a release or suggest preventative measures designed to minimize the risk of the release of hazardous material into the workplace or environment. The requirements of this paragraph do not alter or affect the immunity provided a public entity pursuant to Section 818.6 of the Government Code.

(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. This data management system shall be in operation within two years after the business plans are required to be submitted to the administering agency pursuant to Section 25505.

(f) The regulations adopted by the office pursuant to subdivision (a) shall include an optional model reporting form for business and

area plans.

SEC. 5. Section 25503.5 of the Health and Safety Code is amended to read:

25503.5. (a) Any business, except as provided in subdivision (b), which handles a hazardous material or a mixture containing a hazardous material which has a quantity at any one time during the reporting year equal to, or greater than, a total weight of 500 pounds, or a total volume of 55 gallons, or 200 cubic feet at standard temperature and pressure for compressed gas, shall establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards in the regulations adopted pursuant to Section 25503.

(b) (1) Hazardous material contained solely in a consumer product for direct 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) In addition to the authority specified in paragraph (4), the administering agency may, in exceptional circumstances, following notice and public hearing, exempt from the inventory provisions of this chapter any hazardous substance specified in subdivision (k) of Section 25501, if the administering agency finds that the hazardous substance would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance was released into the environment. The administering agency shall specify in writing the basis for granting any exemption under this paragraph. The administering agency shall send a notice to the office within five days of the effective date of any exemption granted pursuant to this paragraph.

(3) The administering agency, upon application by a handler, may, exempt a handler under the conditions it deems proper from any portion of the business plan upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment or affect 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.

(5) An administering agency shall exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the information in the business plan required by subdivisions (b) and (c) of Section 25504 if all of the following requirements are met:

(A) The handler annually provides the inventory of information required by Section 25509 to the county agricultural commissioner before January 1 of each year.

(B) Each building in which hazardous materials subject to this chapter are stored is posted with signs, in accordance with regulations which the office shall adopt, which provide notice of the storage of any of the following:

(i) Pesticides.

(ii) Petroleum fuels and oil.

(iii) Types of fertilizers.

(C) Each county agricultural commissioner forwards the inventory to the administering agency within 30 days after receiving the inventory.

(c) The administering agency shall provide all information obtained from completed inventory forms, upon request, to emergency rescue personnel on a 24-hour basis.

(d) The administering agency shall adopt procedures to provide for public input when approving any applications submitted pursuant to paragraph (3) or (4) of subdivision (b).

SEC. 6. Section 25504 of the Health and Safety Code is amended to read:

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 the administering agency and to the appropriate local emergency rescue personnel.

(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.

(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). These training programs may take into consideration the position of each employee.

(d) Any business required to file a pipeline operations

contingency plan in accordance with the California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 3 of Division 1 of Title 5 of the Government Code) and the regulations of the Department of Transportation, found in Part 195 of Title 49 of the Code of Federal Regulations, may file a copy of those plans with the administering agency instead of filing an emergency response plan specified in subdivision (b).

(e) Any business operating a farm exempted by paragraph (5) of subdivision (b) of Section 25503.5 from filing the information specified in subdivisions (b) and (c), shall, notwithstanding this exemption, provide the training programs specified in subdivision (c).

SEC. 7. Section 25505 of the Health and Safety Code is amended to read:

25505. (a) 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), on or before January 1, 1988, and at least once every two years thereafter, to determine if a revision is needed and shall certify to the administering agency that the review was made and that any necessary changes were made to the plan. A copy of these changes shall be submitted to the administering agency as a part of this certification.

(d) 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. Notwithstanding any other provision of law, an inventory form shall be filed on or before January 1, 1988, for the 1988 calendar year, and annually thereafter. This inventory shall be filed annually, notwithstanding the review requirements of subdivision (c).

SEC. 8. Section 25505.1 is added to the Health and Safety Code, to read:

25505.1. An administering agency may use the offices of the

county agricultural commissioners to distribute business plan forms to farmers who are subject to Section 25505.

SEC. 9. Section 25505.2 is added to the Health and Safety Code, to read:

25505.2. (a) Notwithstanding any other provision of this chapter, any city or county which, on September 1, 1985, had in effect a local ordinance containing business inventory reporting requirements substantially similar to this chapter, as amended by the act enacting this section, is exempt from having to implement any regulations adopted by the office concerning business plans upon meeting both of the following requirements:

(1) Not later than 90 days after the effective date of the act enacting this section, the city or county enacts an ordinance, or amends its existing ordinance, so that its requirements for business plans are the same as, or more restrictive than, this chapter, including subdivision (a) of Section 25503.5 and Sections 25504 and 25509.

(2) The office certifies that the ordinance's requirements are in compliance with paragraph (1) and that the city or county is implementing the ordinance, based upon evidence submitted by the city or county. Applications for exemption shall be filed with the office not later than 120 days from the effective date of the act enacting this section and the office shall certify or reject the applications within 60 days after receipt. The city or county may file an appeal of the decision of the office with the Director of the Office of Emergency Services, under procedures established by the office.

(b) This section does not exempt any administering agency from compliance with any other provision of this chapter.

(c) Any business located in a city or county which is exempt from the regulations adopted pursuant to this chapter concerning business plans, shall comply with the ordinance adopted by the city or county.

SEC. 10. Section 25505.3 is added to the Health and Safety Code, to read:

25505.3. (a) Any administering agency which, pursuant to a local ordinance, is collecting substantially the same information required by Sections 25504 and 25509, on or before the business plan submission date specified in subdivision (a) of Section 25505, may collect only the additional information necessary to bring the business plans and inventory forms into compliance with this chapter, for the purposes of the business plans and inventory forms required to be submitted in 1987.

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

SEC. 11. Section 25506 of the Health and Safety Code is amended to read:

25506. The administering agency shall maintain records 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, except that those portions of the business plan specifying the precise location where hazardous materials are stored and handled onsite, including any maps of the site, as required by paragraph (5) of subdivision (a) of Section 25509, shall not be available for inspection. The administering agency shall transmit copies of the entire business plan or any information contained in the business plan to any requesting state or local agency.

SEC. 12. Section 25507 of the Health and Safety Code is amended to read:

25507. (a) Except as provided in subdivision (b), 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.

(b) Subdivision (a) does not apply to any person engaged in the transportation of a hazardous material on a highway which is subject to, and in compliance with, the requirements of Sections 2453 and 23112.5 of the Vehicle Code.

SEC. 13. Section 25508 of the Health and Safety Code is amended to read:

25508. In order to carry out the purposes of this chapter, any employee or authorized representative of an administering agency has the authority specified in Section 25185, with respect to the premises of a handler, and in Section 25185.5, with respect to real property which is within 2,000 feet of the premises of a handler, except that this authority shall include inspections concerning hazardous material, in addition to hazardous waste.

SEC. 14. Section 25509 of the Health and Safety Code is amended to read:

25509. (a) The annual inventory form shall include, but shall not be limited to, information on all of the following which are handled in quantities equal to or greater than the quantities specified in subdivision (a) of Section 25503.5:

(1) A listing of the chemical name and common names of every hazardous substance or chemical product handled by the business.

(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.

(3) A listing of the chemical name and common names of every other hazardous material or mixture containing a hazardous material handled by the business which is not otherwise listed pursuant to paragraph (1) or (2).

(4) The maximum amount of each hazardous material or mixture containing a hazardous material disclosed in paragraphs (1), (2), and (3) which is handled at any one time by the business over the course of the year.

(5) Sufficient information on how and where the hazardous materials disclosed in paragraphs (1), (2), and (3) 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.

SEC. 15. Section 25509.1 is added to the Health and Safety Code, to read:

25509.1. Notwithstanding subdivision (a) of Section 25509, an administering agency may collect any or all of the information required to be reported in an inventory form from another public agency, under all of the following conditions:

(a) The information collected is the same information required under subdivision (a) of Section 25509.

(b) The administering agency receives this information not later than would otherwise be required under this chapter.

(c) The information was originally provided by the handler to the public agency pursuant to a statutory requirement.

SEC. 16. Section 25510 of the Health and Safety Code is amended to read:

25510. Within 30 days of any one of the following events, any business subject to Section 25505 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.

SEC. 17. Section 25512 of the Health and Safety Code is amended to read:

25512. (a) 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.

(b) Compliance with this chapter shall not be deemed to be compliance with the duty of care required of any business for purposes of any judicial or administrative proceeding conducted

pursuant to any other provision of law.

SEC. 18. Section 25513 of the Health and Safety Code is amended to read:

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 this chapter. In determining the fee schedule, the administering agency shall consider the volume and degree of hazard potential of the hazardous materials handled by the businesses subject to this chapter.

SEC. 19. Section 25513.1 is added to the Health and Safety Code, to read:

25513.1. (a) On or before January 1, 1987, the board of supervisors of a county may, by resolution, apply to the Controller for a loan to pay for the costs necessary to initially implement this chapter.

(b) Each county may apply for one loan in an amount not to exceed seventy-five thousand dollars ($75,000).

(c) The Controller shall develop procedures for the submission of resolutions pursuant to this section.

(d) A county shall repay the loan within 15 months from the day the loan is made by the Controller, or on April 1, 1988, whichever comes first. The loan shall be repaid with interest charged at the rate of interest earned by the Pooled Money Investment Account on the date when the loan is made.

(e) There is hereby appropriated from the General Fund to the Controller, the funds necessary to make the loans pursuant to this section.

(f) If a county does not repay the loan and interest thereon within the time required by subdivision (d), the Controller shall withhold the amount which is unpaid from any state payments which are due to the county.

SEC. 20. Section 25515.1 is added to the Health and Safety Code, to read:

25515.1. Any person who willfully prevents, interferes with, or attempts to impede the enforcement of this chapter by any authorized representative of an administering agency is, upon conviction, guilty of a misdemeanor.

SEC. 21. Section 25515.2 is added to the Health and Safety Code, to read:

25515.2. (a) All criminal penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(2) Fifty percent shall be paid to the agency which is responsible for the investigation of the action.

(b) All civil penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(2) Fifty percent shall be paid to the agency responsible for the investigation of the action.

(c) In all civil and criminal actions in which a penalty is imposed, the amount of two hundred dollars ($200) shall be deducted from the amount of the civil or criminal penalty before the amount is apportioned pursuant to subdivision (a) or (b). This two hundred dollars ($200) shall be deposited in the Hazardous Material and Waste Enforcement Training Fund, which is hereby established in the General Fund.

(d) The moneys in the Hazardous Material and Waste Enforcement Training Fund shall be available for expenditure, upon appropriation by the Legislature, to the Office of Criminal Justice Planning, to support training in the investigation and prosecution of violations of laws and regulations concerning hazardous materials and wastes by local, county, and state hazardous material and waste enforcement officers, including, but not limited to, firefighters, police officers, local health officers, city attorney and district attorney criminal investigators, city attorneys, and district attorneys.

(e) If a reward is paid to a person pursuant to Section 25517, the amount of the reward shall be deducted from the amount of the criminal or civil penalty before the amount is apportioned pursuant to subdivision (a), (b), and (c).

SEC. 22. Section 25516.1 is added to the Health and Safety Code, to read:

25516.1. Every civil action brought under this chapter shall be brought by the city attorney, district attorney, or Attorney General in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

SEC. 23. Section 25516.2 is added to the Health and Safety Code, to read:

25516.2. (a) In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

(1) Irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued.

(2) The remedy at law is inadequate.

(b) The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this chapter without the allegations and without the proof specified in subdivision (a).

SEC. 24. Section 25517 of the Health and Safety Code is amended to read:

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, district attorney, or the Attorney General filing the action, shall be paid a reward by the administering agency or the state equal to 10 percent of the amount of the civil penalty collected. The reward shall be paid from 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, district attorney, or the Attorney General filing the action, shall be paid a reward by the administering agency or the state equal to 10 percent of the amount of the fine collected. The reward shall be paid from the amount of the fine collected. 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 office which brought the action 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) The administering agency or the state shall pay rewards under this section pursuant to the following procedures:

(1) An application shall be signed by the informant and presented to the administering agency or the state within 60 days after a final judgment has been entered or the period for an appeal of a judgment has expired.

(2) The determination by the district attorney or city attorney or Attorney General as to whether the information provided by the applicant materially contributed to the imposition of a judgment under Sections 25514 or 25515 shall be final.

(3) The administering agency or the state shall notify the

applicant in writing of its decision to grant or deny a reward within a reasonable time period following the filing of an application.

(4) Approved reward claims shall be paid by the administering agency or the state within 30 days of the collection and deposit of the penalties specified in subdivisions (a) and (b).

(h) The names of reward applicants or informants shall not be disclosed by the administering agency or the state unless the names are otherwise publicly disclosed as part of a judicial proceeding.

(i) Notwithstanding any other provision of this section, rewards paid by the state shall only be paid after appropriation by the Legislature.

SEC. 25. Section 25517.5 is added to the Health and Safety Code, to read:

25517.5. (a) The office may develop materials, such as guidelines and informational pamphlets, to assist businesses to fulfill their obligations under this chapter.

(b) The office may adopt emergency regulations for the purpose of implementing Sections 25503 and 25509. These emergency regulations shall be adopted by the office in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, 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, or general welfare.

SEC. 26. 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 (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.

SEC. 27. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public health and safety and the environment from the dangers of the mishandling of hazardous materials, it is necessary that this act take effect immediately.

CHAPTER 464

An act to amend Section 242 of the Food and Agricultural Code, relating to the Department of Food and Agriculture.

[Approved by Governor July 23, 1986 Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 242 of the Food and Agricultural Code is amended to read:

242. Apportionment of the expenses shall be made and determined by the director, subject to the approval of the Director of Finance. The proportionate or computed share so charged shall not, however, exceed 5 percent of the collections which are made by the department for the bureau, division, board, or other agency and the share shall further be limited to only those costs for which direct benefits are derived by the programs against which the costs are being charged.

CHAPTER 465

An act to add Section 30420 to the Public Resources Code, relating to the California Coastal Commission.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 30420 is added to the Public Resources Code, to read:

30420. Prior to taking any action on (1) a local coastal program or any amendment thereto, (2) any coastal development permit, or (3) any consistency determination or certification, which relates to the disposal of hazardous substances at sea, the commission shall consult with the following governmental entities:

(a) State Department of Health Services.

(b) State Lands Commission.

(c) State Air Resources Board and relevant air pollution control districts or air quality management districts.

(d) Department of Fish and Game.

(e) State Water Resources Control Board and relevant California regional water quality control boards.

(f) Secretary of Environmental Affairs.

(g) Governor's Office of Planning and Research.

(h) The local government located closest to the proposed activity,

or within whose jurisdiction the activity is proposed, or within whose jurisdiction there may be effects of the proposed activity.

CHAPTER 466

An act to amend Section 66909.5 of the Government Code, relating to the California Tahoe Conservancy.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986]

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

SECTION 1. Section 66909.5 of the Government Code is amended to read:

66909.5. This chapter shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

CHAPTER 467

An act to amend Section 11403 of the Insurance Code, relating to insurance.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986]

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

SECTION 1. Section 11403 of the Insurance Code is amended to read:

11403. The membership of such association shall consist solely of the following or any combination thereof:

(a) Members of police departments of municipal or public corporations or districts.

(b) Members of fire departments of municipal or public corporations or districts.

(c) Peace or law enforcement officers who are regular and salaried officers or employees of the state or of a single county or other political subdivision or public or municipal corporation.

(d) Persons who are emergency medical services personnel and employed by a fire department of a city, county, or district.

(e) Persons who at the time of becoming members of such association were qualified pursuant to subdivisions (a), (b), (c), or (d) of this section.

CHAPTER 468

An act to amend Section 5346 of the Food and Agricultural Code, relating to quarantine inspection.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 5346 of the Food and Agricultural Code is amended to read:

5346. (a) It is unlawful for any person to conceal any plant from any plant quarantine officer or to fail to present it or any quarantined article for inspection at the request of such officer.

(b) It is unlawful to move into California any outdoor household article from a federally regulated gypsy moth area unless accompanied by certification that the article has been inspected and does not contain gypsy moth egg masses. The director may adopt regulations to specify the type of certification and inspection required as necessary to carry out this section.

CHAPTER 469

An act to add Section 49334 to the Education Code, relating to injurious objects.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 49334 is added to the Education Code, to read:

49334. If a school employee initially notifies a law enforcement agency regarding a student or adult who possesses an injurious object while upon school premises or while under the authority of school personnel, the employee may not be subject to any civil or administrative proceeding, including any disciplinary action, for violation of any local policy or procedure relating to the notification of a law enforcement agency. The employee shall conform to locally adopted procedures after exercising his or her personal option to notify a law enforcement agency.

CHAPTER 470

An act to add Section 491 to the Insurance Code, relating to insurance.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986]

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

SECTION 1. Section 491 is added to the Insurance Code, to read:

491. The rating plan of a motor vehicle liability insurer shall not provide for an increase in the premium if based upon an accident in which the insured is not at fault, in any manner, as determined by either the accident report or the insurer. In the event the insurer determines that its insured is at fault contrary to an accident report's specific finding that the insured is not at fault, the insurer shall reach its conclusion only after an investigation.

CHAPTER 471

An act to amend Sections 24807 and 24808 of, and to repeal Section 24809 of, the Education Code, relating to teachers' retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 23, 1986 Filed with Secretary of State July 23, 1986]

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

SECTION 1. Section 24807 of the Education Code is amended to read:

24807. The balance of the assets delivered to the district pursuant to subdivision (c) of Section 24806, after the transfers, deposits and payments required by such section, or after establishment of reserves from which such deposits and payments shall be made, shall be allocated and distributed as follows:

(a) Sixty-five percent of such balance shall be distributed to the undistributed reserve of the general fund of the district to be reduced to cash as necessary and appropriated in any year by majority vote of the governing board. Until the balance of the assets has been reduced to cash, the governing board may invest and reinvest the assets in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the governing board any sale and reinvestment is advisable. Ten percent of this amount shall be used only for maintenance operation.

(b) Twenty percent of such balance shall be transferred to a special account in the undistributed reserve of the district's general

fund to be reduced to cash as necessary in order to be used only for the purpose of reducing the tax collected pursuant to Section 23401 in order to provide the contributions required by Section 23400 to the Teacher's Retirement Fund. In the event that the special account is not wholly distributed for the purpose of making such contribution, the balance in the special account shall be released to the undistributed reserve. Until the balance of the assets has been reduced to cash, the governing board may invest and reinvest the assets in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the governing board any sale and reinvestment is advisable.

(c) Fifteen percent of such balance shall be held intact by the district in an annuity reserve fund from which shall be provided a supplementary annuity at time of retirement under any California public retirement system to or on behalf of those members of the local district retirement system who were on the active roll or members on the retired roll of such local district retirement system as of June 30, 1972, and those members added to the active and retired rolls between June 30, 1972, and any later date of discontinuance, and those probationary or permanently certificated employees of the district holding memberships in California public retirement systems other than the local district retirement system who are making contributions to such systems on June 30, 1972, or on any later date of discontinuance. The supplement annuity may be paid in lump sum or in installments for the life of the person eligible, or his or her beneficiary, after his or her retirement.

No such participant in the annuity reserve fund shall have vested rights to the benefits of this annuity reserve fund until he or she has continued in active service for a period of five years from the date of discontinuance of the local district retirement system, except participants who have separated from service by reason of retirement, including deferred retirement, or death.

An account shall be opened in the name of each person eligible to participate in the benefits of the annuity reserve fund to which shall be credited his or her share of the annuity reserve fund. The individual participant's share of this fund shall bear the same ratio to the total of this fund as his or her annuity savings contributions, including interest earned, to the retirement system, to which he or she is making annuity contributions as of June 30, 1972, or any later date of discontinuance, or, if a retired member, the date of retirement prior to June 30, 1972, bears to the total annuity savings contributions, including interest earned, of all such participants in the retirement systems to which they are making contributions at the date of discontinuance, including total contributions to the local district retirement system previously made by living members on the retired roll. The fund shall include principal and interest in the account of any participant forfeited because said participant separated from service, except by reason of retirement, including deferred retirement, or death, within five years from June 30, 1972,

or other date of discontinuance. Such forfeiture shall be treated as earnings of the fund.

As of June 30 each year, and on such other dates as the annuity reserve fund board may determine, the earnings of the fund less administrative expense shall be credited to the accounts of the remaining participants in the annuity reserve fund on the ratio that the participant's individual account balance bears to the total balance of the annuity reserve fund. The cost of administering the fund shall be charged against the assets of the fund, as approved by the governing board of the school district.

When a participant separates from service, the earnings since the preceding date on which the earnings of the fund, less administrative expenses, were credited to the accounts of the participants, shall remain in the fund. Any member whose accumulated contributions to the local retirement system exceed the amount required by law to be deposited by the member in the State Teachers' Retirement System's Annuity Fund upon discontinuance of the local system may deposit to his or her credit all or part of such excess amount in the annuity reserve fund.

The governing board of the school district which maintained the discontinued local district retirement system shall establish an annuity reserve fund board of not more than seven members, the majority of whom shall be composed of certificated employees who are participants in the annuity reserve fund. The certificated employees on the annuity reserve fund board shall be elected by participants in the annuity reserve fund. The annuity reserve fund board shall have the authority to make rules and regulations necessary for the management of the annuity reserve fund in accordance with modern business practice. The local district retirement board shall continue to function as the annuity reserve board pending its establishment.

Except as otherwise restricted by the California Constitution or by law, the annuity reserve fund board may, in its discretion, invest or reinvest the assets of the fund through the purchase, holding, or sale thereof of any investment, financial instrument, or financial transaction, if the investment, financial instrument, or financial transaction is prudent in the informed opinion of the annuity reserve fund board.

All securities and cash of the annuity reserve fund shall be held in a trust fund in the county treasury. The county treasurer, as one of his or her official duties, shall be a member ex officio of the annuity reserve fund board established to invest the assets of this fund.

Any funds raised for the support of the local district retirement system and not appropriated to any specific account shall be transferred to the annuity reserve fund. All payments from the district's annuity reserve fund shall be made in the same manner as payments from school district funds. The annuity reserve fund board may, at its discretion, request the district governing board to hold an election among existing annuity reserve fund participants as to

whether the board should distribute existing funds in the annuity fund. The annuity reserve fund board may prescribe all rules and regulations regarding such an election and is authorized to distribute such funds if a majority of such members so elect.

SEC. 2. Section 24808 of the Education Code is amended to read:

24808. The governing board may provide that members of the annuity reserve fund board be paid one hundred dollars ($100) for each meeting, not to exceed one meeting each month, if they are not being paid by the governing board for any other assignment at the time of the meeting. The compensation shall be a charge against the annuity reserve fund.

SEC. 3. Section 24809 of the Education Code is repealed.

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

In order that the benefits of the prudent expert standard for investment may commence to accrue at the earliest possible time to school districts with annuity reserve funds, including expanded investment powers and flexibility and potentially higher earnings, it is necessary that this act take effect immediately.

CHAPTER 472

An act to amend Section 18320 of the Financial Code, relating to industrial loan companies.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 23, 1986.]

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

SECTION 1. Section 18320 of the Financial Code is amended to read:

18320. Notwithstanding Section 18319, an industrial loan company shall in no event:

(a) Have outstanding at any time during its first 12 months of operation as an industrial loan company under this division, its investment certificates (exclusive of those hypothecated with the company issuing them) in an aggregate sum in excess of six times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(b) After 12 months of operation as an industrial loan company under this division and during the next 12 months of operation the industrial loan company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment

certificates hypothecated with the company issuing them) in no event shall exceed eight times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(c) After 24 months of operation as an industrial loan company under this division and during the next 24 months of operation the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed 12 times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(d) If after 36 months of operation as an industrial loan company under this division the outstanding investment certificates of a company are insured by an agency or instrumentality of the United States, the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which it may have outstanding to the extent authorized by the capital-adequacy requirements of that federal agency or instrumentality. An industrial loan company that is authorized to increase the aggregate sum of its investment certificates to the extent authorized by the capital-adequacy requirements of a federal agency or instrumentality also shall meet the requirements of subdivisions (e) and (f).

(e) After 48 months of operation as an industrial loan company under this division and during the next 12 months of operation the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which, exclusive of those investment certificates hypothecated with the company issuing them, in no event shall exceed 15 times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319, only if both of the following requirements are met:

(1) A company shall maintain a liquidity reserve in cash, or cash equivalent, equal to 1½ percent of its total investment certificates outstanding. "Cash equivalent" means investments legal for commercial banks under the laws of this state, with a maturity of not more than 12 months.

(2) In addition to the reserve for losses required by the commissioner pursuant to Section 18343, a company shall establish and maintain such special reserves for losses as the commissioner, by rule or order, may require.

(f) After 60 months of operation as an industrial loan company under this division, the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which it may have outstanding, which, exclusive of those investment certificates hypothecated with the company issuing them, in no event shall exceed 20 times the

aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319, and which may exceed 15 times the amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319 only if the requirements of subdivision (e) are met and the capital stock is not less than one million two hundred fifty thousand dollars ($1,250,000) and the unimpaired paid-in surplus is not less than seven hundred fifty thousand dollars ($750,000).

(g) Whenever the commissioner deems it reasonable and necessary or advisable for the protection of the public, the commissioner may at any time by order authorize said industrial loan company to have its investment certificates outstanding in either a lesser aggregate sum than the maximum aggregate amounts permitted by subdivision (a), (b), (c), (d), (e), or (f), or none at all.

(h) The request for authority filed with the commissioner pursuant to subdivisions (b), (c), (d), (e), and (f) shall be set forth in an application in such form and containing such information as the commissioner may require.

(i) The commissioner shall by rule or regulation set forth the criteria that must be met before an industrial loan company can be granted authority to increase the aggregate sum of its outstanding investment certificates.

(j) If the commissioner does not within 60 days of the filing of an application grant a request by an industrial loan company operating under this division, for authority to increase the aggregate sum of its outstanding investment certificates to the requested amount, or issues an order pursuant to subdivision (g), the company may file with the commissioner its written request for hearing in accordance with subdivisions (c) and (d) of Section 18315.

CHAPTER 473

An act relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The Public Utilities Commission, in establishing residential electric and gas rates, should continue its policy of the efficient implementation of energy conservation while assuring customers that a basic level of service is affordable.

(b) Residential electric and gas rates should be established so as

to minimize the effects of forces beyond the customer's control, such as the timing of rate increases and seasonal variations in usage.

SEC. 2. (a) The Public Utilities Commission shall study the effectiveness of Section 739 of the Public Utilities Code in promoting the efficient utilization of energy and providing customers with a basic level of service.

(b) The commission shall conduct at least two public hearings in areas where residential electric and gas customers have been adversely impacted by the baseline allowance formula.

(c) The commission shall report its findings, conclusions, and recommendations to the Legislature on or before June 30, 1987.

SEC. 3. The sum of fifty thousand dollars ($50,000) 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.

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

In order that the Public Utilities Commission may ensure affordable rates during the coming winter or at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 474

An act to amend Section 786 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 786 of the Public Utilities Code is amended to read:

786. (a) On or before March 1, 1984, and annually thereafter, every telephone corporation operating within a service area shall issue to each of its residential subscribers, in a manner and form approved by the commission, a listing of the residential telephone services it provides, the rates or charges for those services, and the state or federal regulatory agency or agencies responsible for regulation of those services.

(b) Every charge imposed on business or residential telephone subscribers in response to rules or regulations of the Federal Communications Commission shall be shown separately from other charges on a subscriber's billing statement. Every telephone corporation operating in this state shall do either of the following:

(1) Identify these charges, by asterisk or other means, with the

following phrase:

THIS CHARGE IS (or THESE CHARGES ARE) IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

(2) Include in the subscriber's billing statement a listing of the total charges imposed pursuant to tariff of the Federal Communications Commission identified with the following phrase:

TOTAL CHARGES IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

The billing statement shall also provide the address and telephone number of the Federal Communications Commission to which inquiries may be directed.

(c) The commission shall, by rule or order, specify methods for compliance with this section, which shall include all of the following:

(1) An explanation of the configuration of telecommunications services in California following implementation of the final decision of the United States district court for the District of Columbia circuit in the case of United States v American Telephone and Telegraph Company (552 F. Supp. 131) decided on August 19, 1982, and the names, addresses, and telephone numbers of the regulatory agencies responsible for the regulation of intrastate and interstate telephone service.

(2) A general description of the services provided by the telephone corporation or telecommunications provider issuing the explanation, how those services may be obtained, and a notice that other providers are available.

(3) A description of billing charges which may appear on the telephone corporation's or the telecommunications provider's billing statements.

(4) Procedures the subscribers, including subscribers equipped with telephone devices for the handicapped, may follow to protest items billed to the subscriber, and how to contact the telephone corporation or the telecommunications provider concerning those charges.

(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 enacted before January 1, 1992, deletes or extends that date.

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 475

An act to amend Sections 6002.1, 6068, and 6147 of, to amend the heading of Article 8.5 (commencing with Section 6146) of Chapter 4 of Division 3 of, to add Sections 6086.8, 6148, 6149, and 6204.5 to, and to add Article 5.5 (commencing with Section 6090) to Chapter 4 of Division 3 of, the Business and Professions Code, relating to attorneys.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 6002.1 of the Business and Professions Code is amended to read:

6002.1. (a) A member of the State Bar shall maintain all of the following on the official membership records of the State Bar:

(1) The member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline.

(2) All specialties in which the member is certified.

(3) Any other jurisdictions in which the member is admitted and the dates of his or her admission.

(4) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction.

(5) Such other information as may be required by agreement with or by conditions of probation imposed by the agency charged with attorney discipline.

A member shall notify the membership records office of the State Bar of any change in the information required by paragraphs (1), (4), and (5) within 30 days of any change and of any change in the information required by paragraphs (2) and (3) on or before the first day of February of each year.

(b) Every former member of the State Bar who has been ordered by the Supreme Court to comply with Rule 955 of the California Rules of Court shall maintain on the official membership records of the State Bar the former member's current address and within 10 days after any change therein, shall file a change of address with the membership records office of the State Bar until such time as the former member is no longer subject to the order.

(c) The notice initiating a proceeding conducted under this chapter may be served upon the member or former member of the State Bar to whom it is directed by certified mail, return receipt requested, addressed to the member or former member at the latest address shown on the official membership records of the State Bar. The service is complete at the time of the mailing but any prescribed

period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. A member of the State Bar or former member may waive the requirements of this subdivision and may, with the written consent of another member of the State Bar, designate that other member to receive service of any notice or papers in any proceeding conducted under this chapter.

(d) The State Bar shall not make available to the general public the information specified in paragraph (5) of subdivision (a) unless required to be made so available by a condition of probation; it is, however, available to the State Bar, the Supreme Court, or the agency charged with attorney discipline.

(e) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

SEC. 2. Section 6068 of the Business and Professions Code is amended to read:

6068. It is the duty of an attorney to do all of the following:

(a) To support the Constitution and laws of the United States and of this state.

(b) To maintain the respect due to the courts of justice and judicial officers.

(c) To counsel or maintain such actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.

(d) To employ, for the purpose of maintaining the causes confided to him or her such means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(e) To maintain inviolate the confidence, and at every peril to himself to preserve the secrets, of his or her client.

(f) To abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged.

(g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.

(h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

(i) To cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against the attorney. However, this subdivision shall not be construed to deprive an attorney of any constitutional or statutory privileges.

(j) To comply with the requirements of Section 6002.1.

(k) To comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney.

(*l*) To keep all agreements made in lieu of disciplinary prosecution with the agency charged with attorney discipline.

(m) To respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

(n) To report to the agency charged with attorney discipline, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of any judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars ($1,000).

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of any felony, or any misdemeanor committed in the course of the practice of law, or in any manner such that a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or any such misdemeanor.

(6) The imposition of discipline against the attorney by any professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or wilful misrepresentation by an attorney.

(8) As used in this subdivision, "against the attorney" includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.

(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

SEC. 3. Section 6086.8 is added to the Business and Professions

Code, to read:

6086.8. (a) Within 20 days after a judgment by a court of this state that a member of the State Bar of California is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity, the court which rendered the judgment shall report that fact in writing to the State Bar of California.

(b) Every insurer providing professional liability insurance to a member of the State Bar of California shall send a complete written report to the State Bar as to any settlement, judgment, or arbitration award on a claim or action against the attorney in any civil action in which fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity was found or admitted. The report shall be made within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) An attorney who does not possess professional liability insurance shall send a complete written report to the State Bar as to any settlement, judgment, or arbitration award described in subdivision (b), in the manner specified in that subdivision.

SEC. 4. Article 5.5 (commencing with Section 6090) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 5.5. Miscellaneous Disciplinary Provisions

6090. As used in this article, "disciplinary agency" means the agency charged with the discipline of attorneys for professional misconduct.

6090.5. It is a cause for suspension, disbarment, or other discipline for any member of the State Bar to require as a condition of a settlement of a civil action for professional misconduct brought against the member that the plaintiff agree to not file a complaint with the disciplinary agency concerning that misconduct.

6091. If a client files a complaint with the State Bar alleging that his or her trust fund is being mishandled, the State Bar shall investigate and may require an audit if it determines that circumstances warrant.

At the client's written request, the attorney shall furnish the client with a complete statement of the funds received and disbursed and any charges upon the trust account, within 10 calendar days after receipt of the request. Such requests may not be made more often than once each 30 days unless a client files a complaint with the State Bar and the State Bar determines that more statements are warranted.

6092. The disciplinary agency shall study attorney competency, and shall report to the Legislature and to the Chairpersons of the Assembly and Senate Judiciary Committees by January 1, 1989, on

methods of determining and improving attorney competency.

(c) The disciplinary agency may engage the services of consultants and an unpaid volunteer peer review committee and undertake such other steps as may be appropriate for devising methods for determining and improving attorney competence.

6092.5. In addition to any other duties specified by law, the disciplinary agency shall do all of the following:

(a) Promptly notify the complainant of the disposition of each matter.

(b) Notify all of the following of a lawyer's involuntary enrollment as an inactive member and termination of that enrollment, or any suspension or disbarment, and the reinstatement to active membership of a suspended or disbarred attorney:

(1) The presiding judge of the superior court in the county where the attorney most recently maintained an office for the practice of law, with a request that the judge notify the courts and judges in the county.

(2) The local bar association, if there is one, in the county or area where the attorney most recently maintained an office for the practice of law.

(3) The appropriate disciplinary authority in any other jurisdiction where the attorney is admitted to practice.

(c) Upon receipt of the certified copy of the record of conviction of a lawyer, as provided by subdivision (c) of Section 6101, promptly forward a certified copy of the judgment of conviction to the disciplinary agency in each jurisdiction in which the lawyer is admitted.

(d) Maintain permanent records of discipline and other matters within its jurisdiction, and compile statistics to aid in the administration of the system, including, but not limited to, a single log of all complaints received, investigative files, statistical summaries of docket processing and case dispositions, transcripts of all proceedings which have been transcribed, and other records as the disciplinary agency or court require to be maintained.

(e) Expunge records of the agency as directed by the California Supreme Court.

(f) Pursuant to directions from the California Supreme Court, undertake whatever investigations are assigned to it.

(g) Provide information to prospective complainants regarding the nature and procedures of the disciplinary system, the criteria for prosecution of disciplinary complaints, the client security fund, and fee arbitration procedures.

(h) Inform the public, local bar associations and other organizations, and any other interested parties about the work of the disciplinary agency and the right of all persons to make a complaint.

(i) Make agreements with respondents in lieu of disciplinary proceedings, regarding conditions of practice, further legal education, or other matters. These agreements may be used by the disciplinary agency in any subsequent proceeding involving the

lawyer.

6093. Whenever probation is imposed by the court or by the disciplinary agency with the agreement of the respondent, any conditions may be imposed which will reasonably serve the purposes of the probation.

6093.5. Upon request, the disciplinary agency shall notify a complainant of the status of his or her complaint and shall provide him or her with a written summary of any response by the attorney to his or her complaint if the response was the basis for dismissal of the complaint. A complainant shall be notified in writing of the disposition of his or her complaint, and of the reasons for the disposition. The complainant shall be notified of any appropriate procedures, including any time limitations, available to him or her if he or she is dissatisfied with the disposition.

Receipt of a written complaint shall be acknowledged by the disciplinary agency within two weeks of its receipt.

A complainant may also designate another person as his or her agent to receive copies of the information to which he or she is entitled pursuant to this section. This is in addition to any designation by a complainant of one of his or her elected representatives to receive the information.

6094. (a) Communications to the disciplinary agency relating to lawyer misconduct or disability or competence, or any communication related to an investigation or proceeding and testimony given in the proceeding are privileged, and no lawsuit predicated thereon may be instituted against any person. The disciplinary agency and officers and employees are subject to the rules governing liability of public entities, officers, and employees specified in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

Nothing in this subdivision limits or alters the privileges accorded communications to the State Bar or testimony given in investigations or proceedings conducted by it or the immunities accorded complainants, informants, witnesses, the State Bar, its officers, and employees as existed prior to the enactment of this section. This subdivision does not constitute a change in, but is cumulative with the existing law.

(b) Upon application by the disciplinary agency and notice to the appropriate prosecuting authority, the superior court may grant immunity from criminal prosecution to a witness in any disciplinary agency proceeding.

6094.5. (a) It shall be the goal and policy of the disciplinary agency to dismiss a complaint, admonish the attorney, or file a written notice to show cause, with respect to a matter within six months after receipt of a written complaint. A notice to show cause is a public record when filed. This goal and policy is not jurisdictional and shall not serve as a bar or defense to, any disciplinary investigation or proceeding. The disciplinary agency shall provide a written report annually by March 31 to the Supreme Court and the

Assembly and Senate Judiciary Committees on the number of complaints as of December 31 of the preceding year, which were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice to show cause, plus tables showing time periods beyond six months and the number in each category on a discussion of the reason for the extended periods.

(b) The disciplinary agency, subject to its record retention policy, shall respond within a reasonable time to inquiries as to the status of pending disciplinary cases in which a notice to show cause has been filed, or as to public discipline that has been imposed upon an attorney in California, or to the extent known by the agency, elsewhere, and, to the extent such information is known to the agency, all criminal cases in which an indictment or information has been brought charging a felony against an attorney or an attorney has been convicted of a felony, or convicted of any misdemeanor committed in the course of the practice of law or in any manner such that a client of the attorney was the victim, or any felony or misdemeanor, a necessary element of which, as determined by the statutory or common law definition of the crime, involves improper conduct of an attorney, including interference with the administration of justice, running and capping, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, dishonesty or other moral turpitude, or an attempt of a conspiracy or solicitation of another to commit such a crime. Such information acquired from the disciplinary agency under this section shall not be used by an attorney to solicit business. The disciplinary agency shall adopt regulations to carry out the purposes of this subdivision.

6095. (a) The disciplinary agency shall annually hold at least two public hearings, one in southern California and one in northern California, to hear proposals on bar disciplinary procedures, attorney competency, and admissions procedures.

(b) To the extent such information is known to the disciplinary agency, it shall report annually to the Assembly and Senate Judiciary Committees concerning the judicial or disciplinary disposition of all criminal or disciplinary proceedings involving the allegation of the commission of a felony by an attorney.

(c) Periodically audit, on a random basis, complaints which have been dismissed.

(d) Undertake a study of the coverage of the Client Security Fund with a goal of expanding its coverage, and report to the Legislature, and the Chairpersons of the Assembly and Senate Judiciary Committees by June 1, 1988.

SEC. 5. The heading of Article 8.5 (commencing with Section 6146) of Chapter 4 of Division 3 of the Business and Professions Code is amended to read:

Article 8.5. Fee Agreements

SEC. 6. Section 6147 of the Business and Professions Code is amended to read:

6147. (a) An attorney who contracts to represent a plaintiff on a contingency fee basis shall, at the time the contract is entered into, provide a duplicate copy of the contract, signed by both the attorney and the plaintiff, or his guardian or representative, to the plaintiff, or to the plaintiff's guardian or representative. The contract shall be in writing and shall include, but is not limited to, all of the following:

(1) A statement of the contingency fee rate which the client and attorney have agreed upon.

(2) A statement as to how disbursements and costs incurred in connection with the prosecution or settlement of the claim will affect the contingency fee and the client's recovery.

(3) A statement as to what extent, if any, the plaintiff could be required to pay any compensation to the attorney for related matters that arise out of their relationship not covered by their contingency fee contract. This may include any amounts collected for the plaintiff by the attorney.

(4) Unless the claim is subject to the provisions of Section 6146, a statement that the fee is not set by law but is negotiable between attorney and client.

(5) If the claim is subject to the provisions of Section 6146, a statement that the rates set forth in that section are the maximum limits for the contingency fee agreement, and that the attorney and client may negotiate a lower rate.

(b) Failure to comply with any provision of this section renders the agreement voidable at the option of the plaintiff, and the attorney shall thereupon be entitled to collect a reasonable fee.

(c) This section shall not apply to contingency fee contracts for the recovery of workers' compensation benefits.

SEC. 7. Section 6148 is added to the Business and Professions Code, to read:

6148. (a) In any case not coming within Section 6147 in which it is reasonably foreseeable that total expense to a client, including attorney fees will exceed one thousand dollars ($1,000), the contract for services in the case shall be in writing and shall contain all of the following:

(1) The hourly rate and other standard rates, fees, and charges applicable to the case.

(2) The general nature of the legal services to be provided to the client.

(3) The respective responsibilities of the attorney and the client as to the performance of the contract.

(b) All bills for services rendered by an attorney to a client shall clearly state the basis thereof, including the amount, rate, basis for calculation, or other method of determination of the member's fees; and, upon request by the client, the attorney shall provide a bill to

the client no later than 10 days following the request. The client is entitled to similar requests at intervals of no less than 30 days following the initial request.

(c) Failure to comply with any provision of this section renders the agreement voidable at the option of the client, and the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.

(d) This section shall not apply to any of the following:

(1) Services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client or where a writing is otherwise impractical.

(2) An arrangement as to the fee implied by the fact that the attorney's services are of the same general kind as previously rendered to and paid for by the client.

(3) If the client knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required.

(4) If the client is a corporation.

(e) This section applies prospectively only to fee agreements following its operative date.

SEC. 8. Section 6149 is added to the Business and Professions Code, to read:

6149. A written fee contract shall be deemed to be a confidential communication within the meaning of subdivision (e) of Section 6068 and of Section 952 of the Evidence Code.

SEC. 9. Section 6204.5 is added to the Business and Professions Code, to read:

6204.5. (a) The State Bar shall provide by rule for an appropriate procedure to disqualify an arbitrator upon request of the client.

(b) The State Bar, or the local bar association delegated by the State Bar to conduct the arbitration, shall deliver a notice to the parties advising them of their rights to judicial relief subsequent to the arbitration proceeding.

CHAPTER 476

An act to amend Section 1399.63 of the Health and Safety Code, and to amend Section 10128.3 of the Insurance Code, relating to insurance.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 1399.63 of the Health and Safety Code is amended to read:

1399.63. (a) Any carrier providing replacement coverage with respect to hospital, medical or surgical expense or service benefits

within a period of 60 days from the date of discontinuance of a prior contract or policy providing such hospital, medical or surgical expense or service benefits shall immediately cover all employees and dependents who were validly covered under the previous contract or policy at the date of discontinuance and are within the definitions of eligibility under the succeeding carrier's contract and who would otherwise be eligible for coverage under the succeeding carrier's contract, regardless of any provisions of the contract relating to active full-time employment or hospital confinement or pregnancy. However, with respect to employees or dependents who are totally disabled on the date of discontinuance of the prior carrier's contract or policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 1399.62, or pursuant to subdivision (d) of Section 10128.2 of the Insurance Code, the succeeding carrier is not required to provide benefits for services or expenses directly related to any conditions which caused the total disability.

(b) Except as otherwise provided in subdivision (a), until an employee or dependent entitled to coverage under a succeeding carrier's contract pursuant to subdivision (a) of this section qualifies for full benefits by meeting all effective date requirements of the succeeding carrier's contract, the level of benefits shall not be lower than the benefits provided under the prior carrier's contract or policy reduced by the amount of benefits paid by the prior carrier. Such employee or dependent shall continue to be covered by the succeeding carrier until the earlier of the following dates:

(1) The date coverage would terminate for an employee or dependent in accordance with the provisions of the succeeding carrier's contract, or

(2) In the case of an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's contract or policy and entitled to an extension of benefits pursuant to subdivision (d) of Section 10128.2 of the Insurance Code or subdivision (b) of Section 1399.62, the date the period of extension of benefits terminates or, if the prior carrier's contract or policy is not subject to this article, the date to which benefits would have been extended had the prior carrier's contract or policy been subject to this article.

(c) Except as otherwise provided in this section, and except to the extent that benefits for the condition would have been reduced or excluded under the prior carrier's contract or policy, no provision in a succeeding carrier's contract of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's contract shall be applied with respect to those employees and dependents validly covered under the prior carrier's contract or policy on the date of discontinuance.

(d) In a situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding

carrier's request, the prior carrier shall furnish a statement of benefits available or pertinent information, sufficient to permit verification of the benefit determination by the succeeding carrier.

(e) For purposes of subdivision (a), a succeeding carrier's coverage shall not exclude any dependent child who was covered by the previous carrier solely because the plan member does not provide the primary support for that dependent child.

SEC. 2. Section 10128.3 of the Insurance Code is amended to read:

10128.3. (a) Any carrier providing replacement coverage with respect to hospital, medical or surgical benefits on an expense-incurred or service basis within a period of 60 days from the date of discontinuance of a prior policy providing such hospital, medical or surgical benefits shall immediately cover all employees and dependents who were validly covered under the previous policy at the date of discontinuance, are within the definitions of eligibility under the succeeding carrier's policy, and who would otherwise be eligible for coverage under the succeeding carrier's policy, regardless of any provisions of the policy relating to active full-time employment or hospital confinement or pregnancy. However, with respect to employees or dependents who are totally disabled on the date of discontinuance of the prior carrier's contract or policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 1399.62 of the Health and Safety Code, or pursuant to subdivision (d) of Section 10128.2, the succeeding carrier is not required to provide benefits for services or expenses directly related to any conditions which caused the total disability.

(b) Except as otherwise provided in subdivision (a), until an employee or dependent entitled to coverage under a succeeding carrier's policy pursuant to subdivision (a) of this section qualifies for full benefits by meeting all effective date requirements of the succeeding carrier's policy, the level of benefits shall not be lower than the benefits provided under the prior carrier's policy reduced by the amount of benefits paid by the prior carrier. Such employee or dependent shall continue to be covered by the succeeding carrier until the earlier of the following dates:

(1) The date coverage would terminate for an employee or dependent in accordance with the provisions of the succeeding carrier's policy, or

(2) In the case of an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 1399.62 of the Health and Safety Code, or subdivision (d) of Section 10128.2, the date the period of extension of benefits terminates, or, if the prior carrier's policy is not subject to this article, the date to which benefits would have been extended had the prior carrier's policy been subject to this article.

(c) Except as otherwise provided in this section, and except to the extent that benefits for the condition would have been reduced or

excluded under the prior carrier's policy, no provision in a succeeding carrier's policy of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's policy shall be applied with respect to those employees and dependents validly insured under the prior carrier's policy on the date of discontinuance.

(d) In a situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request, the prior carrier shall furnish a statement of benefits available or pertinent information, sufficient to permit verification of the benefit determination by the succeeding carrier.

(e) For purposes of subdivision (a), a succeeding carrier's policy shall not exclude coverage of a dependent child who was covered by the previous carrier solely because the insured does not provide primary support for that dependent child.

CHAPTER 477

An act to amend Section 1774.7 of the Government Code, relating to public officials.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 1774.7 of the Government Code is amended to read:

1774.7. (a) Sections 1774, 1774.2, 1774.3, and 1774.5 shall apply to any person appointed, or reappointed, prior to, or on or after, January 1, 1981, except as follows:

(1) With respect to any person appointed prior to January 1, 1981, the 365-day period specified in Section 1774 shall not commence to run until January 1, 1981.

(2) With respect to the term of office of an incumbent which expires during the period from the first Monday after January 1 of the year a newly elected Governor takes office for the first time, until January 31 of that year, inclusive, the 60-day period specified in subdivision (a) of Section 1774 and the 90-day period specified in subdivision (b) of Section 1774 shall not commence to run until February 1 of that year.

(b) It is the intent of the Legislature that Sections 1774, 1774.2, 1774.3, and 1774.5 shall prevail over any contrary special or general provision of this code, any other code, or any uncodified statute of this state. These sections shall be construed as superseded by another statute only if that statute specifically provides that these sections shall not apply and expressly refers to the numbers of the sections

superseded.

CHAPTER 478

An act to add Article 11 (commencing with Section 19230) to Chapter 3 of Division 8 of, repeal Chapter 18 (commencing with Section 9500) of Division 3 of, the Business and Professions Code, and to add Sections 641.5 and 641.6 to the Penal Code, relating to the State Board of Fabric Care, and making an appropriation therefor.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Chapter 18 (commencing with Section 9500) of Division 3 of the Business and Professions Code is repealed.

SEC. 1.5. Article 11 (commencing with Section 19230) is added to Chapter 3 of Division 8 of the Business and Professions Code, to read:

Article 11. Dry Cleaning and Fabric Care

19230. On and after January 1, 1987, all dry cleaning plants operating in this state shall register with the bureau on a form prescribed by the chief.

19231. "Dry cleaning plant," as used in this article, includes any premises, building, room, or establishment commonly known in the trade as a cleaning plant or cleaning and dyeing plant, equipped to perform the service of dry cleaning by immersion and agitation, or immersion only, in a volatile, commercially moisture-free solvent, and including self-service or coin-operated equipment in whole or in part.

19232. The registration form specified in Section 19230 shall contain, but not be limited to, all of the following information:

(a) The street address of the place of business of the dry cleaning plant.

(b) The name of the owner or owners of the plant if doing business as a sole proprietorship or partnership, or the names of the corporate officers if doing business as a corporation.

(c) Proof of maintenance of a five thousand dollar ($5,000) surety bond as specified in Section 19233.

19233. (a) The bureau shall require that all registrants maintain a surety bond in the sum of five thousand dollars ($5,000) or post security in the form of a bearer bond issued by the United States or the State of California in the amount of five thousand dollars ($5,000) or post five thousand dollars ($5,000) in cash, unless, after a determination as hereinafter provided, the bond or security is

waived. A surety bond shall be duly executed by an admitted surety insurer, shall be continuous in form, shall be in favor of the people of the State of California, and the total aggregate liability on the bond shall in no event exceed the face amount thereof.

The surety bond shall be conditioned that the principal shall and will be liable for fraud and for all claims for damaged articles of clothing of persons with whom the registrant may deal as a registrant.

(b) If, however, upon application and any proof as the bureau may require, the bureau determines that the financial responsibility of any registrant is acceptable in the public interest, the bureau may waive the filing of the security or bond in accordance with any conditions as may be prescribed by the rules and regulations of the bureau.

(c) Payments which are to be made from any security or pursuant to any bond which is required by this section shall be limited to payments of claims which have been approved by the final decision of a court.

(d) Any person injured by the breach of any condition to secure which the bond is given shall have a cause of action upon the bond in any court of competent jurisdiction to recover his or her damages not in excess of two hundred fifty dollars ($250) suffered by reason of that breach. The aggregate liability of the surety to all such persons shall not, however, exceed the sum of the bond.

(e) Bonds filed with the bureau pursuant to this article shall remain in full force and effect until the surety has terminated future liability by 30-day written notice to the bureau.

(f) In lieu of furnishing the bond required by this section, licensees may deposit with the bureau a bearer bond or bearer bonds having a market value of five thousand dollars ($5,000) or more, and the deposit shall be permitted to receive annually any interest payable on such bond.

(g) The bureau may adopt rules and regulations which authorize the bureau to waive the filing of the security or bond if, upon application and any proof as the bureau may require, the bureau determines that the registrant's responsibility is guaranteed by any third party whose financial responsibility is sufficient and acceptable in the public interest.

19234. The bureau may require the submission of any other additional information deemed necessary for registration. Additional registration information may include, but is not limited to, written certification to ensure compliance with the surety bond requirement, the types of chemicals used in all processes of the plant, the type and nature of storage facilities for these chemicals, and the current methods used by the plant for treatment or disposal of these chemicals.

19235. Registration under the terms of this article shall remain valid until or unless there is a change of ownership, change of corporate officers, or change of business location, in which event a

new registration containing the new or additional information shall be filed with the bureau. All information stated on the registration form shall be subject to the provisions of the Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

19236. The bureau is authorized to charge a registration fee of all registrants under the terms of this section. The fee shall be in an amount sufficient to cover the costs of administering the registration requirements of this article as well as the actual costs of developing and maintaining a registration list, but shall not exceed seventy-five dollars ($75) for each dry cleaning plant registered pursuant to this article. All fees collected by the bureau for registration of dry cleaning plants pursuant to this article shall be reported to the Controller, paid to the Treasurer, and credited to the Dry Cleaning Account in the Bureau of Home Furnishings Fund, which account is hereby created. All moneys in the account are continuously appropriated to the bureau for carrying out this article.

19237. Failure to register a dry cleaning plant on the part of any owner, partner, or corporate officer, or failure to maintain a bond, as provided in this article, shall constitute an unfair business practice within the meaning and for the purposes of Section 17200, but is not a crime.

19238. Notwithstanding Section 19230, any dry cleaning plant which has a valid unexpired license issued by the State Board of Dry Cleaning and Fabric Care shall be deemed to be in compliance with that section until that license expires.

19239. In deleting the authority for regulation in the field of fabric care and dry cleaning by the State Board of Dry Cleaning and Fabric Care, the Legislature expressly recognizes that the dry cleaning industry utilizes toxic chemicals requiring the strict attention of state regulatory agencies. It is the intent of the Legislature that nothing in this article be construed to affect any existing statutes or regulations relating to the handling, storage, or disposal of toxic chemicals, or to impede the vesting of jurisdiction over toxic chemicals used by dry cleaning plants in the appropriate toxic agency of state government.

Further, it is the intent of the Legislature to give due consideration in the future to the enactment of a system of private industry certification as a possible alternative to complete deregulation in this field. Also, in deleting current regulatory statutes in this field, the Legislature intends to enact a system of registration within the bureau for dry cleaning plants.

19240. The department shall take all steps necessary to cease operations of the State Board of Dry Cleaning and Fabric Care including, but not limited to, organization and storage of records and files, and closing out pending cases with the Division of Investigation and Office of the Attorney General.

Any costs incurred by the department in carrying out these responsibilities shall be charged to the Dry Cleaning and Fabric Care

Fund or its successor, the Dry Cleaning Account in the Bureau of Home Furnishings Fund.

19241. (a) The director, or his or her designee, shall undertake the following activities:

(1) Formulate the terms and conditions and let a contract as specified herein, subject to all the terms of competitive bidding normally and usually required of public contracts.

(2) Require that the successful bidding party demonstrate expertise in the field of fabric care and dry cleaning and the capacity to perform the terms of the contract throughout the state.

(3) On or before April 1, 1987, execute a contract providing for a program of consumer and professional education and complaint mediation for consumers purchasing dry cleaning services in order to facilitate the transition to deregulation in the field of fabric care, which education and mediation shall continue for a period of one year commencing on April 1, 1987, and concluding on March 31, 1988, at which time the contract shall terminate.

(b) The director, or his or her designee, shall be responsible for monitoring the progress of the contract and shall be empowered to take all steps necessary to ensure its proper execution. Any costs incurred by the department to carry out these responsibilities shall be borne by the Dry Cleaning and Fabric Care Fund or its successor, the Dry Cleaning Account of the Bureau of Home Furnishings Fund.

SEC. 2. Section 641.5 is added to the Penal Code, to read:

641.5. (a) In any clothes cleaning establishment in which more than one gallon of a volatile, commercially moisture-free solvent of the chlorinated hydrocarbon type is used for dry cleaning, the performance of all the dry cleaning, drying, and deodorizing processes shall be completed entirely within fluid-tight machines or apparatus vented to the open air at a point not less than eight feet from any window or other opening and so used and operated as to prevent the escape of fumes, gases, or vapors into workrooms or workplaces.

(b) Except when operations are performed as provided in subdivision (a), no person shall operate a clothes cleaning establishment in which more than one gallon of a volatile, commercially moisture-free solvent of the chlorinated hydrocarbon type is used for dry cleaning except under either of the following conditions:

(1) All of the dry cleaning, drying, and deodorizing processes are performed in a single room or compartment designed and ventilated in such a manner that dangerous toxic concentrations of vapors will not accumulate in working areas.

(2) The dry cleaning processes are performed in fluid-tight machines or apparatus designed, installed, and operated in a manner that will prevent the escape of dangerous toxic concentrations of vapors to the working areas.

(c) "Volatile, commercially moisture-free solvent" means either of the following:

(1) Any commercially moisture-free liquid, volatile product or substance having the capacity to evaporate and, during evaporation, to generate and emit a gas or vapor.

(2) Any solvent commonly known to the clothes cleaning industry as a "chlorinated hydrocarbon solvent."

(d) Any violation of this section is a misdemeanor.

SEC. 3. Section 641.6 is added to the Penal Code, to read:

641.6. Notwithstanding any other provision of law, no person engaged in the business of dry cleaning shall use carbon tetrachloride or trichlorethylene as a cleaning agent when engaged in onsite dry cleaning. For purposes of this section, "onsite dry cleaning" means dry cleaning which is performed in a residence or any commercial or public building other than a clothes cleaning establishment or plant. A violation of this section is a misdemeanor.

SEC. 4. Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Dry Cleaning and Fabric Care Fund on the effective date of this act shall be transferred to the Dry Cleaning Account in the Bureau of Home Furnishings Fund.

There is hereby appropriated two hundred thousand dollars ($200,000) to the Department of Consumer Affairs from the Dry Cleaning Account in the Bureau of Home Furnishings Fund, in augmentation of Item 1655-090-702(a), Budget Act of 1986, for the purposes specified in Section 19241 of the Business and Professions Code.

Notwithstanding Section 202 of the Business and Professions Code, the Bureau of Home Furnishings shall utilize the remainder of the funds transferred by this section to carry out Article 11 (commencing with Section 19230) of Chapter 3 of Division 8 of the Business and Professions Code.

CHAPTER 479

An act to amend Sections 779.1, 10010.1, 12823.1, and 16482.1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 779.1 of the Public Utilities Code, as added by Chapter 888 of the Statutes of 1985, is amended 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 personal contact at least 24 hours prior to any termination of service, except that, whenever telephone or personal contact cannot be accomplished, the corporation shall give, either by mail or in person, 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. Any service wrongfully terminated shall be restored without charge for the restoration of service, and a notation thereof shall be mailed to the customer at his or her billing address.

SEC. 2. Section 10010.1 of the Public Utilities Code is amended

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 attempt to contact an adult person residing at the premises of the customer by telephone or personal contact, at least 24 hours prior to any termination of service, except that, whenever telephone or personal contact cannot be accomplished, the utility provider shall give, either by mail or in person, a notice of termination of service, at least 48 hours prior to termination.

(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. Any service wrongfully terminated

shall be restored without charge for the restoration of service, and a notation thereof shall be mailed to the customer at his or her billing address.

SEC. 3. Section 12823.1 of the Public Utilities Code is amended 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 attempt to contact an adult person residing at the premises of the customer by telephone or personal contact, at least 24 hours prior to any termination of service, except that, whenever telephone or personal contact cannot be accomplished, the district shall give, either by mail or in person, a notice of termination of service, at least 48 hours prior to termination.

(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. Any service wrongfully terminated shall be restored without charge for the restoration of service, and a notation thereof shall be mailed to the customer at his or her billing address.

SEC. 4. Section 16482.1 of the Public Utilities Code is amended 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. Any service wrongfully terminated shall be restored without charge for the restoration of the service, and a notation thereof shall be mailed to the customer at his or her billing address.

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, 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 480

An act to amend Section 4476 of the Public Resources Code, relating to forest practices.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 4476 of the Public Resources Code is amended to read:

4476. Any contract which is entered into pursuant to this article shall do all of the following:

(a) Vest in the director the final authority to determine the time during which wild land fuel and structural fire hazards may be burned to minimize the risk of escape of a fire set in a prescribed burning operation and to facilitate maintenance of air quality.

(b) Clearly state the obligation of each party to the contract to provide, maintain, and repair equipment and indicate the number of each type of equipment to be provided and the duration of its availability.

(c) Designate an officer of the department as the fire boss with final authority to approve and amend the plan and formula applicable to the prescribed burning operation, to determine that the site has been prepared and the crew and equipment are ready to commence the operation, and to supervise the work assignments of departmental employees and all personnel furnished by the person contracting with the department until the prescribed

burning is completed and all fire is declared to be out.

(d) Specify the duties of, and the precautions taken by, the person contracting with the department and any personnel furnished by that person.

(e) Provide that any personnel furnished by a person contracting with the department to assist in any aspect of site preparation or prescribed burning shall be an agent of that person for all purposes of worker compensation. However, any volunteer recruited or used by the department to suppress a wild land fire originating or spreading from a prescribed burning operation is an employee of the department for all purposes of worker compensation.

(f) Specify the value assigned to the materials, services, or equipment furnished by the person contracting with the department in lieu of payment of all or part of that person's share of the actual costs.

(g) Specify the total costs of the prescribed burning operation and the pro rata share thereof for each party to the contract. Any person contracting with the department shall, prior to the commencement of any work by the department, place on deposit in an interest-bearing escrow or trust account with a California-licensed financial institution an amount equal to that person's pro rata share of the costs, less the value of materials, services, or equipment specified pursuant to subdivision (e). Interest earned on the account shall accrue to the depositor and may be separately disbursed from the principal amount upon request of the depositor. Disbursement of funds on deposit in the trust or escrow account shall be authorized by the depositor within 15 days after completion, to the depositor's satisfaction, of all work specified in the contract to be done by the department.

(h) Provide that the department may, in its discretion, purchase a third party liability policy of insurance which provides coverage against loss resulting from a wild land fire sustained by any person or public agency, including the federal government. The amount of the policy, if purchased, shall be determined by the director. The policy shall name the person contracting with the department and the department as joint policyholders. The premium shall be included as a cost prorated as provided in subdivision (g). A certificate of insurance, if purchased, covering each policy shall be attached to or become a part of the contract. If the department elects not to purchase insurance, the department shall agree to indemnify and hold harmless the person or public agency contracting with the department with respect to liability arising out of performance of the contract.

CHAPTER 481

An act to repeal Section 300.5 of, and to add Article 3.1 (commencing with Section 309.7) to Chapter 2 of 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 July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 300.5 of the Health and Safety Code is repealed.

SEC. 2. Article 3.1 (commencing with Section 309.7) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 3.1. Childhood Lead Poisoning Prevention Act

309.7. The Legislature hereby finds and declares that childhood lead exposure represents the most significant childhood environmental health problem in the state today; that too little is known about the prevalence, long-term health care costs, severity, and location of these problems in California; that it is well known that the environment is widely contaminated with lead; that excessive lead exposure causes acute and chronic damage to a child's renal system, red blood cells, and developing brain and nervous system; that at least one in every 25 children in the nation has an elevated blood lead level; and that the cost to society of neglecting this problem may be enormous.

The Legislature further finds and declares that knowledge about where and to what extent harmful childhood lead exposures are occurring in the state could lead to the prevention of these exposures, and to the betterment of the health of California's future citizens. Therefore, it is the intent of the Legislature in enacting this article to establish a state Childhood Lead Poisoning Prevention Program within the State Department of Health Services to accomplish all of the following:

(a) To compile information concerning the prevalence, causes, and geographic occurrence of high childhood blood lead levels.

(b) To identify and target areas of the state where childhood lead exposures are especially significant.

(c) To analyze information collected pursuant to this article and, where indicated, design and implement a program of medical followup and environmental abatement and followup that will reduce the incidence of excessive childhood lead exposures in California.

309.71. (a) All medical laboratories shall report to the department each detected case of a blood lead level greater than 25 micrograms of lead per deciliter of human blood or the equivalent standard as measured in micrograms of protoporphyrin per gram of hemoglobin. The blood lead findings, the names, ages, and addresses of the patients involved in each detected case and any additional information necessary to implement the provisions of this article shall be reported to the department in a manner prescribed by the director.

(b) All information reported pursuant to this section shall be confidential, as provided in Section 211.5.

(c) All medical laboratories testing for blood lead levels shall participate in a blood lead and free erythrocyte protoporphyrin (FEP) proficiency testing program.

(d) Laboratories which fail to meet reporting requirements will be assessed fines of up to five hundred dollars ($500) at the discretion of the director.

309.72. (a) By July 1, 1987, the department shall identify target areas in which to conduct a childhood lead screening program.

(b) The targeted areas shall include at least one area within the urban San Francisco/Alameda County area, one area within, the urban Los Angeles/Orange County/San Diego area, and one area within the Central Valley Sacramento/Fresno area, and other areas if scientifically indicated as determined by the director.

(c) These target areas shall be described by census tract and shall be selected based on the prevalence of the following factors:

(1) Older housing.

(2) Lead-emitting industry.

(3) History of heavy automobile traffic.

(4) Use or disposal of hazardous materials or waste.

(5) Populations where cultural or ethnic factors or both may result in a higher risk of ingestion of lead.

(6) Population of children between the ages of 12 months and 6 years.

309.73. By October 1, 1988, the department shall complete a screening program for childhood lead in the targeted areas identified pursuant to Section 309.72, and in other areas where scientifically indicated. Further, where environmental abatement is found to be indicated, the department shall carry out field trials of alternative abatement technologies.

309.74. On January 1, 1989, the department shall submit a report to the relevant legislative policy committees, and to the relevant legislative budget subcommittees for their review, describing the results of the screening program, the significance of the results, and the department's recommendations for further actions, where indicated.

SEC. 3. (a) The sum of one hundred seventy-five thousand dollars ($175,000) is appropriated from the General Fund to the State Department of Health Services for the purpose of providing

first-year funding to implement the Childhood Lead Poisoning Prevention Program pursuant to Article 3.1 (commencing with Section 309.7) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(b) It is the intent of the Legislature that future funding for the Childhood Lead Poisoning Prevention Program shall be appropriated through the annual budget process.

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 have the maximum impact on the reduction of the incidence of childhood lead toxicity in the State of California, and in order for the funding for the Childhood Lead Poisoning Prevention Program to be synchronized with the fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 482

An act to amend Section 5705 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 5705 of the Welfare and Institutions Code is amended to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, except for local hospital inpatient costs, which shall be financed on a basis of 85 percent state funds and 15 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost, except for 24-hour hospital services, or a negotiated net amount or rate approved by the Director of Mental Health as provided in Section 5705.2. The cost of 24-hour hospital services shall be the lower of the provider's actual costs or 125 percent of the statewide average for the cost of 24-hour hospital services established pursuant to Section 5705.1. In counties of less than 100,000 population, the cost requirement for local financial participation shall be waived for all programs except local hospital inpatient and state hospital services. It is the intent of the Legislature that counties under 100,000 population provide as much of the 10-percent match as possible for mental health programs within budgetary constraints.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds. With the exception of any costs associated with a county's utilization of state hospital days in excess of their annual allocation, counties may, at their option, resolve any additional state hospital county match requirement in the fiscal year budget process following the year in which the final state hospital billing is received from the department. The state hospital county match requirement for days in excess of a county's annual allocation shall be resolved in accordance with the established policy of the department.

The State Department of Mental Health is hereby permitted to reallocate any funds which are not matched by counties with the approval of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act, provided such reallocated funds shall not be counted into the base allocation.

CHAPTER 483

An act to amend Section 99152 of the Public Utilities Code, relating to public transportation.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 99152 of the Public Utilities Code is amended to read:

99152. Any public transit guideway planned, acquired, or constructed, on or after January 1, 1979, is subject to regulations of the Public Utilities Commission relating to safety appliances and procedures.

The commission shall inspect all work done on those guideways and may make further additions or changes necessary for the purpose of safety to employees and the general public.

The commission shall develop an oversight program employing safety planning criteria, guidelines, safety standards, and safety procedures to be met by operators in the design, construction, and operation of those guideways. Existing industry standards shall be used where applicable.

The commission shall enforce the provisions of this section.

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 484

An act to add Section 20009.11 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 20009.11 is added to the Government Code, to read:

20009.11. "Public agency" also includes the California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

CHAPTER 485

An act relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. (a) The State Department of Health Services and the State Personnel Board shall take all necessary action to transfer persons employed in the positions of Sanitarian II and Public Health Nurse II, as well as the functions and duties of these persons, from persons employed under a rural health contract in Mono County to the State of California.

(b) The Department of Personnel Administration shall establish a salary level for each of the above persons commensurate with the length of time each was employed in Mono County under the rural health contract, and shall provide for seniority, sick leave, and retirement benefits, in accordance with Section 19994 of the Government Code.

(c) The employment by the State of California shall be effective July 1, 1986, or as soon thereafter as is feasible.

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 expeditious transfer of a Sanitarian II

and a Public Health Nurse II employed under a rural health contract in Mono County to employment with the State of California, it is necessary for this act to take effect immediately.

CHAPTER 486

An act to amend Sections 19567 and 19619 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 19567 of the Business and Professions Code is amended to read:

19567. Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a sum equal to 10 percent of the first money of every purse won by a California-bred horse at a horserace meeting shall be paid by the licensee conducting the meeting to the breeder of the animal. This section shall apply to any California-bred standardbred horse that is foaled on or after the first day of November 1977 for all races, except the California standardbred sires stakes races.

SEC. 2. Section 19619 of the Business and Professions Code is amended to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season.

(c) Responsibility for the California Standardbred Sires Stakes Program is with the board. Administration of the California Standardbred Sires Stakes Program is the responsibility of the California Standardbred Sires Stakes Committee. The California Standardbred Sires Stakes Committee shall consist of six members and two alternates, with three members and one alternate selected from and by each of the following organizations:

(1) The harness horsemen's organization contracting with the associations with respect to the conduct of racing meetings.

(2) The organization responsible for the registration of California-bred harness horses.

Administrative expenses of the committee in any given year shall not exceed 4 percent of that year's income to the California

Standardbred Sires Stakes Program, and all expenses shall be approved by the board.

(d) The board may do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall prepare, issue, and adopt rules and regulations providing for all of the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining, and entry fees for horses and races.

(3) Registration and certification of California stallions, mares bred to those stallions, and foals produced thereby.

(4) Any other matter which is considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Standardbred Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining, and entry fees provided for in this section shall be deposited with the California Standardbred Sires Stakes Committee. The committee shall distribute the funds deposited with it in accordance with this section for the purposes of the California Standardbred Sires Stakes Program in the manner approved by the board.

(f) Pursuant to Section 19491.7, the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	Purses
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
January 1 to June 30, 1981	75%	25%
July 1, 1981, and thereafter	100%	0%

(g) An amount equal to 10 percent of the total purses raced for in the California sires stakes races shall be awarded to the standardbred breeders of the horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total purses raced for in the California sires stakes races shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding subdivision (b), the board may establish a

series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two year olds and are wholly owned by a California resident on the day of the race.

(j) The balance of the remaining funds, including nominating, sustaining, and entry fees, and after the expenditures described in subdivisions (e), (g), (h), and (i) have been made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the board in accordance with the following criteria:

(1) California standardbred sires stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at the discretion of the California Standardbred Sires Stakes Committee, except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled.

(2) Two- and three-year-old races shall be divided into colt and filly divisions.

(3) Base purses for each set of races conducted during any given year at any race meeting shall be determined by the California Standardbred Sires Stakes Committee but, with the exception of championship races which may be scheduled and excluding purses derived from nomination, sustaining, and entry fees, shall be equal for all two-year-old and three-year-old races regardless of sex and gait, except that, if divisions are raced, the base purse for each division shall be no less than 75 percent of the original base purse and, if elimination heats are raced, the base purse shall be determined by the California Standardbred Sires Stakes Committee designated pursuant to subdivision (c). As used in this section, a set of races means one final race for each eligible age, sex, and gait, as scheduled by the California Standardbred Sires Stakes Committee.

(4) In each division of each race in the California standardbred sires stake races, the purse shall be divided in the following manner:

(i) Five or more starters	
1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%
(ii) Four starters	
1st	55%
2nd	25%
3rd	12%
4th	8%
(iii) Three starters	

1st	55%
2nd	30%
3rd	15%
(iv) Two starters	
1st	65%
2nd	35%
(v) One starter	
1st	100%

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

In order to eliminate confusion relating to the fundamental sums on which breeding awards are paid in horseracing meets currently being conducted in California, it is necessary that this act take effect immediately.

CHAPTER 487

An act to amend Section 3 of Chapter 380 of the Statutes of 1959, relating to health.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 3 of Chapter 380 of the Statutes of 1959 is amended to read:

Sec. 3. Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code is repealed.

Notwithstanding such repeal, the organization, existence, or powers of any district created by, or organized pursuant to, the provisions of such Chapter 6, except for Article 8 (commencing with Section 967), shall remain unaffected by such repeal, and any such district shall continue to exist and may exercise any of the powers conferred upon it by that chapter, except for Article 8 (commencing with Section 967). This section does not continue in existence Article 8 (commencing with Section 967). No district shall be created or organized pursuant to that chapter after October 1, 1959.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code as the provisions of that chapter existed at the time of their repeal, the district board of any district created by, or organized pursuant to, such provisions, which has continued to exist thereunder shall consist of nine members.

One member shall be appointed from each city in the district, by

the governing body of the city, and the remaining members shall be appointed by the board of supervisors from the unincorporated territory in the district at large.

The first additional members appointed to a district board under this section shall classify themselves by lot so that the terms of office of one-half of such members shall expire at the same time as the terms of office of incumbent members which first expire following the date of such appointments, and the terms of office of the other one-half shall expire at the same time as the terms of office of the other incumbent members. The terms of office of their successors shall be the same as for other members appointed to the district board.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as the provisions of that chapter existed at the time of their repeal, annexation of territory, incorporated or unincorporated, lying adjacent and contiguous to a district, and dissolution of a district, shall be undertaken pursuant to the provisions of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code). Upon any dissolution of a district, the district shall transfer its real and personal property including, but not limited to, any moneys of the district and district revenues derived from local, state, or federal sources to the County of San Joaquin which shall assume the district's responsibilities. Notwithstanding paragraph (3) of subdivision (a) of Section 57083 of the Government Code, the district board may, by resolution adopted by two-thirds vote of its members, consent to the dissolution of the district.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as the provisions of that chapter existed at the time of their repeal, the tax for a district shall in no case exceed the rate of twenty-five cents ($0.25) on each one hundred dollars ($100) of assessed valuation of all taxable property within the district.

If the district board presents a budget that necessitates a tax rate in excess of fifteen cents ($0.15) on each one hundred dollars ($100) of the assessed valuation, the budget shall not be effective unless and until it is approved by the county board of supervisors.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as the provisions of that chapter existed at the time of their repeal, an air pollution control district may contract with a local health district in the same county in which the air pollution control district is functioning and exercising its powers, and such a local health district may contract with such an air pollution control district, for the enforcement by the local health district of the orders, rules, and regulations of the air pollution control district, and the providing by the local health district of services to the air pollution control district.

CHAPTER 488

An act to amend Sections 1700.2, 1700.4, 1700.6, 1700.9, 1700.15, 1700.19, 1700.21, 1700.24, 1700.26, 1700.30, 1700.33, 1700.40, 1700.44, and 1700.45 of, and to repeal and add Sections 1700.25 and 1700.47 of, the Labor Code, relating to talent agencies.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 1700.2 of the Labor Code is amended to read:

1700.2. (a) As used in this chapter, "fee" means any of the following:

(1) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting the business of a talent agency under this chapter.

(2) Any money received by any person in excess of that which has been paid out by him or her for transportation, transfer of baggage, or board and lodging for any applicant for employment.

(3) The difference between the amount of money received by any person who furnished employees, performers, or entertainers for circus, vaudeville, theatrical, or other entertainments, exhibitions, or performances, and the amount paid by him or her to the employee, performer, or entertainer.

(b) As used in this chapter, "registration fee" means any charge made, or attempted to be made, to an artist for any of the following purposes:

(1) Registering or listing an applicant for employment in the entertainment industry.

(2) Letter writing.

(3) Photographs, film strips, video tapes, or other reproductions of the applicant.

(4) Costumes for the applicant.

(5) Any activity of a like nature.

SEC. 2. Section 1700.4 of the Labor Code is amended to read:

1700.4. (a) "Talent agency" means a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists, except that the activities of procuring, offering, or promising to procure recording contracts for an artist or artists shall not of itself subject a person or corporation to regulation and licensing under this chapter. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

(b) "Artists" means actors and actresses rendering services on the legitimate stage and in the production of motion pictures, radio artists, musical artists, musical organizations, directors of legitimate

stage, motion picture and radio productions, musical directors, writers, cinematographers, composers, lyricists, arrangers, models, and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

SEC. 3. Section 1700.6 of the Labor Code is amended to read:

1700.6. A written application for a license shall be made to the Labor Commissioner in the form prescribed by him or her and shall state:

(a) The name and address of the applicant.

(b) The street and number of the building or place where the business of the talent agency 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) If the applicant is other than a corporation, 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 talent agency in question, together with the amount of their respective interests.

If the applicant is a corporation, the corporate name, the names, residential addresses, and telephone numbers of all officers of the corporation, the names of all persons exercising managing responsibility in the applicant or licensee's office, and the names and addresses of all persons having a financial interest of 10 percent or more in the business and the percentage of financial interest owned by those persons.

The application shall be accompanied by two sets of fingerprints of the applicant and affidavits of at least two reputable residents of the city or county in which the business of the talent agency is to be conducted who have known, or been associated with, the applicant for two years, that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing.

SEC. 4. Section 1700.9 of the Labor Code is amended to read:

1700.9. No license shall be granted to conduct the business of a talent agency:

(a) In a place that would endanger the health, safety, or welfare of the artist.

(b) To a person whose license has been revoked within three years from the date of application.

SEC. 5. Section 1700.15 of the Labor Code is amended to read:

1700.15. A talent agency shall also deposit with the Labor Commissioner, prior to the issuance or renewal of a license, a surety bond in the penal sum of ten thousand dollars ($10,000).

SEC. 6. Section 1700.19 of the Labor Code is amended to read:

1700.19. Each license shall contain all of the following:

(a) The name of the licensee.

(b) A designation of the city, street, and number of the premises in which the licensee is authorized to carry on the business of a talent agency.

(c) The number and date of issuance of the license.

SEC. 7. Section 1700.21 of the Labor Code is amended to read:

1700.21. The Labor Commissioner may revoke or suspend any license when it is shown that any of the following occur:

(a) The licensee or his or her agent has violated or failed to comply with any of the provisions of this chapter.

(b) The licensee has ceased to be of good moral character.

(c) The conditions under which the license was issued have changed or no longer exist.

(d) The licensee has made any material misrepresentation or false statement in his or her application for a license.

SEC. 8. Section 1700.24 of the Labor Code is amended to read:

1700.24. Every talent agency shall file with the Labor Commissioner a schedule of fees to be charged and collected in the conduct of that occupation, and shall also keep a copy of the schedule posted in a conspicuous place in the office of the talent agency. Changes in the schedule may be made from time to time, but no fee or change of fee shall become effective until seven days after the date of filing thereof with the Labor Commissioner and until posted for not less than seven days in a conspicuous place in the office of the talent agency.

SEC. 9. Section 1700.25 of the Labor Code is repealed.

SEC. 10. Section 1700.25 is added to the Labor Code, to read:

1700.25. (a) A licensee who receives any payment of funds on behalf of an artist shall immediately deposit that amount in a trust fund account maintained by him or her in a bank or other recognized depository. The funds, less the licensee's commission, shall be disbursed to the artist within 15 days after receipt.

(b) A separate record shall be maintained of all funds received on behalf of an artist and the record shall further indicate the disposition of the funds.

SEC. 11. Section 1700.26 of the Labor Code is amended to read:

1700.26. Every talent agency shall keep records in a form approved by the Labor Commissioner, in which shall be entered all of the following:

(1) The name and address of each artist employing the talent agency.

(2) The amount of fee received from the artist.

(3) The employments secured by the artist during the term of the contract between the artist and the talent agency, and the amount of compensation received by the artists pursuant thereto.

(4) Any other information which the Labor Commissioner requires.

No talent agency, its agent or employees, shall make any false entry in any records.

SEC. 12. Section 1700.30 of the Labor Code is amended to read:

1700.30. No talent agency shall sell, transfer, or give away to any person other than a director, officer, manager, employee, or shareholder of the talent agency any interest in or the right to

participate in the profits of the talent agency without the written consent of the Labor Commissioner.

SEC. 13. Section 1700.33 of the Labor Code is amended to read:

1700.33. No talent agency shall send or cause to be sent, any artist to any place where the health, safety, or welfare of the artist could be adversely affected, the character of which place the talent agency could have ascertained upon reasonable inquiry.

SEC. 14. Section 1700.40 of the Labor Code is amended to read:

1700.40. No talent agency shall collect a registration fee. In the event that a talent agency shall collect from an artist a fee or expenses for obtaining employment for the artist, and the artist shall fail to procure the employment, or the artist shall fail to be paid for the employment, the talent agency shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within 48 hours after demand therefor, the talent agency shall pay to the artist an additional sum equal to the amount of the fee.

SEC. 15. Section 1700.44 of the Labor Code is amended to read:

1700.44. (a) In cases of controversy arising under this chapter, the parties involved shall refer the matters in dispute to the Labor Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the superior court where the same shall be heard de novo. To stay any award for money, the party aggrieved shall execute a bond approved by the superior court in a sum not exceeding twice the amount of the judgment. In all other cases the bond shall be in a sum of not less than one thousand dollars ($1,000) and approved by the superior court.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he 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.

(b) Notwithstanding any other provision of law to the contrary, failure of any person to obtain a license from the Labor Commissioner pursuant to this chapter shall not be considered a criminal act under any law of this state.

(c) No action or proceeding shall be brought pursuant to this chapter with respect to any violation which is alleged to have occurred more than one year prior to commencement of the action or proceeding.

(d) It is not unlawful for a person or corporation which is not licensed pursuant to this chapter to act in conjunction with, and at the request of, a licensed talent agency in the negotiation of an employment contract.

SEC. 16. Section 1700.45 of the Labor Code is amended to read:

1700.45. Notwithstanding Section 1700.44, 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:

(a) If the provision is contained in a contract between a talent agency and a person for whom the talent agency under the contract undertakes to endeavor to secure employment, or

(b) If 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 a talent agency, and

(c) If the contract provides for reasonable notice to the Labor Commissioner of the time and place of all arbitration hearings, and

(d) If 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 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 an arbitration provision in a contract, the contract need not provide that the talent agency agrees to refer any controversy between the applicant and the talent agency regarding the terms of the contract to the Labor Commissioner for adjustment, and Section 1700.44 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. 17. Section 1700.47 of the Labor Code is repealed.

SEC. 18. Section 1700.47 is added to the Labor Code, to read:

1700.47. It shall be unlawful for any licensee to refuse to represent any artist on account of that artist's race, color, creed, sex, national origin, religion, or handicap.

SEC. 19. The amendments made by this act to subdivision (a) of Section 1700.4, and subdivisions (c) and (d) of Section 1700.44, of the Labor Code shall be deemed operative on January 1, 1986.

CHAPTER 489

An act to amend Section 1192.7 of the Penal Code, relating to plea bargaining.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 1192.7 of the Penal Code is amended to read:

1192.7. (a) Plea bargaining in any case in which the indictment or information charges any serious felony or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(b) As used in this section "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section "serious felony" means any of the following:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious acts on a child under the age of 14 years; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any other felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing great bodily injury or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) burglary of an inhabited dwelling house, or trailer coach as defined by the Vehicle Code, or inhabited portion of any other building; (19) robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give heroin, cocaine, or phencyclidine (PCP) to a minor; (25) any attempt to commit a crime listed in this subdivision other than an assault.

(d) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the

electors.

CHAPTER 490

An act to amend Section 84215 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 84215 of the Government Code is amended to read:

84215. All candidates, elected officers, committees and proponents of state ballot measures except as provided in subdivision (e) shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, candidates for such offices, supreme court justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, supreme court justices, or statewide measures, and all state general purpose committees and filers not specified in subdivisions (b) through (e) below:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the Registrar-Recorder of Los Angeles County.

(3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees and committees formed or existing primarily to support or oppose these candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the clerk of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts or appellate court districts which contain parts of two or more counties, candidates for these offices, their controlled committees and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the clerk of the county with the largest number of

registered voters in the jurisdiction.

(d) County elected officers, municipal court judges, candidates for such offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (e), and county general purpose committees shall file the original and one copy with the clerk of the county.

(e) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city. These elected officers, candidates, and committees need not file with the clerk of the county in which they are domiciled.

(f) Notwithstanding the above, no committee, candidate, or elected officer shall be required to file more than the original and one copy, or two copies, of a campaign statement with any one county or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (d) and (e), it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

SEC. 2. The Legislature hereby finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

CHAPTER 491

An act to amend Section 20500 of, and to add Section 20180.2 to, the Government Code, relating to public employees.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 20180.2 is added to the Government Code, to read:

20180.2. Notwithstanding Section 20165 or Section 20180 or any other provision of this part, the system may refrain from collecting an underpayment of accumulated contributions, whenever the amount to be collected is fifty dollars ($50) or less.

SEC. 2. Section 20500 of the Government Code is amended to read:

20500. Notwithstanding any other provision of this part, a

contracting agency and its employees may agree, in writing, to share the costs of any optional benefit which is inapplicable to a contracting agency unless and until the agency elects to be subject to the benefit. The agreement shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall be normal contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part. The contributions shall be uniform with respect to all members within each of the following classifications: local miscellaneous members, local policemen, local firemen, county peace officers, and all local safety members other than local policemen, local firemen, and county peace officers. The balance of any costs shall be paid by the contracting agency and shall be credited to the employer's account.

This section shall not apply to any optional benefit which is elected by a contracting agency prior to the effective date of this section.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after this section takes effect, by express provision in the contract making the contracting agency subject to this section. Contributions provided by this section shall not be withheld from member compensation or otherwise collected until the contract amendment becomes effective.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

Nothing in this section shall preclude a contracting agency and its employees from independently agreeing in a memorandum of understanding to share the costs of any optional benefit in a manner inconsistent with this section. However, any such an agreement in a memorandum of understanding which is inconsistent with this section shall not be part of the contract between this system and the contracting agency.

CHAPTER 492

An act to add and repeal Section 14675.5 of the Government Code, relating to state office buildings, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986]

I am deleting the $50,000 appropriation contained in Section 3 of Assembly Bill No. 4164.

The alternative site analysis required by this measure can be accomplished by the Department of General Services within existing resources as a normal part of its facilities planning process.

With this deletion, I approve Assembly Bill No. 4164

George Deukmejian, Governor

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The construction of a multilane, depressed freeway through an established urban community may have a negative impact on the economic and social environment and may present a threat to the health and well-being of those residents who live next to the freeway.

(b) The planned completion of a 2-mile segment of Interstate 15 in the City of San Diego, from Adams Avenue to Dwight Street, represents an opportunity to seek alternative freeway designs which are more sensitive to the community.

(c) In an attempt to mitigate the negative impact imposed on the residents of the Mid-City community of the City of San Diego, the Department of Transportation and the city both signed a freeway construction agreement in May of 1985 which requires the state and the city to each fund the construction of a one-block cover over the completed freeway.

The agreement recognizes the need to further reduce the impact of the freeway if funds can be secured to construct a cover over additional blocks of the freeway corridor.

(d) The City of San Diego has commissioned an analysis of the potential for siting office buildings, retail shops, and residential complexes on the space created by covering additional blocks of the I-15 freeway.

(e) The Department of General Services plans to construct a new state office building and garage in downtown San Diego by 1995. The proposed building will include 157,200 net square feet of office space and a 525-space garage. Approximately 860 state employees will work there.

(f) A preliminary analysis indicates employees and visitors would spend over one million dollars ($1,000,000) per year on goods and services at nearby shops and restaurants. That annual expenditure will support approximately 8,000 square feet of retail space.

(g) In order to ensure that the state projects do not impose harm

on the environment or the public health and safety of the people of California, it is necessary to thoroughly study the combined effects of all state projects.

SEC. 2. Section 14675.5 is added to the Government Code, to read:

14675.5. (a) The Department of General Services shall prepare a detailed comparative analysis of both of the following alternative sites for a new San Diego state office building:

(1) The downtown site, which is the city block bounded by State, Union, Ash, and A Streets

(2) The Mid-City site along or over the I-15 freeway corridor.

(b) In preparing this analysis, the Department of General Services shall request any relevant information from the Department of Transportation and the City of San Diego and establish a mechanism for those entities to review and comment on the methodology and procedures used in the analysis. The city and the Department of Transportation shall also be provided an opportunity to comment on the analysis in draft form, prior to its completion.

(c) The Department of General Services may prepare a request for a proposal and employ a private consultant to conduct research for the study and prepare a final report. The report shall be completed and submitted to thr Legislature no later than January 1, 1987.

(d) The final report shall include, but is not limited to, all of the following issues:

(1) The value of the property in downtown San Diego currently owned by the state, bounded by State, Union, Ash, and A Streets, and its revenue potential for the state if leased or sold.

(2) The cost of land acquisition in the Mid-City freeway corridor.

(3) The amount of tax revenues which could be generated from private development versus a public structure at each of these locations.

(4) The accessibility of both sites to the constituencies likely to visit the state office building.

(5) The impact of the projected traffic generated by the state office building in areas surrounding each site.

(6) A survey of the community organizations in each area to assess the public reaction to a state building.

(e) 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 prior to January 1, 1987, deletes or extends that date.

SEC. 3. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Department of General Services in order to implement Section 2 of this act.

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

In order to ensure that planning for a determination as to the site for a new state office building in San Diego is adequately performed at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 493

An act to amend Sections 4036, 4213, and 4228 of, and to add Sections 2725.1, 2836.1, 2836.2, 2836.3, 4051.5, and 4051.6 to, the Business and Professions Code, relating to nursing.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 2725.1 is added to the Business and Professions Code, to read:

2725.1. Notwithstanding any other provision of law, a registered nurse may dispense drugs or devices upon an order by a licensed physician and surgeon when the nurse is functioning within a licensed clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1204 of, or within a clinic as defined in subdivision (b) or (c) of Section 1206, of the Health and Safety Code.

No clinic shall employ a registered nurse to perform dispensing duties exclusively. No registered nurse shall dispense drugs in a pharmacy, keep a pharmacy, open shop, or drugstore for the retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs by a registered nurse shall not include substances included in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from the provisions of Article 3.5 (commencing with Section 4063) of Chapter 9.

SEC. 2. Section 2836.1 is added to the Business and Professions Code, to read:

2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing drugs or devices when all of the following apply:

(a) The drugs or devices are furnished incidentally to the provision of family planning services, as defined in Section 14503 of the Welfare and Institutions Code, or are furnished incidental to the provision of routine health care rendered to essentially healthy persons within a clinic specified in subdivision (b) or (c) of Section 1206 of the Health and Safety Code.

(b) The nurse practitioner is functioning pursuant to a standardized procedure, as defined in Section 2725. The standardized procedure shall be developed and approved by the

supervising physician, the nurse practitioner, and the facility administrator or his or her designee.

(c) The standardized procedure covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish drugs or devices, which drugs or devices may be furnished, under what circumstances, the extent of physician supervision, and the method of periodic review of the nurse practitioner's competence and of the provisions of the standardized procedure.

(d) The furnishing of drugs or devices by a nurse practitioner occurs under physician supervision. Physician supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

(e) For purposes of this section, no physician shall supervise more than four nurse practitioners at one time.

(f) Drugs or devices furnished by a nurse practitioner shall not include controlled substances under the California Uniform Controlled Substances Act, (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and specified in the standardized procedure.

(g) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician-supervised experience in the furnishing of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished under Section 2836.1. The board shall establish the requirements for satisfactory completion of this subdivision.

SEC. 3. Section 2836.2 is added to the Business and Professions Code, to read:

2836.2. Furnishing of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure.

SEC. 4. Section 2836.3 is added to the Business and Professions Code, to read:

2836.3. (a) The furnishing of drugs or devices by nurse practitioners is conditional on issuance by the board of a number to the nurse applicant who has successfully completed the requirements of subdivision (g) of Section 2836.1. The number shall be included on all transmittals of orders for drugs or devices by the nurse practitioner. The board shall make the list of numbers issued available to the Board of Pharmacy. The board may charge the applicant a fee to cover all necessary costs to implement this section.

(b) The number shall be renewable at the time of the applicant's registered nurse license renewal.

(c) The board may revoke, suspend, or deny issuance of the

numbers for incompetence or gross negligence in the performance of functions specified in Sections 2836.1 and 2836.2.

SEC. 5. Section 4036 of the Business and Professions Code is amended to read:

4036. (a) "Prescription" means an oral order given individually for the person or persons for whom prescribed, directly from the prescriber to the furnisher, or indirectly by means of a written order, signed by the prescriber, and shall bear the name or names and address of the patient or patients, the name and quantity of the drug or device prescribed, directions for use, and the date of issue, and either rubber stamped, typed, or printed by hand or typeset the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed. No person other than a physician, dentist, podiatrist, or veterinarian, shall prescribe or write a prescription.

Nothing in the amendments made to this section at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right which a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, which contains at least the name and signature of the prescriber, the name or names and address of the patient or patients in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist so long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between the provisions of this subdivision and Section 11164 of the Health and Safety Code, the provisions of Section 11164 shall prevail.

(c) Except as provided in Section 4036.1, an oral prescription shall as soon as practicable be reduced to writing by the pharmacist and shall be filled by, or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number, license classification, federal registry number of the prescriber, or the address of the patient or patients if the information is readily retrievable in the pharmacy.

SEC. 6. Section 4051.5 is added to the Business and Professions Code, to read:

4051.5. This chapter does not prevent the dispensing of drugs or devices by registered nurses functioning pursuant to Section 2725.1.

SEC. 7. Section 4051.6 is added to the Business and Professions Code, to read:

4051.6. Notwithstanding any other provision of law, a licensed pharmacist may dispense drugs or devices upon the order of a nurse

practitioner functioning pursuant to Section 2836.1.

SEC. 8. Section 4213 of the Business and Professions Code is amended to read:

4213. "Administer," as used in this article, means the furnishing by a physician and surgeon, dentist, podiatrist, or veterinarian, to his or her patient of such amount of drugs or medicines referred to in this article as are necessary for the immediate needs of the patient.

SEC. 9. Section 4228 of the Business and Professions Code is amended to read:

4228. (a) Except as provided in subdivisions (b) and (c) of this section, no person shall dispense any dangerous drug upon prescription except in a container correctly labeled with the information required by Sections 4047.5 and 4048.

(b) Physicians, dentists, podiatrists, and veterinarians may personally furnish any dangerous drug prescribed by them to the patient for whom prescribed, provided that such drug is properly labeled to show all information required in Sections 4047.5 and 4048 except the prescription number.

(c) Devices which bear the legend "Caution: federal law restricts this device to sale by or on the order of a _____," or words of similar meaning, are exempt from the requirements of Sections 4047.5 and 4048, and Section 26662 of the Health and Safety Code, when provided to patients in skilled nursing facilities or intermediate care facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 9.5. By adding Sections 2725.1 and 2836.1 to the Business and Professions Code, the Legislature intends that registered nurses, prior to dispensing drugs or devices, and nurse practitioners, prior to furnishing drugs or devices, provide the patient with appropriate educational information regarding those drugs or devices.

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 494

An act to amend Section 10133 of the Insurance Code, relating to insurance.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 10133 of the Insurance Code is amended to read:

10133. (a) Upon written consent of the insured first obtained with respect to a particular claim, any disability insurer shall pay group insurance benefits contingent upon, or for expenses incurred on account of, hospitalization or medical or surgical aid to the person or persons furnishing the hospitalization or medical or surgical aid, but the amount of any such payment shall not exceed the amount of benefit provided by the policy with respect to the service or billing of the provider of aid, and the amount of the payments pursuant to one or more assignments shall not exceed the amount of expenses incurred on account of the hospitalization or medical or surgical aid. Payments so made shall discharge the insurer's obligation with respect to the amount so paid.

(b) Nothing in this section shall be construed to authorize an insurer to furnish or directly provide services of hospitals, or psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, or physicians and surgeons, or psychologists or in any manner to direct, participate in, or control the selection of the hospital or health facility or physician and surgeon or psychologist from whom the insured secures services or exercise medical or dental or psychological professional judgment, except that an insurer may negotiate and enter into contracts for alternative rates of payment with institutional providers, and offer the benefit of these alternative rates to insureds who select those providers.

(c) Alternatively, insurers may, by agreement with group policy holders, limit payments under a policy to services secured by insureds from institutional providers, and after July 1, 1983, from professional providers, charging alternative rates pursuant to contract with the insurer.

(d) Pursuant to subdivision (c), when alternate rates of payment to providers are applicable to contracts with group policyholders, the contracts shall include programs for the continuous review of the quality of care, performance of medical or psychological personnel included in the plan, utilization of services and facilities, and costs, by professionally recognized unrelated third parties utilizing in the case of professional providers similarly licensed providers for each medical, psychological, or dental service covered under the plan and utilizing in the case of institutional providers appropriate

professional providers. All provisions of the laws of the state relating to immunity from liability and discovery privileges for medical, psychological, and dental peer review shall apply to the licensed providers performing the foregoing activities.

(e) On or after July 1, 1983, the amendments made to this section during the 1982 portion of the 1981–82 Regular Session, shall also be applicable with respect to both professional and institutional providers.

CHAPTER 495

An act relating to electricity.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. (a) The Legislature finds and declares that current proposals for the construction of new electrical generation plants of all types exceed the reasonably foreseeable demand for electricity.

(b) The Legislature further finds and declares that neither the State Energy Resources Conservation and Development Commission nor the Public Utilities Commission has rules or procedures to decide between competing project applications in this situation.

(c) It is, therefore, the intent of the Legislature, in enacting this act, to require these commissions to hold hearings, conduct a study, and submit a report to the Legislature of their findings, conclusions, and recommendations concerning this situation.

SEC. 2. (a) The State Energy Resources Conservation and Development Commission and the Public Utilities Commission shall conduct joint hearings on the current status of demand for electricity in California and the options available within the respective jurisdictions of the commissions to best ensure the availability of electricity to meet this demand.

(b) In these hearings, the commissions shall consider the adoption of rules and procedures to most effectively respond to and regulate the potential or available sources of supply of electricity in a context of an excess of available or potential supply over forecasted demand. The hearings shall include, but not be limited to, proposals to institute a form of competitive bidding procedure through which all suppliers and producers of electricity would compete for authorization to fulfill the forecasted demand.

(c) The commissions shall jointly report their findings, conclusions, and recommendations to the Legislature on or before June 1, 1987. The report shall include, but not be limited to, both of the following:

(1) The cost effectiveness of the options for optimization of electricity supply considered in the hearings and whether and to what extent each option is equitable to the suppliers and producers of electricity concerned.

(2) Recommendations for both legislative and regulatory changes required to effectively implement the options developed for optimization of the electricity supply.

CHAPTER 496

An act to amend Section 10270.97 of the Insurance Code, relating to insurance.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 10270.97 of the Insurance Code is amended to read:

10270.97. Selected group disability insurance is that form of disability insurance conforming to the following conditions:

(a) Written under individual policies

(1) Issued to not less than three employees of the federal or state government, or of any federal or state agency, political subdivision or district, or of any public, governmental, or municipal corporation, or of any unit, agency, or department thereof, or of any corporation, copartnership or individual employer; or

(2) Issued to not less than 10 members of any association, which shall have been in existence for at least two years, having a constitution and bylaws and formed and continuously maintained in good faith for purposes other than that of obtaining insurance; and

(3) For amounts of insurance based upon individual selection by the insured employee or member, as the case may be.

(b) Notwithstanding the provisions of Section 10401 insurers may be permitted to file (for use in connection with selected group disability insurance), rate schedules that reflect a differential from the rates charged for identical policies issued on the individual basis, provided they do not make or permit any discrimination between selected groups.

CHAPTER 497

An act to amend Section 66 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 66 of the Revenue and Taxation Code is amended to read:

66. Change in ownership shall not include any of the following:

(a) The creation, vesting, transfer, distribution, or termination of a participant's or beneficiary's interest in an employee benefit plan.

(b) Any contribution of real property to an employee benefit plan.

(c) Any acquisition by an employee benefit plan of the stock of the employer corporation pursuant to which the employee benefit plan obtains direct or indirect control, as defined in Section 25105, in the employer corporation.

As used in this section, the terms "employer," "employee benefit plan," "participant," and "beneficiary" shall be defined as they are defined in The Employee Retirement Income Security Act of 1974.

SEC. 2. The amendments to Section 66 of the Revenue and Taxation Code made by this act shall be effective for the 1979–80 fiscal year and fiscal years thereafter. It is the intent of the Legislature that these amendments shall apply to the determination of new base year values for the 1979–80 fiscal year and fiscal years thereafter with respect to any transfer occurring on or after March 1, 1975. However, no refunds shall be made for any fiscal year preceding the applicable period provided in Section 5097 of the Revenue and Taxation Code.

SEC. 3. Section 1 of this act does not constitute a change in, but is declaratory of, the existing law.

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 498

An act to add Section 1710.2 to the Civil Code, relating to civil law.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) There has been an increase in the number of persons infected with Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus (HTLV-III/LAV) which causes acquired immune deficiency syndrome (AIDS), and, consequently, a high level of public attention has focused on this issue.

(b) Public speculation about the potential for transmission of this infectious virus, the degree of morbidity, and other factors, has led to expression of public fears or anxieties approaching, in some circumstances, panic or hysteria.

(c) The medical evidence regarding the potential transmission of this virus is conclusive that this infection is spread by sexual conduct with infected persons, exposure to contaminated blood or blood products through transfusion, and by perinatal transmission, and that there is no known risk of transmission by other means.

(d) Disclosures relating to AIDS involve potential issues of invasion of privacy, confidentiality of medical information, informed consent, and civil rights.

(e) The applicability of cases such as Reed v. King, 145 CA 3d 261, which deals with the obligation of a seller of real property to disclose facts materially affecting the value or desirability of the property, is not clear as to situations where previous owners or inhabitants of real property have been afflicted with AIDS. The Legislature intends to clarify this situation by the enactment of this act.

SEC. 2. Section 1710.2 is added to the Civil Code, to read:

1710.2. No cause of action arises against an owner of real property or his or her agent, or any agent of a transferee of real property, for the failure to disclose to the transferee that an occupant of that property was afflicted with Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus. As used in this section, "agent" includes any person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code. As used in this section, "transferee" includes a purchaser, lessee, or renter of real property.

It is the intention of the Legislature to occupy the field of regulation of disclosure related to AIDS in situations affecting the transfer of real property or any estate or interest in real property.

This section shall not be construed to alter the law relating to disclosure pertaining to any other physical or mental condition or

disease.

CHAPTER 499

An act to add Section 27563 to the Streets and Highways Code, relating to bridge and highway districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 27563 is added to the Streets and Highways Code, to read:

27563. Any person who, without the consent of the board of directors of the district, uses any district mark, name, word, or phrase, or combination, simulation, or colorable imitation thereof, which has or which may in the future be adopted by the district, including, but not limited to, the name "Golden Gate Bridge," for the purpose of manufacturing, advertising, or selling equipment or merchandise, or for the purpose of advertising and selling services, or to promote any activity in which the district may engage, which use has a tendency to cause confusion, mistake, or deception with the district as to the origin of goods or services, or has a tendency to falsely represent or suggest an association or connection with the district or any district activity, shall be subject to a civil action by the district, for an injunction, and (1) defendant's profits, (2) any damages sustained by the district, and (3) the costs of the action. In the court's assessment of profits, the district shall be required to prove the defendant's sales only, and the defendant shall prove all elements of costs or deduction claimed. In the court's assessment of damages, the court may enter judgment according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times that amount. If the court shall find that the amount of the recovery based on profits is either inadequate or excessive, the court may, in its discretion, enter judgment for such sum as the court shall find to be just, according to the circumstances of the case, and may award reasonable attorneys' fees to the prevailing party. Nothing in this section shall interfere with the vested rights of any person in any name, word, mark, symbol, or device.

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

In order to protect the appropriate use in the public interest of marks, names, words, and symbols of the Golden Gate Bridge,

Highway and Transportation District at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 500

An act to amend Section 104.12 of the Streets and Highways Code, relating to the Department of Transportation.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 104.12 of the Streets and Highways Code is amended to read:

104.12. (a) The department may lease to public agencies or private entities for any term not to exceed 99 years the use of areas above or below state highways, subject to any reservations, restrictions, and conditions that it deems necessary to assure adequate protection to the safety and the adequacy of highway facilities and to abutting or adjacent land uses. Authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, which are on active duty and are not merely being stored shall be given preference in the use of these areas, and no payment of consideration shall be required for this use of the areas by these vehicles. Prior to entering into any such lease, the department shall determine that the proposed use is not in conflict with the zoning regulations of the local government concerned. The leases shall be made in accordance with procedures to be prescribed by the commission, except that, in the case of leases with private entities, the leases shall only be made after competitive bidding unless the commission finds by unanimous vote that in certain cases competitive bidding would not be in the best interests of the state. The possibilities of entering into the leases, and the consequent benefits to be derived therefrom, may be considered by the department in designing and constructing the highways.

Revenues from the leases shall be deposited in the State Highway Account.

(b) The department shall consider future lease potential of areas above or below state highway projects when planning new state highway projects. This consideration shall be accomplished by intra-department consultation between offices concerned with project development and air space lease development.

CHAPTER 501

An act to add Chapter 14 (commencing with Section 54997) to Part 1 of Division 2 of Title 5 of the Government Code, relating to local agencies.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Chapter 14 (commencing with Section 54997) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 14. INDEPENDENT AUDITS OF FEES OR CHARGES

54997. (a) Any person may request an audit in order to determine whether any fee or charge levied by a district exceeds the amount reasonably necessary to cover the cost of any product or service provided by the district. If a person makes that request, the board of directors of the district may retain an independent auditor to conduct an audit to determine whether the fee or charge is reasonable.

(b) Any costs incurred by a district in having an audit conducted by an independent auditor pursuant to subdivision (a) may be recovered from the person who requests the audit.

(c) Any audit conducted by an independent auditor to determine whether a fee or charge levied by a district exceeds the amount reasonably necessary to cover the cost of providing the product or service shall conform to generally accepted auditing standards.

(d) "District," as used in this chapter, 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" does not include a county service area or a county waterworks district governed by a county board of supervisors.

54998. (a) This chapter shall not be construed as granting any additional authority to any district to levy any fee or charge which is not otherwise authorized by another provision of law nor shall its provisions be construed as granting authority to any district to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.

(b) This chapter shall not be construed as requiring any district to review or revise any fee or charge which is in effect January 1, 1987.

CHAPTER 502

An act to add Section 1349.1 to the Health and Safety Code, relating to health care service plans.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 1349.1 is added to the Health and Safety Code, to read:

1349.1. A health care service plan which satisfies both of the following criteria is exempt from Section 1349:

(a) Provides only emergency ambulance services or advanced life support services, as defined by Section 1797.52, or both.

(b) Is operated by the State of California, any city, county, city and county, public district, or public authority.

SEC. 2. No health care service plan or other person referred to in Section 1349.1 of the Health and Safety Code shall be subject to any provision of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code which imposes any liability for failing to obtain a license prior to January 1, 1987.

CHAPTER 503

An act to amend Sections 11515, 11702, 11703, 11704, 11903, 11904, 12021, 12103, 12104, 12812, and 12818 of, to add Sections 11516 and 11701.5 to, and to add Chapter 8 (commencing with Section 12201) to Division 6 of, and to add Chapter 3.6 (commencing with Section 14151) to Division 7 of, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 11515 of the Food and Agricultural Code is amended to read:

11515. (a) The director may, by regulation, establish reasonable fees based on recommendations of the Agricultural Pest Control Advisory Committee to cover the costs of administering any written examination administered pursuant to this division or Division 7 (commencing with Section 12501). The fees shall not exceed fifteen dollars ($15) per examination.

(b) The regulations shall provide that the examination fee may be charged to applicants who require the director to reschedule an

examination due to the applicant's failure to obtain a passing score or failure to appear for the scheduled examination, and for scheduling an examination to amend a license.

(c) The original application fee shall allow the applicant to take the laws and regulations examination and one additional category applied for in the original application in accordance with the director's examination schedule.

SEC. 2. Section 11516 is added to the Food and Agricultural Code, to read:

11516. The director may establish reasonable fees, not to exceed twenty dollars ($20), to cover the cost of name or address changes on any license or certificate issued pursuant to this division or Division 7 (commencing with Section 12501).

SEC. 3. Section 11701.5 is added to the Food and Agricultural Code, to read:

11701.5. Every principal or branch office of a business licensed pursuant to Section 11701 shall have at least one person in a supervisory position who holds a qualified applicator license issued pursuant to Chapter 8 (commencing with Section 12201). The qualified applicator license shall include the categories of pest control activities supervised by that person who is employed by that business.

SEC. 4. Section 11702 of the Food and Agricultural Code is amended to read:

11702. Applicants for an agricultural pest control business license shall do all of the following:

(a) Submit information to the director covering the applicant's business and personal qualifications that the director requires.

(b) Designate in the application the qualified applicator who shall be responsible for the conduct of the principal office of the applicant and of each branch location.

(c) Satisfy the director of the responsibility of the applicant as to any of the following:

(1) Equipment and facilities.

(2) Financial ability to perform the work authorized by the license and to respond in damages for any illness, injury, or damage resulting from the work, which ability may be satisfied by insurance in a form satisfactory to the director insuring against liability for personal injury and property damage in an amount prescribed by regulation of the director. The amount shall be related to the volume and type of pest control operations for which the applicant is licensed to perform.

(3) Personal responsibility to conduct the business.

The director shall establish by regulation the general classes of pest control operations in which the applicant may be qualified.

Licensing by the director shall not derogate from the authority of commissioners stated in Sections 11731 to 11741, inclusive.

SEC. 5. Section 11703 of the Food and Agricultural Code is amended to read:

11703. (a) Except as otherwise provided in Sections 11704 and 11707, the application shall be accompanied by a fee of one hundred dollars ($100).

(b) If the applicant maintains any branch office in this state or outside this state and the applicant engages in the agricultural pest control business in this state from that branch office, the applicant shall pay an additional fee of fifty dollars ($50) for each of these branch offices.

SEC. 6. Section 11704 of the Food and Agricultural Code is amended to read:

11704. (a) A person who is regularly engaged in the business of maintenance gardening and who desires to engage in pest control for hire incidental to that business shall qualify for an agricultural pest control license in the maintenance gardener category by passing the certified commercial applicators examination in both the laws and regulation and the landscape maintenance categories.

(b) The maintenance gardener category shall be limited to pest control in ornamental and turf plantings surrounding structures and commercial parks. A contract or verification that the pest control operation is incidental and that maintenance gardening is the primary purpose shall be immediately submitted to the commissioner or director upon request.

(c) An application for a license limited to the maintenance gardener category shall be accompanied by a fee of fifty dollars ($50).

SEC. 7. Section 11903 of the Food and Agricultural Code is amended to read:

11903. A fee of thirty dollars ($30) shall accompany each application for an initial certificate.

SEC. 8. Section 11904 of the Food and Agricultural Code is amended to read:

11904. Every certificate shall expire on December 31 of the year for which it is issued. Certificates may be renewed before the expiration date by application to the director and upon payment of a fee of twenty-five dollars ($25). A penalty fee of ten dollars ($10) shall be paid by an applicant who applies for renewal after the expiration date.

SEC. 9. Section 12021 of the Food and Agricultural Code is amended to read:

12021. Application for a pest control adviser license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant and shall be accompanied by a fee of fifty dollars ($50) to be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in the form prescribed by the director and upon payment of a fee of forty dollars ($40). A penalty of ten dollars ($10) shall be assessed against any applicant who applies for

a renewal of the license after the expiration date.

SEC. 10. Section 12103 of the Food and Agricultural Code is amended to read:

12103. Application for a license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant and shall be accompanied by a fee of one hundred dollars ($100) to be paid into State Treasury to the credit of the Department of Food and Agriculture Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued.

To the amount of the license fee shall be added, as an additional license fee, fifty dollars ($50) for each branch salesyard, store, or sales location which is owned and operated by the applicant in the state or in other states when doing business from that location within the state.

SEC. 11. Section 12104 of the Food and Agricultural Code is amended to read:

12104. The license for a pesticide dealer may be renewed annually upon application in the form prescribed by the director, accompanied by a fee of one hundred dollars ($100), for each license and fifty dollars ($50) for each branch, salesyard store, or sales location by the date of expiration. These fees shall be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 12. Chapter 8 (commencing with Section 12201) is added to Division 6 of the Food and Agricultural Code, to read:

CHAPTER 8. QUALIFIED APPLICATOR LICENSE

12201. Application for a qualified applicator license shall be in a form prescribed by the director. Each application shall state the name and address of the applicant and shall be accompanied by a fee of forty dollars ($40). These fees shall be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund.

12202. (a) All licenses issued pursuant to this chapter expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in a form prescribed by the director and upon payment of a fee of thirty dollars ($30).

(b) A penalty of ten dollars ($10) shall be assessed against any applicant who applies for renewal after the expiration date.

12203. Applicants shall be examined on the requirements of laws and regulations concerning pesticide use and shall elect to be examined for licensing in one or more of the following categories:

(a) Residential, industrial, and institutional pest control.
(b) Landscape maintenance pest control.
(c) Right-of-way pest control.
(d) Agricultural pest control.
(e) Forest pest control.
(f) Aquatic pest control.

(g) Regulatory pest control.
(h) Seed treatment.
(i) Agricultural pest control-animal.
(j) Demonstration and research.
(k) Health-related pest control.

12204. The director shall issue to each applicant who satisfies the requirements of this chapter a qualified applicator license.

12205. A qualified applicator license may be refused, revoked, or suspended by the director, after a hearing, for any of the following:

(a) Failure to comply with this division or Division 7 (commencing with Section 12501) or regulations adopted pursuant to these divisions.

(b) Making any false or fraudulent record or report.

SEC. 13. Section 12812 of the Food and Agricultural Code is amended to read:

12812. The annual fee for each product submitted for registration is two hundred dollars ($200). The director may reduce the fee to a lesser amount, if she or he determines that the reduced fee will provide the funds necessary to accomplish the purposes of this chapter.

SEC. 14. Section 12818 of the Food and Agricultural Code is amended to read:

12818. If renewal is not applied for within one calendar month after the expiration of a registration, there shall be added to the fee a penalty of fifty dollars ($50) and an additional penalty of 10 percent of the original amount due, for each succeeding calendar month. The total penalty shall not, however, exceed 50 percent of the original amount due.

SEC. 15. Chapter 3.6 (commencing with Section 14151) is added to Division 7 of the Food and Agricultural Code, to read:

CHAPTER 3.6. QUALIFIED APPLICATOR CERTIFICATES

14151. The director may, by regulation, specify the pesticide applications that shall be made by or under the supervision of a person holding a valid qualified applicator certificate.

14152. Applications for a qualified applicator certificate shall be in a form prescribed by the director. Each application shall state the name and address of the applicant and shall be accompanied by a fee of twenty-five dollars ($25). All certificates issued under this chapter shall expire on December 31 of the year for which they are issued. Certificates may be renewed annually by the date of expiration by application in the form prescribed by the director and upon payment of fifteen dollars ($15). A penalty of ten dollars ($10) shall be assessed against any applicant who applies for renewal after the expiration date. These funds shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

14153. Applicants shall be examined on the requirements of laws and regulations concerning pesticide use and shall elect to be

examined for certification in one or more of the following categories:

(a) Residential, industrial, and institutional pest control.
(b) Landscape maintenance pest control.
(c) Right-of-way pest control.
(d) Agricultural pest control.
(e) Forest pest control.
(f) Aquatic pest control.
(g) Regulatory pest control.
(h) Seed treatment.
(i) Agricultural pest control-animal.
(j) Demonstration and research.
(k) Health-related pest control.

14154. The director shall issue a qualified applicator certificate to each applicant who satisfies the requirements of this chapter.

14155. A qualified applicator certificate may be refused, revoked, or suspended by the director, after hearing, for either of the following:

(a) Failure to comply with any applicable provision of this division or Division 6 (commencing with Section 11401) or any regulations adopted pursuant to these divisions.

(b) Making any false or fraudulent record or report.

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 504

An act to amend Section 74030 of the Government Code, relating to courts.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 74030 of the Government Code is amended to read:

74030. (a) The positions enumerated in Sections 74022 to 74026, inclusive, shall receive a biweekly salary at step A of the range set forth below, as provided in Chapter 14 of the Placer County Code.

Step increases may be awarded at 5 percent at the end of the first six months and thereafter 5 percent annually for the next 48 months to a maximum of 20 percent over the amount specified as step A:

Position	Salary Range
Municipal court administrator	47.0
Supervising municipal court clerk	35.0
Municipal court clerk III	34.0
Deputy clerk, municipal court clerk I	30.0
Deputy clerk, municipal court clerk II	32.0
Deputy clerk, master calendar clerk	35.0

(b) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to employees of municipal courts and conversion of the new schedule shall be made for such employees in the same manner on the same date as for such other county employees. Also, employees and officers of the municipal court shall be entitled to all employee benefits as they are now provided and made applicable to positions within county service. All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provisions of state law shall be governed by the personnel provisions of the Placer County Code. Any changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire January 1, of the second calendar year following such changes unless ratified by the Legislature.

SEC. 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 505

An act to add Section 31482 to the Water Code, relating to county water districts.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 31482 is added to the Water Code, to read:

31482. The Contra Costa Water District may provide for bonds of the district to bear a variable interest rate, which rate shall not at any time exceed the maximum rate permitted by Section 53531 of the Government Code or any other applicable provision. If the rate of

interest is variable, the resolution adopted pursuant to Section 31391 shall state the manner and intervals at which the rate shall vary, and all bonds shall recite on their face the manner and the intervals at which the rate may vary.

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 the unique financing problems within the Contra Costa Water District which are not common to the other districts organized pursuant to the County Water District Law.

CHAPTER 506

An act to add Sections 3801.5, 5313.5, and 5413.5 to the Public Utilities Code, relating to fines and penalties.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 3801.5 is added to the Public Utilities Code, to read:

3801.5. Whenever the commission, after hearing, finds that any person or corporation is operating as a highway permit carrier without a valid permit, the commission may impose a fine of not more than five thousand dollars ($5,000) for each violation. The commission may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the commission. The commission may also assess interest on any fine or assessment imposed, to commence the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

SEC. 2. Section 5313.5 is added to the Public Utilities Code, to read:

5313.5. Whenever the commission, after hearing, finds that any person or corporation is operating as a household goods carrier without a valid permit, the commission may impose a fine of not more than five thousand dollars ($5,000) for each violation. The commission may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the commission. The commission may also assess interest on any fine or assessment imposed, to commence the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

SEC. 3. Section 5413.5 is added to the Public Utilities Code, to

read:

5413.5. Whenever the commission, after hearing, finds that any person or corporation is operating as a charter-party carrier of passengers without a valid certificate or permit, the commission may impose a fine of not more than five thousand dollars ($5,000) for each violation. The commission may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the commission. The commission may assess interest on any fine or assessment imposed, to commence on the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

CHAPTER 507

An act to amend Sections 5626, 5628.1, and 5629.1 of the Streets and Highways Code, relating to real property.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 5626 of the Streets and Highways Code is amended to read:

5626. The superintendent of streets may file in the office of the county recorder of the county in which the parcel of property is located, a certificate substantially in the following form:

NOTICE OF LIEN

Pursuant to the authority vested in me by the Improvement Act of 1911, I did, on the _____ day of _____, 19__, cause the sidewalk, curb, or park or parking strip, bulkheads, retaining walls, or other works (as the case may be) in front of the real property hereinafter described, to be repaired and improved, and the legislative body of said city (county, or city and county) did, on the _____ day of _____, 19__, by Resolution No. _____ assess the cost of such repair upon the real property hereinafter described, and the same has not been paid nor any part thereof, and the said city (county, or city and county), does hereby claim a lien on said real property in the sum of _____ dollars ($_____), and the same shall be a lien upon said real property until the said sum, with interest at the rate of _____ percent per annum, from the said _____ day of _____, 19__ (insert date of confirmation of assessment), has been paid in full and discharged of record.

The real property hereinbefore mentioned and upon which a lien is claimed, is that certain piece or parcel of land lying and being in

the (name of city, or city and county) the county of _____, State of _____, and particularly described as follows:

(Description of property)

Dated this _____ day of _____, 19__.

_____
Superintendent of streets

SEC. 2. Section 5628.1 of the Streets and Highways Code is amended to read:

5628.1. The legislative body shall have the power, in its discretion, to determine that the payment of assessments of one hundred dollars ($100) or more may be made in annual installments, not to exceed five, and that the payment of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the legislative body, not to exceed the rate permitted for bonds by Section 53531 of the Government Code. Interest shall begin to run on the 31st day after the confirmation of the assessments by the legislative body. Determinations of the legislative body shall be expressed by resolution at any time prior to the confirmation of the assessments.

SEC. 3. Section 5629.1 of the Streets and Highways Code is amended to read:

5629.1. If bonds are to be issued to represent the security of the unpaid assessments, upon confirmation of the report by the legislative body the superintendent of streets shall give notice to pay by mail and by publication substantially in the manner provided by Sections 4320 and 4321 of this code. The period for payment in cash stated therein shall be 30 days following the date of confirmation of the report. Upon completion of the cash payment period, the superintendent of streets shall file with the county recorder a certificate substantially in the form set out in Section 5626, giving notice therein that interest is payable at a rate to be fixed upon the sale of bonds, which rate shall not exceed the rate permitted for bonds by Section 53531 of the Government Code, and shall begin to run on the 31st day after the confirmation of the report. Thereafter the provisions of Part 5 (commencing with Section 6400) shall be applicable and payments on assessments at bond shall be made as therein provided. The bonds may be issued and sold as the legislative body directs and may be dated at any time after the expiration of the cash payment period

CHAPTER 508

An act to amend Section 1789.3 of the Civil Code, relating to commercial transactions.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 1789.3 of the Civil Code is amended to read:

1789.3. The provider of an electronic commercial service shall provide to consumers with which it contracts to provide the service, at the time it contracts to provide the service and annually, on or before June 30 of each year thereafter, all of the following information:

(a) The name, address, and telephone number of the provider of service.

(b) Any charges to the consumer imposed by the provider for the use of the service.

(c) The procedures a consumer may follow in order to resolve a complaint regarding the service or to receive further information regarding use of the service, including the telephone number and address of the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs.

CHAPTER 509

An act to amend Section 7060.3 of the Government Code, and to amend Section 14006 of the Welfare and Institutions Code, relating to real property.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 7060.3 of the Government Code is amended to read:

7060.3. If a public entity determines to apply constraints pursuant to Section 7060.2 to a successor in interest of an owner who has withdrawn accommodations from rent or lease, the public entity shall record a notice with the county recorder which shall specifically describe the real property where the accommodations are located, the dates applicable to the constraints and the name of the owner of record of the real property. The notice shall be indexed in the grantor-grantee index.

A person who acquires title to the real property subsequent to the

date upon which the accommodations thereon have been withdrawn from rent or lease, as a bona fide purchaser for value, shall not be a successor in interest for the purposes of this chapter if the notice prescribed by this section has not been recorded with the county recorder at least one day before the transfer of title.

SEC. 2. Section 14006 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 981 of the Statutes of 1985, 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 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.

The lien shall be recorded, and from the date of recording, shall have the force, effect, and priority of a judgment lien.

(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. 3. Section 14006 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 981 of the Statutes of 1985, 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.

The lien shall be recorded, and from the date of recording, shall have the force, effect, and priority of a judgment lien.

(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 981 of the Statutes of 1985, and as further amended by Section 2 of the act amending that section during the 1986 portion of the 1985–86 Regular Session of the Legislature shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 510

An act to amend Section 8608 of the Revenue and Taxation Code, and to add Section 4007 to the Vehicle Code, relating to carriers.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. The Legislature finds and declares that:

(a) Out-of-state visitors make a significant contribution to California's tourism industry, and are a major source of jobs, income, and tax revenues for California.

(b) The expansion of the tourism industry is vital to the overall growth of California's economy.

(c) Existing state government regulation of the out-of-state tour bus industry presents duplicative regulatory hurdles which discourage foreign carriers from bringing tourists into California.

(d) States which compete with California for out-of-state visitors have simplified the permitting process for out-of-state bus tours.

(e) Streamlining the regulation of out-of-state tour buses would attract a greater number of out-of-state buses and tourists, contributing to the growth of California's economy and helping to optimize the considerable investment of time, energy, capital, and resources being made by California's tourism industry.

SEC. 2. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. (a) "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

(b) Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to (1) a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle, a commercial vehicle with unladen weight of less than 7,000 pounds, or a privately operated two-axle truck which the user has rented or leased for a period of 30 days or less; or (2) a user who is an out-of-state passenger carrier whose operations within this state consist exclusively of round trip sightseeing tours originating and terminating outside this state and whose sole use of fuel in this state is for propulsion of the motor vehicle operated for these purposes; if 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.

(c) 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. 3. Section 4007 is added to the Vehicle Code, to read:

4007. The department, the Public Utilities Commission, and the State Board of Equalization shall enter into an interagency agreement to establish a coordinated system for the issuance of temporary operating authority to carriers of passengers for compensation by motor vehicles which are operating under the laws of another state or country. The agreement shall designate a lead agency from among the parties to the agreement to which the carrier may make a single application for the temporary operating authority required under the laws of this state. The lead agency shall coordinate and expedite all matters relating to issuance of the temporary operating authority and the collection and distribution of fees therefor with every other state agency having jurisdiction, so as to promptly prepare and issue the required operating authority.

CHAPTER 511

An act to add and repeal Section 43103 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) That new heavy-duty vehicles and heavy-duty vehicle engines certified by the Environmental Protection Agency for sale in states other than California travel a substantial number of miles in the state each year, contributing to truck-related air pollution in the state.

(2) That the federal agency has recently instituted a program establishing a schedule of nonconformance fees whereby heavy-duty vehicle and engine manufacturers unable to meet federal emissions standards may, in lieu thereof, pay a fee which increases for each additional model-year that the manufacturer's vehicles or engines fail to conform to the federal standards.

(3) That the institution of this federal nonconformance fee program will create a disparity between California and federal certification requirements for heavy-duty vehicles and engines, with the result that fewer of these vehicles and engines will be available for sale in this state, which in turn results in lost state revenues and increased emissions.

(4) That the institution of a state program establishing a schedule of nonconformance fees would reduce this disparity, thereby providing a wider range of new heavy-duty vehicles and engines available for sale in this state and would provide a mechanism for funding measures to mitigate emission increases from nonconforming heavy-duty vehicles, thereby ensuring protection of the state's ambient air quality.

(b) It is, therefore, the intent of the Legislature, in enacting Section 43103 of the Health and Safety Code, to authorize the state board to institute a nonconformance fee program applicable to sales in this state of new heavy-duty vehicles and engines which have been certified for sale under the federal nonconformance fee program if the federal emissions standards applicable to those heavy-duty vehicles and engines are identical to emissions standards adopted by the state board for the same heavy-duty vehicles and engines, thereby ensuring the continued availability in California of a wide range of those vehicles and engines during the period necessary for all manufacturers thereof to achieve compliance with those emissions standards.

SEC. 2. Section 43103 is added to the Health and Safety Code, to read:

43103. (a) Except as provided in subdivision (b), the state board may adopt a schedule of nonconformance fees applicable to manufacturers of heavy-duty vehicles and heavy-duty vehicle engines which are unable to comply with emissions standards adopted pursuant to Section 43101 for those vehicles and engines. Upon adoption and implementation of the schedule by the state board, a manufacturer of a heavy-duty vehicle or heavy-duty vehicle engine to which a standard adopted pursuant to Section 43101 applies may, notwithstanding subdivision (a) of Section 43102, elect to pay to the state board the fee applicable to any vehicle or engine failing to meet the standard.

(b) The state board shall establish nonconformance fees only for those heavy-duty vehicles or engines for which it has adopted emission standards and test procedures which are identical to the corresponding federal emission standards and test procedures. The state board shall not implement a nonconformance fee schedule until it is established that payment of nonconformance fees in California may substitute, on the basis of each heavy-duty vehicle or engine certified for sale in California, for payment of nonconformance fees to the federal government.

(c) Any regulations adopted by the state board under this section shall be identical to the nonconformance requirements, procedures, and fees established by the federal Environmental Protection Agency, pursuant to Section 206(g) of the federal Clean Air Act (42 U.S.C. Sec. 7525(g)) and Subparts A, K, and L of Part 86 of Title 40 of the Code of Federal Regulations, for the same heavy-duty vehicles or engines. Under the federal nonconformance fee program, the schedule of fees may be different in amount for each air pollutant tested, may be different for vehicles or engines of different classes or categories, and shall do all of the following:

(1) Take into account the extent to which actual emissions exceed the applicable standard.

(2) Provide for annual increases to achieve compliance with the applicable standard as quickly as is technologically feasible.

(3) Ensure that the manufacturers which are in compliance with

the applicable standard suffer no competitive disadvantage from that compliance.

(d) Any warranty required under Section 43106 or 43204, and any action required by the state board under Section 43105, are applicable only to the emissions levels for which certification is granted under this section.

(e) All fees collected under this section shall be deposited in the Air Pollution Control Fund.

(f) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

CHAPTER 512

An act to add Section 12821.5 to the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 12821.5 is added to the Public Utilities Code, to read:

12821.5. (a) Whenever residential light, heat, or power is furnished through a submeter system by a master-meter customer for sale to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer is responsible for maintenance and repair of its submeter facilities beyond the master meter, and nothing in this section requires a district to make repairs to or perform maintenance on the submeter system.

(b) Every master-meter customer shall provide an itemized billing of charges for light, heat, and power to each individual user generally in accordance with the form and content of bills of the district to its residential customers, including, but not limited to, the opening and closing readings for the meter, and the identification of all rates and quantities under the applicable rate structure. The master-meter customer shall charge each user of the service at a rate which does not exceed the rate which would be applicable if the user were receiving residential light, heat, or power directly from the district. The master-meter customer shall also post, in a conspicuous place, the applicable prevailing residential rate schedule, as published by the district.

(c) The district shall notify each master-meter customer of its responsibilities to its users under this section.

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 513

An act to repeal and add Sections 5490, 5494, 5495.5, and 5499 of the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 5490 of the Business and Professions Code is repealed.

SEC. 2. Section 5490 is added to the Business and Professions Code, to read:

5490. (a) This chapter applies only to lawfully erected on-premises advertising displays.

(b) As used in this chapter, "on-premises advertising displays" means any structure, housing, sign, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which has been designed, constructed, created, intended, or engineered to have a useful life of 15 years or more, and intended or used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes:

(1) To designate, identify, or indicate the name or business of the owner or occupant of the premises upon which the advertising display is located.

(2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display has been lawfully erected.

(c) As used in this chapter, "introduced or adopted prior to March 12, 1983," means an ordinance or other regulation of a city or county which was officially presented before, formally read and announced by, or adopted by the legislative body prior to March 12, 1983.

(d) This chapter does not apply to advertising displays used exclusively for outdoor advertising pursuant to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200)).

SEC. 3. Section 5494 of the Business and Professions Code is repealed.

SEC. 4. Section 5494 is added to the Business and Professions Code, to read:

5494. The ordinances and regulations of any city or county, introduced or adopted prior to March 12, 1983, which have provided for amortization, and which make nonconforming any lawfully in place erected on-premises advertising displays, shall not be subject

to Section 5491.

(a) All on-premises advertising displays which become nonconforming as a result of any such ordinance or regulation are presumed illegal once the amortization period provided by the ordinance or regulation rendering them nonconforming has lapsed and conformance has not been accomplished.

(b) If property containing on-premises advertising displays is annexed to a city or county which introduced or adopted, prior to March 12, 1983, an ordinance regulating on-premises advertising displays, the city or county may apply its ordinance or regulation to the annexed property, and the display shall be deemed illegal upon expiration of any applicable amortization provided by such ordinance or regulation. The amortization period is deemed to commence in such event upon the date of annexation.

(c) When amortization has not been provided in any applicable preexisting ordinance, annexed nonconforming displays ordered to conform to ordinances or regulations of any city or county shall be subject to the requirements of Section 5491.

(d) Amendments or modifications to ordinances or regulations of any city or county adopted prior to March 12, 1983, including amendments which require removal of additional displays or displays which had previously been made conforming, shall be subject to the requirements of Section 5491 if such amendment or modification makes the ordinance being amended or modified more restrictive or prohibitive.

(e) Ordinances or regulations of any city or county introduced or adopted prior to March 12, 1983, which have terminated or will terminate, may be reenacted and are not subject to Section 5491 if reenacted within 12 months of their termination, and if upon reenactment they are not made more restrictive or prohibitive than the preexisting ordinance or regulation.

SEC. 5. Section 5495.5 of the Business and Professions Code is repealed.

SEC. 6. Section 5495.5 is added to the Business and Professions Code, to read:

5495.5. A city or county with an ordinance or regulation introduced or adopted prior to March 12, 1983, which is applicable to designated areas within the city or county less than the entire city or county is not in violation of Section 5491 for an ordinance or regulation introduced or adopted on or after March 12, 1983, even though it requires removal of on-premises advertising displays in additional portions of the city or county, if the city or county adopts not more than two such ordinances or regulations on or after March 12, 1983, and if the total effect of the ordinance, or regulation is to apply to less than the entire city or county, and such new ordinance or regulation provides reasonable amortization for conformance. "Reasonable amortization," for purposes of this section, shall not be less than 15 years from the date each such ordinance or regulation was adopted. If these conditions are not met, the city or county is

subject to Section 5491 with respect to all those ordinances and regulations.

SEC. 7. Section 5499 of the Business and Professions Code is repealed.

SEC. 8. Section 5499 is added to the Business and Professions Code, to read:

5499. Regardless of any other provision of this chapter or other law, no city or county shall require the removal of any on-premises advertising display on the basis of its height or size by requiring conformance with any ordinance or regulation introduced or adopted on or after March 12, 1983, if special topographic circumstances would result in a material impairment of visibility of the display or the owner's or user's ability to adequately and effectively continue to communicate with the public through the use of the display. Under these circumstances, the owner or user may maintain the advertising display at the business premises and at a location necessary for continued public visibility at the height or size at which the display was previously erected and, in doing so, the owner or user is in conformance.

SEC. 9. 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 514

An act to amend Section 32110 of the Health and Safety Code, relating to hospital districts.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 32110 of the Health and Safety Code is amended to read:

32110. (a) Except as provided in subdivisions (d) and (e), no person who is a director, policymaking management employee, or medical staff officer of a hospital owned or operated by a hospital district shall do either of the following:

(1) Possess any ownership interest in any other hospital serving the same area as that served by the district hospital of which the person is a director, policymaking management employee, or medical staff officer.

(2) Be a director, policymaking management employee, or

medical staff officer of any hospital serving the same area as the area served by the district hospital.

(b) For purposes of this section, a hospital shall be considered to serve the same area as a district hospital when more than 5 percent of the hospital's inpatient admissions are residents of the hospital district.

(c) For purposes of this section, the possession of an ownership interest, including stocks, bonds, or other securities by the spouse or minor children or any person shall be deemed to be the possession or interest of the person.

(d) No person shall serve concurrently as a director of a district hospital and as a policymaking management employee of any other hospital serving the same area as the district hospital, unless the boards of directors of each of those hospitals have determined that the situation will further joint planning, efficient delivery of health care services, and the best interest of the areas served by their respective hospitals, or unless the hospitals are affiliated under common ownership, lease, or any combination thereof.

(e) No person shall serve concurrently as a policymaking management employee of a district hospital and as a director of any other hospital serving the same area as the district hospital, unless the boards of directors of each of those hospitals have determined that the situation will further joint planning, efficient delivery of health care services, and the best interest of the areas served by their respective hospitals, or unless the hospitals are affiliated under common ownership, lease, or combination thereof.

(f) Any candidate who elects to run for the office of member of the board of directors of a hospital district, and who owns stock in, or who works for any hospital which does not serve the same area served by the district in which the office is sought, shall disclose on the ballot his or her occupation and place of employment.

CHAPTER 515

An act to amend Sections 37394 and 37395 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 37394 of the Government Code is amended to read:

37394. A city or city and county may lease property owned, held or controlled by it for not to exceed 55 years, if the contemplated use of the property is for off-street parking purposes. This section is

applicable to any lease executed on or after January 1, 1986.

SEC. 2. Section 37395 of the Government Code is amended to read:

37395. A city may lease for not to exceed 55 years property owned, held, or controlled by it, or any of its departments, for commercial development for business purposes, when the governing body determines by ordinance or resolution that the property is not required for other city purposes. This section is applicable to any lease executed on or after January 1, 1986.

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 resolve a conflict with existing law on the length of time for which a lease on city property may be negotiated and to provide the residents in the leasing communities with the benefits from these contracts as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 516

An act to amend Sections 655 and 668 of, and to add Sections 655.1 and 655.5 to, the Harbors and Navigation Code, relating to vessels.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 655 of the Harbors and Navigation Code is amended to read:

655. (a) No person shall use any vessel or manipulate any water skis, aquaplane, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of vessels, water skis, aquaplanes, or similar devices in a manner which will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any vessel or manipulate any water skis, aquaplane, or similar device while under the influence of intoxicating liquor, any drug, or the combined influence of intoxicating liquor and any drug.

(c) No person shall operate any vessel or manipulate any water skis, aquaplane, or similar device who has 0.10 percent or more, by weight, of alcohol in his or her blood.

(d) No person shall operate any vessel, or manipulate any water skis, aquaplane, or similar device who is addicted to the use of any drug. This subdivision does not apply to a person who is participating

in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code.

(e) No person shall operate any vessel or manipulate any water skis, aquaplane, or similar device while under the influence of intoxicating liquor, any drug, or under the combined influence of intoxicating liquor and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes bodily injury to any person other than himself or herself.

(f) For purposes of this section, percent, by weight, of alcohol shall be based upon grams of alcohol per 100 milliliters of blood.

In any prosecution under subdivision (c), it is a rebuttable presumption that the person had 0.10 percent or more, by weight, of alcohol in his or her blood at the time of operation of a vessel if the person had 0.10 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(g) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person while operating a vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage in violation of subdivision (b) or (e), the amount of alcohol in the person's blood at the time of the test, as shown by chemical analysis of that person's blood, breath, or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.10 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.10 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(h) This section does not limit the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

SEC. 2. Section 655.1 is added to the Harbors and Navigation Code, to read:

655.1. (a) As used in this section, "mechanically propelled vessel" means any vessel actively propelled by machinery, whether or not the machinery is the principal source of propulsion.

(b) A peace officer, having reasonable cause to believe that any person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, who lawfully arrests the person for any violation of subdivision (b), (c), (d), or (e) of Section 655, may request that person to submit to chemical testing of his or her blood, breath, or urine for the purpose of determining the drug or alcoholic content of the blood. The arrested person shall be informed that a refusal to submit to, or failure to complete, the required chemical testing may be used against the person in a court of law and that the court may impose increased penalties for that refusal or failure, upon conviction.

(c) (1) If the person is lawfully arrested for operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage and submits to the chemical testing, 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 arresting 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 then have the choice of submitting to and completing any of the remaining test or tests, and the officer shall advise the person that he or she has that choice.

(2) If the person is lawfully arrested for operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of any drug or the combined influence of an alcoholic beverage and any drug and submits to the chemical testing, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(d) The arresting officer shall advise a person submitting to chemical testing under this section that he or she does not have the right to have an attorney present before stating whether he or she will submit to the chemical testing, before deciding which test or tests to take, or during the administration of the test or tests chosen.

(e) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the arresting officer has reasonable cause to believe that the person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of any drug, or the combined influence of an alcoholic beverage and any drug, and if the arresting officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The arresting officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person shall have

the choice of submitting to and completing a blood or urine test, and shall be advised by the arresting officer that he or she is requested to submit to an additional test, and that he or she may choose a test of either blood or urine. If the person arrested is either 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.

(f) (1) 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.

(2) 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 persons'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.

(3) 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 drug or alcoholic content of the blood of the person arrested.

(g) If the person is lawfully arrested for any offense allegedly committed in violation of subdivision (b), (c), (d), or (e) of Section 655, 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 submitting to those tests which are available at the facility to which that person has been transported. In this event, the arresting 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.

(h) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal may be subjected to chemical testing of his or her blood, breath, or urine for the purpose of determining the drug or alcoholic content of the blood, whether or not the person is informed that a refusal to submit to, or failure to complete, the required chemical testing may be used against the person in a court of law, and that the court may impose increased penalties upon conviction.

(i) Any person who is afflicted with hemophilia is exempt from the blood test provided for in this section.

(j) 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 provided for in this section.

(k) A person lawfully arrested for any offense allegedly committed while the person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device in violation of subdivision (b), (c), (d), or (e) of Section 655 may request the arresting officer to have a chemical test made of his or her blood, breath, or urine for the purpose of determining the drug or alcoholic content of the blood and, if so requested, the arresting officer shall have the test performed.

(*l*) Any chemical test of blood, breath, or urine to determine the percentage, by weight, of alcohol in the blood shall be performed in accordance with Section 23158 of the Vehicle Code.

(m) Nothing in this section limits the authority of a peace officer to gather evidence from a person lawfully arrested for a violation of subdivision (b), (c), (d), or (e) of Section 655.

SEC. 3. Section 655.5 is added to the Harbors and Navigation Code, to read:

655.5. (a) Whenever a person convicted of any violation of subdivision (b), (c), (d), or (e) of Section 655 is found by the court to have willfully refused the request of a peace officer to submit to chemical testing of the blood, breath, or urine pursuant to Section 655.1, the court may impose enhanced penalties either by fine or imprisonment, or both, not to exceed the maximum of the penalties prescribed in Section 668.

(b) A willful refusal to submit to chemical testing pursuant to subdivision (a) shall be pled and proven.

SEC. 4. Section 668 of the Harbors and Navigation Code is amended to read:

668. (a) Any person who violates any provision of Section 652, 654, 654.05, 654.06, 655.2, 655.3, 659, or 663.6, or any regulations adopted by the department pursuant thereto, is guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars ($100) or imprisonment in the county jail for not to exceed five days, or both, for each violation.

(b) Any person who violates any provision of subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be subject to a fine of not to exceed two hundred dollars ($200) for each violation.

(c) Any person who violates any provision of Section 652.5, subdivision (a) of Section 655, Section 656, or subdivision (d) or (e) of Section 658, or any special rules and regulations adopted by the department pursuant to the provisions of subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be subject to a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed six months, or both, for each violation.

(d) Any person convicted of a first violation of subdivision (b), (c), or (d) of Section 655 shall be subject to a fine of not to exceed one thousand dollars ($1,000), or imprisonment in the county jail for not to exceed six months, or both.

(e) Any person convicted of a second or subsequent violation of

subdivision (b), (c), or (d) of Section 655 within five years of the first conviction shall be subject to a fine of not to exceed one thousand dollars ($1,000), or imprisonment in the county jail for not to exceed one year, or both.

(f) Any person convicted of a violation of subdivision (e) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(g) If any person is convicted of a violation of subdivision (e) of Section 655 within five years of a prior conviction of a violation of subdivision (b), (c), or (d) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in the county jail for not less than five days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If any person is convicted of a violation of subdivision (e) of Section 655 within five years of a prior conviction of a violation of subdivision (e) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(h) The court may not absolve a person who is convicted of a violation of subdivision (e) of Section 655 within five years of a prior conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 from the minimum time in confinement provided in this section, and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (i).

(i) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under subdivision (b), (c), (d), or (e) of Section 655 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

SEC. 5. If both this bill and AB 2781 are enacted and become effective on or before January 1, 1987, and each bill amends Section 668 of the Harbors and Navigation Code, Section 4 of this bill shall not become operative regardless of the order of chaptering. It is the intent of the Legislature, in that case, that Section 668 of the Harbors and Navigation Code, as amended by AB 2781, be given effect.

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 517

An act to add Section 26230 to the Government Code, relating to county underground utility districts.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 26230 is added to the Government Code, to read:

26230. As a means of implementing a county underground utility ordinance adopted to remove existing overhead utility lines and to require property owners served by the lines, to prepare their properties to accept underground utility lines, counties may provide by ordinance that if any property owner, after due notice, refuses to comply within a reasonable time to effect the removal or preparation in accordance with the applicable rules of the utility involved the county may cause the work to be done and assess the costs of the work against the property and that the assessment shall become a lien against the property. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for these taxes. All laws applicable to the levy, collection, and enforcement of county ad valorem taxes shall be applicable to the assessment.

CHAPTER 518

An act to amend Section 7026.7 of, and to add Section 7099.10 to, the Business and Professions Code, relating to contractors.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 7026.7 of the Business and Professions Code is amended to read:

7026.7. (a) It is a misdemeanor for any person to advertise for construction or work of improvement covered by this chapter unless that person holds a valid license under this chapter in the

classification so advertised, except that a licensed building or engineering contractor may advertise as a general contractor.

(b) "Advertise," as used in this section, includes, but not by way of limitation, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper, magazine, or by airwave transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, with or without any limiting qualifications.

(c) A violation of this section is punishable by a fine of not less than seven hundred dollars ($700) and not more than one thousand dollars ($1,000), which fine shall be in addition to any other punishment imposed for a violation of this section.

SEC. 2. Section 7099.10 is added to the Business and Professions Code, to read:

7099.10. (a) If, upon investigation, the registrar has probable cause to believe that a licensee, an applicant for a license, or an unlicensed individual acting in the capacity of a contractor who is not otherwise exempted from the provisions of this chapter, has violated Section 7026.7 by advertising for construction or work of improvement covered by this chapter in an alphabetical or classified directory, without being properly licensed, the registrar may issue a citation under Section 7099 containing an order of correction which requires the violator to cease the unlawful advertising and to notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) If the person to whom a citation is issued under subdivision (a) notifies the registrar that he or she intends to contest the citation, the registrar shall afford an opportunity for a hearing, as specified in Section 7099.5, within 90 days after receiving the notification.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after the order is final, the registrar shall inform the Public Utilities Commission of the violation, and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitiute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

CHAPTER 519

An act to amend Section 664 of, and to add Section 21a to, the Penal Code, relating to crimes.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 21a is added to the Penal Code, to read:

21a. An attempt to commit a crime consists of two elements: a specific intent to commit the crime, and a direct but ineffectual act done toward its commission.

SEC. 2. Section 664 of the Penal Code is amended to read:

664. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts, as follows:

1. If the offense so attempted is punishable by imprisonment in the state prison, the person guilty of such attempt is punishable by imprisonment in the state prison for one-half the term of imprisonment prescribed upon a conviction of the offense so attempted; provided, however, that if the crime attempted is willful, deliberate, and premeditated murder, as defined in Section 189, the person guilty of that attempt shall be punishable by imprisonment in the state prison for life with the possibility of parole; provided, further, that if the crime attempted is any other one in which the maximum sentence is life imprisonment or death the person guilty of the attempt shall be punishable by imprisonment in the state prison for a term of five, seven, or nine years. The additional term provided in this section for attempted willful, deliberate, and premeditated murder shall not be imposed unless the fact that the attempted murder was willful, deliberate, and premeditated is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

2. If the offense so attempted is punishable by imprisonment in a county jail, the person guilty of such attempt is punishable by imprisonment in a county jail for a term not exceeding one-half the term of imprisonment prescribed upon a conviction of the offense so attempted.

3. If the offense so attempted is punishable by a fine, the offender convicted of that attempt is punishable by a fine not exceeding one-half the largest fine which may be imposed upon a conviction of the offense so attempted.

4. If a crime is divided into degrees, an attempt to commit the crime may be of any such degree, and the punishment for the attempt shall be determined as provided by this section.

CHAPTER 520

An act to amend Section 25143.6 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 25143.6 of the Health and Safety Code is amended to read:

25143.6. (a) The department shall not classify as a hazardous waste, for purposes of disposal, any waste which results from the shredding of automobile bodies, household appliances, and sheet metal, if the producer of that waste demonstrates, and the department determines, that the waste will not pose a threat to human health or water quality if disposed of in a qualified Class III landfill, as specified in Section 2533 of Title 23 of the California Administrative Code, which is listed by a California regional water quality control board pursuant to subdivision (b). In making its determination that a producer's waste will not pose a threat to human health or water quality, the department shall use, as its standards, the criteria and procedures specified in Chapter 30 (commencing with Section 60001) of Division 4 of Title 22 of the California Administrative Code, for the identification of hazardous waste.

The department shall also, in making this determination, incorporate any relevant waste discharge requirements or other orders issued by the State Water Resources Control Board or a California regional water quality control board implementing applicable water quality plans, policies, or rules and regulations adopted or approved by the State Water Resources Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

The department shall make its determination within 105 days of receipt of the information which is the basis of the demonstration from the producers.

The waste producer whose waste is so classified by the department shall provide the information which was the basis of the demonstration once a year and whenever a substantial change occurs in the mix of materials constituting the shredder feed. The producer shall also certify, in writing, to the department, that the producer has in place an ongoing program for inspection and removal of all automobile batteries, mufflers, and tailpipes from the shredder feed.

(b) The following California regional water quality control boards shall prepare a list of Class III landfills, as specified in Section 2533 of Title 23 of the California Administrative Code, including at least one landfill in each specified water quality control region which

is authorized to accept and dispose of the waste specified in subdivision (a): San Francisco Bay Region, Central Valley Region, Los Angeles Region, Santa Ana Region, and San Diego Region.

(c) Nothing in this section limits or abridges the powers or duties of the State Water Resources Control Board and any California regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(d) The classification of the waste specified in subdivision (a) as nonhazardous for the purposes of disposal shall not affect the status of that waste as a hazardous waste pursuant to any other statute and regulation, including those governing storage, transportation, manifests, and the payment of any hazardous waste disposal fees and taxes.

(e) This section does not authorize the disposal of hazardous waste in a Class III landfill if the waste was produced as the result of a remedial action at a site listed pursuant to Section 25356, unless the department determines that the waste is substantially the same as the waste specified in subdivision (a).

(f) This section does not require an operator of a Class III landfill to accept, for disposal, any waste classified by the department as nonhazardous pursuant to subdivision (a).

(g) This section does not prohibit any operator of a Class III landfill from charging a disposal rate for any waste classified as nonhazardous by the department pursuant to subdivision (a) which is proportionate to the costs necessary to modify the landfill to meet applicable water quality standards.

(h) This section shall remain in effect 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.

CHAPTER 521

An act to amend Section 18602 of the Business and Professions Code, relating to the State Athletic Commission.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 18602 of the Business and Professions Code is amended to read:

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.

No person who is licensed under this chapter as a promoter, manager, or judge may be appointed or reappointed to, or serve on, the commission.

CHAPTER 522

An act to amend Section 13352.5 of, and to repeal and add Section 23206.5 of, the Vehicle Code, relating to driving offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. The Legislature finds and declares that, in enacting Section 23206.5 of the Vehicle Code by Chapter 1475 of the Statutes of 1985, the Legislature intended to conform state law to the Title 408 grant program conditions (23 C.F.R. Sec. 1309.1 et seq.) and not to provide an alternative sentencing or probation condition to the requirements of Article 2 (commencing with Section 23152) of Chapter 12 of Division 11 of the Vehicle Code.

SEC. 2. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not suspend, pursuant to paragraph (3) of subdivision (a) of Section 13352, but shall restrict the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23152, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 and the court has restricted the privilege to operate a motor vehicle as provided in that subdivision.

(b) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not revoke, pursuant to paragraph (4) of subdivision (a) of Section 13352, but shall suspend for one year and, thereafter, restrict for two additional years, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23153, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23186, and the court has ordered the department to suspend the privilege to operate a motor vehicle as provided in that subdivision.

(c) The restriction of the driving privilege under subdivision (a) shall become effective 30 days from the date on which the person

consented to participate in the program specified in subdivision (a), excluding any time of imprisonment ordered by the court, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23166 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license or if the person fails to show evidence of participation within 30 days, excluding the time of imprisonment ordered by the court, the department shall suspend the driving privilege of the person for the time prescribed in paragraph (3) of subdivision (a) of Section 13352.

(d) The restriction of the driving privilege under subdivision (b) shall become effective 30 days from the end of the period of suspension, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23186 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license or if the person fails to show evidence of participation within 30 days from the end of the period of suspension, excluding any time of imprisonment ordered by the court to be served after the end of the period of suspension, the department shall revoke the driving privilege of the person for the time prescribed in paragraph (4) of subdivision (a) of Section 13352.

(e) The driving privilege restricted under subdivision (a) or (b) shall be limited to the hours for driving to and from the place of employment and during the course of employment and driving to and from activities required in an alcohol treatment program specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186. The department may set forth the times and days of restricted operation established by the court either on a special restricted license or upon the usual license form. The restriction shall continue in full force and effect until the person presents evidence satisfactory to the department that the person has completed the alcohol treatment program and has given proof of ability to respond in damages as defined in Section 16430. Except as provided in Section 23168, in no event shall the length of the restriction for a person subject to subdivision (a) be less than the total time of restriction specified in subdivision (b) of Section 23166. In no event shall the total time of suspension and restriction for a person subject to subdivision (b) be less than the applicable period of revocation under paragraph (4) of subdivision (a) of Section 13352.

(f) Except as provided in this subdivision, the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352, 60 days from

the date that the department notifies the person and the court of the intended action pursuant to subdivision (a) of Section 11837.1 of the Health and Safety Code, or the date ending the additional time ordered by the court under this subdivision, whichever is later. If the person presents evidence satisfactory to the department that the court of jurisdiction has consented to the person's reinstatement in the program, the department shall continue in effect the restriction granted under subdivision (c), unless the person has previously been reinstated in the program on two or more occasions, in which case the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352. The evidence shall be presented within 45 days of the notice from the department of the intended action or such additional time, not to exceed an additional 45 days, for the determination as is required, ordered, and transmitted to the department by the court, which additional time is not caused by any action or failure to act by the person.

(g) All abstracts of record showing a conviction that are forwarded to the department pursuant to Section 1803 shall state whether the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186 and state the date on which the person consented to participate in the program.

(h) The department, in cooperation with the State Department of Alcohol and Drug Programs, shall adopt such regulations as it deems necessary to implement this section.

(i) This section does not apply to persons whose offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

SEC. 3. Section 23206.5 of the Vehicle Code is repealed.

SEC. 4. Section 23206.5 is added to the Vehicle Code, to read:

23206.5. (a) If any person is convicted of a violation of Section 23152 or 23153 and the offense was a second or subsequent offense punishable under Section 23165, 23170, 23175, or 23185, the court shall require that any term of imprisonment that is imposed include at least one period of not less than 48 consecutive hours of imprisonment, or in the alternative and notwithstanding Section 4024.2 of the Penal Code, that the person serve not less than 10 days of community service.

(b) Notwithstanding any other provision of law, except Section 2900.5 of the Penal Code, unless the court expressly finds in the circumstances that the punishment inflicted would be cruel or unusual punishment prohibited by Section 17 of Article I of the California Constitution, no court or person to whom a person is remanded for execution of sentence shall release, or permit the release of, a person from the requirements of subdivision (a), including, but not limited to, any work-release program, weekend service of sentence program, diversion or treatment program, or otherwise.

(c) For purposes of this section, "imprisonment" means confinement in a jail, in a minimum security facility, or in an inpatient rehabilitation facility, as provided in Part 1309 (commencing with Section 1309.1) of Title 23 of the Code of Federal Regulations.

(d) This section shall become operative only if, and upon the date of the certification by, the Department of Motor Vehicles to the Secretary of State that California has submitted a completed application for federal Title 408 grant programs funds pursuant to that Part 1309.

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

In order to conform provisions relating to driving restrictions to the changes in penalties for driving under the influence offenses made in 1985, and to clarify the meaning of Section 23206.5 of the Vehicle Code at the earliest possible time in order to prevent release of repeat drunk drivers before they have been punished pursuant to law, it is necessary that this act take effect immediately.

CHAPTER 523

An act to amend Section 4005 of the Penal Code, relating to correctional and detention facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 4005 of the Penal Code is amended to read:

4005. (a) Except as provided in subdivision (b), the sheriff shall receive, and keep in the county jail, any prisoner committed thereto by process or order issued under the authority of the United States, until he or she is discharged according to law, as if he or she had been committed under process issued under the authority of this state; provision being made by the United States for the support of the prisoner.

(b) The sheriff shall receive, and keep in the county jail, any prisoner committed thereto by process or order issued under the authority of the United States, until he or she is discharged according to law, as if he or she had been committed under process issued under the authority of this state, but only if the sheriff determines that adequate space in appropriate detention areas currently exists for this purpose. Provision shall be made by the United States for the support of the prisoner. This subdivision shall apply only in counties

where a facility operated by the United States Bureau of Prisons exists within 200 miles of the county seat.

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:

Severe overcrowding in county jails has led to court orders ordering a reduction in the number of prisoners and the release of certain prisoners. Reduction in the number of prisoners housed in these facilities can be achieved by transferring federal prisoners to facilities operated by the United States Bureau of Prisons. Such transfers would be facilitated by this act; thus, it is necessary that this act take effect immediately.

CHAPTER 524

An act to amend Section 489 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) In a telecommunications regime increasingly marked by the development of new services, it is essential that consumers be well educated regarding the service options available to them.

(b) Frequently, regulated providers of telecommunications service have not fully represented to their customers the service options available to them.

(c) It is in the best interests of individual consumers and the economy of California that regulated providers of telecommunications service be required to fully inform their customers regarding the service options available to them.

SEC. 2. Section 489 of the Public Utilities Code is amended to read:

489. (a) The commission shall, by rule or order, require every public utility other than a common carrier to file with the commission within such time and in such form as the commission designates, and to print and keep open to public inspection, schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected or enforced, together with all rules, contracts, privileges, and facilities which in any manner affect or relate to rates, tolls, rentals, classifications, or service. Nothing in this section shall prevent the commission from approving or fixing rates, tolls, rentals, or charges, from time to time, in excess

of or less than those shown by the schedules.

(b) The commission shall, by rule or order, require every telephone corporation operating within a service area, on first contact by a prospective subscriber and in subsequent contacts by the subscriber for the purpose of changing service, to fully inform the subscriber of the basic services available to the class of subscribers to which the subscriber belongs. For eligible residential subscribers, these services shall include universal lifeline telephone service. The subscriber shall be presented with information orally, in print form, or in computer data form, according to the means by which contact is established. If after a hearing, the commission finds that any telephone corporation has not provided prospective subscribers with the information required by this section, the commission may make an appropriate adjustment of the telephone corporation's rates or impose penalties pursuant to other provisions of law.

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 525

An act to amend Sections 7351 and 8651 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor July 23, 1986. Filed with Secretary of State July 24, 1986]

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

SECTION 1. Section 7351 of the Revenue and Taxation Code is amended to read:

7351. (a) For the privilege of distributing motor vehicle fuel, a license tax is hereby imposed upon distributors at the rate of nine cents ($0.09) for each gallon of fuel distributed.

(b) If the federal fuel tax is reduced below the rate of nine cents ($0.09) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate equals eighteen cents ($0.18) per gallon. If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be so exempt under this section.

SEC. 2. Section 8651 of the Revenue and Taxation Code is amended to read:

8651. (a) An excise tax is hereby imposed at the rate of nine cents ($0.09) for each gallon of fuel used.

(b) If the federal fuel tax is reduced below the rate of fifteen cents ($0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate equals twenty-four cents ($0.24) per gallon. If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

SEC. 3. The Legislature finds and declares that the motor vehicle fuel and use fuel license taxes rate increases, if any, which are provided for in the amendments to Sections 7351 and 8651 of the Revenue and Taxation Code made by Sections 1 and 2 of this act are the result of a transfer in the financial responsibility of providing services as contemplated by Section 3 of Article XIII B of the California Constitution and, consequently, the appropriations limit of the State of California shall be increased accordingly if and when those tax rate increases become operative.

CHAPTER 526

An act to amend Sections 69899.5, 70046.2, 73433, 73433.1, 73434, 73435, 73436, 73437, 73682, 73683, 73684, 73691, and 73692 of, to add Section 73695 to, and to repeal Section 69899.5 of, the Government Code, relating to courts.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 69899.5 of the Government Code is amended to read:

69899.5. In the County of Orange, a majority of the judges of the superior court may appoint the following officers and employees whose monthly salaries shall be:

Number of Positions	Title	Salary Range
1	Account Clerk II	D 35
2	Account Clerk III	D 40
1	Administrative Services Assistant II — Superior Court	E 60
2	Assistant Superior Court Executive Officer	E 69
1	Clerk III	D 38
3	Court Information Clerk	D 33
1	Court Services Division Supervisor	D 53
2	Executive Secretary to the Presiding Judge	D 48
1	Family Conciliation Court Supervisor	A 64
7	Family Court Mediator	A 60
2	Information Processing Specialist II	D 37
1	Jury Services Supervisor	D 53
1	Juvenile Court Coordinator	A 55
6	Legal Research Attorney III	A 69
1	Master Calendar Assistant	D 42
5	Master Calendar Clerk	D 37
1	Master Calendar Coordinator	D 56
1	Probate Checker	A 48
1	Probate Court Coordinator	A 61
3	Probate Examiner II	A 55
1	Probate Examiner III	A 57
3	Probate Investigator	A 51
1	Secretary I	D 36
1	Secretary III	D 44
8	Senior Judicial Secretary	D 44
2	Stenographer Clerk II	D 36
1	Store Clerk	H 7
9	Superior Court Commissioner — 85% of salary of Superior Court Judge	
1	Supervising Judicial Secretary	D 47
1	Supervising Legal Research Attorney	A 73
1	Systems Analyst II	A 55
1	Systems Analyst IV	A 64
8	Typist Clerk II	D 33

The references to a numbered salary range in this section are to the salary schedule in the salary resolution of the County of Orange.

All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion.

With the approval of the board of supervisors, the majority of the judges may establish such additional titles and pay rates as are required, and, with the approval of the board of supervisors, may

appoint and employ such additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees, except those of court commissioners, may be adjusted by joint action and approval of the board of supervisiors and a majority of the judges of the court.

All personnel shall be entitled to such step advancement, vacation, sick leave, holiday benefits, other leaves of absence, lump-sum payments for sick leave and vacation when separated from the service, inclusion in the retirement system of the County of Orange and other benefits as may be directed by rules adopted by a majority of the judges as are provided to county employees of such county.

Only those holidays specified in Section 6700 of the Government Code as may be amended by action of the Orange County Board of Supervisors and Section 134 of the Code of Civil Procedure, are paid holidays for court officers and employees.

Superior court commissioners shall be entitled to such benefits as may be directed by rules adopted by the majority of the judges.

Where statutes require implementation by local ordinances for the extension of such benefits to local officers and employees, these may be made applicable, by rule, to such employees.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of such personnel. When such rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall furnish to the judges such services as may be required in connection with the recruitment and employment of such personnel.

All such personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office outside of the county.

SEC. 1.1. Section 69899.5 of the Government Code is amended to read:

69899.5. In the County of Orange, a majority of the judges of the superior court may appoint the following officers and employees whose monthly salaries shall be:

Number of Positions	Title	Salary Range
1	Account Clerk II	D36
2	Account Clerk III	D41
1	Administrative Services Assistant II—Superior Court	E60
1	Clerk III	D39
2	Assistant Superior Court Executive Officer	E69

3	Court Information Clerk	D34
1	Court Services Division Supervisor	D54
2	Executive Secretary to the Presiding Judge	D49
1	Family Conciliation Court Supervisor	A64
7	Family Court Mediator	A60
2	Information Processing Specialist II	D38
1	Jury Services Supervisor	D54
1	Juvenile Court Coordinator	A55
6	Legal Research Attorney III	A69
1	Master Calendar Assistant	D43
5	Master Calendar Clerk	D38
1	Master Calendar Coordinator	D57
1	Probate Court Coordinator	A61
3	Probate Examiner II	A55
1	Probate Examiner III	A57
3	Probate Investigator	A51
1	Probate Secretary	D46
1	Secretary I	D37
1	Secretary III	D45
8	Senior Judicial Secretary	D45
2	Stenographer Clerk II	D37
1	Store Clerk	H7
8	Superior Court Commissioner	85% of salary of Superior Court Judge
1	Supervising Account Clerk	D49
1	Supervising Judicial Secretary	D48
1	Supervising Legal Research Attorney	A73
1	Systems Analyst IV	A64
8	Typist Clerk II	D34

The references to a numbered salary range in this section are to the salary schedule in the salary resolution of the County of Orange.

All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion.

With the approval of the board of supervisors, the majority of the judges may establish such additional titles and pay rates as are required, and, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees, except those of court commissioners, may be adjusted by joint action and approval of the board of supervisiors and a majority of the judges of the court.

All personnel shall be entitled to such step advancement, vacation, sick leave, holiday benefits, other leaves of absence, lump-sum payments for sick leave and vacation when separated from the

service, inclusion in the retirement system of the County of Orange and other benefits as may be directed by rules adopted by a majority of the judges as are provided to county employees of such county.

Superior court commissioners shall be entitled to such benefits as may be directed by rules adopted by the majority of the judges.

Where statutes require implementation by local ordinances for the extension of such benefits to local officers and employees, these may be made applicable, by rule, to such employees.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of such personnel. When such rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall furnish to the judges such services as may be required in connection with the recruitment and employment of such personnel.

All such personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office outside of the county.

SEC. 1.2. Section 70046.2 of the Government Code is amended to read:

70046.2. In Fresno County, each reporter shall be paid an annual salary established according to the following salary schedule:

Step 1. $29,073
Step 2. $30,528
Step 3. $32,040
Step 4. $33,642

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall advance one step annually upon the anniversary date of the employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court.

Each pro tempore reporter shall be paid one hundred eleven dollars and eighty-two cents ($111.82) for a full day on duty under order of the court. For purposes of receiving the above compensation, one or more of the following shall apply:

(1) The court has indicated in advance that the pro tempore assignment is for a full day.

(2) The pro tempore reporter, having accepted a full-day assignment, has not voluntarily relinquished his or her services at or before the end of four hours of service.

(3) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid sixty-seven dollars and

nine cents ($67.09) for one half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of one hundred eleven dollars and eighty-two cents ($111.82) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of one hundred eleven dollars and eighty-two cents ($111.82) when, in the court's judgment, said rate is necessary to obtain pro tempore reporter services for the court.

In addition to the salary herein provided, each regularly employed reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

In such county the fee required by Section 70053 shall be eleven dollars and fifty cents ($11.50).

SEC. 1.5. Section 73433 of the Government Code is amended to read:

73433. There shall be one clerk-administrator in each municipal court who shall be appointed by and serve at the pleasure of a majority of the judges of the court to which the clerk-administrator is appointed. In a court with less than three judges, the presiding judge shall appoint the clerk-administrator of the court. The clerk-administrator of the East Kern Municipal Court shall receive the biweekly salary specified in range 48.9 of the salary schedule. The clerk-administrator of the West Kern Municipal Court shall receive the biweekly salary specified in range 52.9 of the salary schedule. The salary of the West Kern Municipal Court clerk-administrator shall be not less than 12 full range steps higher than the salary range in which the position of chief deputy court clerk is compensated.

SEC. 2. Section 73433.1 of the Government Code is amended to read:

73433.1. There shall be one assistant clerk-administrator in the West Kern Municipal Court who shall be appointed by and serve at the pleasure of the majority of the judges of the court. The assistant clerk-administrator shall receive the biweekly salary specified in

range 48.9 of the salary schedule.

SEC. 3. Section 73434 of the Government Code is amended to read:

73434. There shall be one judicial secretary in the West Kern Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The judicial secretary shall receive a biweekly salary specified in range 39.8 of the salary schedule.

SEC. 4. Section 73435 of the Government Code is amended to read:

73435. The clerk-administrator of the West Kern Municipal Court may appoint:

(a) Three chief deputy court clerks who shall act as the supervisors of the civil, criminal, and traffic divisions of the court and each of whom shall receive the biweekly salary specified in range 40.3 of the salary schedule.

(b) Five deputy court clerks III, each of whom shall receive the biweekly salary specified in range 38.4 of the salary schedule.

(c) Sixteen municipal courtroom clerks or junior municipal courtroom clerks, each of whom shall receive the biweekly salary specified in ranges 38.4 and 35.6, respectively, of the salary schedule.

Junior municipal courtroom clerk shall be the entrance position to courtroom clerk. The clerk-administrator, with the concurrence of the presiding judge, may advance any junior municipal courtroom clerk to the position of municipal courtroom clerk without further examination, if the junior municipal courtroom clerk has served for six months and otherwise meets the qualifications for municipal courtroom clerk and if the presiding judge is satisfied with the junior municipal courtroom clerk's performance during the six-month period.

(d) One data entry operator IV who shall receive the biweekly salary specified in range 37.3 of the salary schedule.

(e) Three data entry operators II or I, each of whom shall receive the biweekly salary specified in ranges 33.3 and 31.3, respectively, of the salary schedule. Data entry operator I shall be the entrance position to the data entry operator series. The clerk-administrator may advance any data entry operator I to the position of data entry operator II without further examination if the data entry operator I has served for one year and otherwise meets the qualifications for data entry operator II.

(f) One account clerk IV who shall receive the biweekly salary specified in range 38.3 of the salary schedule.

(g) One account clerk III who shall receive the biweekly salary specified in range 35.5 of the salary schedule.

(h) Seven account clerks II or I each of whom shall receive the biweekly salary specified in ranges 32.3 and 30.0, respectively, of the salary schedule. Account clerk I shall be the entrance position to the account clerk series. The clerk-administrator may advance any account clerk I to the position of account clerk II without further

examination if the account clerk I has served for one year and otherwise meets the qualifications for account clerk II.

(i) Twenty-nine full-time deputy court clerks II, I, or junior deputy court clerks, each of whom shall receive the biweekly salary specified in ranges 35.6, 31.6, and 28.8, respectively, of the salary schedule.

Junior deputy court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy court clerk to the position of deputy court clerk I without further examination, if the junior deputy has served for six months and otherwise meets the qualifications for deputy court clerk I. The clerk-administrator may advance any deputy court clerk I to the position of deputy court clerk II without further examination if the deputy court clerk I has served for six months and otherwise meets the qualifications for deputy court clerk II.

(j) One secretary who shall receive the biweekly salary specified in range 36.5 of the salary schedule.

(k) One legal clerk I who shall receive the biweekly salary specified in range 37.0 of the salary schedule.

(*l*) One records clerk who shall receive the biweekly salary specified in range 35.1 of the salary schedule.

(m) One accountant II or I who shall receive the biweekly salary specified in range 44.6 or 41.9, respectively, of the salary schedule.

(n) Two recording technicians, each of whom shall receive the biweekly salary specified in range 36.6 of the salary ordinance.

(o) One collection clerk II who shall receive the biweekly salary specified in range 36.3 of the salary schedule.

SEC. 5. Section 73436 of the Government Code is amended to read:

73436. The clerk-administrator of the East Kern Municipal Court may appoint:

(a) Three deputy court clerks III, each of whom shall receive the biweekly salary specified in range 38.4 of the salary schedule.

(b) Ten full-time and three part-time deputy court clerks II, I, or junior deputy court clerks, each of whom shall receive the biweekly salary specified in ranges 35.6, 31.6, and 28.8, respectively, of the salary schedule.

Junior deputy court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy court clerk to the position of deputy court clerk I without further examination, if the junior deputy has served for six months and otherwise meets the qualifications for deputy court clerk I. The clerk-administrator may advance any deputy court clerk I to the position of deputy court clerk II without further examination if the deputy court clerk I has served for six months and otherwise meets the qualifications for deputy court clerk II.

SEC. 6. Section 73437 of the Government Code is amended to read:

73437. (a) Whenever reference to a numbered salary range of

the salary schedule is made in any section of this article, the schedule of salary ranges found in the salary ordinance of the County of Kern in effect on December 1, 1985, shall apply. The employees of the municipal courts shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

(b) The minimum salary for each position shall normally be "step A" for the position. If it is difficult to secure qualified personnel at that step or if a person of unusual qualifications is engaged, the court or the clerk-administrator may hire at any step of the salary range applicable to the position.

(c) Any employee who is promoted or whose position is reclassified from one class position to a higher class position shall be placed in the step level of the higher class salary range which most closely approximates a one-step increase from the former position, except that such increase shall not exceed an amount equivalent to 1.4 steps in the salary schedule. In the event the "A" step of the higher class position is greater than a 1.4-step increase over the salary of the employee in the lower class position, the employee shall be placed at the "A" step in the salary range of the higher class position.

(d) The Board of Supervisors of the County of Kern may adjust the salaries paid to employees of the municipal courts as part of its county employee compensation plan. Such adjustment shall be effective on the same date as the effective date of the action of the board of supervisors to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

(e) In addition to the compensation provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to, the same vacations, sick leaves, and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of Kern, including the right to participate in any group, accident, health or life insurance plan adopted by the Board of Supervisors of the County of Kern.

SEC. 7. Section 73682 of the Government Code is amended to read:

73682. There shall be one clerk to be appointed by the judges of the court in the manner provided by law who shall be the clerk, administrator, and secretary of the court. He or she shall receive a salary at range 1404 of the Fresno County Salary Resolution effective December 30, 1985.

SEC. 8. Section 73683 of the Government Code is amended to read:

73683. (a) The clerk may appoint the following court personnel who shall receive a salary at the range indicated in the Fresno County Salary Resolution:

(1) One Administrative Services Aide at salary range 729.

(2) One Administrative Secretary-Conf. at salary range 781.

(3) One Stenographer II-Conf. at salary range 528.

(4) One Stenographer I-Conf. at salary range 433.
(5) Three Chief Deputy Clerks at salary range 869.
(6) Fourteen Court Clerks at salary range 704.
(7) Two Supervising Legal Process Clerks at salary range 780.
(8) Four Senior Legal Process Clerks at salary range 758.
(9) Thirteen Legal Process Clerks II at salary range 704.
(10) Thirteen Legal Process Clerks I at salary range 614.
(11) Forty-seven Office Assistants III at salary range 525.
(12) Forty-seven Office Assistants II at salary range 473.
(13) Forty-seven Office Assistants I at salary range 396.
(14) One Municipal Court Interpreter at salary range 619.

(b) Salary ranges indicated in paragraphs (1) through (10) and paragraph (14) of subdivision (a) are effective December 30, 1985. Salary ranges indicated in paragraphs (11) through (13) of subdivision (a) are effective January 13, 1986.

(c) The clerk may appoint any combination of stenographers described in paragraphs (3) and (4) of subdivision (a) not to exceed a total of one and may appoint any combination of the specified number of personnel indicated in each of paragraphs (5) through (13) not to exceed a total of 64.

(d) The clerk may appoint the following court personnel in the Clovis Branch who shall receive a salary at the range indicated in the Fresno County Salary Resolution.

(1) One Court Clerk at salary range 704.
(2) One Supervising Legal Process Clerk at salary range 780.
(3) Six Legal Process Clerks II at salary range 704.
(4) Six Legal Process Clerks I at salary range 614.
(5) Six Office Assistants III at salary range 525.
(6) Six Office Assistants II at salary range 473.
(7) Six Office Assistants I at salary range 396.

(e) Salary ranges indicated in paragraphs (1) through (4) of subdivision (d) are effective December 30, 1985. Salary ranges indicated in paragraphs (5) through (7) of subdivision (d) are effective January 13, 1986.

The clerk may appoint any combination of the specified number of personnel in each of paragraphs (2) through (7) of subdivision (d) not to exceed a total of six.

SEC. 9. Section 73684 of the Government Code is amended to read:

73684. The biweekly salaries of the following classes of positions shall be in accordance with the following schedule:

Position	Range	1	2	3	4	5
Municipal court clerk	1404	1404	1474	1548	1625	1706
Administrative services aide	729	729	765	803	843	885
Chief deputy clerk	869	869	912	958	1006	1056
Court clerk	704	704	739	776	815	856
Supervising legal process clerk	730	780	819	860	903	948
Senior legal process clerk	758	758	796	836	878	922
Municipal court interpreter	619	619	650	683	717	753
Legal process clerk II	704	704	739	776	815	856
Legal process clerk I	614	614	645	677	711	747
Administrative secretary-conf	781	781	820	861	904	949
Stenographer II-conf.	528	528	554	582	611	642
Stenographer I-conf	433	433	455	478	502	527
Office assistant III	525	525	551	579	608	638
Office assistant II	473	473	497	522	548	575
Office assistant I	396	396	416	437	459	482

Except as specifically provided in this article to the contrary, all benefits, privileges and other provisions affecting the employment of county employees shall apply to all officers and attachés of the municipal court.

SEC. 10. Section 73691 of the Government Code is amended to read:

73691. A majority of the judges may appoint nine full-time court reporters to serve at the pleasure of the judges and to be paid an annual salary established according to the following salary schedule:

Step 1. $29,073
Step 2. $30,528
Step 3. $32,040
Step 4. $33,642

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of such employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court. Each such reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court

not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

SEC. 11. Section 73692 of the Government Code is amended to read:

73692. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the section for reporting testimony and proceedings the official reporters pro tempore shall be paid in accord with the following:

Each pro tempore reporter shall be paid one hundred eleven dollars and eighty-two cents ($111.82) for a full day on duty under order of the court. For purposes of receiving the above compensation, one or more of the following shall apply:

(1) The court has indicated in advance that the pro tempore assignment is for a full day.

(2) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid sixty-seven dollars and nine cents ($67.09) for one half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of one hundred eleven dollars and eighty-two cents ($111.82) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of one hundred eleven dollars and eighty-two cents ($111.82) when, in the court's judgment, said rate is necessary to obtain pro tempore reporter services for the court.

The above payments shall upon order of the court be a charge against the general fund of the county.

SEC. 12. Section 73695 is added to the Government Code, to read:

73695. Interpreters appointed by the court pursuant to Section 68092 shall be allowed for each day's actual attendance upon the court when legally required, such fee as may be allowed by the court not to exceed eighty-three dollars ($83) per day or forty-seven dollars ($47) per half day provided that the amount allowed to any

one person when added to any fee received as interpreter appointed to serve this court or any other court within the County of Fresno may not in the aggregate exceed eighty-three dollars ($83) for any one day, except where the interpreter has worked beyond 5:00 p.m., in which case the interpreter will be paid at an additional rate of ten dollars ($10) per hour for all hours or portions thereof worked after 5:00 p.m.

SEC. 13. Section 1.1 of this act shall become operative on January 1, 1989, at which time Section 69899.5 of the Government Code as amended by Section 1 of this act is repealed.

SEC. 14. 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 527

An act to repeal and add Sections 13353 and 23157 of the Vehicle Code, relating to driving offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1986. Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 13353 of the Vehicle Code, as amended by Section 2 of Chapter 735 of the Statutes of 1985, is repealed.

SEC. 2. Section 13353 of the Vehicle Code, as amended by Section 1 of Chapter 1330 of the Statutes of 1985, is repealed.

SEC. 3. Section 13353 of the Vehicle Code, as amended by Section 2 of Chapter 1330 of the Statutes of 1985, is repealed.

SEC. 4. Section 13353 is added to the Vehicle Code, 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) revoke the person's privilege to operate a motor vehicle for a period of two years if the person has been convicted of a separate 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 of three years if the person has been convicted of two or more

separate violations of Section 23103 as specified in Section 23103.5, 23152, or 23153, or any combination thereof, 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 or revocation, 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. 5. Section 23157 of the Vehicle Code, as added by Section 5 of Chapter 735 of the Statutes of 1985, is repealed.

SEC. 6. Section 23157 of the Vehicle Code, as added by Section 3 of Chapter 1330 of the Statutes of 1985, is repealed.

SEC. 7. 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 failure to complete, the required chemical testing will result in a fine and (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 revocation of the person's privilege to operate a motor vehicle for a period of two years if the person has been convicted of a separate 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 been convicted of two or more separate violations of Section 23103 as specified in Section 23103.5, 23152, or 23153, or any combination thereof, 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 officer shall advise the person 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 officer shall advise the person 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 officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested 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 the officer shall advise the person 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 officer shall also advise the person 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 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 or revocation 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. 8. The Legislature finds and declares that, through a technical error in Section 7 of Chapter 1330 of the Statutes of 1985, the provisions of that chapter which incorporate the provisions of Chapter 735 of the Statutes of 1985 into the provisions of Chapter 1330, do not become operative if that Section 7 is read literally. This result is not the intent of the Legislature. Therefore, it is the intent of this bill to correct that technical error. The Legislature further finds and declares that this bill does not change, but is declaratory

of, existing law.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the implied consent law be correctly construed at the earliest possible time, and to avoid unnecessary litigation over the proper construction, it is necessary that this act take effect immediately.

CHAPTER 528

An act to amend Sections 4008, 4010, 4011, and 14253 of, and to add Section 1012.5 to, the Elections Code, and to amend Section 35106 of the Water Code, relating to elections.

[Approved by Governor July 24, 1986 Filed with Secretary of State July 24, 1986.]

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

SECTION 1. Section 1012.5 is added to the Elections Code, to read:

1012.5. Any absent voter who is unable to surrender his or her absent voter's ballot within the meaning of Section 1012 shall be issued a provisional ballot in accordance with Section 14253.

SEC. 2. Section 4008 of the Elections Code is amended to read:

4008. The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time.

When the petition is presented for filing, the clerk shall do all of the following:

(a) Ascertain the number of registered voters of the city last reported by the county clerk to the Secretary of State pursuant to Section 610 or 6460 effective at the time the notice specified in Section 4002 was published.

(b) Determine the total number of signatures affixed to the petition. If, from this examination, the clerk determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the clerk shall accept the petition for filing. The petition shall be deemed as filed on that date. Any petition not accepted for filing shall be returned to the proponents.

SEC. 2.5. Section 4008 of the Elections Code is amended to read:

4008. The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time.

When the petition is presented for filing, the clerk shall do all of

the following:

(a) Ascertain the number of registered voters of the city last reported by the county clerk to the Secretary of State pursuant to Section 607 effective at the time the notice specified in Section 4002 was published.

(b) Determine the total number of signatures affixed to the petition. If, from this examination, the clerk determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the clerk shall accept the petition for filing. The petition shall be deemed as filed on that date. Any petition not accepted for filing shall be returned to the proponents.

SEC. 3. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county clerk to the Secretary of State pursuant to Section 610 or 6460 effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 88 nor more than 103 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

SEC. 3.5. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county clerk to the Secretary of State pursuant to Section 607 effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 88 nor more than 103 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

SEC. 4. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent of the voters of the city according to the last report of registration

by the county clerk to the Secretary of State pursuant to Section 610 or 6460 effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not less than 88 days after the order of the legislative body.

SEC. 4.5. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent of the voters of the city according to the last report of registration by the county clerk to the Secretary of State pursuant to Section 607 effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not less than 88 days after the order of the legislative body.

SEC. 5. Section 14253 of the Elections Code is amended to read:

14253. (a) At all elections a voter claiming to be properly registered, and whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county clerk, shall be entitled to vote a provisional ballot.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the clerk in accordance with the clerk's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for absentee ballots and shall be completed in the same manner as absentee envelopes.

(c) During the official canvass, the clerk shall examine the records with respect to all provisional ballots cast.

Provisional ballots shall not be included in any semiofficial or official canvass, except upon (1) the clerk's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote or (2) order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this section regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or

appeal shall have priority over all other civil matters.

A precinct board member shall notify the voter of the contents of this subdivision at the time of receiving the provisional ballots.

(d) The Secretary of State may adopt appropriate regulations for purposes of assuring the uniform application of this section.

(e) This section shall not apply to the situation described in Section 804. This section shall apply to any absent voter described by Section 1012 who is unable to surrender his or her unvoted absent voter's ballot.

(f) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

SEC. 6. Section 35106 of the Water Code is amended to read:

35106. The ballots used at any general district election, including bond elections, shall be provided by the county clerk pursuant to the provisions of the Uniform District Election Law and shall be in the following form:

(a) Each ballot shall have a perforated line across the top portion of the ballot two inches down and parallel to the top thereof. From this perforated line to the top of the ballot a vertical perforated line shall be placed in the center of the ballot.

(b) Above the perforated line and on both sides of the vertical perforation the ballot shall be printed with the name of the district, the date of the election and the ballot number. All ballots shall be numbered consecutively starting with number one.

(c) Above the perforated line and to the left of the vertical perforation shall be printed: "Number of votes entitled to cast:".

(d) Below the perforated line the following shall be printed in the order enumerated:

(1) The name of the district and the date of the election.

(2) "Number of votes entitled to cast:".

(3) A solid black line. Immediately under the line shall be printed: "Fold bottom of ballot up to this line."

(4) The names of the candidates, in accordance with the randomized alphabet as provided for in Section 10217 of the Elections Code.

(5) Any propositions, including authorizations to issue bonds, or other matters to be submitted to the voters.

(e) Appropriate squares shall be placed after each candidate and proposition on the right side of the ballot.

(f) Appropriate voting instructions may be placed on the ballot.

SEC. 6.5. Sections 2.5, 3.5, and 4.5 of this act shall become operative only if SB 2359 of the 1985–86 Regular Session is enacted and repeals Sections 610 and 6460 of the Elections Code, in which case Sections 2, 3, and 4 of this act shall not become operative.

SEC. 7. 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 529

An act to amend, add, and repeal Sections 8008, 8015, 8025, and 8031 of, and to add and repeal Sections 8030.2, 8030.4, 8030.6, and 8030.8 of, the Business and Professions Code, and to amend Section 69950 of the Government Code, relating to court costs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with Secretary of State July 28, 1986]

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

SECTION 1. Section 8008 is added to the Business and Professions Code, to read:

8008. The board also has the following powers and duties:

(a) To adopt a seal.

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect from all applicants for certificates the fees provided for in this chapter.

(d) To require the renewal of all such certificates and to collect therefor the renewal fee prescribed by this chapter or such lesser amount as may be fixed by the board.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

(f) To administer a fund established from the fees collected pursuant to Section 8031, or from any other donated sources, to reimburse indigent litigants for the cost of preparation of official transcripts of court proceedings and deposition proceedings.

(g) To submit to the Legislature no later than September 1, 1987, and annually thereafter, a report concerning the past fiscal year's experience with the Transcript Reimbursement Fund. The report shall include, but is not limited to, information which indicates the following:

(1) The number of requests for reimbursement.

(2) The number of requests granted.

(3) The number of requests denied.

(4) The total amount of funds disbursed.

(5) The amount of any remaining unexpended funds.

(6) The anticipated funding level needed to meet all requests in the following fiscal year.

(7) The total amount of refunds resulting from either a judicial

award or settlement agreement which includes provisions for attorneys' fees or costs as provided in subdivision (c) of Section 8030.2.

(8) The amount of funds received from other sources.

(h) To investigate the actions of any licensee, upon receipt of a verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 2. Section 8008 of the Business and Professions Code, as amended by Section 2 of Chapter 1265 of the Statutes of 1982, is amended to read:

8008. The board also has the following powers and duties:

(a) To adopt a seal.

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect from all applicants for certificates the fees provided for in this chapter.

(d) To require the renewal of all such certificates and to collect therefor the renewal fee prescribed by this chapter or such lesser amount as may be fixed by the board.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

(f) To investigate the actions of any licensee, upon receipt of a verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

This section shall become operative on June 30, 1991.

SEC. 3. Section 8015 is added to the Business and Professions Code, to read:

8015. This chapter is designed (1) to establish and maintain a standard of competency for those engaged in the practice of shorthand reporting, for the protection of the public, in general, and for the protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporters, in particular, and (2) to extend court and general reporting services to the public otherwise unable to afford such services.

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 4. Section 8015 of the Business and Professions Code, as added by Section 4 of Chapter 1350 of the Statutes of 1980, is amended to read:

8015. This chapter is designed to establish and maintain a standard of competency for those engaged in the practice of shorthand reporting, for the protection of the public, in general, and for the protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporters,

in particular.

This section shall become operative on June 30, 1991.

SEC. 5. Section 8025 is added to the Business and Professions Code, to read:

8025. A certificate issued under this chapter may be suspended or revoked for one or more of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a certified shorthand reporter. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Fraud or misrepresentation resorted to in obtaining a certificate hereunder.

(c) Fraud, dishonesty, corruption, willful violation of duty, gross incompetency in practice, or unprofessional conduct.

"Unprofessional conduct" includes, but is not limited to, acts contrary to professional standards concerning confidentiality; impartiality; filing and retention of notes; notifications, availability, delivery, execution and certification of transcripts; and any provision of law substantially related to the duties of a certified shorthand reporter.

(d) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts thereof within the time required by law or to transcribe or file notes of other proceedings within the time required by law or agreed by contract.

(e) Failure to pay fees required by this chapter.

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 6. Section 8025 of the Business and Professions Code, as amended by Section 9 of Chapter 1265 of the Statutes of 1982, is amended to read:

8025. A certificate issued under this chapter may be suspended or revoked for one or more of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a certified shorthand reporter. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Fraud or misrepresentation resorted to in obtaining a certificate hereunder.

(c) Fraud, dishonesty, corruption, willful violation of duty, gross incompetency in practice, or unprofessional conduct.

"Unprofessional conduct" includes, but is not limited to, acts contrary to professional standards concerning confidentiality; impartiality; filing and retention of notes; notification, availability, delivery, execution and certification of transcripts; and any provision of law substantially related to the duties of a certified shorthand reporter.

(d) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts

thereof within the time required by law or to transcribe or file notes of other proceedings within the time required by law or agreed by contract.

This section shall become operative on June 30, 1991.

SEC. 7. Section 8030.2 is added to the Business and Professions Code, to read:

8030.2. (a) To provide shorthand reporting services to low-income litigants unable to otherwise afford such services, funds generated by fees received by the board pursuant to subdivision (c) of Section 8031 in excess of funds needed to support the board's operating budget for the fiscal year in which a transfer described below is made shall be used by the board for the purpose of establishing and maintaining a Transcript Reimbursement Fund. The Transcript Reimbursement Fund shall be established by a transfer of funds from the Shorthand Reporters' Fund and shall be maintained in an amount no less than three hundred thousand dollars ($300,000) for each fiscal year beginning with the fiscal year 1986–87.

(b) All moneys held in the Shorthand Reporters' Fund on the effective date of this section in excess of the board's operating budget for the 1986–87 fiscal year shall be used as provided in subdivision (a).

(c) Refunds and unexpended funds that are anticipated to remain in the Transcript Reimbursement Fund at the end of the fiscal year shall be considered by the board in establishing the fee assessment pursuant to Section 8031 so that the assessment shall maintain the Transcript Reimbursement Fund at the appropriate level in the following fiscal year.

(d) The Transcript Reimbursement Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the Transcript Reimbursement Fund are continuously appropriated for the purposes of this chapter.

(e) Applicants who have been reimbursed pursuant to this chapter for services provided to litigants and who are awarded court costs or attorneys' fees by judgment or by settlement agreement, shall refund the full amount of that reimbursement to the fund within 90 days of receipt of the award or settlement.

(f) Subject to the limitations of this chapter, the board shall maintain the fund at a level which is sufficient to pay all qualified claims. To accomplish this objective, the board shall utilize all refunds, unexpended funds, fees, and any other moneys received by the board.

(g) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 1986, shall be transferred to the Transcript Reimbursement Fund established by this section

(h) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 1991, shall be transferred to the Shorthand Reporters' Fund.

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 8. Section 8030.4 is added to the Business and Professions Code, to read:

8030.4. As used in this chapter:

(a) "Qualified legal services project" means a nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons, has a board of directors or advisory board composed of both attorneys and consumers of legal services, and provides for community participation in legal services programming. Legal services projects funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(b) "Qualified support center" means an incorporated nonprofit legal services center, having an office or offices in California, which office or offices provide legal services or technical assistance without charge to qualified legal services projects and their clients on a multicounty basis in California. Support centers funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purpose of this chapter.

(c) "Other qualified project" means a nonprofit organization formed for charitable or other public purposes, not receiving funds from the Legal Services Corporation or pursuant to the Older Americans Act, which organization or association provides free legal services to indigent persons.

(d) "Pro bono attorney" means any attorney, law firm, or legal corporation, licensed to practice law in this state, which undertakes without charge to the party the representation of an indigent person, referred by a qualified legal services project, qualified support center, or other qualified project, in a case not considered to be fee generating as defined in this chapter.

(e) "Applicant" means a qualified legal services project, qualified support center, other qualified project, or pro bono attorney applying to receive funds from the Transcript Reimbursement Fund established by this chapter.

(f) "Indigent person" means either a person whose income is 125 percent or less of the current poverty threshold established by the Office of Management and Budget of the United States, a disabled person whose income after meeting medical and other disability-related special expenses is 125 percent or less of that current poverty threshold, or a person who receives or is eligible to receive supplemental security income.

(g) "Fee-generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or

from an opposing party. A case shall not be considered fee generating if adequate representation is deemed to be unavailable under any of the following:

(1) Where the applicant has determined that referral is not possible because of any of the following:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two private attorneys who have experience in the subject matter of the case.

(B) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee.

(C) The case is of the type that private attorneys in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Where recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief; or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) Where a court appoints an applicant or an employee of an applicant pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "Lawyer referral service" means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) "Older Americans Act" means the Older Americans Act of 1965, Public Law 89-73, as amended.

(*l*) "Rules of professional conduct" means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) "Certified shorthand reporter" means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020).

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 9. Section 8030.6 is added to the Business and Professions Code, to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund, in accordance with the procedures set forth below, to the applicant or the certified shorthand reporter designated in the application for the costs, exclusive of per diem charges, of preparing either an original transcript and one copy thereof, or where appropriate, a copy of the transcript, of court or deposition proceedings, or both, incurred as a contractual obligation between the shorthand reporter and the applicant, for litigation conducted in California:

(a) The applicant or certified shorthand reporter shall promptly submit to the board the certified shorthand reporter's invoice for transcripts together with the appropriate documentation as is required by this chapter.

(b) Except as provided in subdivision (c), the board shall promptly determine if the applicant is entitled to reimbursement under this chapter and shall make payment as follows:

(1) Regular customary charges for preparation of original deposition transcripts and one copy thereof, or a copy of the transcripts.

(2) Regular customary charges for expedited deposition transcripts up to a maximum of two thousand five hundred dollars ($2,500) per case.

(3) Regular customary charges for the preparation of original transcripts and one copy thereof, or a copy of transcripts of court proceedings.

(4) Regular customary charges for expedited or daily charges for preparation of original transcripts and one copy thereof or a copy of transcripts of court proceedings.

(c) The maximum amount reimbursable by the fund under both paragraphs (1) and (2) of subdivision (b) shall not exceed twenty thousand dollars ($20,000) per case per year.

(d) If entitled, and funds are available, the board shall forthwith disburse the appropriate sum to the applicant when documentation as provided in subdivision (d) of Section 8030.8 accompanies the application or the certified shorthand reporter together with a notice requiring the recipient to file a notice with the court in which the action is pending advising that such sum has been paid pursuant to this section and that if such sum is subsequently included in any award of costs made in such action that such sum is to be ordered refunded by the applicant to the Transcript Reimbursement Fund whenever the sum is actually recovered as costs. The court shall not consider whether payment has been made from the Transcript Reimbursement Fund in determining the appropriateness of any award of costs to the parties. The board shall also forthwith notify the applicant that such sum has been paid to the certified shorthand reporter and shall likewise notify the applicant of the duty to refund any of such sum actually recovered as costs in the action.

(e) If not entitled, the board shall forthwith return a copy of the invoice to the applicant and the designated certified shorthand

reporter together with a notice stating the grounds for denial.

(f) The board shall complete its actions under this subdivision within 30 days of receipt of the invoice and accompanying documentation.

(g) Applications for reimbursements from the fund shall be filled on a first-come basis.

(h) Applications for reimbursement which cannot be paid from the fund due to insufficiency of the fund for that fiscal year shall be held over until the next fiscal year to be paid out of the renewed fund.

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 10. Section 8030.8 is added to the Business and Professions Code, to read:

8030.8. (a) For purposes of this chapter, documentation accompanying an invoice shall be presumed sufficient to establish entitlement for reimbursement from the Transcript Reimbursement Fund if it establishes all of the following:

(1) The case name and number and that the litigant or litigants requesting the reimbursement are indigent persons.

(2) The applicant is qualified under the provisions of this chapter.

(3) The case is not a fee-generating case as defined in Section 8030.4.

(4) The invoice or other documentation shall evidence that the certified shorthand reporter to be reimbursed was, at the time the services were rendered, a duly licensed certified shorthand reporter.

(5) The invoice shall be accompanied by a statement, signed by the applicant, stating that the charges are for transcripts actually provided as indicated on the invoice.

(6) The applicant has acknowledged, in writing, that as a condition of entitlement for reimbursement that the applicant agrees to refund the entire amount disbursed from the Transcript Reimbursement Fund from any costs or attorneys' fees awarded to the applicant by the court or provided for in any settlement agreement in the case.

(7) The certified shorthand reporter's invoice for transcripts shall include separate itemizations of charges claimed, as follows:

(A) Total charges and rates for customary services in preparation of an original transcript and one copy or a copy of the transcript of depositions.

(B) Total charges and rates for expedited deposition transcripts.

(C) Total charges and rates in connection with transcription of court proceedings.

(b) In the case of an applicant claiming to be eligible pursuant to subdivision (a), (b), or (c) of Section 8030.4, a letter from the director of such project or center, certifying that the project or center meets the standards set forth in one of those subdivisions and that the litigant or litigants are indigent persons, shall be sufficient documentation to establish eligibility.

(c) In the case of an applicant claiming to be eligible pursuant to subdivision (d) of Section 8030.4, a letter certifying that the applicant meets the requirements of that subdivision, that the case is not a fee-generating case as defined in subdivision (g) of Section 8030.4, and that the litigant or litigants are indigent persons, together with a letter from the director of a project or center defined in subdivision (a), (b) or (c) of Section 8030.4 certifying that the litigant or litigants had been referred by that project or center to the applicant, shall be sufficient documentation to establish eligibility.

(d) The applicant may receive reimbursement directly from the board when the applicant has previously paid the certified shorthand reporter for transcripts as provided in Section 8030.6. To receive payment directly, the applicant shall submit, in addition to all other required documentation, an itemized statement signed by the certified shorthand reporter performing the services which describes payment for transcripts in accordance with the requirements of Section 8030.6.

(e) The board may prescribe appropriate forms to be used by applicants and certified reporters to facilitate these requirements.

(f) Nothing in this chapter restricts the contractual obligation or payment for services, including, but not limited to, billing the applicant directly, during the pendency of the claim.

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 11. Section 8031 is added to the Business and Professions Code, to read:

8031. The amount of the fees required by this chapter is that fixed by the board in accordance with the following schedule:

(a) The fee for filing an application for each examination shall be no more than forty dollars ($40).

(b) The initial certificate fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than 180 days after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued or fifty dollars ($50), whichever is greater. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board in such amounts and at such times as the board may deem appropriate to meet its operational expenses and funding responsibilities established by this chapter, at not more than one hundred twenty-five dollars ($125) nor less than ten dollars ($10) annually, with the following exception:

Any person who is employed full time by the State of California as a hearing reporter and who does not otherwise render shorthand reporting services for a fee shall be exempt from licensure while in state employment and shall not be subject to the renewal fee

provisions of this subdivision until 30 days after leaving state employment. The renewal fee shall, in addition to the amount fixed by this subdivision, include any unpaid fees required by this section plus any delinquency fee.

(d) The delinquency fee shall be no greater than twenty dollars ($20).

(e) The duplicate certificate fee shall be no greater than five dollars ($5).

(f) The penalty for failure to notify the board of a change of address shall be no greater than twenty dollars ($20).

This section shall remain in effect only until June 30, 1991, and as of that date is repealed.

SEC. 12. Section 8031 of the Business and Professions Code, as added by Section 13 of Chapter 1350 of the Statutes of 1980, is amended to read:

8031. The amount of the fees required by this chapter is that fixed by the following schedule:

(a) The fee for filing an application for each examination shall be fixed by the board at not more than forty dollars ($40).

(b) The initial certificate fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board for renewal for each of the biennial renewal periods, at not more than forty dollars ($40), nor less than ten dollars ($10).

(d) The delinquency fee is twenty dollars ($20).

(e) The duplicate certificate fee is five dollars ($5).

(f) The penalty for failure to notify the board of a change of address is twenty dollars ($20).

This section shall become operative on June 30, 1991.

SEC. 13. Section 69950 of the Government Code is amended to read:

69950. The fee for transcription for original ribbon copy is seventy cents ($0.70) for 100 words, and for each copy for the party buying the original made at the same time, ten cents ($0.10) each for 100 words. The fee for a first copy to any other person shall be twenty cents ($0.20) for each 100 words, and for each additional copy, made at the same time, ten cents ($0.10) for each 100 words.

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 continue the existence of the Transcript

Reimbursement Fund without interruption, it is necessary that this act take effect immediately.

CHAPTER 530

An act to amend Sections 11908.1, 12301, 12305, and 12306 of the Public Utilities Code, relating to municipal utility districts.

[Became law without Governor's signature Filed with Secretary of State July 28, 1986.]

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

SECTION 1. Section 11908.1 of the Public Utilities Code is amended to read:

11908.1. (a) Notwithstanding Section 11908, each director of a board having seven directors may receive compensation in an amount not to exceed one hundred dollars ($100) per day for each day's attendance at public meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, or, in lieu of that compensation, a salary of not to exceed six hundred dollars ($600) per month subject to annual adjustments pursuant to subdivision (b), together with any expenses incurred in the performance of his or her duties required or authorized by the board.

(b) Any district which adopts salaries for directors pursuant to subdivision (a) may increase those salaries by not more than 5 percent for each calendar year following the operative date of the last adjustment, commencing with the calendar year following adoption of the salary or increase.

SEC. 2. Section 12301 of the Public Utilities Code is amended to read:

12301. The board may establish a retirement system for the officers, whether elective or appointive, or both, and employees of the district and provide for the payment of annuities, pensions, retirement allowances, disability payments, and death benefits, or any of them.

SEC. 3. Section 12305 of the Public Utilities Code is amended to read:

12305. A district may make all or part of its officers, whether elective or appointive, or both,and employees members of the Public Employees' Retirement System by contract entered into between the district and the board of administration of the system under the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code); and the district may perform all acts necessary or convenient for that participation.

SEC. 4. Section 12306 of the Public Utilities Code is amended to

read:

12306. The board may classify and determine the officers, whether elective or appointive, or both,and employees who shall be included as members in the retirement system and may change the classification from time to time. Membership of all officers and employees so classified and included in the retirement system is compulsory.

CHAPTER 531

An act to amend Section 33320.1 of, and to add Section 33320.4 to, the Health and Safety Code, relating to redevelopment.

[Became law without Governor's signature. Filed with Secretary of State July 28, 1986.]

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

SECTION 1. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. "Project area" means, except as provided in Section 33320.2, 33320.3, or 33320.4, a predominantly urbanized area of a community which is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and which is selected by the planning commission pursuant to Section 33322.

As used in this section, "predominantly urbanized" means that not less than 80 percent of the privately owned property in the project area has been or is developed for urban uses, is characterized by the conditions described in subdivisions (a) or (b) of Section 33032, or is an integral part of an area developed for urban uses. For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner which is either consistent with zoning or is otherwise permitted under law. For the purposes of this section, if property is acquired by the community less than 180 days prior to the date of adoption of the survey area resolution and is not dedicated or devoted to a public use on the date the survey area resolution is adopted, that property shall be deemed privately owned property.

The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area which is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 1.5. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. "Project area" means, except as provided in Section 33320.2, 33320.3, or 33320.4 a predominantly urbanized area of a

community which is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and which is selected by the planning commission pursuant to Section 33322.

As used in this section, "predominantly urbanized" means that not less than 80 percent of the privately owned property in the project area has been or is developed for urban uses, is characterized by the conditions described in subdivision (a), (b), or (e) of Section 33032, or is an integral part of an area developed for urban uses. For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner which is either consistent with zoning or is otherwise permitted under law. For the purposes of this section, if property is acquired by the community less than 180 days prior to the date of adoption of the survey area resolution and is not dedicated or devoted to a public use on the date the survey area resolution is adopted, that property shall be deemed privately owned property.

The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area which is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 2. Section 33320.4 is added to the Health and Safety Code, to read:

33320.4. (a) The unblighted territory which is described in paragraphs (1) and (2) is contiguous to an existing redevelopment project area within the City of Sanger, California. If all of that unblighted territroy is annexed to the City of Sanger, the planning agency within the City of Sanger may, with the approval of the redevelopment agency, include that territory in a proposed project area, or the redevelopment agency may amend the redevelopment plan to include that territory within an existing contiguous project area, if the planning agency or the redevelopment agency, as the case may be, determines that the inclusion of that territory is necessary for effective redevelopment of the project area. If either, or both, of those determinations are made, the territory shall be conclusively presumed necessary for effective redevelopment within the proposed or existing project area. Any actions taken by the planning agency or redevelopment agency in accordance with this section shall comply with all of the other requirements of this part.

(1) All that portion of Fresno County, California, within the City of Sanger in Sections 26 and 25, Township 14 South, Range 22 East, Mount Diablo Base and Meridian, according to the United States Government Township Plat thereof, described as follows:

Beginning at the southwest corner of the northwest quarter of Section 26; thence along the existing city limits line of Sanger as follows, N. 89 47' E., a distance of 2638.53 feet to the southeast corner of the northwest quarter of Section 26; thence N. 0 03' W., along the

west line of the northeast quarter of that Section, a distance of 345.52 feet to the northerly right-of-way line of the Garfield Ditch; thence northeasterly along northerly right-of-way line, a distance of 913.00 feet, a little more or less, to a point on the westerly right-of-way line of the Centerville and Kingsburg Canal; thence along the easterly right-of-way line of the Centerville and Kingsburg Canal as follows: N. 09 52'28" E., 708.50 feet; N. 09 26'40" E., 297.07 feet; N. 07 14'16" E., 549.23 feet; and N. 09 15'10" E., a distance of 539.47 feet to a point on a line 30.00 feet south of the north line of the northeast quarter of Section 26; thence leaving the westerly right-of-way line, N.89 43' E., along that line 30.00 feet south of and parallel with the north line of the northeast quarter of Section 26 and the easterly prolongation thereof, a distance of 1860.41 feet; thence S. 0 14' E., 1151.07 feet; thence S. 73 01' W., 357.58 feet; thence S. 55 46' W., 985.00 feet; thence S. 40 46' W., 218.00 feet; thence S. 24 31' W., 364.00 feet; thence N. 75 44' W., 312.87 feet to a point on the west line of the southeast quarter of the northeast quarter of Section 26; thence S. 0 17'12" E., along said west line, 413.31 feet to the southwest corner thereof; thence S. 0 16'28" E., along the west line of the northeast quarter of the southeast quarter of Section 26, 1332.38 feet to the southwest corner thereof; thence leaving the existing city limits line of Sanger, N. 89 06'46" W., along the north line of the south half of the southeast quarter of Section 26, 592.10 feet to the northeast corner of that parcel of land conveyed to Archie Mekealian and Verlene Mekealian by deed dated February 23, 1944, and recorded in Book 2157 at Page 119, Fresno County records, with the corner being 742.00 feet east of the northwest corner of the south half of the southeast quarter of Secton 26; thence S. 4 36'52" W., along the east line to the parcel, 1330.31 feet to the southeast corner thereof and to a point on the south line of the southeast quarter of Section 26; thence N. 88 44'19" W., along the south line, 619.00 feet, more or less to the southwest corner of the southeast quarter of Section 26; thence S. 89 51'20" W., along the south line of the southwest quarter of Section 26, 2639.90 feet to the southwest corner thereof; thence north, along the west line of the southwest quarter of Section 26, 2643.60 feet to the northwest corner thereof and the point of beginning. This territory contains a little more or less than 316.58 acres.

(2) All that portion of Fresno County, California, within the City of Sanger, in the northeast quarter of Section 15 in Township 14 South, Range 22 East, Mount Diablo Base and Meridian, according to the United States Government Township Plat thereof, described as follows:

Commencing at the northeast corner of the northeast quarter of the northeast quarter of Section 15, thence southerly along the east line of the northeast quarter of Section 15 992.05 feet to the existing city limits line of Sanger, then continuing south along the east line of the northeast quarter of Section 15 475.01 feet, that being contiguous with the existing city limit of Sanger, for a total of 1467.06 feet, thence westerly, along a line 1180.15 feet 15, 880.90 feet, more

or less to the easterly right-of-way line of the Southern Pacific Railroad Company's right-of-way; thence leaving the existing city limits line of Sanger, northwesterly, along the easterly right-of-way line of the railroad as the same is shown on the Map of Mountain View Addition to Sanger, recorded February 18, 1891, in Book 4 of Plats, Page 66, Fresno County Records, to the point of intersection with the north line of the northeast quarter of Section 15; thence easterly along the north line, 2191.00 feet to the point of commencement. This territory contains a little more or less than 50.13 acres.

(b) The conclusive presumption that the unblighted territory described in subdivision (a) is necessary for effective redevelopment applies only to territory within the City of Sanger.

SEC. 3. The Legislature finds and declares that a general statute, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable to the unique problems within the City of Sanger that this act is intended to remedy, and that, therefore, this special statute is necessary.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 33320.1 of the Health and Safety Code proposed by both this bill and AB 3600. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 33320.1 of the Health and Safety Code, and (3) this bill is enacted after AB 3600, in which case Section 1 of this bill shall not become operative.

CHAPTER 532

An act to amend Sections 15819.1, 15819.3, and 15819.8 of, and to add Sections 15819.19 and 15819.20 to, the Government Code, and to amend Section 1.5 of Chapter 237 of the Statutes of 1985, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1986 Filed with Secretary of State August 20, 1986.]

I am deleting the $1 million appropriation for the 1984 Prison Construction Fund contained in Section 10(b) (1) of Assembly Bill No. 4356.

There is insufficient money in the 1984 Prison Construction Fund to fund this appropriation. I have just approved SB No. 1222 which contains the same appropriation from a more appropriate funding source.

With this deletion, I approve Assembly Bill No. 4356.

George Deukmejian, Governor

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

SECTION 1. Section 15819.1 of the Government Code is amended to read:

15819.1. As used in this chapter:

(a) "Bonds" means revenue bonds, notes, or bond anticipation notes issued to finance 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.

(3) California State Prison—Corcoran (as authorized by Section 6 of Chapter 931 of the Statutes of 1985).

SEC. 2. Section 15819.3 of the Government Code is amended to read:

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 six hundred fifty million dollars ($650,000,000).

SEC. 3. Section 15819.8 of the Government Code is amended to read:

15819.8. At least 15 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, and the Chairperson and Vice 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.

SEC. 4. Section 15819.19 is added to the Government Code, to read:

15819.19. Notwithstanding Section 13340, funds derived from the financing methods provided by this chapter for the prison in the vicinity of Corcoran in Kings 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 facility so financed.

Funds so 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, and long lead and equipment items.

The State Public Works Board may authorize the augmentation of the cost of the construction of the prison in the vicinity of Corcoran in Kings County, subject to the limitations set forth in Section 13332.11 of the Government Code.

SEC. 5. Section 15819.20 is added to the Government Code, to read:

15819.20. (a) This section applies to the funding through lease-purchase financing arrangements for the construction of the California State Prison—Del Norte County authorized by Section 1.5 of Chapter 237 of the Statutes of 1985, as amended by the statute which enacted this section.

(b) Section 15819.1 to 15819.13, inclusive, and Section 15819.15 apply to the funding of the California State Prison—Del Norte County, provided that for purposes of this section:

(1) "Prison facility," as used in Section 15819.1, shall be deemed to include the California State Prison-Del Norte County.

(2) Notwithstanding the monetary limitation imposed by Section 15819.3, the total amount of bonds which may be issued pursuant to this section for the California State Prison—Del Norte County shall not exceed the additional sum of three hundred twenty-five million dollars ($325,000,000).

(c) Notwithstanding Section 13340, funds derived from the lease-purchase financing methods for the California State Prison—Del Norte 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 facility so financed.

Funds so appropriated shall be available as necessary for site acquisition, site studies, and suitability reports, environmental studies, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items.

SEC. 6. Section 1.5 of Chapter 237 of the Statutes of 1985 is amended to read:

Sec. 1.5. (a) The Department of Corrections shall perform site suitability studies and evaluate the feasibility of constructing a prison in Del Norte County. These studies may address, but shall not be

limited to, the following: hydrology, archaeology, 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.

(b) In performing the studies required by this section, the Department of Corrections shall hold public hearings regarding proposed sites.

(c) The Department of Corrections shall submit the results of the studies required by subdivision (a) to the Joint Legislative Prison Committee.

(d) The Department of Corrections is hereby authorized, depending on the results of a feasibility study, to construct a 2,000-bed level IV facility together with a 200-bed service facility of lesser security in Del Norte County. The department may use up to 50 percent of the beds at the Del Norte Facility for special cases.

(e) Notwithstanding any other provision of law, prior to marketing bonds pursuant to Section 5 of this act, the department shall receive approval of such financing by the Assembly Committee on Ways and Means and the Senate Committee on Appropriations.

SEC. 7. (a) Notwithstanding any other provisions of law, the Department of Corrections is hereby authorized to construct a level II facility of up to 2,000 beds including a 100-bed administrative segregation unit in Riverside County.

(b) Notwithstanding any other provisions of law, funds previously appropriated for the construction of a medium security facility in Riverside County may be expended for constructing a facility of up to 2,000 beds in Riverside County as authorized by this section.

SEC. 8. Notwithstanding any other provisions of law, the State Public Works Board is hereby authorized to augment the cost of construction of the prisons provided for in paragraph (1) of subdivision (a) of, and paragraphs (3) and (4) of subdivision (b) of, Section 8.5 of Chapter 933 of the Statutes of 1985 from the 1984 Prison Construction Fund, subject to the limitations set forth in Section 13332.11 of the Government Code.

SEC. 9. Notwithstanding any other provision of law, the Department of Corrections is authorized to pay reasonable, customary, and nondiscriminatory capacity fees and special assessments to the Tulare Lake Drainage District in order to obtain essential water services for the California State Prison at Corcoran authorized by Section 6 of Chapter 931 of the Statutes of 1985.

SEC. 10. The sum of four hundred fifty-two million nine hundred eleven thousand dollars ($452,911,000) is hereby appropriated, as follows:

(a) To the Department of Corrections from the General Fund, the sum of thirteen million dollars ($13,000,000) for advance funding purposes for the prison in the vicinity of Corcoran authorized by Section 6 of Chapter 931 of the Statutes of 1985.

Funds appropriated by this subdivision 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, and long lead and equipment items.

Any amounts made available from the General Fund under this subdivision shall be repaid to the General Fund from the proceeds that become available from the sale of the bonds issued using the lease-purchase financing arrangements authorized by this act for the California State Prison—Corcoran.

(b) To the Department of Corrections, the sum of thirteen million dollars ($13,000,000) for the site acquisition, site studies and suitability reports, environmental assessment studies, master planning, architectural programming, schematics and preliminary plans, for the Del Norte Facility authorized pursuant to Section 6 of this act, as follows:

(1) From the 1984 Prison Construction Fund.....	$ 1,000,000
(2) From the General Fund for advance funding purposes	$12,000,000

Any amounts made available from the General Fund under this subdivision shall be repaid to the General Fund from the proceeds that become available from the sale of the bonds issued using the lease-purchase financing arrangements authorized by this act for the California State Prison—Del Norte County.

(c) To the Department of Corrections from the 1986 Prison Construction Fund the sum of one hundred twenty-eight million three hundred thousand dollars ($128,300,000) for constructing up to 2,000 beds at a facility in Riverside County as authorized by Section 7 of this act.

Funds appropriated under this subdivision shall be available for purposes as necessary, of site acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items.

(d) To the Department of Corrections, as follows:

(1) From the 1986 Prison Construction Fund to the Prison Industries Revolving Fund the sum of sixty-two million dollars ($62,000,000).

(2) From the General Fund to the Prison Industries Revolving Fund the sum of forty-three million dollars ($43,000,000) for advance funding purposes.

Any amounts made available from the General Fund under this subdivision shall be repaid to the General Fund from the 1986 Prison Construction Fund only upon passage of the 1986 New Prison Construction Bond Act of 1986 by the voters at the November 4, 1986, general election.

Funds appropriated under this subdivision shall be available to construct and equip industrial, agricultural, and service facilities as

necessary to employ prisoners in institutions under the jurisdiction of the Department of Corrections including site studies and suitability reports, site acquisition, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items.

(e) To the Department of Corrections from the 1986 Prison Constructions Fund, the sum of forty-two million eleven thousand dollars ($42,011,000) to be allocated, as follows:

(1) For the construction of support services facilities at the Southern Maximum Security Complex at Tehachapi	$13,210,000
(2) For the construction support services facilities at the California Correctional Center at Susanville	$14,655,000
(3) For the construction of support services facilities at the Sierra Conservation Center at Jamestown	$14,146,000

Funds appropriated under this subdivision shall be available for the purposes, as necessary, of site acquisition, site studies and suitability reports, environmental assessment studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items, and, notwithstanding any other provisions of law, to augment appropriations provided in paragraph (1) of subdivision (a) of, and paragraphs (3) and (4) of subdivision (b) of, Section 8.5 of Chapter 933 of the Statutes of 1985.

(f) To the Department of Corrections from the 1986 Prison Construction Fund, the sum of one hundred fourteen million six hundred thousand dollars ($114,600,000) for the construction of a prison in Los Angeles County as authorized by Section 1 of Chapter 1549 of the Statutes of 1982, as amended by Senate Bill No. 904 of the 1985–86 Regular Session.

Funds appropriated under this subdivision shall be available for the purposes, as necessary, of environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items.

(g) To the Department of Corrections from the 1986 Prison Construction Fund, the sum of nineteen million one hundred thousand dollars ($19,100,000) to remedy structural and physical deficiencies at San Quentin and Folsom Prisons in order to comply with a judgment of permanent injunction issued by the 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).

Funds appropriated under this subdivision shall be available for purposes of capital outlay for cell block repairs, kitchen repairs,

laundry repairs, and repair work in the adjustment center at San Quentin and capital outlay for kitchen renovation and acoustical wall coverings at Folsom State Prison.

(h) To the Department of Corrections from the General Fund, the sum of fifteen million dollars ($15,000,000) for transfer to the 1984 Prison Construction Fund. This transfer shall be repaid to the General Fund from the 1986 Prison Construction Fund only upon passage of the New Prison Construction Bond Act of 1986 by the voters at the November 4, 1986, general election.

(i) To the Department of the Youth Authority from the 1986 Prison Construction Fund, the sum of two million nine hundred thousand dollars ($2,900,000) for preliminary plans for the New Youth Institution.

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 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 what is an immediate and current crisis.

CHAPTER 533

An act to amend Section 15819.8 of, to add Section 15819.20 to, the Government Code, and to amend Section 1.5 of Chapter 237 of the Statutes of 1985, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1986. Filed with Secretary of State August 20, 1986]

I am deleting the $12 million General Fund appropriation contained in Section 3(b) of Senate Bill No. 1222.

I have already approved AB 4356 which contains the same appropriation.

With this deletion, I approve Senate Bill No. 1222

George Deukmejian, Governor

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

SECTION 1. Section 15819.8 of the Government Code is amended to read:

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. This paragraph does not apply to the marketing of bonds for lease-purchase financing of the California State Prison-Corcoran.

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.

SEC. 1.3. Section 15819.20 is added to the Government Code, to read:

15819.20. (a) This section applies to the funding through lease-purchase financing arrangements for the construction of the California State Prison-Del Norte County as authorized by the 1986 amendments to Section 1.5 of Chapter 237 of the Statutes of 1985 by the statute which enacted this section.

(b) The provision of Sections 15819.1 to 15819.13, inclusive, and Section 15819.15 apply to the funding of the California State Prison-Del Norte County, provided that for that purpose:

(1) "Prison facility" as used in Section 15819.1 includes the California State Prison-Del Norte County.

(2) Notwithstanding the monetary limitation imposed by Section 15819.3, the total amount of bonds which may be issued pursuant to this section for the California State Prison-Del Norte County shall not exceed the additional sum of three hundred twenty five million dollars ($325,000,000).

(c) Notwithstanding Section 13340, funds derived from the lease-purchase financing methods for the California State Prison-Del Norte County 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 facility so financed.

Funds so appropriated shall be available as necessary for site acquisition, site studies, and suitability reports, environmental studies, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items.

SEC. 2. Section 1.5 of Chapter 237 of the Statutes of 1985 is amended to read:

Sec. 1.5. (a) The Department of Corrections shall perform site suitability studies and evaluate the feasibility of constructing a prison in Del Norte County. 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.

(b) In performing the studies required by this section, the Department of Corrections shall hold public hearings regarding proposed sites.

(c) The Department of Corrections shall submit the results of the studies required by subdivision (a) to the Joint Legislative Prison Committee.

(d) The Department of Corrections is hereby authorized, depending on the results of a feasibility study, to construct a 2,000-bed Level IV facility together with a 200-bed service facility of lesser security in Del Norte County. The department may use up to 50 percent of the beds at the Del Norte facility for special cases.

(e) The necessary funding for construction of the 2,200-bed Del Norte facility authorized by this section may be obtained through lease-purchase financing pursuant to Section 15819.20 of the Government Code.

(f) The facility in Del Norte County authorized by this section shall be known as the Prison of the Redwoods.

SEC. 3. The sum of thirteen million dollars ($13,000,000) is hereby appropriated to the Department of Corrections for the 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 for the Del Norte facility authorized pursuant to this act, as follows:

(a) From the New Prison Construction Fund established by Section 7102 of the Penal Code	$ 1,000,000
(b) From the General Fund for advance funding purposes	$12,000,000

Any amounts made available from the General Fund under this section shall be repaid to the General Fund from the proceeds of the sale of bonds using the lease-purchase financing arrangements authorized by Section 15819.20 of the Government Code. The amount repaid shall include interest at the rate that the Treasurer certifies would have been earned had the money been invested in the Pooled Money Investment 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:

The state's prison system is currently overcrowded and overpopulated to the point that California faces a public safety crisis. The prison population increased during 1985 at an average rate of 130 inmates each 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 that 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 534

An act to amend Sections 11056, 11470, 11488.4, 11488.5, and 11488.6 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1986. Filed with Secretary of State August 20, 1986.]

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

SECTION 1. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) The controlled substances listed in this section are included in Schedule III.

(b) 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, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine.

(3) Chlorphentermine.

(4) Clortermine.

(5) Mazindol.

(6) Phendimetrazine.

(c) 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:

(1) Any compound, mixture, or preparation containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

(4) Chlorhexadol.

(5) Lysergic acid.

(6) Lysergic acid amide.

(7) Methyprylon.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, 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:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts. Additionally, oral liquid preparations of dihydrocodeinone containing the above specified amounts may not contain as its nonnarcotic ingredients two or more antihistamines in combination with each other.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized

therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SEC. 2. 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.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

SEC. 3. Section 11488.4 of the Health and Safety Code is amended to read:

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

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

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

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

(e) An investigation shall be made by the law enforcement agency as to any claimant to a vehicle, boat, or airplane whose right, title, interest, or lien is of record in the Department of Motor Vehicles or appropriate federal agency. If the law enforcement

agency finds that any person, other than the registered owner, is the legal owner thereof, and such ownership did not arise subsequent to the date and time of arrest or seizure of the vehicle, boat, or airplane, it shall forthwith send a notice of the seizure to such legal owner at his or her address appearing on the records of the Department of Motor Vehicles or appropriate federal agency.

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

(g) All notices shall set forth the time within which a claim of interest in the property seized is required to be filed pursuant to Section 11488.5.

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

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

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

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

SEC. 4. Section 11488.5 of the Health and Safety Code is amended to read:

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

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

law enforcement or prosecutorial agency until the adjudication of the forfeiture hearing.

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

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

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

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

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

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

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

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

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

seized property would be or was used for a purpose for which forfeiture is permitted, the court shall order the seized property released to the claimant.

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

(g) All seized property which was the subject of the forfeiture hearing and which was not forfeited shall remain subject to any order to withhold issued with respect to the property by the Franchise Tax Board.

SEC. 5. Section 11488.6 of the Health and Safety Code is amended to read:

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

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

published and circulated in the city, community, or locality where the sale is to take place.

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

SEC. 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. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 further sale of controlled substances from heavily fortified houses at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 535

An act to add Sections 19276.5 and 26428.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 21, 1986 Filed with Secretary of State August 21, 1986]

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

SECTION 1. Section 19276.5 is added to the Revenue and Taxation Code, to read:

19276.5. (a) The Franchise Tax Board (hereafter referred to as "board") shall waive interest, additions to tax, and penalties payable under this part if it determines that, as to a particular taxpayer, all of the following conditions are satisfied:

(1) The taxpayer or the taxpayer's authorized representative requested in writing that the board issue an opinion as to the tax consequences to the taxpayer of particular activities or acts contemplated by the taxpayer. All pertinent facts concerning the contemplated activities or acts are fully set forth in that request.

(2) Based upon the facts presented and the applicable law, the board issued a written opinion as to the tax consequences to the taxpayer or the taxpayer's authorized representative which opinion was reasonably relied upon by the taxpayer when the contemplated activities were commenced or the contemplated action taken.

(3) The tax consequences expressed in the board's opinion were not subsequently changed by any of the following:

(A) A change in statutory law or case law.

(B) A change in federal interpretation in cases where the board's

opinion was predicated upon federal interpretation.

(C) A change in material facts or circumstances relating to the taxpayer.

(b) A taxpayer seeking relief under this section shall file with the board in the form and manner determined by the board, all of the following:

(1) A copy of the taxpayer's written request to the board and a copy of the board's opinion in response thereto.

(2) A declaration under penalty of perjury setting forth the facts which reflect that the actions taken by the taxpayer after receipt of the written opinion of the board were in reasonable reliance on the written opinion.

(3) Any other information requested by the board.

(c) If a written opinion is issued pursuant to this section, it shall include a declaration that the tax consequences expressed in the opinion may be subject to change for any of the reasons specified in paragraph (3) of subdivision (a) and that it is the duty of the taxpayer to be aware of any of these possible changes.

(d) This section does not apply if the taxpayer's request for an opinion of the Franchise Tax Board pursuant to paragraph (1) of subdivision (a) contained a misrepresentation or omission of one or more material facts.

(e) For purposes of subdivision (a), the Franchise Tax Board shall waive only that portion of interest and penalties payable under this part attributable to the actions taken by the taxpayer after receipt of the written opinion of the board which were in reasonable reliance on the written opinion.

SEC. 2. Section 26428.5 is added to the Revenue and Taxation Code, to read:

26428.5. (a) The Franchise Tax Board (hereafter referred to as "board") shall waive interest, additions to tax, and penalties payable under this part if it determines that, as to a particular taxpayer, all of the following conditions are satisfied:

(1) The taxpayer or the taxpayer's authorized representative requested in writing that the board issue an opinion as to the tax consequences to the taxpayer of particular activities or acts contemplated by the taxpayer. All pertinent facts concerning the contemplated activities or acts are fully set forth in the request.

(2) Based upon the facts presented and the applicable law, the board issued a written opinion as to the tax consequences to the taxpayer or the taxpayer's authorized representative which opinion was reasonably relied upon by the taxpayer when the contemplated activities were commenced or the contemplated action taken.

(3) The tax consequences expressed in the board's opinion were not subsequently changed by any of the following:

(A) A change in statutory law or case law.

(B) A change in federal interpretation in cases where the board's opinion was predicated upon federal interpretation.

(C) A change in material facts or circumstances relating to the

taxpayer.

(b) A taxpayer seeking relief under this section shall file with the board in the form and manner determined by the board, all of the following:

(1) A copy of the taxpayer's written request to the board and a copy of the board's opinion in response thereto.

(2) A declaration under penalty of perjury setting forth the facts which reflect that the actions taken by the taxpayer after receipt of the written opinion of the board were in reasonable reliance on the written opinion.

(3) Any other information requested by the board.

(c) If a written opinion is issued pursuant to this section, it shall include a declaration that the tax consequences expressed in the opinion may be subject to change for any of the reasons specified in paragraph (3) of subdivision (a) and that it is the duty of the taxpayer to be aware of any of these possible changes.

(d) This section does not apply if the taxpayer's request for an opinion of the Franchise Tax Board pursuant to paragraph (1) of subdivision (a) contained a misrepresentation or omission of one or more material facts.

(e) For purposes of subdivision (a), the Franchise Tax Board shall waive only that portion of interest and penalties payable under this part attributable to the actions taken by the taxpayer after receipt of the written opinion of the board which were in reasonable reliance on the written opinion.

SEC. 3. This act shall apply to written opinions issued by the Franchise Tax Board on and after January 1, 1987.

CHAPTER 536

An act to amend Section 168 of the Penal Code, relating to crimes.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986]

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

SECTION 1. Section 168 of the Penal Code is amended to read:

168. (a) Every district attorney, clerk, judge or peace officer who, except by issuing or in executing a search warrant or warrant of arrest for a felony, willfully discloses the fact of the warrant prior to execution for the purpose of preventing the search or seizure of property or the arrest of any person shall be punished by imprisonment in the state prison or in the county jail for not exceeding one year.

(b) Nothing in this section shall prohibit disclosures made for the sole purpose of securing voluntary compliance with the warrant.

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 537

An act to amend Sections 55861, 55863, 56109, 56571, and 56574 of the Food and Agricultural Code, relating to agricultural products, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 55861 of the Food and Agricultural Code is amended to read:

55861. (a) Except as otherwise provided in this article or in Section 56574, each applicant for a license shall pay to the director a fee in accordance with the schedule in subdivision (b), except that an agent shall pay thirty-five dollars ($35) for each license period of the principal.

(b) The amount of the fee due each year from the applicant shall be determined by the annual dollar volume of business based on the value of the farm products that is returned to the grower, as follows:

(1) For a dollar volume of less than twenty thousand dollars ($20,000), the fee shall be one hundred dollars ($100).

(2) For a dollar volume of twenty thousand dollars ($20,000) and over, but less than fifty thousand dollars ($50,000), the fee shall be four hundred dollars ($400).

(3) For a dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be five hundred dollars ($500).

(4) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be six hundred dollars ($600).

SEC. 2. Section 55863 of the Food and Agricultural Code is amended to read:

55863. Any person that has applied for and obtained a license pursuant to this chapter may apply for and secure a license under Chapter 7 (commencing with Section 56101) by filing an application which is accompanied by a fee determined by the dollar volume of business based on the value of the farm products that is returned to the grower or licensee, as follows:

(a) For a dollar volume of less than fifty thousand dollars ($50,000), the fee shall be fifty dollars ($50).

(b) For a dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be one hundred forty-five dollars ($145).

(c) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be two hundred dollars ($200).

This license shall be known as a "conjunctive license."

SEC. 3. Section 56109 of the Food and Agricultural Code is amended to read:

56109. "Farm product" includes every agricultural, horticultural, viticultural, and vegetable product of the soil, poultry and poultry products, livestock products and livestock not for immediate slaughter, bees and apiary products, hay, dried beans, honey, and cut flowers. It does not, however, include any timber or timber product, flower or agricultural or vegetable seed not purchased from a producer, or any milk product which is subject to the licensing and bonding provisions of Chapter 2 (commencing with Section 61801) of Part 3 of Division 21.

SEC. 4. Section 56571 of the Food and Agricultural Code is amended to read:

56571. (a) Except as otherwise provided in this article or Section 55863, each applicant for a license shall pay to the director a fee in accordance with the schedule in subdivision (b), except that an agent shall pay thirty-five dollars ($35) for each license period of the principal.

(b) The amount of the fee due each year shall be determined by the annual dollar volume of business based on farm product value returned to the grower or licensee, as follows:

(1) For a dollar volume of less than twenty thousand dollars ($20,000), the fee shall be one hundred dollars ($100).

(2) For a dollar volume of twenty thousand dollars ($20,000) and over, but less than fifty thousand dollars ($50,000), the fee shall be four hundred dollars ($400).

(3) For a dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be five hundred dollars ($500).

(4) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be six hundred dollars ($600).

SEC. 5. Section 56574 of the Food and Agricultural Code is amended to read:

56574. Any person who has obtained a license pursuant to this chapter may secure a license pursuant to Chapter 6 (commencing with Section 55401) by filing an application accompanied by a fee determined by the dollar volume of business based on farm product value returned to the grower, as follows:

(a) For a dollar volume of less than fifty thousand dollars ($50,000), the fee shall be fifty dollars ($50).

(b) For a dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be one hundred forty-five dollars ($145).

(c) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be two hundred dollars ($200).

This license shall be known as a "conjunctive license."

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 additional revenues to the Department of Food and Agriculture to enable the department to provide necessary services for the protection of the people of California at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 538

An act to add Section 744 to the Public Utilities Code, relating to electricity, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1986 Filed with Secretary of State August 21, 1986.]

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 the Public Utilities Commission recognize the severe economic situation now being faced by many agricultural customers in this state and that the commission consider, adopt, and immediately implement optional electric rates for those customers which will not result in increased rates for other classes of customers, including other agricultural customers, and that the benefits from any cost savings from this implementation shall accrue to these agricultural customers so as to enhance the economic well-being of all Californians by providing long-term stability for producers and consumers of farm products.

SEC. 2. Section 744 is added to the Public Utilities Code, to read:

744. (a) As used in this section, "agricultural producer" means any person or corporation whose principal purpose is the agrarian production of food or fiber.

(b) Every electrical corporation furnishing electricity to an agricultural producer shall, in addition to its regular service, prepare and file tariffs providing, where economically and technologically feasible, for optional alternative interruptible service to any agricultural producer upon reasonable notice to the agricultural producer consistent with safety of operations by the agricultural producer and providing for limits upon the frequency and duration of interruption of service which the commission finds are reasonable in relation to the needs of the electrical corporation for reductions in load to meet system peak requirements and the burdens imposed

upon the agricultural producer of reducing its operations during periods of interruption of electrical service. The commission shall establish the rate for this service at an appropriate discount from the system average rate, which shall be not less than the cost of furnishing this service.

(c) Every electrical corporation furnishing electricity to an agricultural producer shall, in addition to its regular service, prepare and file tariffs providing for an optional off-peak demand service, including the availability of time-differentiating meters or other measurement devices, to any agricultural producer providing for furnishing electricity to the agricultural producer during periods of off-peak demand and which the commission finds are reasonable in relation to the needs of the electrical corporation for reduction in demand to meet system peak requirements and the burdens imposed upon the agricultural producer of scheduling its operations to coincide with the periods of off-peak demand. The off-peak demand service tariff shall be composed of a two-part time differentiated schedule consisting of on- and off-peak rates. The commission shall establish the rate for this service at an appropriate discount from the system average rate, which shall be not less than the cost of furnishing this service.

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:

The agricultural community is in the midst of severe economic problems at this time and in order for the benefits of this legislation to be made available in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 539

An act to amend Section 4800.1 of the Civil Code, relating to family law.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 4800.1 of the Civil Code is amended to read:

4800.1. (a) The Legislature hereby finds and declares as follows:

(1) It is the public policy of this state to provide uniformly and consistently for the standard of proof in establishing the character of property acquired by spouses during marriage in joint title form, and for the allocation of community and separate interests in that property between the spouses.

(2) The methods provided by case and statutory law have not resulted in consistency in the treatment of spouses' interests in property which they hold in joint title, but rather, have created confusion as to which law applies at a particular point in time to property, depending on the form of title, and, as a result, spouses cannot have reliable expectations as to the characterization of their property and the allocation of the interests therein, and attorneys cannot reliably advise their clients regarding applicable law.

(3) Therefore, the Legislature finds that a compelling state interest exists to provide for uniform treatment of property; thus the Legislature intends that the forms of this section and Section 4800.2, operative on January 1, 1987, shall apply to all property held in joint title regardless of the date of acquisition of the property or the date of any agreement affecting the character of the property, and that that form of this section and that form of Section 4800.2 are applicable in all proceedings commenced on or after January 1, 1984. However, the form of this section and the form of Section 4800.2 operative on January 1, 1987, are not applicable to property settlement agreements executed prior to January 1, 1987, or proceedings in which judgments were rendered prior to January 1, 1987, regardless of whether those judgments have become final.

(b) For the purpose of division of property upon dissolution of marriage or legal separation, property acquired by the parties during marriage in joint form, including property held in tenancy in common, joint tenancy, tenancy by the entirety, or as community property is presumed to be community property. This presumption is a presumption affecting the burden of proof and may be rebutted by either of the following:

(1) A clear statement in the deed or other documentary evidence of title by which the property is acquired that the property is separate property and not community property.

(2) Proof that the parties have made a written agreement that the property is separate property.

CHAPTER 540

An act to amend Sections 409, 431.10, 437c, 470, 471, 572, 585, 597, 630, 631.8, and 998 of, to add Section 587.5 to, and to repeal and add Section 581 of, the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986]

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

SECTION 1. Section 409 of the Code of Civil Procedure is amended to read:

409. (a) In an action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing a cross-complaint, or at any time afterwards, may record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, and the object of the action or cross-action, and a description of the property in that county affected thereby. This section authorizes a notice of an action concerning real property pending in any United States district court to be recorded and indexed in the same manner and in the same place as herein provided with respect to notices of action pending in courts of this state. From the time of filing the notice for record only, a purchaser or encumbrancer of the property affected thereby shall be deemed to have constructive notice of the pendency of the action as it relates to the real property and only of its pendency against parties designated by their real names.

(b) In an action concerning real property or affecting the title or the right of possession of real property, the clerk, or the judge if there is no clerk, shall issue a notice of pendency of action to a party requesting it, or an attorney of record in the action may sign and issue a notice of pendency of action, or the person causing the notice of the pendency of the action to be recorded may obtain certification from the court in which the action is pending that an action concerning real property or affecting the title or the right of possession of real property has been filed between the named parties. The certification may issue ex parte. A notice of pendency of action may not be recorded, except by a public agency bringing an action in eminent domain pursuant to Title 7 (commencing with Section 1230.010) of Part 3. unless it is issued by the court, or issued by the attorney of record in the action or proceeding, or accompanied by a certified copy of the certification. The fee for issuance of the notice of pendency of action by the court, or making the certification, shall be as specified in Section 26836 of the Government Code.

(c) Except in actions brought under Title 7 (commencing with Section 1230.010) of Part 3, the person causing the notice of the pendency of the action to be recorded shall first cause a copy of the notice to be mailed, by registered or certified mail, return receipt requested to all known addresses of the adverse parties and to all owners of record as shown by the latest county assessment roll or more recent assessment information in the possession of the county assessor. A copy of the notice of the pendency of the action shall also be filed with the court in which the lawsuit is filed. Service shall also be made immediately upon each adverse party who is later brought into the action pursuant to Section 385, 387, 389, 472, 472a, 473, 474, 576, or any other provision of law.

(d) Any notice of the pendency of the action recorded pursuant to subdivision (a) shall be void and invalid as to any adverse party or owner of record, unless the requirements of subdivision (c) are met for the party or owner, and a proof of service, as set forth in Section 1013a, has been recorded with the notice of the pendency of the action. If there is no known address for service on an adverse party or owner as required under subdivision (c), then as to that party a declaration under penalty of perjury to that effect shall be recorded instead of the proof of service described above, and the service on that party shall not be required.

SEC. 2. Section 431.10 of the Code of Civil Procedure is amended to read:

431.10. (a) A material allegation in a pleading is one essential to the claim or defense and which could not be stricken from the pleading without leaving it insufficient as to that claim or defense.

(b) An immaterial allegation in a pleading is any of the following:

(1) An allegation that is not essential to the statement of a claim or defense.

(2) An allegation that is neither pertinent to nor supported by an otherwise sufficient claim or defense.

(3) A demand for judgment requesting relief not supported by the allegations of the complaint or cross-complaint.

(c) An "immaterial allegation" means "irrelevant matter" as that term is used in Section 436.

SEC. 3. Section 437c of the Code of Civil Procedure is amended to read:

437c. (a) Any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense thereto. The motion may be made at any time after 60 days have elapsed since the general appearance in the action or proceeding of each party against whom the motion is directed or at such earlier time after the general appearance as the court, with or without notice and upon good cause shown, may direct. Notice of the motion and supporting papers shall be served on all other parties to the action at least 28 days before the time appointed for hearing. However, if the notice is served by mail, the required 28-day period of notice shall be increased by five days if the

place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. The motion shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise. The filing of the motion shall not extend the time within which a party must otherwise file a responsive pleading.

(b) The motion shall be supported by affidavits, declarations, admissions, answers to interrogatories, depositions and matters of which judicial notice shall or may be taken. The supporting papers shall include a separate statement setting forth plainly and concisely all material facts which the moving party contends are undisputed. Each of the material facts stated shall be followed by a reference to the supporting evidence. The failure to comply with this requirement of a separate statement may in the court's discretion constitute a sufficient ground for denial of the motion.

Any opposition to the motion shall be served and filed not less than 14 days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. The opposition, where appropriate, shall consist of affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken. The opposition papers shall include a separate statement which responds to each of the material facts contended by the moving party to be undisputed, indicating whether the opposing party agrees or disagrees that those facts are undisputed. The statement also shall set forth plainly and concisely any other material facts which the opposing party contends are disputed. Each material fact contended by the opposing party to be disputed shall be followed by a reference to the supporting evidence. Failure to comply with this requirement of a separate statement may constitute a sufficient ground, in the court's discretion, for granting the motion.

Any reply to the opposition shall be served and filed by the moving party not less than five days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise.

Evidentiary objections not made either in writing or orally at the hearing shall be deemed waived.

The provisions of Section 1005 and the provisions of subdivision (a) of Section 1013, extending the time within which a right may be exercised or an act may be done, do not apply to this section.

(c) The motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. In determining whether the papers show that there is no triable issue as to any material fact the court shall consider all of the evidence set forth in the papers, except that to which objections have been made and sustained by the court, and all inferences reasonably deducible from the evidence, except summary judgment shall not be granted by the court based on inferences reasonably deducible from

the evidence, if contradicted by other inferences or evidence, which raise a triable issue as to any material fact.

(d) Supporting and opposing affidavits or declarations shall be made by any person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

(e) If a party is otherwise entitled to a summary judgment pursuant to the provisions of this section, summary judgment shall not be denied on grounds of credibility or for want of cross-examination of witnesses furnishing affidavits or declarations in support of the summary judgment, except that summary judgment may be denied in the discretion of the court, where the only proof of a material fact offered in support of the summary judgment is an affidavit or declaration made by an individual who was the sole witness to that fact; or where a material fact is an individual's state of mind, or lack thereof, and that fact is sought to be established solely by the individual's affirmation thereof.

(f) A party may move for summary adjudication of issues, either by itself or as an alternative to summary judgment. If it appears that the proof supports the granting of the motion for summary adjudication as to some but not all the issues involved in the action, or that one or more of the issues raised by a claim is admitted, or that one or more of the issues raised by a defense is conceded, the court shall, by order, specify that those issues are without substantial controversy. Moreover, upon a motion for summary adjudication, the court shall, by written order or oral order recorded verbatim, specify those issues raised by the motion for summary adjudication as to which there exists a material, triable controversy, and shall specifically refer to the evidence which establishes a triable issue of fact regarding each of those issues. At the trial of the action the issue so specified shall be deemed established and the action shall proceed as to the issues remaining.

(g) Upon the denial of a motion for summary judgment, on the ground that there is a triable issue as to one or more material facts, the court shall, by written or oral order, specify one or more material facts raised by the motion as to which the court has determined there exists a triable controversy. This determination shall specifically refer to the evidence proffered in support of and in opposition to the motion which indicates that a triable controversy exists. The court shall also state its reasons for any other determination. The court shall record its determination by court reporter or written order.

(h) If it appears from the affidavits submitted in opposition to a motion for summary judgment or summary adjudication or both that facts essential to justify opposition may exist but cannot, for reasons stated, then be presented, the court shall deny the motion, or order a continuance to permit affidavits to be obtained or discovery to be had or may make any other order as may be just.

(i) If the court determines at any time that any of the affidavits are presented in bad faith or solely for purposes of delay, the court

shall order the party presenting the affidavits to pay the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur.

(j) Except where a separate judgment may properly be awarded in the action, no final judgment shall be entered on a motion for summary judgment prior to the termination of the action, but the final judgment shall, in addition to any matters determined in the action, award judgment as established by the summary proceeding herein provided for.

(k) In actions which arise out of an injury to the person or to property, when a motion for summary judgment was granted on the basis that the defendant was without fault, no other defendant during trial, over plaintiff's objection, may attempt to attribute fault to or comment on the absence or involvement of the defendant who was granted the motion.

(*l*) A summary judgment entered under this section is an appealable judgment as in other cases. Upon entry of any order pursuant to this section except the entry of summary judgment, a party may, within 10 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding 20 days as the trial court may for good cause allow, petition an appropriate reviewing court for a peremptory writ. If the notice is served by mail, the period within which to file the petition shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States.

(m) Nothing in this section shall be construed to extend the period for trial provided by Section 1170.5.

(n) The provisions of subdivisions (a) and (b) shall not apply to actions brought pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

SEC. 4. Section 470 of the Code of Civil Procedure is amended to read:

470. Where the variance is not material, as provided in Section 469 the court may direct the fact to be found according to the evidence, or may order an immediate amendment, without costs.

SEC. 5. Section 471 of the Code of Civil Procedure is amended to read:

471. Where, however, the allegation of the claim or defense to which the proof is directed, is unproved, not in some particular or particulars only, but in its general scope and meaning, it is not to be deemed a case of variance, within the meaning of Sections 469 and 470, but a failure of proof.

SEC. 6. Section 572 of the Code of Civil Procedure is amended to read:

572. When it is admitted by the pleadings, or shown upon the examination of a party to the action, that he or she has in his or her possession, or under his or her control, any money or other thing

capable of delivery, which, being the subject of litigation, is held by him or her as trustee for another party, or which belongs or which is due to another party or which should, under the circumstances of the case be held by the court pending final disposition of the action, the court may order the same, upon motion, to be deposited in court or delivered to such party, upon those conditions that may be just, subject to the further direction of the court.

SEC. 7. Section 581 of the Code of Civil Procedure is repealed.

SEC. 8. Section 581 is added to the Code of Civil Procedure, to read:

581. (a) As used in this section:

(1) "Action" means any civil action or special proceeding.

(2) "Complaint" means a complaint and a cross-complaint.

(3) "Court" means the court in which the action is pending.

(4) "Defendant" includes a cross-defendant.

(5) "Plaintiff" includes a cross-complainant.

(6) "Trial." A trial shall be deemed to actually commence at the beginning of the opening statement or argument of any party or his or her counsel, or if there is no opening statement, then at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence.

(b) An action may be dismissed in any of the following instances:

(1) With or without prejudice, upon written request of the plaintiff to the clerk, filed with papers in the case, or by oral or written request to the court at any time before the actual commencement of trial, upon payment of the costs, if any.

(2) With or without prejudice, by any party upon the written consent of all other parties.

(3) By the court, without prejudice, when no party appears for trial following 30 days notice of time and place of trial.

(4) By the court, without prejudice, when dismissal is made pursuant to the applicable provisions of Chapter 1.5 (commencing with Section 583.110).

(5) By the court, without prejudice, when either party fails to appear on the trial and the other party appears and asks for dismissal.

(c) A plaintiff may dismiss his or her complaint, or any cause of action asserted in it, in its entirety, or as to any defendant or defendants, with or without prejudice prior to the actual commencement of trial.

(d) Except as otherwise provided in subdivision (e), the court shall dismiss the complaint, or any cause of action asserted in it, in its entirety or as to any defendant, with prejudice, when upon the trial and before the final submission of the case, the plaintiff abandons it.

(e) After the actual commencement of trial, the court shall dismiss the complaint, or any causes of action asserted in it, in its entirety or as to any defendants, with prejudice, if the plaintiff requests a dismissal, unless all parties to the trial consent to dismissal without prejudice or by order of the court dismissing the same

without prejudice on a showing of good cause.

(f) The court shall dismiss the complaint as to that defendant when:

(1) Except where Section 597 applies, after a demurrer to the complaint is sustained without leave to amend and either party moves for dismissal.

(2) Except where Section 597 applies, after a demurrer to the complaint is sustained with leave to amend, the plaintiff fails to amend it within the time allowed by the court and either party moves for dismissal.

(3) After a motion to strike the whole of a complaint is granted without leave to amend and either party moves for dismissal.

(4) After a motion to strike the whole of a complaint or portion thereof is granted with leave to amend the plaintiff fails to amend it within the allowed time by the court and either party moves for dismissal.

(g) The court may dismiss without prejudice the complaint in whole, or as to that defendant, when dismissal is made under the applicable provisions of Chapter 1.5 (commencing with Section 583.110).

(h) No dismissal of an action may be made or entered, or both, under paragraph (1) of subdivision (b) where affirmative relief has been sought by the cross-complaint of a defendant or if there is a motion pending for an order transferring the action to another court under the provisions of Section 396b.

(i) No dismissal may be made or entered, or both, under paragraph (1) or (2) of subdivision (b) except upon the written consent of the attorney for the party or parties applying therefor, or if consent of the attorney is not obtained, upon order of dismissal by the court after notice to the attorney.

(j) No action may be dismissed which has been determined to be a class action under the provisions of this code unless and until notice that the court deems adequate has been given and the court orders the dismissal.

(k) The court may dismiss, without prejudice, the complaint in whole, or as to that defendant when either party fails to appear at the trial and the other party appears and asks for the dismissal.

SEC. 9. Section 585 of the Code of Civil Procedure is amended to read:

585. Judgment may be had, if the defendant fails to answer the complaint, as follows:

(a) In an action arising upon contract or judgment for the recovery of money or damages only, if the defendant has, or if more than one defendant, if any of the defendants have, been served, other than by publication, and no answer, demurrer, notice of motion to strike (of the character hereinafter specified), notice of motion to transfer pursuant to Section 396b, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10, or notice of the filing of a petition for writ of mandate as provided

in Section 418.10 has been filed with the clerk or judge of the court within the time specified in the summons, or such further time as may be allowed, the clerk, or the judge if there is no clerk, upon written application of the plaintiff, and proof of the service of summons, shall enter the default of the defendant or defendants, so served, and immediately thereafter enter judgment for the principal amount demanded in the complaint or a lesser amount if credit has been acknowledged, together with interest allowed by law or in accordance with the terms of the contract, and the costs against the defendant, or defendants, or against one or more of the defendants. If, by rule of court, a schedule of attorneys' fees to be allowed has been adopted, the clerk may include in the judgment attorneys' fees in accordance with such schedule (1) if the contract provides that attorneys' fees shall be allowed in the event of an action thereon, or (2) if the action is one in which the plaintiff is entitled by statute to recover attorneys' fees in addition to money or damages. The plaintiff shall have the right, however, upon filing a written request at the time of application for entry of the default of the defendant or defendants, to have attorneys' fees fixed by the court, whereupon, after the entry of the default, the court shall hear the application for determination of the attorneys' fees and shall render judgment for such fees and for the other relief demanded in the complaint, or a lesser amount if credit has been acknowledged, and the costs against the defendant, or defendants, or against one or more of the defendants.

(b) In other actions, if the defendant has been served, other than by publication, and no answer, demurrer, notice of motion to strike (of the character hereinafter specified), notice of motion to transfer pursuant to Section 396b, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10 or notice of the filing of a petition for writ of mandate as provided in Section 418.10 has been filed with the clerk or judge of the court within the time specified in the summons, or such further time as may be allowed, the clerk, or the judge if there is no clerk, upon written application of the plaintiff, shall enter the default of the defendant. The plaintiff thereafter may apply to the court for the relief demanded in the complaint; the court shall hear the evidence offered by the plaintiff, and shall render judgment in his or her favor for such sum (not exceeding the amount stated in the complaint), as appears by such evidence to be just. If the taking of an account, or the proof of any fact, is necessary to enable the court to give judgment or to carry the judgment into effect, the court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose. If the action is for the recovery of damages, in whole or in part, the court may order the damages to be assessed by a jury; or if, to determine the amount of damages, the examination of a long account is involved by a reference as above provided.

(c) In all actions where the service of the summons was by

publication the plaintiff, upon the expiration of the time for answering, may, upon proof of the publication, and that no answer, demurrer, notice of motion to strike (of the character hereinafter specified), notice of motion to transfer pursuant to Section 396b, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10, or notice of the filing of a petition for writ of mandate as provided in Section 418.10 has been filed, apply in writing for judgment. The court shall thereupon require proof to be made of the allegations of the complaint; and if the defendant is not a resident of the state, shall require the plaintiff, or his agent, to be examined, on oath, respecting any payments that have been made to the plaintiff, or to anyone for his or her use, on account of any demand mentioned in the complaint, and may render judgment for the amount which he or she is entitled to recover. In all cases affecting the title to or possession of real property, where the service of the summons was by publication and the defendant has failed to answer, no judgment shall be rendered upon proof of mere occupancy, unless such occupancy shall have continued for the time and shall have been of the character necessary to confer title by prescription. In all cases where the plaintiff bases his or her claim upon a paper title, the court shall require evidence establishing plaintiff's equitable right to judgment before rendering judgment. In actions involving only the possession of real property where the complaint is verified and shows by proper allegations that no party to the action claims title to the real property involved, either by prescription, accession, transfer, will, or succession, but only the possession thereof, the court may render judgment upon proof of occupancy by plaintiff and ouster by defendant.

A notice of motion to strike within the meaning of this section is a notice of motion to strike the whole or any part of a pleading filed within the time which the moving party is required otherwise to plead to such pleading. The notice of motion to strike shall specify a hearing date set in accordance with Section 1005. The filing of such notice of motion does not extend the time within which to demur.

(d) In the cases referred to in subdivisions (b) and (c), or upon an application to have attorneys' fees fixed by the court pursuant to subdivision (a), the court in its discretion may permit the use of affidavits, in lieu of personal testimony, as to all or any part of the evidence or proof required or permitted to be offered, received, or heard in such cases. The facts stated in such affidavit or affidavits shall be within the personal knowledge of the affiant and shall be set forth with particularity, and each affidavit shall show affirmatively that the affiant, if sworn as a witness, can testify competently thereto.

(e) If a defendant files a cross-complaint against another defendant or the plaintiff, a default may be entered against that party on that cross-complaint if the plaintiff or that cross-defendant has been served with that cross-complaint and he or she has failed to file an answer, demurrer, notice of motion to strike of the character specified in subdivision (c), notice of motion to transfer

pursuant to Section 396b, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10, or notice of the filing of a petition for a writ of mandate as provided in Section 418.10 within the time specified in the summons, or such other time as may be allowed. However, no judgment may separately be entered on that cross-complaint unless a separate judgment may, in fact, be properly awarded on that cross-complaint and the court finds that a separate judgment on that cross-complaint would not substantially delay the final disposition of the action between the parties.

SEC. 10. Section 587.5 is added to the Code of Civil Procedure, to read:

587.5. As used in this chapter, unless the context otherwise specifically requires, the following terms apply:

(a) "Complaint" includes a cross-complaint.

(b) "Defendant" includes a cross-defendant.

(c) "Plaintiff" includes a cross-complainant.

SEC. 11. Section 597 of the Code of Civil Procedure is amended to read:

597. When the answer pleads that the action is barred by the statute of limitations, or by a prior judgment, or that another action is pending upon the same cause of action, or sets up any other defense not involving the merits of the plaintiff's cause of action but constituting a bar or ground of abatement to the prosecution thereof, the court may, either upon its own motion or upon the motion of any party, proceed to the trial of the special defense or defenses before the trial of any other issue in the case, and if the decision of the court, or the verdict of the jury, upon any special defense so tried (other than the defense of another action pending) is in favor of the defendant pleading the same, judgment for the defendant shall thereupon be entered and no trial of other issues in the action shall be had unless that judgment shall be reversed on appeal or otherwise set aside or vacated; and where the defense of another action pending or a demurrer based upon subdivision (c) of Section 430.10 is sustained (and no other special defense is sustained) an interlocutory judgment shall be entered in favor of the defendant pleading the same to the effect that no trial of other issues shall be had until the final determination of that other action, and the plaintiff may appeal from the interlocutory judgment in the same manner and within the same time as is now or may be hereafter provided by law for appeals from judgments. If the decision of the court, or the verdict of the jury, upon the special defense or defenses so tried is in favor of the plaintiff, trial of the other issues shall thereafter be had either upon the court's own motion or upon the motion of any party, and judgment shall be entered thereon in the same manner and with the same effect as if all the issues in the case had been tried at one time. In such an event any and all decisions or verdicts upon the special defense or defenses, and all rulings on the trial thereof shall be deemed excepted to and may be reviewed on

motion for a new trial or upon appeal from the judgment.

This section also applies to the trial of special defenses pleaded in an answer to a cross-complaint or a demurrer based upon subdivision (c) of Section 430.10, and if the decision of the court or the verdict of the jury upon the special defense or defenses is in favor of the cross-defendant, no further trial shall be had upon the issues raised by the cross-complaint, but trial of the other issues in the action shall thereafter be had either upon the court's own motion or upon the motion of any party, and after the trial thereof the judgment shall be entered in the action as is justified by the decision or verdict on such other issues, considered in connection with the decision or verdict upon the trial of such an affirmative defense raised in the answer to the cross-complaint.

SEC. 12. Section 630 of the Code of Civil Procedure is amended to read:

630. (a) Unless the court specified an earlier time for making a motion for directed verdict, after all parties have completed the presentation of all of their evidence in a trial by jury, any party may, without waiving his or her right to trial by jury in the event the motion is not granted, move for an order directing entry of a verdict in its favor.

(b) 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 court shall grant the motion as to those issues and the action shall proceed on any remaining issues. Despite the granting of such a motion, no final judgment shall be entered prior to the termination of the action, but the final judgment, in addition to any matter determined in the trial, shall reflect the verdict ordered by the court as determined by the motion for directed verdict.

(c) If the motion is granted, unless the court in its order directing entry of the verdict specifies otherwise, it shall operate as an adjudication upon the merits.

(d) In actions which arise out of an injury to a person or property, when a motion for directed verdict was granted on the basis that a defendant was without fault, no other defendant during trial, over plaintiff's objection, shall attempt to attribute fault to or comment on the absence or involvement of the defendant who was granted the motion.

(e) The order of the court granting the motion for directed verdict is effective without any assent of the jury.

(f) When the jury for any reason has been discharged without having rendered a verdict, the court on its own motion or upon motion of a party, notice of which was given within 10 days after discharge of the jury, may order judgment to be entered in favor of a party whenever a motion for directed verdict for that party should have been granted had a previous motion been made. Except as otherwise provided in Section 12a, the power of the court to act under the provisions of this section shall expire 30 days after the day

upon which the jury was discharged, and if judgment has not been ordered within that time the effect shall be the denial of any motion for judgment without further order of the court.

SEC. 13. Section 631.8 of the Code of Civil Procedure is amended to read:

631.8. (a) After a party has completed his presentation of evidence in a trial by the court, the other party, without waiving his right to offer evidence in support of his defense or in rebuttal in the event the motion is not granted, may move for a judgment. The court as trier of the facts shall weigh the evidence and may render a judgment in favor of the moving party, in which case the court shall make a statement of decision as provided in Sections 632 and 634, or may decline to render any judgment until the close of all the evidence. The court may consider all evidence received, provided, however, that the party against whom the motion for judgment has been made shall have had an opportunity to present additional evidence to rebut evidence received during the presentation of evidence deemed by the presenting party to have been adverse to him, and to rehabilitate the testimony of a witness whose credibility has been attacked by the moving party. Such motion may also be made and granted as to any cross-complaint.

(b) If it appears that the evidence presented supports the granting of the motion as to some but not all the issues involved in the action, the court shall grant the motion as to those issues and the action shall proceed as to the issues remaining. Despite the granting of such a motion, no final judgment shall be entered prior to the termination of the action, but the final judgment in such action shall, in addition to any matters determined in the trial, award judgment as determined by the motion herein provided for.

(c) If the motion is granted, unless the court in its order for judgment otherwise specifies, such judgment operates as an adjudication upon the merits.

SEC. 14. Section 998 of the Code of Civil Procedure is amended to read:

998. (a) The costs allowed under Sections 1031 and 1032 shall be withheld or augmented as provided in this section.

(b) Not less than 10 days prior to commencement of trial, any party may serve an offer in writing upon any other party to the action to allow judgment to be taken in accordance with the terms and conditions stated at that time.

(1) If the offer is accepted, the offer with proof of acceptance shall be filed and the clerk or the judge shall enter judgment accordingly.

(2) If the offer is not accepted prior to trial or within 30 days after it is made, whichever occurs first, it shall be deemed withdrawn, and cannot be given in evidence upon the trial.

(3) For purposes of this subdivision, a trial shall be deemed to be actually commenced at the beginning of the opening statement of the plaintiff or counsel, and if there is no opening statement, then at the time of the administering of the oath or affirmation to the first

witness, or the introduction of any evidence.

(c) If an offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment, the plaintiff shall not recover his or her costs and shall pay the defendant's costs from the time of the offer. In addition, in any action or proceeding other than an eminent domain action, the court, in its discretion, may require the plaintiff to pay the defendant's costs from the date of filing of the complaint and a reasonable sum to cover costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in either, or both, the preparation or trial of the case by the defendant.

(d) If an offer made by a plaintiff is not accepted and the defendant fails to obtain a more favorable judgment, the court in its discretion may require the defendant to pay a reasonable sum to cover costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in either, or both, the preparation or trial of the case by the plaintiff, in addition to plaintiff's costs.

(e) Police officers shall be deemed to be expert witnesses for the purposes of this section; plaintiff includes a cross-complainant and defendant includes a cross-defendant. Any judgment entered pursuant to this section shall be deemed to be a compromise settlement.

(f) The provisions of this chapter shall not apply to an offer which is made by a plaintiff in an eminent domain action.

(g) The costs for services of expert witnesses for trial under subdivisions (c) and (d) shall not exceed those specified in Section 68092.5 of the Government Code.

CHAPTER 541

An act to repeal and add Section 5500.1 of the Business and Professions Code, relating to architecture.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 5500.1 of the Business and Professions Code is repealed.

SEC. 2. Section 5500.1 is added to the Business and Professions Code, to read:

5500.1. (a) The practice of architecture within the meaning and intent of this chapter is defined as offering or performing, and being responsible for, professional services which require the skills of an architect in the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures.

(b) Architects' professional services may include any or all of the following:

(1) Investigation, evaluation, consultation, and advice.

(2) Planning, schematic and preliminary studies, designs, working drawings, and specifications.

(3) Coordination of the work of technical and special consultants.

(4) Compliance with generally applicable codes and regulations, and assistance in the governmental review process.

(5) Technical assistance in the preparation of bid documents and agreements between clients and contractors.

(6) Contract administration.

(7) Construction observation.

(c) As a condition for licensure, architects shall demonstrate a basic level of competence in the professional services listed in subdivision (b) in examinations administered under this chapter.

SEC. 3. The amendment of Section 5500.1 of the Business and Professions Code made at the 1986 portion of the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of existing law. It is the intent of the Legislature that nothing in this act shall in any way affect the provisions of Sections 5537 to 5539, inclusive, of the Business and Professions Code, with respect to persons exempted from certain provisions relating to the practice of architecture and with respect to exempt activities listed in those provisions.

CHAPTER 542

An act to amend Sections 81009.5, 84200.5, and 84200.7 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 81009.5 of the Government Code is amended to read:

81009.5. (a) Any local government agency which has enacted, enacts, amends, or repeals an ordinance or other provision of law affecting campaign contributions and expenditures shall file a copy of the action with the commission.

(b) Notwithstanding the provisions of Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their

candidacies, and to committees formed or existing primarily to support or oppose a candidate or local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.

SEC. 2. Section 84200.5 of the Government Code is amended to read:

84200.5. In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees must file preelection statements as follows:

(a) During an even-numbered year, all elected state officers, all state candidates being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon on the first Tuesday after the first Monday in June or November shall file the preelection statements specified in Section 84200.7. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) During an even-numbered year, state and county general purpose committees formed pursuant to subdivision (a) of Section 82013 shall file the statements specified in Section 84200.7 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement. State and county general purpose committees formed pursuant to subdivision (b) or (c) of Section 82013 are not required to file the statements specified in Section 84200.7.

(e) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an

election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(f) Committees formed or existing primarily to support or oppose the qualification of a ballot measure and proponents of a state ballot measure, as defined in Section 3502 of the Elections Code, who control a committee formed or existing primarily to support the qualification of a measure shall file statements as follows:

(1) In the case of a measure which has failed to qualify, a statement shall be filed no later than 35 days after the deadline for filing petitions, or the date of notification that the measure has failed to qualify, whichever is earlier. The closing date for the period covered by this statement shall be 28 days after the deadline for filing petitions, or 28 days after the date of notification that the measure has failed to qualify, whichever is earlier.

(2) In the case of a measure which has qualified for the ballot, the statement shall be filed no later than 15 days prior to the deadline for submission of the ballot argument in favor of the measure, or 35 days after the date of notification that the measure has qualified, whichever is earlier. The closing date for the period covered by this statement shall be seven days prior to the deadline for filing the statement.

SEC. 3. Section 84200.7 of the Government Code is amended to read:

84200.7. (a) Preelection statements for the June election period shall be filed as follows:

(1) For the period ending March 17, a statement to be filed no later than March 22. However, for a special election called after March 17, or for which the period for filing nomination documents, as defined in Section 6489 of the Elections Code, ends after March 17, a preelection statement for the period ending 45 days before the election shall be filed no later than 40 days before the election.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. This statement shall be delivered in person or by guaranteed overnight mail through the United States Postal Service.

(b) Preelection statements for the November election period shall be filed as follows:

(1) For the period ending September 30, a statement to be filed no later than October 5.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. This statement shall be delivered in person or by guaranteed overnight mail through the United States Postal Service.

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 543

An act to add Section 1319 to the Penal Code, relating to own recognizance release, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1986 Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 1319 is added to the Penal Code, to read:

1319. Before any person arrested for a violent felony is released on his or her own recognizance, a hearing shall be held in open court before the magistrate or judge, and the prosecuting attorney shall be given notice and a reasonable opportunity to be heard on the matter. A defendant charged with a violent felony shall not be released on his or her own recognizance where it appears by clear and convincing evidence that he or she previously has been charged with a felony offense and has willfully and without excuse from the court failed to appear in court as required while that charge was pending.

The judge or magistrate who, pursuant to this section, grants or denies release on a person's own recognizance shall, within the time period prescribed in Section 825, state the reasons for that decision in the record. This statement shall be included in the court's minutes.

As used in this section, the term "violent felony" means any crime defined in Section 667.5.

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

In order to ensure that persons arrested for violent felonies shall be required to have a hearing prior to being released on their own recognizance at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 544

An act to amend Sections 84101 and 84103 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 84101 of the Government Code is amended to read:

84101. (a) Every committee which is a committee by virtue of subdivision (a) of Section 82013 shall file with the Secretary of State a statement of organization within 10 days after it has qualified as a committee. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign a number to each committee which files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the clerk of each county which he or she deems appropriate. A county clerk who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of such statement to the clerk of each city in the county which he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.7 or 84200.8, the committee shall file, by telegram or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

SEC. 2. Section 84103 of the Government Code is amended to read:

84103. (a) Whenever there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change.

(b) Notwithstanding subdivision (a), an amendment to the statement of organization for a committee as defined in subdivision

(a) of Section 82013 shall be filed by telegram or personal delivery within 24 hours when the change requiring the amendment occurs before the date of the election in connection with which the committee is required to file a preelection statement, but after the closing date of the last preelection statement required to be filed for the election pursuant to Section 84200.7 or 84200.8, if any of the following information is changed:

(1) The name of the committee.

(2) The name of the treasurer or other principal officers.

(3) The name of each candidate or committee by which the committee is controlled or with which it acts jointly.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 545

An act to amend Section 3097 of the Civil Code, relating to mechanics' liens.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 3097 of the Civil Code is amended to read:

3097. "Preliminary 20-day notice (private work)" means a written notice from a claimant that is given prior to the recording of a mechanic's lien and prior to the filing of a stop notice, and is required to be given under the following circumstances:

(a) Except one under direct contract with the owner or one performing actual labor for wages, or an express trust fund described in Section 3111, every person who furnishes labor, service, equipment, or material for which a lien otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, must, as a necessary prerequisite to the validity of any claim of lien, and of a notice to withhold, cause to be given to the owner or reputed owner, to the original contractor, or reputed contractor, and to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(b) Except the contractor, or one performing actual labor for wages, or an express trust fund described in Section 3111, all persons who have a direct contract with the owner and who furnish labor, service, equipment, or material for which a lien otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, shall, as a necessary prerequisite

to the validity of any claim of lien, and of a notice to withhold, cause to be given to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(c) The preliminary notice referred to in subdivisions (a) and (b) shall be given not later than 20 days after the claimant has first furnished labor, service, equipment, or materials to the jobsite, and shall contain the following information:

(1) A general description of the labor, service, equipment, or materials furnished, or to be furnished, and if there is a construction lender, he shall be furnished with an estimate of the total price thereof in addition to the foregoing.

(2) The name and address of the person furnishing that labor, service, equipment, or materials.

(3) The name of the person who contracted for purchase of that labor, service, equipment, or materials.

(4) A description of the jobsite sufficient for identification.

(5) The following statement in boldface type:

NOTICE TO PROPERTY OWNER

If bills are not paid in full for the labor, services, equipment, or materials furnished or to be furnished, a mechanic's lien leading to the loss, through court foreclosure proceedings, of all or part of your property being so improved may be placed against the property even though you have paid your contractor in full. You may wish to protect yourself against this consequence by (1) requiring your contractor to furnish a signed release by the person or firm giving you this notice before making payment to your contractor or (2) any other method or device which is appropriate under the circumstances.

(6) If the notice is given by a subcontractor who is required pursuant to a collective bargaining agreement to pay supplemental fringe benefits into an express trust fund described in Section 3111, the notice shall also contain the identity and address of such trust fund or funds.

If an invoice for materials contains the information required by this section, a copy of the invoice, transmitted in the manner prescribed by this section shall be sufficient notice.

A certificated architect, registered engineer, or licensed land surveyor who has furnished services for the design of the work of improvement and who gives a preliminary notice as provided in this section not later than 20 days after the work of improvement has commenced shall be deemed to have complied with subdivisions (a) and (b) with respect to architectural, engineering, or surveying services furnished, or to be furnished.

(d) If labor, service, equipment, or materials have been furnished to a jobsite by a person who elected not to give a preliminary notice as provided in subdivision (a) or (b), that person shall not be

precluded from giving a preliminary notice not later than 20 days after furnishing other labor, service, equipment, or materials to the same jobsite. The person shall, however, be entitled to claim a lien and a notice to withhold only for labor, service, equipment, or material furnished within 20 days prior to the service of the notice, and at any time thereafter.

(e) Any agreement made or entered into by an owner, whereby the owner agrees to waive the rights or privileges conferred upon the owner by this section shall be void and of no effect.

(f) The notice required under this section may be served as follows:

(1) If the person to be notified resides in this state, by delivering the notice personally, or by leaving it at his or her address of residence or place of business with some person in charge, or by first-class registered or certified mail, postage prepaid, addressed to the person to whom notice is to be given at his or her residence or place of business address or at the address shown by the building permit on file with the authority issuing a building permit for the work, or at an address recorded pursuant to subdivision (j).

(2) If the person to be notified does not reside in this state, by any method enumerated in paragraph (1) of this subdivision. If the person cannot be served by any of these methods, then notice may be given by first-class certified or registered mail, addressed to the construction lender or to the original contractor.

(3) When service is made by first-class certified or registered mail, service is complete at the time of the deposit of that registered or certified mail.

(g) A person required by this section to give notice to the owner and to an original contractor, and to a person to whom a notice to withhold may be given, need give only one such notice to the owner, and to the original contractor and to the person to whom a notice to withhold may be given with respect to all materials, service, labor, or equipment he furnishes for a work of improvement, which means the entire structure or scheme of improvements as a whole, unless the same is furnished under contracts with more than one subcontractor, in which event, the notice requirements shall be met with respect to materials, services, labor, or equipment furnished to each such contractor.

If a notice contains a general description required by subdivision (a) or (b) of the materials, services, labor, or equipment furnished to the date of notice, it is not defective because, after that date, the person giving notice furnishes materials, services, labor, or equipment not within the scope of such general description.

(h) Where the contract price to be paid to any subcontractor on a particular work of improvement exceeds four hundred dollars ($400), the failure of that contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, to give the notice provided for in this section, constitutes grounds for disciplinary action by the Registrar of

Contractors.

Where the notice is required to contain the information set forth in paragraph (6) of subdivision (c), a failure to give the notice, including that information, that results in the filing of a lien or the delivery of a stop notice by the express trust fund to which the obligation is owing constitutes grounds for disciplinary action by the Registrar of Contractors against the subcontractor if the amount due the trust fund is not paid.

(i) Every city, county, city and county, or other governmental authority issuing building permits shall, in its application form for a building permit, provide space and a designation for the applicant to enter the name, branch, designation, if any, and address of the construction lender and shall keep the information on file open for public inspection during the regular business hours of the authority.

If there is no known construction lender, that fact shall be noted in such designated space. Any failure to indicate the name and address of the construction lender on the application, however, shall not relieve any person from the obligation to give to the construction lender the notice required by this section.

(j) A mortgage, deed of trust, or other instrument securing a loan, any of the proceeds of which may be used for the purpose of constructing improvements on real property, shall bear the designation "Construction Trust Deed" prominently on its face and shall state all of the following: (1) the name and address of the lender, and the name and address of the owner of the real property described in the instrument, and (2) a legal description of the real property which secures the loan and, if known, the street address of the property. The failure to be so designated or to state any of the information required by this subdivision shall not affect the validity of such a mortgage, deed of trust, or other instrument.

Failure to provide this information on such an instrument when recorded shall not relieve persons required to give preliminary notice under this section from that duty.

The county recorder of the county in which such an instrument is recorded shall indicate in the general index of the official records of the county that the instrument secures a construction loan.

(k) Every contractor and subcontractor who is required pursuant to a collective bargaining agreement to pay supplementary fringe benefits into an express trust fund described in Section 3111, and who has failed to do so shall cause to be given to the trust fund and to the construction lender, if any, or to the reputed construction lender, if any, not later than the date the payment due to the trust fund became delinquent, a written notice containing all of the following:

(1) The name of the owner and the contractor.

(2) A description of the jobsite sufficient for identification.

(3) The identity and address of the express trust fund.

(4) The total number of straight time and overtime hours on each job, payment for which the contractor or subcontractor is delinquent to the express trust.

(5) The amount then past due and owing.

Failure to give this notice shall constitute grounds for disciplinary action by the Registrar of Contractors.

(*l*) Every written contract entered into between a property owner and an original contractor shall provide space for the owner to enter his or her name and address of residence; and place of business if any. The original contractor shall make available the name and address of residence of the owner to any person seeking to serve the notice specified in subdivision (c).

(m) Every written contract entered into between a property owner and an original contractor, except home improvement contracts and swimming pool contracts subject to Article 10 (commencing with Section 7150) of Chapter 9 of Division 3 of the Business and Professions Code, shall provide space for the owner to enter the name and address of the construction lender or lenders. The original contractor shall make available the name and address of the construction lender or lenders to any person seeking to serve the notice specified in subdivision (c).

(n) Where one or more construction loans are obtained after commencement of construction, the property owner shall provide the name and address of the construction lender or lenders to each person who has given the property owner the notice specified in subdivision (c).

CHAPTER 546

An act to amend Sections 84102 and 84106 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986]

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

SECTION 1. Section 84102 of the Government Code is amended to read:

84102. The statement of organization required by Section 84101 shall include:

(a) The name, street address and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address and telephone number of each sponsor.

(c) The full name, street address and telephone number, if any,

of the treasurer and other principal officers.

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation.

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly.

(f) The disposition of surplus funds which will be made in the event of dissolution.

(g) Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.

SEC. 2. Section 84106 of the Government Code is amended to read:

84106. (a) Whenever identification of a sponsored committee is required by this title, the identification shall include the full name of the committee as contained in its statement of organization.

(b) A sponsored committee shall use only one name in its statement of organization.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 547

An act to amend Sections 1793.2 and 1793.3 of, and to add Section 1793.03 to, the Civil Code, relating to sales.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 1793.03 is added to the Civil Code, to read:

1793.03. (a) Every manufacturer making an express warranty with respect to an electronic or appliance product described in subdivision (h), (i), (j), or (k) of Section 9801 of the Business and Professions Code, with a wholesale price to the retailer of not less than fifty dollars ($50) and not more than ninety-nine dollars and ninety-nine cents ($99.99), shall make available to service and repair facilities sufficient service literature and functional parts to effect the repair of a product for at least three years after the date a product

model or type was manufactured, regardless of whether the three-year period exceeds the warranty period for the product.

(b) Every manufacturer making an express warranty with respect to an electronic or appliance product described in subdivision (h), (i), (j), or (k) of Section 9801 of the Business and Professions Code, with a wholesale price to the retailer of one hundred dollars ($100) or more, shall make available to service and repair facilities sufficient service literature and functional parts to effect the repair of a product for at least seven years after the date a product model or type was manufactured, regardless of whether the seven-year period exceeds the warranty period for the product

SEC. 2. Section 1793.2 of the Civil Code is amended to read:

1793.2. (a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties.

As a means of complying with paragraph (1) of this subdivision, a manufacturer shall be permitted to enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work, however, the rates fixed by such contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, shall not preclude a good faith discount which is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph shall not be executed to cover a period of time in excess of one year, and may be renewed only by a separate, new contract or letter of agreement between the manufacturer and the independent service and repair facility.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to the provisions of Section 1793.5.

(3) Make available to authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period.

(b) Where such service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods must be serviced or

repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or his representatives shall serve to extend this 30-day requirement. Where such delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) It shall be the duty of the buyer to deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, such delivery cannot reasonably be accomplished. Should the buyer be unable to effect return of nonconforming goods for any of the above reasons, he shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of such notice of nonconformity the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when, pursuant to the above, a buyer is unable to effect return shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d) Should the manufacturer or its representative in this state be unable to service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(e) (1) It shall be presumed that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if, within one year from delivery to the buyer or 12,000 miles, whichever occurs first, either (A) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity, or (B) the vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to directly notify the manufacturer pursuant to subparagraph (A) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this subdivision and that of subdivision (d), including the

requirement that the buyer must notify the manufacturer directly pursuant to subparagraph (A). This presumption shall be a rebuttable presumption affecting the burden of proof in any action to enforce the buyer's rights under subdivision (d) and shall not be construed to limit those rights.

(2) If a qualified third party dispute resolution process exists, and the buyer receives timely notification in writing of the availability of a third party process with a description of its operation and effect, the presumption in paragraph (1) may not be asserted by the buyer until after the buyer has initially resorted to the third party process as required in paragraph (3). Notification of the availability of the third party process is not timely if the buyer suffers any prejudice resulting from any delay in giving the notification. If a qualified third party dispute resolution process does not exist, or if the buyer is dissatisfied with the third party decision, or if the manufacturer or its agent neglects to promptly fulfill the terms of such third party decision, the buyer may assert the presumption provided in paragraph (1) in an action to enforce the buyer's rights under subdivision (d). The findings and decision of the third party shall be admissible in evidence in the action without further foundation. Any period of limitation of actions under any federal or California laws with respect to any person shall be extended for a period equal to the number of days between the date a complaint is filed with a third party dispute resolution process and the date of its decision or the date before which the manufacturer or its agent is required by the decision to fulfill its terms, whichever occurs later.

(3) A qualified third party dispute resolution process shall be one that complies with the Federal Trade Commission's minimum requirements for informal dispute settlement procedures as set forth in the commission's regulations at 16 Code of Federal Regulations Part 703; that renders decisions which are binding on the manufacturer if the buyer elects to accept the decision; that prescribes a reasonable time not to exceed 30 days, within which the manufacturer or its agents must fulfill the terms of those decisions; and that each year provides to the Department of Motor Vehicles a report of its annual audit required by the commission's regulations on informal dispute resolution procedures.

(4) For the purposes of this subdivision the following terms have the following meanings:

(A) "Nonconformity" means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle.

(B) "New motor vehicle" means a new motor vehicle which is used or bought for use primarily for personal, family, or household purposes, but does not include motorcycles, motorhomes, or off-road vehicles.

SEC. 3. Section 1793.3 of the Civil Code is amended to read:

1793.3. If the manufacturer of consumer goods sold in this state for which the manufacturer has made an express warranty does not provide service and repair facilities within this state pursuant to

subdivision (a) of Section 1793.2, or does not make available to authorized service and repair facilities service literature and replacement parts sufficient to effect repair during the express warranty period, the buyer of such manufacturer's nonconforming goods may follow the course of action prescribed in either subdivision (a), (b), or (c), below, as follows:

(a) Return the nonconforming consumer goods to the retail seller thereof. The retail seller shall do one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(b) Return the nonconforming consumer goods to any retail seller of like goods of the same manufacturer within this state who may do one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(c) Secure the services of an independent repair or service facility for the service or repair of the nonconforming consumer goods, when service or repair of the goods can be economically accomplished. In that event the manufacturer shall be liable to the buyer, or to the independent repair or service facility upon an assignment of the buyer's rights, for the actual and reasonable cost of service and repair, including any cost for parts and any reasonable cost of transporting the goods or parts, plus a reasonable profit. It shall be a rebuttable presumption affecting the burden of producing evidence that the reasonable cost of service or repair is an amount equal to that which is charged by the independent service dealer for like services or repairs rendered to service or repair customers who are not entitled to warranty protection. Any waiver of the liability of a manufacturer shall be void and unenforceable.

The course of action prescribed in this subdivision shall be available to the buyer only after the buyer has followed the course of action prescribed in either subdivision (a) or (b) and such course of action has not furnished the buyer with appropriate relief. In no event, shall the provisions of this subdivision be available to the buyer with regard to consumer goods with a wholesale price to the

retailer of less than fifty dollars ($50). In no event shall the buyer be responsible or liable for service or repair costs charged by the independent repair or service facility which accepts service or repair of nonconforming consumer goods under this section. Such independent repair or service facility shall only be authorized to hold the manufacturer liable for such costs.

(d) A retail seller to which any nonconforming consumer good is returned pursuant to subdivision (a) or (b) shall have the option of providing service or repair itself or directing the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section. In the event the retail seller directs the buyer to an independent repair or service facility, the manufacturer shall be liable for the reasonable cost of repair services in the manner provided in subdivision (c).

(e) In the event a buyer is unable to return nonconforming goods to the retailer due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, the buyer shall give notice of the nonconformity to the retailer. Upon receipt of such notice of nonconformity the retailer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service or repair, or arrange for transporting the goods to its place of business. The reasonable costs of transporting the goods shall be at the retailer's expense. The retailer shall be entitled to recover all such reasonable costs of transportation from the manufacturer pursuant to Section 1793.5. The reasonable costs of transporting nonconforming goods after delivery to the retailer until return of the goods to the buyer, when incurred by a retailer, shall be recoverable from the manufacturer pursuant to Section 1793.5. Written notice of nonconformity to the retailer shall constitute return of the goods for the purposes of subdivisions (a) and (b).

(f) The manufacturer of consumer goods with a wholesale price to the retailer of fifty dollars ($50) or more for which the manufacturer has made express warranties shall provide written notice to the buyer of the courses of action available to him under subdivision (a), (b), or (c).

CHAPTER 548

An act to add Section 1366.1 to the Civil Code, relating to common interest developments.

[Approved by Governor August 21, 1986. Filed with Secretary of State August 21, 1986]

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

SECTION 1. Section 1366.1 is added to the Civil Code, to read:

1366.1. An association shall not impose or collect an assessment, penalty, or fee that exceeds the amount necessary for the purpose or purposes for which it is levied.

CHAPTER 549

An act to amend Section 1026.2 of the Penal Code, relating to insanity.

[Approved by Governor August 21, 1986 Filed with Secretary of State August 21, 1986.]

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

SECTION 1. Section 1026.2 of the Penal Code, as amended by Section 2 of Chapter 1232 of the Statutes of 1985, is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The court shall give notice of the hearing date to the prosecuting attorney, the community program director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained

pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation 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); however, a county jail may not be designated unless the services specified above are provided, and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with, or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(d) No hearing upon the application shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 180 days from the date of the order of commitment.

(e) The court shall hold a hearing to determine if the person applying for restoration of sanity would no longer be a danger to the health and safety of others, including himself or herself, if under supervision and treatment in the community. If the court at the hearing determines the applicant will not be a danger to the health and safety of others, including himself or herself, while under supervision and treatment in the community, the court shall order the applicant placed with an appropriate local mental health program for one year. All or a substantial portion of the program shall include outpatient supervision and treatment. The court shall retain jurisdiction. The court at the end of the one year, shall have a trial to determine if sanity has been restored, which means the applicant is no longer a danger to the health and safety of others, including himself or herself. The court shall not determine whether the applicant has been restored to sanity until the applicant has completed the one year in the appropriate local mental health program. The court shall notify the persons required to be notified in subdivision (a) of the hearing date.

(f) If the applicant is on parole or outpatient status and has been on it for one year or longer, then it is deemed that the applicant has completed the required one year in an appropriate local mental health program and the court shall, if all other applicable provisions of law have been met, hold the trial on restoration of sanity as provided for in this section.

(g) Before placing an applicant in an appropriate local mental health program, the community program director shall submit to the court a written recommendation as to what local mental health program is the most appropriate for supervising and treating the

applicant. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the court record. The provisions of Sections 1605 to 1610.5, inclusive, shall be applicable to the person placed in the local mental health program unless otherwise ordered by the court.

(h) If the court determines that the person should be transferred to an appropriate local mental health program, the community program director or a designee shall make the necessary placement arrangements, and, within 21 days after receiving notice of the court finding, the person shall be placed in the community in accordance with the treatment and supervision plan, unless good cause for not doing so is made known to the court.

(i) If at the trial for restoration of sanity the court rules adversely to the applicant, the court may place the applicant on outpatient status, pursuant to Title 15 (commencing with Section 1600) of Part 2, unless the applicant does not meet all of the requirements of Section 1603.

(j) If the court denies the application to place the person in an appropriate local mental health program or if restoration of sanity is denied, no new application may be filed by the person until one year has elapsed from the date of the denial.

(k) In any hearing authorized by this section, the applicant shall have the burden of proof by a preponderance of the evidence.

(*l*) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or of the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600).

(m) This section shall become operative on January 1, 1986, and 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 550

An act to amend Sections 18688, 19051, 23051.5, 25901b, and 26071 of, and to add Sections 17152, 23404, and 25954.3 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 22, 1986 Filed with Secretary of State August 22, 1986]

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

SECTION 1. Section 17152 is added to the Revenue and Taxation Code, to read:

17152. For the purposes of Section 121(b) of the Internal Revenue Code, as incorporated by Section 17131 for purposes of this part, the dollar amount of the exclusion shall be the same as allowed for federal purposes as determined by the taxpayer's filing status for federal purposes even though the taxpayer is prohibited from filing a joint return pursuant to Section 18402. However, in no instance shall the total amount excludable for the sale of a principal residence exceed the maximum amount allowed by Section 121(b) of the Internal Revenue Code.

SEC. 2. Section 18688 of the Revenue and Taxation Code is amended to read:

18688. (a) Interest upon the amount assessed as a deficiency shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for the payment of the tax until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(b) If the Franchise Tax Board makes an erroneous payment to a taxpayer, that amount may be assessed and collected pursuant to Section 18601 (pertaining to mathematical errors). However, interest at the rate prescribed by Section 19269 on those amounts shall not accrue until 30 days from the date the Franchise Tax Board mails written notice demanding repayment.

SEC. 3. Section 19051 of the Revenue and Taxation Code is amended to read:

19051. If the Franchise Tax Board or the board, as the case may be, finds that there has been an overpayment of any liability imposed under this part by a taxpayer for any year for any reason, the amount of the overpayment may be credited against any amount then due from the taxpayer and the balance shall be refunded to the taxpayer.

In the case of a joint return filed under Section 18402, the amount of the overpayment may be credited against the amount then due from both taxpayers and the balance shall be refunded to both taxpayers in the names under which the return was paid.

SEC. 4. Section 23051.5 of the Revenue and Taxation Code is

amended to read:

23051.5. (a) Unless otherwise specifically provided, the term "Internal Revenue Code" or "Internal Revenue Code of 1954," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto, in effect on the specified date for the applicable taxable year as defined in subdivision (a) of Section 17024.5, except that for purposes of this part, "income year" shall be substituted for "taxable year" throughout that section.

(b) The provisions contained in Sections 41 to 44, inclusive, and 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, shall not be applicable.

(c) In the absence of regulations of the Franchise Tax Board, where provisions of this part conform to the Internal Revenue Code, regulations adopted under the Internal Revenue Code shall govern the interpretation of comparable provisions in this part, with due account for difference in federal and state terminology, effective dates, substitution of "income year" for "taxable years" where appropriate, substitution of "Franchise Tax Board" for "secretary" when appropriate, and other obvious differences.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise expressly provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board at the time and in the manner which may be required by the Franchise Tax Board.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

SEC. 5. Section 23404 is added to the Revenue and Taxation Code, to read:

23404. The Franchise Tax Board may determine which items of tax preference shall be properly adjusted where the tax treatment giving rise to those items will not result in the reduction of the taxpayer's tax treatment under this chapter for any income years.

SEC. 6. Section 25901b of the Revenue and Taxation Code is amended to read:

25901b. (a) Interest upon the amount determined as a deficiency shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for the payment of the tax or, if the tax is paid in installments, from the date prescribed for the payment of the first installment, until the date the tax is paid. If any portion

of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(b) If the Franchise Tax Board makes an erroneous payment to a taxpayer, that amount may be assessed and collected pursuant to Section 25670 (pertaining to mathematical errors). However, interest at the rate prescribed by Section 19269 on those amounts shall not accrue until 30 days from the date the Franchise Tax Board mails written notice demanding repayment.

SEC. 7. Section 25954.3 is added to the Revenue and Taxation Code, to read:

25954.3. Notwithstanding any other provision of this article, if the amount of estimated tax due and payable under Section 25563 is only the minimum franchise tax, then the addition to the tax with respect to any underpayment of any installment imposed by Section 25951 shall be calculated only on the basis of the amount of the minimum franchise tax.

(b) This section shall not apply to a large corporation or a large worldwide corporation as defined in subdivisions (b) and (c) of Section 25954.

(c) This section shall apply to income years beginning on and after January 1, 1986.

SEC. 8. Section 26071 of the Revenue and Taxation Code is amended to read:

26071. If the Franchise Tax Board or the board finds that there has been an overpayment of any liability imposed by this part by a taxpayer for any year for any reason, the amount of the overpayment may be credited against any amount then due from the taxpayer and the balance shall be refunded to the taxpayer or its successor through reorganization, merger, or consolidation, or to its shareholders upon dissolution.

CHAPTER 551

An act to amend Sections 25163 and 25191 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 22, 1986 Filed with Secretary of State August 22, 1986.]

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) (1) 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.

(2) Any person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in his or her possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the California Highway Patrol, any local health officer, or any public officer designated by the department. Any person registered pursuant to this section may obtain additional copies of the registration from the department upon the payment of a fee of two dollars ($2) for each copy requested, in accordance with Section 12196 of the Government Code.

(3) 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 25191 of the Health and Safety Code is amended to read:

25191. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or 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. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished 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 a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when such information has been requested by the department and is required to carry out the department's responsibilities pursuant to this chapter in response to

a real and substantial danger.

(5) Except as otherwise provided in this chapter, engages in transportation of hazardous waste in violation of Section 25160 or 25161, or subdivision (a) or (e) of Section 25163, or in violation of any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete or provide the manifest in the form and manner required by the department.

(6) Except as otherwise provided in this chapter, produces, receives, stores, or disposes of hazardous waste, or submits hazardous waste for transportation, in violation of Section 25160 or 25161 or any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete, provide, or submit the manifest in the form and manner required by the department.

(7) Transports any waste, for which there is provided a manifest, if the transportation is in violation of this chapter or the regulations adopted by the department pursuant thereto.

(b) The penalties imposed by subdivision (a) on any person who commits any of the acts specified in paragraph (5) or (7) of that subdivision shall be imposed only (1) on the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or (2) on the person who authorizes or causes the transporting, carrying, or handling. These penalties shall not be imposed on the driver of the vehicle, unless the driver is also the owner or lessee of the vehicle or authorized or caused the transporting, carrying, or handling.

If any person other than the person producing the hazardous waste prepares the manifest specified in Section 25160, that other person is also subject to the penalties imposed on a person who commits any of the acts specified in paragraph (6) of subdivision (a).

(c) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) for each day of violation, or by imprisonment in the county jail for not to exceed six months, or both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation:

(1) Transports, or authorizes the transportation of, hazardous waste in a truck, trailer, semitrailer, vacuum tank, cargo tank, or container which does not contain a current certificate of compliance, as specified in Section 25168.3.

(2) Carries or handles, or authorizes the carrying or handling of, a hazardous waste without having in the driver's possession the manifest specified in Section 25160.

(3) Transports, or authorizes the transportation of, hazardous waste without having in the driver's possession a valid registration issued by the department pursuant to Section 25163.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be

punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished 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 a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both the fine and imprisonment.

(e) Whenever any person is prosecuted for a violation pursuant to paragraph (5), (6), or (7) of subdivision (a), subdivision (c), or subdivision (c) of Section 25189.5, the prosecuting attorney may take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, who is reasonably believed to have violated these provisions, a codefendant. If a codefendant is held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

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 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 552

An act to amend Sections 18053.5, 18054.7, 18056, and 18056.2 of, and to repeal Section 18054.5 of, the Health and Safety Code, relating to the Mobilehomes-Manufactured Housing Act of 1980, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 1986. Filed with Secretary of State August 22, 1986.]

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

SECTION 1. Section 18053.5 of the Health and Safety Code is amended to read:

18053.5. (a) Except as otherwise provided in this section, every applicant for a manufactured home, mobilehome, or commercial coach dealer's or salesperson's license shall be required to take and successfully complete a written examination, prepared and administered by the department. The examination shall include, but not be limited to, subjects relating to manufactured homes, mobilehomes, and commercial coaches, laws relating to contracts for the sale of manufactured homes, mobilehomes, and commercial coaches, laws covering truth in lending, and departmental and warranty requirements.

(b) The department may administer an oral examination in lieu of the written examination required by subdivision (a) under the following conditions:

(1) To any person who applies for a manufactured home, mobilehome, or commercial coach salesperson's license.

(2) To any person who applies for a manufactured home, mobilehome, or commercial coach dealer's license if the person is not the sole owner of the dealership and there are other persons within the ownership structure who meet the requirements of subdivision (a).

(3) To any person with a physical handicap if the handicap makes the taking of a written examination unreasonable.

(c) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has, continuously, for the same employer, been a salesperson of manufactured homes, mobilehomes, or commercial coaches, shall be required to take the examination specified in subdivision (a).

(d) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has continuously been a manufactured home, mobilehome, or commercial coach dealer, shall be required to take the examination specified in subdivision (a), regardless of whether the person subsequently makes an application to do business under a different name or form of business organization. However, a salesperson of manufactured homes, mobilehomes, or commercial coaches who makes an application for a manufactured home, mobilehome, or commercial coach dealer's license shall be required to take and successfully complete the examination specified in subdivision (a).

(e) If the applicant for a manufactured home, mobilehome, or commercial coach dealer's license is a corporation or partnership, only those persons who will participate in the direction, control, or management, or any combination thereof, of the sales operations of

the business, or who act in the capacity of a manufactured home, mobilehome, or commercial coach salesperson, shall be required to take and successfully complete the examination specified in subdivision (a). However, if no officer or director of the corporation or a partner, or the partners thereof participates in the direction, control, or management, or any combination thereof, of the sales operations of the business, or acts in the capacity of a manufactured home, mobilehome, or commercial coach salesperson, the corporation or partnership shall designate and maintain a responsible managing employee who is a licensed manufactured home, mobilehome, or commercial coach salesperson and who shall be required to take, and successfully complete, the examination specified in subdivision (a) for a dealer's license before a dealer's license may be issued.

(f) Every person who applies to the department to take the examination required under this section for a dealer's or salesperson's license shall pay to the department a fee established by the department.

SEC. 2. Section 18054.5 of the Health and Safety Code is repealed.

SEC. 3. Section 18054.7 of the Health and Safety Code is amended to read:

18054.7. (a) Every occupational license or decal issued to a manufacturer, distributor, dealer, salesperson, or transporter shall expire on the last day of the 24th month following the date of issuance of the temporary permit, pursuant to Section 18052.

(b) Every occupational license or decal renewed by a manufacturer, distributor, dealer, salesperson, or transporter shall be for a term of 24 months.

(c) Applications to renew an occupational license or decal held by a manufacturer, distributor, dealer, salesperson, or transporter shall be received by the department or postmarked during the month of expiration. Applications postmarked or delivered in person to the department after the month of expiration shall not be accepted. A license may not be renewed after its expiration date.

(d) Holders of an expired license shall discontinue all activities of a licensee until a new license or temporary permit is obtained from the department.

SEC. 4. Section 18056 of the Health and Safety Code is amended to read:

18056. (a) The Legislature has determined that it is in the public interest for consumer protection and service that all manufactured housing dealers and salespersons licensed under the provisions of this part comply with the continuing education requirements adopted by department regulations pursuant to this article. The provisions of this article shall not apply to those persons licensed only to sell commercial coaches.

(b) The department shall adopt regulations implementing this article as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2

of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 5. Section 18056.2 of the Health and Safety Code is amended to read:

18056.2. (a) Any person licensed as a dealer or salesperson to sell manufactured homes or mobilehomes shall have completed approved educational courses, seminars, or conferences, or their equivalent, during the period preceding license renewal on the following basis:

(1) A dealer or salesperson whose license expires on or after July 1, 1987, but no later than January 1, 1988, shall achieve no less than 12 hours of continuing education to meet the requirements of this article.

(2) A dealer or salesperson whose license expires on or after January 1, 1988, shall achieve no less than 24 hours of continuing education to meet the requirements of this article.

(b) The regulations shall prescribe all of the following:

(1) A basis and method of qualifying educational programs, including course content and topic requirements, and instructors, the certification of attendance at which, or challenging the course of which, will satisfy the requirements of this article.

(2) A procedure for evaluation of petitions based on a claim of equivalency with the requirements of subdivision (a), and a reasonable standard by which activity would be judged equivalent, including, but not limited to, instruction in manufactured housing educational programs, law, or research.

(3) A system of control and reporting qualifying attendance.

(4) A statement of the conditions of exemption from the continuing education requirements established under this article, as well as a method of applying and qualifying for the exemption, for reason of health, military service, or other compelling cause.

(5) Criteria for the content, availability, and procedures for no less than six hours of preliminary education courses or programs which shall be attended and successfully concluded by applicants for new dealers' or salespersons' licenses before the applicants take the licensing examinations.

(c) In exercising the authority under this article, the department shall establish standards which will assure reasonable currency of knowledge as a basis for a level of manufactured housing practice which will provide a high level of consumer protection and service. The standards shall include, where qualified, generally accredited educational institutions, private vocational schools, correspondence institutions, educational programs and seminars of professional societies and organizations, other organized educational programs or technical subjects, or equivalent offerings.

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 prevent continuing harm to consumers by untrained salespersons and dealers, to prevent the loss of livelihood to salespersons and dealers as a result of anticipated delays by the Department of Housing and Community Development in issuing or renewing licenses, and to provide sufficient time for salespersons and dealers to complete the required preliminary and continuing education for licensing, it is necessary for this act to take effect immediately.

CHAPTER 553

An act to amend Section 11172 of the Penal Code, relating to defamation.

[Approved by Governor August 22, 1986 Filed with Secretary of State August 22, 1986]

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

SECTION 1. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, employee of a child protective agency, or commercial film and photographic print processor who reports a known or suspected instance of child 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 child 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 or was made with reckless disregard of the truth or falsity of the report, and any such person who makes a report of child abuse known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, 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 child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child 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 child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child 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 child care custodian, medical practitioner, nonmedical practitioner, an employee of a child protective agency, or commercial film and photographic print processor 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 of the State of California at the time the award is made and shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California 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) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child 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 is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

CHAPTER 554

An act to add Section 3600.6 to, to repeal Article 2 (commencing with Section 4361) of Chapter 10 of Part 1 of Division 4 of, and to repeal and add Article 1 (commencing with Section 4351) of Chapter 10 of Part 1 of Division 4 of, the Labor Code, relating to workers' compensation.

[Approved by Governor August 22, 1986. Filed with Secretary of State August 22, 1986.]

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

SECTION 1. Section 3600.6 is added to the Labor Code, to read:

3600.6. Disaster service workers registered by a disaster council while performing services under the general direction of the disaster council shall be entitled to all of the same benefits of this division as any other injured employee, except as provided by Chapter 10 (commencing with Section 4351) of Part 1. For purposes of this section, an unregistered person impressed into performing service as a disaster service worker during a state of war emergency, a state of emergency, or a local emergency by a person having authority to command the aid of citizens in the execution of his or her duties shall also be deemed a disaster service worker and shall be entitled to the same benefits of this division as any other disaster service worker.

SEC. 2. Article 1 (commencing with Section 4351) of Chapter 10 of Part 1 of Division 4 of the Labor Code is repealed.

SEC. 3. Article 1 (commencing with Section 4351) is added to Chapter 10 of Part 1 of Division 4 of the Labor Code, to read:

Article 1. General

4351. Compensation provided by this division is the exclusive remedy of a disaster service worker, or his or her dependents, for injury or death arising out of, and in the course of, his or her activities as a disaster service worker as against the state, the disaster council with which he or she is registered, and the county or city which has empowered the disaster council to register and direct his or her activities. Liability for compensation provided by this division is in lieu of any other liability whatsoever to a disaster service worker or his or her dependents or any other person on his or her behalf against the state, the disaster council with which the disaster service worker is registered, and the county or city which has empowered the disaster council to register and direct his or her activities, for any injury or death arising out of, and in the course of, his or her activities as a disaster service worker.

4352. No compensation shall be paid or furnished to disaster service workers or their dependents pursuant to this division except from money appropriated for the purpose of furnishing

compensation to disaster service workers and their dependents. Liability for the payment or furnishing of compensation is dependent upon and limited to the availability of money so appropriated.

After all money so appropriated is expended or set aside in bookkeeping reserves for the payment or furnishing of compensation and reimbursing the State Compensation Insurance Fund for its services, the payment or furnishing of compensation for an injury to a disaster service worker or his or her dependents is dependent upon there having been a reserve set up for the payment or furnishing of compensation to that disaster service worker or his or her dependents and for that injury, and liability is limited to the amount of the reserve. The excess in a reserve for the payment or furnishing of compensation or for reimbursing the State Compensation Insurance Fund for its services may be transferred to reserves of other disaster service workers for the payment or furnishing of compensation and reimbursing the State Compensation Insurance Fund, or may be used to set up reserves for other disaster service workers.

4353. If a disaster service worker suffers injury or death while in the performance of duties as a disaster service worker, then, irrespective of his or her remuneration from this or other employment or from both, the average weekly earnings for the purposes of determining temporary and permanent disability indemnity shall be taken at the maximum fixed for each, respectively, in Section 4453.

4354. If the injury sustained by a disaster service worker causes permanent disability, the percentage of disability to total disability shall be determined as for the occupation of a laborer of like age by applying the schedule for the determination of the percentages of permanent disabilities prepared and adopted by the administrative director. The amount of the weekly payment for permanent disability shall be the same as the weekly benefit which would be paid for temporary total disability pursuant to Section 4353.

SEC. 4. Article 2 (commencing with Section 4361) of Chapter 10 of Part 1 of Division 4 of the Labor Code is repealed.

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.

CHAPTER 555

An act to amend Sections 61621.5, 61770, and 61780 of the Government Code, and to add Chapter 3 (commencing with Section 72740) to Part 11 of Division 20 of the Water Code, relating to districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 1986. Filed with Secretary of State August 22, 1986]

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

SECTION 1. Section 61621.5 of the Government Code is amended to read:

61621.5. (a) Except as otherwise provided in this section, a district may by ordinance adopt regulations binding upon all persons to govern the construction and use of its facilities and property, including regulations imposing reasonable charges for the use thereof. Violation of any regulation relating to the construction and use of sanitation facilities or of roads is a misdemeanor.

(b) A district may by ordinance adopt regulations binding upon all persons to govern the use of its park and recreational facilities and property, including regulations imposing reasonable charges for the use thereof. Violation of any regulation relating to the use of park and recreational facilities is a misdemeanor.

(c) A district granted consent of the governing body of the county or city to exercise the powers provided in subdivision (j) or (k) of Section 20681 of the Public Contract Code shall have the powers, duties, and authority of a county road commissioner granted under Article 2 (commencing with Section 1460) of Chapter 5.5 of Division 2 of the Streets and Highways Code to issue written permits to do the acts permitted by Section 1460 of the Streets and Highways Code in and on the streets accepted for maintenance by the district in accordance with the applicable provisions of the chapter. Any person who does any of the acts specified in Section 1460 of the Streets and Highways Code without the authority of a written permit from the district is guilty of a misdemeanor and is liable to the district for all expenses and damages caused thereby.

SEC. 2. Section 61770 of the Government Code is amended to read:

61770. Zones may be established within a district for any of the following purposes:

(a) Incurring a bonded indebtedness within the zone sufficient to pay the cost of construction or acquisition of improvements or establishment of services which improvements and services the district is authorized to provide, where the improvements and services, in the judgment of the board, will not be of districtwide benefit, and levying a special tax within the zone for the payment of

the principal and interest on the bonds.

(b) Fixing and collecting special rates or charges for the construction or acquisition of improvements and for the furnishing of services within a zone, which improvements and services the district is authorized to provide, and applying the receipts from the special rates or charges to the expense of providing the service where in the judgment of the board the service is not of districtwide benefit.

(c) Levying special taxes to finance the construction or acquisition, maintenance and operation of improvements or the furnishing of services where in the judgment of the board the improvements or services will not be of districtwide benefit.

SEC. 3. Section 61780 of the Government Code is amended to read:

61780. Upon the establishment of a zone, bonds may be issued for purposes of benefiting the zones in accordance with Chapter 4 (commencing with Section 61650) or Part 5 of the Revenue Bond Law of 1941 Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5.

SEC. 4. Chapter 3 (commencing with Section 72740) is added to Part 11 of Division 20 of the Water Code, to read:

CHAPTER 3. CONSOLIDATION OF IMPROVEMENT DISTRICTS

72740. Two or more improvement districts formed for a purpose other than the incurring of bonded indebtedness, whose powers and purposes are limited to those specified in Article 3 (commencing with Section 71680) of Chapter 3 of Part 5, and which are portions of the same district, may be consolidated for a purpose other than the incurring of bonded indebtedness, as provided in this chapter, whether their boundaries are contiguous or not.

72740.1. Whenever the board intends to consolidate two or more improvement districts in accordance with this chapter, the board shall adopt a resolution of intention which states all of the following:

(a) The board intends to consolidate the improvement districts.

(b) The purpose for which the improvement districts are to be consolidated.

(c) The estimated expense of carrying out that purpose.

(d) Taxes for carrying out that purpose will be levied exclusively upon the taxable property in the consolidated improvement district.

(e) The board's determination as to the apportionment to the land in the respective improvement districts to be consolidated of any outstanding indebtedness and liabilities as it deems equitable.

(f) The taxable property within the boundaries of each participating improvement district shall continue to be taxed and assessed for any indebtedness and liabilities of the district contracted for that participating improvement district to the same extent that the property would be taxable and assessable for that purpose if the consolidation did not occur.

(g) A map showing the exterior boundaries of the proposed

consolidated improvement district, with relation to the territory immediately contiguous thereto, is on file with the secretary and is available for inspection by any person or persons interested.

(h) The time and place for a hearing by the board on the questions of the consolidation and extent of the proposed consolidated improvement district, the purpose for which the improvement districts is to be consolidated, the estimated expense of carrying out that purpose, and the board's determination as to the apportionment of any outstanding indebtedness and liabilities in the respective improvement districts to be consolidated.

(i) The fact that at the hearing any person interested, including all persons owning property in the district or in the proposed consolidated improvement district, may be heard.

72740.2. Notice of the hearing shall be given by publishing a copy of the resolution of intention, pursuant to Section 6066 of the Government Code, prior to the time fixed for the hearing, in a newspaper circulated in the improvement districts to be consolidated. The notice shall also be given by posting a copy of the resolution of intention in three public places within each of the improvement districts to be consolidated for at least two weeks before the time fixed for the hearing.

72740.3. At the time and place fixed in the resolution of intention, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing, any person interested, including any person owning property in each improvement district or in the proposed consolidated improvement district, may appear and present any matters material to the questions set forth in the resolution of intention.

72740.4. At the conclusion of the hearing, if the board determines that it is necessary to consolidate the improvement districts, the board shall adopt a resolution of consolidation which states all of the following:

(a) The board deems it necessary to consolidate the improvement districts.

(b) The purpose for which the improvement districts are to be consolidated.

(c) The estimated expense of carrying out that purpose.

(d) Taxes for carrying out that purpose will be levied exclusively upon the taxable property in the consolidated improvement district.

(e) The board's determination as to the apportionment to the land in the respective improvement districts to be consolidated of any outstanding indebtedness and liabilities as it deems equitable.

(f) The taxable property within the boundaries of each participating improvement district shall continue to be taxed and assessed for any indebtedness and liabilities of the district contracted for that participating improvement district, to the same extent that the property would be taxable and assessable for that purpose if the consolidation had not occurred.

(g) The exterior boundaries of the consolidated improvement

district are set forth on a map on file with the secretary, which map shall govern all details as to the extent of the consolidated improvement district.

(h) The portion of the district set forth on the map shall thereupon constitute and be known as "Improvement District (A, B, C, or other letter designation) _____ of _____ Municipal Water District."

72740.5. A copy of the resolution of consolidation shall be published, pursuant to Section 6066 of the Government Code, in a newspaper circulated in the improvement districts being consolidated. A copy of the resolution shall also be posted in three public places within each of the improvement districts being consolidated for at least two weeks.

72740.6. The determinations made in the resolution of consolidation shall be final and conclusive, and the resolution of consolidation shall be effective on the 91st day after completion of the publication and posting.

72740.7. Upon completion of the consolidation, a statement of consolidation, certified by the secretary of the district, shall be filed with the Secretary of State.

72740.8. After the consolidation of the improvement districts pursuant to this chapter, all taxes levied for the carrying out of its purpose shall be levied exclusively upon the taxable property in the consolidated improvement district. The taxable property within the boundaries of each participating improvement district shall continue to be taxed for any indebtedness and liabilities of the district contracted for that participating improvement district, to the same extent that the property would be taxable for that purpose if the consolidation had not occurred.

72740.9. When consolidated, the consolidated improvement district, under the name specified for it in the resolution of consolidation, succeeds to all of the rights, privileges, functions, and properties of all of the improvement districts participating in the consolidation, is subject to all of their indebtedness as respectively apportioned, and is subject to the same limitations that are applicable to each participating improvement district to levy taxes and to impose fees and assessments, within their respective areas.

72741. When consolidated, the consolidated improvement district possesses all of the powers of, is governed by, and is subject to all of the provisions of this division, except as otherwise provided in this chapter, as though originally formed pursuant to Part 8 (commencing with Section 75350).

72741.1. Nothing contained in this chapter shall impair the rights of creditors of an improvement district participating in the consolidation, and each creditor may enforce against and through the consolidated improvement district all the creditor's rights against any improvement district participating in the consolidation in the same manner and with the same effect, except for the substitution of the consolidated improvement district for the improvement

district participating in the consolidation, as if the consolidation had never been effected.

72741.2. Any action or proceeding in which the validity of the consolidation of the improvement districts, or of any of the proceedings in relation thereto, is contested, questioned, or denied, shall be commenced within three months from the effective date of the resolution of consolidation; otherwise, the consolidation of the improvement districts and all proceedings in relation thereto, shall be held to be valid and in every respect legal and incontestable.

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 such necessity are:

In order to protect the public health and safety with respect to road maintenance and so provide for the efficient operation of specified types of improvement districts formed for fire protection purposes, it is necessary that this act take effect immediately.

CHAPTER 556

An act to amend Sections 39310, 39312, and 39315 of, and to add Section 39311.5 to, the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 1986. Filed with Secretary of State August 22, 1986]

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

SECTION 1. Section 39310 of the Education Code is amended to read:

39310. An election held pursuant to Section 39308, 39311, or 39311.5 shall be held in conjunction with either a statewide primary or general election, or an election date specified in Section 2500 of the Elections Code.

SEC. 2. Section 39311.5 is added to the Education Code, to read:

39311.5. If, at an election held pursuant to Section 39311 on November 8, 1977, a majority of the electors voting on the proposition voted "Yes," the governing board may call an election pursuant to this section.

Within 10 days after the governing board has adopted a resolution pursuant to Section 39315, it shall call an election pursuant to this

section. The governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, as it existed on November 8, 1977, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the district lease [a site (sites) and] a building [buildings] to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings and the cost thereof] and for those purposes, shall the tax rate increase authorized on November 8, 1977, be used solely and exclusively for those purposes in addition to those approved by the majority of electors on the election held pursuant to Section 39311 on November 8, 1977?"

SEC. 3. Section 39312 of the Education Code is amended to read:

39312. If, at the election held pursuant to Section 39308, 39311, or 39311.5, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article.

SEC. 4. Section 39315 of the Education Code is amended to read:

39315. (a) As an alternative to obtaining sealed proposals as required by Sections 39306 and 39314, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) if the articles of incorporation or bylaws of the nonprofit public benefit corporation provide both of the following:

(1) That no person shall be eligible to serve as a member or director of the corporation except a person initially approved by resolution of the governing board of the school district.

(2) That no part of the net earnings of the corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the school district.

(b) The resolution adopted by the governing board shall do all of the following:

(1) Describe, in such manner as to identify it, the available site upon which the building to be used by the district shall be constructed.

(2) Generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor.

(3) If such is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed.

(4) State the maximum number of years for which the school district will lease the building, or building and site, as the case may be.

(c) Any building constructed by a nonprofit public benefit corporation pursuant to a lease or agreement entered into pursuant

to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Article 42 (commencing with Section 20670) of Part 3 of Division 2 of the Public Contract Code. Section 39321 applies to the contract.

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 the question of whether the governing board of a school district shall lease certain property may be placed on the ballot for the general elections to be held November 4, 1986, and, if approved by the voters, to be implemented in 1986, it is necessary that this act take effect immediately.

CHAPTER 557

An act to amend Section 40501 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 1986. Filed with Secretary of State August 22, 1986]

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

SECTION 1. Section 40501 of the Vehicle Code is amended to read:

40501. (a) The time specified in the notice to appear shall be a specific date which is at least 21 days after the arrest, except that the court having jurisdiction over the offense charged may authorize the arresting officer to specify on the notice that an appearance may be made before the time specified.

(b) In the case of juveniles, the court having jurisdiction over the offense charged may require the arresting officer to indicate on the notice "to be notified" rather than specifying a specific date pursuant to subdivision (a).

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

In order to permit juvenile courts to perform their duties effectively and in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 558

An act to amend Section 215.5 of the Streets and Highways Code, relating to transportation.

[Approved by Governor August 24, 1986 Filed with Secretary of State August 25, 1986.]

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

SECTION 1. Section 215.5 of the Streets and Highways Code is amended to read:

215.5. (a) The department shall develop and implement a system of priorities for ranking the need for installation of noise attenuation barriers along freeways in the California freeway and expressway system. In establishing a priority system, the department shall give the highest consideration to residential areas which were developed prior to the opening of the freeway. If alterations have been made to the freeway since its original opening which result in a significant and measurable increase in ambient noise levels, the opening date for that segment of the freeway, for the purposes of determining priorities under this section, is the completion date of that alteration project. Other criteria for determining priorities shall include the existing and future intensity of sound generated by the freeway, the increase in traffic flow since the original construction of the freeway, the cost of building the sound wall in relation to the expected noise reduction, the number of persons living in close proximity to the freeway, and whether a majority of the occupants in close proximity to the freeway resided there prior to the time the freeway routing was adopted by the commission. The city or county in which the residential area is located shall be responsible for providing documentation to the department on the percentage of original occupants still residing along the freeway.

The actual cost of construction shall be used in determining the relative priority ranking of projects funded and constructed pursuant to subdivision (d).

(b) When all freeways have been ranked in priority order, the department shall, consistent with available funding, include in its proposed state transportation improvement program, a program of construction of noise attenuation barriers beginning with the highest priority.

In preparing the annual priority list, the department shall not add any new project to the list ahead of a project that has been funded by a city or county and is awaiting state reimbursement pursuant to subdivision (d).

(c) The commission shall include in the estimate adopted pursuant to Section 14525 of the Government Code an annual and five-year estimate of funds estimated to be available for noise attenuation barriers along freeways. If any city or county constructs

a noise attenuation barrier along a freeway pursuant to subdivision (d), the commission shall allocate funds for the project in the fiscal year the project would have been eligible for funding based on the department's priority list and the commission's fund estimate at the time of approval of the project pursuant to subdivision (d).

(d) If any city or county constructs a noise attenuation barrier along a freeway using public funds prior to the time that the barrier reaches a high enough priority for state funding, then, when the funding priority is reached, the department shall reimburse the city or county without interest for the cost of construction, but the reimbursement may not exceed the cost of the department to construct the barriers. Reimbursement shall be made only if the city or county constructs the noise attenuation barrier to the standards approved by department, follows bidding and contracting procedures approved by the department, and the project is approved by the commission.

CHAPTER 559

An act to amend Section 11512.05 of the Insurance Code, relating to insurance.

[Approved by Governor August 24, 1986. Filed with Secretary of State August 25, 1986]

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

SECTION 1. Section 11512.05 of the Insurance Code is amended to read:

11512.05. (a) A nonprofit hospital service plan which negotiates and enters into a contract with professional providers to provide services at alternative rates of payment pursuant to Section 11512 of the Insurance Code, shall give reasonable consideration to timely written proposals for contracting by licensed or certified professional providers.

(b) For the purposes of this section, the following definitions are applicable:

(1) "Reasonable consideration" means consideration in good faith of the terms of proposals for contracting prior to the time that contracts for alternative rates of payment are entered into or renewed. A plan may specify the terms and conditions of contracting to assure cost efficiency, qualification of providers, appropriate utilization of services, accessibility, convenience to persons who would receive the provider's services, and consistency with the plan's basic method of operation, but shall not exclude providers because of their category of license.

(2) "Professional provider" means a holder of a certificate or license under Division 2 (commencing with Section 500) of the

Business and Professions Code, or any initiative act referred to therein, except for those certified or licensed pursuant to Article 3 of Chapter 5 (commencing with Section 2050) or Chapter 11 (commencing with Section 4800), who may, within the scope of their licenses, perform the services of a specific plan benefit defined in the hospital service plan's contracts with its contract holders.

(c) A plan which has a contract with an institutional provider or with professional providers is not required by this section to give consideration to contracting with professional providers who hold the same category of license or certificate and propose to serve a geographic area served adequately by the contracting providers that provide their professional services as employees or agents of that institutional or professional provider, or contract with that institutional or professional provider to provide professional services.

(d) In every description of plan benefits, and in every directory of participating hospitals and professional providers, or similar document, listing or identifying participating providers in a geographical area served by the plan, the plan shall state that the plan will reimburse subscribers for services of any professional provider duly licensed by the State of California, whether or not the provider participates on a contracting basis with the plan. Where permitted by Section 10176, the plan may state that as to certain provider categories, reimbursement is conditioned on physician referral.

(e) In each directory of participating hospitals and professional providers, at the appropriate alphabetical locations within each geographical list of participating providers, the plan shall list every provider category licensed by Division 2 (commencing with Section 500) of the Business and Professions Code, or any initiative act referred to therein, in type style and size comparable to those of all other provider categories, and shall state under each category that the plan will reimburse subscribers for services of any professional provider of that category duly licensed by the State of California, and, where permitted by Section 10176, that physician referral is required.

(f) In any description, definition, or glossary of medical specialties included in the directory of participating hospitals and professional providers, the plan shall include appropriate definitions of each license category, based on the statutory scope of each license.

CHAPTER 560

An act to amend Section 2037.7 of the Code of Civil Procedure, and to amend Section 68092.5 of the Government Code, relating to witnesses.

[Approved by Governor August 24, 1986. Filed with Secretary of State August 25, 1986]

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

SECTION 1. Section 2037.7 of the Code of Civil Procedure is amended to read:

2037.7. (a) Any other provision of law notwithstanding, in any case other than a workers' compensation case governed by the provisions of subdivision (b), any party desiring to take the deposition of a person who is not a party to the action, and who has been retained as an expert by another party to the case, primarily for the purpose of obtaining any expert opinion which the deponent holds upon the basis of his or her special knowledge, skill, experience, training, or education, shall pay the expert a reasonable fee not exceeding his or her customary hourly or daily fee for the time reasonably and necessarily spent in connection with such deposition including time spent in travel to and from the deposition, but excluding time spent in preparation. A fee based upon the anticipated length of the deposition shall be tendered to the expert. In the event the examination and necessary cross-examination of the expert takes longer than originally anticipated, the balance of the fee due the expert shall be paid by the party who noticed the deposition within five days of receipt of an itemized statement from the expert.

(b) Any other provision of law notwithstanding, in a workers' compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, any party desiring to take the deposition of a person who is not a party to the action, and who has been retained as an expert by another party to the case, shall pay the expert a reasonable fee not exceeding his or her customary hourly or daily fee for the time reasonably and necessarily spent in connection with such deposition including time spent in travel to and from the deposition, but excluding time spent in preparation. A fee based upon the anticipated length of the deposition shall be tendered to the expert. In the event the examination and necessary cross-examination of the expert takes longer than originally anticipated, the balance of the fee due the expert shall be paid by the party who noticed the deposition within five days of receipt of an itemized statement from the expert.

SEC. 2. Section 68092.5 of the Government Code is amended to read:

68092.5. (a) A person who is not a party to the action and who is required to testify before any court or tribunal, or in the taking of

a deposition, in any civil action or proceeding, primarily as to any expert opinion which he or she holds upon the basis of his special knowledge, skill, experience, training or education, and who is qualified as an expert witness shall receive reasonable compensation for his or her entire time required to travel to and from the place where the court or other tribunal, or in the taking of a deposition, the place of taking such deposition, is located and while he or she is required to remain at such place pursuant to subpoena. The court may fix the compensation for such appearance, in addition to such witness fees otherwise allowed by law, at such amount as seems reasonable to the court, upon motion by any party to the action or by the person required to testify and such fees shall be paid by the party requiring such witness to attend, but such fees shall not be allowable costs or disbursements.

(b) In the event the proceeding at which the expert witness has been notified his attendance is required is continued or canceled in advance of the time for which it is scheduled, such witness shall be notified of the continuance or cancellation by the party requiring his or her attendance by the quickest and most reliable means of giving notice under the circumstances. In the event such party fails to give notice as required by this subdivision, then the expert witness shall be entitled to receive the compensation specified in subdivision (a) of this section, notwithstanding his or her failure to give any testimony.

(c) An express contract entered into between a person and the party requesting or requiring the person to testify, relating to compensation, shall be enforceable and shall prevail over the provisions of this section.

CHAPTER 561

An act to amend Sections 7000, 7001, and 7003 of, and to add Sections 7000.3, 7000.5, 7002.5, and 7004 to, the Education Code, relating to public schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1986 Filed with Secretary of State August 25, 1986.]

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

SECTION 1. It is the intent of this act to clarify Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of the Education Code, and not to enlarge the scope of that article.

SEC. 2. Section 7000 of the Education Code is amended to read:

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.

This subdivision does not apply to either the new spouse upon the remarriage of a surviving spouse of a former certificated employee or the children of a certificated or former certificated employee.

(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. Any plan pursuant to this article shall provide separate single and two-party rates for at least the following classes: for those under 65, for those over 65 who have Medicare A and B, and for those over 65 who do not have Medicare A.

SEC. 3. Section 7000.3 is added to the Education Code, to read:

7000.3. Enrollment in Medicare A shall not be a prerequisite for enrollment in any district health plan pursuant to this article. However, the purchase of Medicare B may be required for enrollment if the participant qualifies to purchase it. In addition, a district health plan may be restructured to pay benefits as if each participant is enrolled in Medicare B as soon as the participant qualifies to purchase Medicare B.

A health plan may condition eligibility for enrollment on the effective assignment of any Medicare benefits for which the enrollee would be eligible.

SEC. 4. Section 7000.5 is added to the Education Code, to read:

7000.5. (a) Any health benefits plan provided by any county superintendent of schools, school district, or community college district pursuant to this article may contain a preexisting condition exclusion, as follows:

(1) The coverage of any person who has a break in coverage, may, for the first three months after reenrollment, exclude any care received for a condition which is caused by, or results from, a condition existing at the time of reenrollment or for which the person received medical advice or treatment during the six-month period immediately preceding reenrollment.

(2) Coverage of any person who is confined to a hospital or his or her home for medical treatment at the time of enrollment in a health plan pursuant to this section shall exclude any benefits until the period commencing on the 15th day following the termination of that confinement.

(b) This section does not apply to any entity which provides a health benefits plan which contains a preexisting condition exclusion.

(c) This section does not apply to any changes in enrollment by a person currently enrolled in a school district's health benefits plan or due to any change in enrollment or coverage caused by the retirement of a person.

SEC. 5. Section 7001 of the Education Code is amended to read:

7001. (a) 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.

(b) A certificated school employee who is retired on the effective date of Assembly Bill 1953 of the 1985–86 Regular Session of the Legislature, shall be permitted to enroll in any district health and dental care plan during the 1986, 1987, and 1988 enrollment periods.

(c) A certificated school employee who retires after the effective date of Assembly Bill 1953 of the 1985–86 Regular Session of the Legislature, shall be allowed to enroll in the coverage provided by this article within 30 days of losing active employee coverage, but if the retiree does not enroll in a district health or dental care plan during this initial enrollment period, the retiree may be denied further opportunity to do so.

The enrollment period for retirees under this subdivision shall correspond to that provided to active employees, unless a district chooses to offer an additional enrollment period.

(d) This article shall permit enrollment into any district health and dental care plan only once. A retiree or spouse who has been previously covered under this article and who has voluntarily terminated that coverage, may be excluded from again obtaining coverage under this article thereafter. This subdivision does not apply to a person who is changing plans within a district during an open enrollment period.

(e) Retirees may be enrolled in a medical care plan pursuant to this section during periods other than those specified therein if they lose their coverage. With documentation of prior coverage, they may be allowed to enroll in a medical care plan, if they do so within 31 days of losing their other coverage.

SEC. 6. Section 7002.5 is added to the Education Code, to read:

7002.5. (a) This article does not create a vested retirement right in health and dental care benefits.

(b) The individual districts, the county office, a health plan, an entity proving or arranging a health plan, and the State Teachers' Retirement System do not have any legal duty to contact retired teachers with regard to this article.

SEC. 7. Section 7003 of the Education Code is amended to read:

7003. (a) 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.

(b) Nothing in this article is intended to reduce or conflict with any benefit provided in the federal Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99-272).

(c) Nothing in this article mandates the provision of life insurance or vision care.

SEC. 8. Section 7004 is added to the Education Code, to read:

7004. As used in this article:

(a) "Certificated employee" means a member, as defined by Section 22133, of the State Teachers' Retirement System.

(b) "School district" means that district from which the member of the State Teachers' Retirement System last made contributions to the system before retirement.

(c) "Spouse" means a spouse as defined by Section 22152.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the clarification made by this act of many administrative details necessary for the implementation by school districts, community college districts, and county superintendents of schools of Chapter 991 of the Statutes of 1985 may be effective at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 562

An act to amend Sections 14170.1 and 14171 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 24, 1986 Filed with Secretary of State August 25, 1986.]

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

SECTION 1. Section 14170.1 of the Welfare and Institutions Code is amended to read:

14170.1. (a) Prior to the issuance to a provider of pharmaceutical services of any demand for payment pursuant to an audit or examination conducted under Sections 10722 and 14170, the amount of any underpayment to the provider for validly submitted claims or for valid claims which have inadvertently not been submitted and which arose during the audit period shall be determined and credited toward the amount of any overpayment due to the department. This section shall apply to all audits and examinations conducted under Sections 10722 and 14170 relative to amounts paid during the audit period for services provided to Medi-Cal beneficiaries. No audit may be reopened to provide for

underpayments in which a final decision has been reached pursuant to Section 14171 or in which a certificate has been filed pursuant to Section 14172.

(b) When a provider of pharmaceutical services asserts that a claim has been underpaid for purposes of receiving a credit against overpayments, as authorized by this section, the provider shall submit to the department information and documentation sufficient to resolve any dispute as to whether such claim was in fact underpaid.

(c) For purposes of this section, the term "underpayments" shall include errors made by the pharmacist and errors made by the fiscal intermediary in determining payments for claims submitted within the billing time limits specified in Section 14115.

SEC. 2. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) Different administrative appeal processes may be established by the director for grievances or complaints arising from the determinations of a tentative or final settlement based on audit or examination findings made by or on behalf of the department pursuant to Sections 10722 and 14170, except that consistent with existing practice, no administrative appeal shall be available for tentative settlement of cost reports.

(c) The administrative appeal process established by the director for final settlements, including, in the case of hospitals, the application of Title 22, California Administrative Code Sections 51536, 51537, and 51539, shall include the procedural requirements of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The impartial hearing shall be conducted by an administrative law judge appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(d) The administrative appeal process established by the director for tentative settlements, including, in the case of hospitals, the application of Title 22 California Administrative Code Sections 51536, 51537, and 51539, shall be an informal process which, however, must guarantee a provider the right to present any grievance or complaint to the department in writing. Any subsequent hearings shall be conducted in an informal manner and shall be held at the discretion of the department.

(e) The time limitations in subdivision (g) for the impartial hearing and the final decisions are mandatory. If the department fails to conduct the hearing within 360 days or to adopt a final decision thereon within 180 days of the hearing, the amount of any overpayment which is ultimately determined by the department to be due shall be reduced by 10 percent for each 30-day period that

either the hearing or the decision, or both, are delayed beyond 360 days or the additional 180 days provided in subdivision (g). However, the time period shall be extended by either of the following:

(1) Delay caused by a noninstitutional provider.

(2) Extensions of time granted a noninstitutional provider at its sole request or at the joint request of the provider and the department.

(f) Notwithstanding subdivision (c), the administrative appeal process established by the director for institutional providers at final settlements shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c).

(g) Notwithstanding subdivision (c), the administrative appeal process established by the director for noninstitutional providers shall commence with an informal conference with the provider, a representative of the department, and the hearing officer. The informal conference shall be conducted no later than 90 days after the filing of a timely and specific statement of disputed issues by the noninstitutional provider. The administrative law judge, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 180 days after the filing of a timely and specific statement of disputed issues by the noninstitutional provider. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c). For noninstitutional providers, the impartial hearing shall be conducted no later than 360 days after the issuance of the first statement of account status or demand for payment to the noninstitutional provider. A proposed decision shall be prepared within 60 days after the impartial hearing is concluded, and a final decision shall be adopted within 180 days of the hearing.

(h) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(i) Commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or

examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(j) The final decision of the director shall be reviewable in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

CHAPTER 563

An act to amend Section 1063.5 of the Insurance Code, relating to insurance.

[Approved by Governor August 24, 1986. Filed with Secretary of State August 25, 1986]

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

SECTION 1. Section 1063.5 of the Insurance Code is amended to read:

1063.5. Each time an insurer becomes insolvent then, to the extent necessary to secure funds for the association for payment of covered claims of that insolvent insurer and also for payment of reasonable costs of adjusting the claims, the association shall collect premium payments from its member insurers sufficient to discharge its obligations. The association shall allocate its claim payments and costs, incurred or estimated to be incurred, to one or more of the following categories: (a) workers' compensation claims; (b) automobile claims, which shall include: automobile material damage, automobile liability (both personal injury and death and property damage), medical payments and uninsured motorist claims; and (c) claims other than workers' compensation and automobile, as above defined. Separate premium payments shall be required for each category. The premium payments for each category shall be used to pay the claims and costs allocated to that category. The rate of premium charged shall be a uniform percentage of net direct written premium in the preceding calendar year applicable to that category. The rate of premium charges to each member in the appropriate categories shall initially be based on the written premium of each insurer as shown in the latest year's annual financial statement on file with the commissioner. The initial premium shall be adjusted by applying the same rate of premium charge as initially used to each insurer's written premium as shown on the annual statement for the year following the year in which the initial premium charge is made. The difference between the initial premium charge and the adjusted

premium charge shall be charged or credited to each member insurer by the association as soon as practical after the filing of the annual statements of the member insurers with the commissioner for the year on which the adjusted premium is based. "Net direct written premiums" shall mean the amount of gross premiums, less return premiums and policyholder's dividends paid or allowed, received in that calendar year upon business done in this state, other than premiums received for reinsurance. In cases of a dispute as to the amount of any such net direct written premium between the association and one of its members the written decision of the commissioner shall be final. The premium charged to any member insurer for any of the three categories or a category established by the association shall not be more than 1 percent of the net direct premium written in that category in this state by that member insurer. However, in no event shall the total premium charged a member insurer in one calendar year exceed 1 percent of the net direct premium written by the member insurer in one calendar year. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect an amount of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. However, during the period of deferment, no dividends shall be paid to shareholders or policyholders by the company whose assessment was deferred. Deferred assessments shall be paid when the payment will not reduce capital or surplus below required minimums. These payments shall be credited against future assessments to those companies receiving larger assessments by virtue of the deferment. The premium charges shall be recognized in the ratemaking procedures for insurance rates in the same manner that losses are recognized or as otherwise provided in this article. After all covered claims of the insolvent insurer and expenses of administration have been paid, any unused premiums and any reimbursements or claims dividends from the liquidator remaining in any category shall be retained by the association and applied to reduce future premium charges in the appropriate category. However, an insurer which ceases to be a member of the association shall have no right to a refund of any premium previously remitted to the association. The commissioner may suspend or revoke the certificate of authority to transact business in this state of a member insurer which fails to pay a premium when due and after demand has been made.

Interest at a rate equal to the current federal reserve discount rate plus 2½ percent per annum shall be added to the premium of any member insurer which fails to submit the premium requested by the association within 30 days after such mailing request. However, in no event shall the interest rate exceed the legal maximum.

CHAPTER 564

An act to amend Section 1950.5 of the Civil Code, relating to tenancies.

[Approved by Governor August 24, 1986 Filed with Secretary of State August 25, 1986]

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

SECTION 1. Section 1950.5 of the Civil Code is amended to read:

1950.5. (a) The provisions of this section shall apply to security for a rental agreement for residential property, that is, property used as the dwelling of the tenant.

(b) As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant's default in the payment of rent.

(2) The repair of damages to the premises, exclusive of ordinary wear and tear, caused by the tenant or by a guest or licensee of the tenant.

(3) The cleaning of the premises upon termination of the tenancy.

(4) To remedy future defaults by the tenant in any obligation under the rental agreement to restore, replace or return personal property or appurtenances, exclusive of ordinary wear and tear, if the security deposit is authorized to be applied thereto by the rental agreement.

(c) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy.

This subdivision does not prohibit an advance payment of not less than six months' rent where the term of the lease is six months or longer.

This subdivision does not preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, if the alterations are other than cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d) Any security shall be held by the landlord for the tenant who is party to the lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only those amounts as are reasonably necessary for the purposes specified in subdivision

(b). The landlord may not assert a claim against the tenant or the security for damages to the premises or any defective conditions that preexisted the tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f) Within two weeks after the tenant has vacated the premises, the landlord shall furnish the tenant, by personal delivery or by first-class mail, postage prepaid, a copy of an itemized statement indicating the basis for, and the amount of, any security received and the disposition of the security and shall return any remaining portion of the security to the tenant.

(g) Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

(1) Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest. The landlord shall thereafter notify the tenant by personal delivery or by first-class mail, postage prepaid, of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2) Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (f).

(h) Prior to the voluntary transfer of a landlord's interest in a dwelling unit the landlord shall deliver to the landlord's successor in interest a written statement indicating the following:

(1) The security remaining after any lawful deductions are made.

(2) An itemization of any lawful deductions from any security received.

(3) His or her election under paragraph (1) or (2) of subdivision (g).

Nothing in this subdivision shall affect the validity of title to the real property transferred in violation of the provisions of this subdivision.

(i) In the event of noncompliance with subdivision (g), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (f). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in

subdivision (g), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (g) or provides the tenant with an accounting as provided in subdivision (f).

Nothing in this subdivision shall preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.

Notwithstanding the provisions of this subdivision, if upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (g), he or she shall not be liable for damages as provided in subdivision (k), or any security not transferred pursuant to subdivision (g).

(j) Upon receipt of any portion of the security under paragraph (1) of subdivision (g), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding the security with respect to the security.

(k) The bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof, in violation of this section or the bad faith demand of replacement security in violation of subdivision (i), may subject the landlord or the landlord's successors in interest to damages not to exceed two hundred dollars ($200), in addition to any actual damages, plus, from and after January 1, 1987, interest on the security, or remaining portion thereof, at the rate of 2 percent per month from the due date until paid. In any action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(*l*) No lease or rental agreement shall contain any provision characterizing any security as "nonrefundable."

(m) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or punitive or both, are within the jurisdictional amount allowed by Section 116.2 of the Code of Civil Procedure.

(n) Proof of the existence of and the amount of a security deposit may be established by any credible evidence, including, but not limited to, a canceled check, a receipt, a lease indicating the requirement of a deposit as well as the amount, prior consistent statements or actions of the landlord or tenant, or a statement under penalty of perjury which satisfies the credibility requirements set forth in Section 780 of the Evidence Code.

(o) The amendments to this section made during the 1985 portion of the 1985–86 Regular Session of the Legislature which are set forth in subdivision (e) are declaratory of existing law.

CHAPTER 565

An act to add Title 2.55 (commencing with Section 1812.97) to Part 4 of Division 3 of the Civil Code, relating to athletic facilities.

[Approved by Governor August 24, 1986. Filed with Secretary of State August 25, 1986.]

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

SECTION 1. Title 2.55 (commencing with Section 1812.97) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 2.55. CONTRACTS FOR THE LEASE OR RENTAL OF ATHLETIC FACILITIES

1812.97. (a) Every contract which has as its purpose the lease or rental of athletic facilities for instruction, training, or assistance in physical culture, body building, exercising, reducing, figure development, or any other related physical skill, or for baseball, football, tennis, basketball, gymnastics, track and field, hockey, ice skating, weightlifting, wrestling, or bicycling shall contain the following warning statement in 10-point bold type:

"WARNING: CALIFORNIA LAW PROVIDES THAT IT IS ILLEGAL TO AID OR ABET IN THE UNLAWFUL SALE, USE, OR EXCHANGE OF ANABOLIC STEROIDS, TESTOSTERONE, AND HUMAN GROWTH HORMONE."

(b) Commencing June 1, 1987, the warning statement required pursuant to subdivision (a) shall be conspicuously posted in all athletic facilities in this state which have locker rooms. At least one warning statement shall be posted in every locker room of the athletic facility.

(c) As used in this section, "athletic facilities" includes a health studio regulated pursuant to Title 2.5 (commencing with Section 1812.80), a professional boxers' training gymnasium, as defined in Section 18685 of the Business and Professions Code, and any publicly owned sports facility or stadium in this state and any privately owned sports facility or stadium in this state which is open to the general public.

(d) As used in this section, "anabolic steroids" include, but are not limited to, the following:

(1) Dianabol (methandrostenelone).
(2) Winstrol (stabozalol).
(3) Maxibolin (ethyl estrenol).
(4) Durabolin (nandrolone phenpropionate).
(5) Deca-Durabolin (nandrolone decanote).
(6) Testosterone propionate.
(7) Pregnyl (chorionic gonadotropin).
(8) Anavar (toxandroprione).

SEC. 2. 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 566

An act to amend Sections 340, 502, 640, 643.1, and 647 of, and to add Sections 239 and 502.5 to, the Military and Veterans Code, relating to state military service.

[Approved by Governor August 24, 1986. Filed with Secretary of State August 25, 1986.]

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

SECTION 1. Section 239 is added to the Military and Veterans Code, to read:

239. The Governor may assign, reassign, or transfer commissioned officers and warrant officers from one organization to another or to the retired or the reserve list when deemed for the benefit of the California National Guard. The Governor may direct the Adjutant General to take any action under this section.

SEC. 1.5. Section 340 of the Military and Veterans Code is amended to read:

340. (a) Subject to Section 340.1, whenever any officer or enlisted member of the California National Guard, the unorganized militia when called into the active service of the state, or the organized militia when not in the active service of the United States is wounded, injured, disabled, or killed in the active service of the state in the line of duty, the member or the member's dependents shall receive compensation under Division 4 (commencing with Section 3201) of the Labor Code. For these purposes, the member is deemed to be an employee of the state. The compensation shall be based on the member's average income from all sources during the year immediately preceding the date of wounding, injury, or death or the commencement of disability and shall not exceed the maximum prescribed in Division 4 of the Labor Code.

(b) The benefits granted by this section shall be made available to the person entitled thereto as soon as practicable and without awaiting determination as to the availability of similar federal benefits, including, but not limited to, those provided under Section 3687, 3721, 8687, or 8721 of Title 10 of the United States Code, or

Section 318 or 321 of Title 32 of the United States Code. These federal benefits, when made available, shall be deducted from or credited as a payment of any benefits granted by this section.

(c) Notwithstanding subdivision (a) or (b), any officer, warrant officer, or enlisted member on active duty with the Office of the Adjutant General who suffers disability or death in the line of duty from either injury or disease is entitled to receive from the state benefits or compensation for that disability or death comparable to that provided to members of the United States armed forces on active duty.

SEC. 2. Section 502 of the Military and Veterans Code is amended to read:

502. Upon recommendation of the governing board having jurisdiction over the community college or school, the Adjutant General may appoint officers in the California Cadet Corps for duty in each community college, high school, junior high school, or elementary school under the jurisdiction of the governing board. Except when ordered to duty by the Governor, the officers shall be under the immediate control and jurisdiction of the governing board of the community college, high school, junior high school, or elementary school at which they are on duty. Each officer shall hold his or her appointment at the pleasure of the governing board, or until a successor has been appointed and qualified or his or her connection with the cadets is severed.

SEC. 2.5. Section 502.5 is added to the Military and Veterans Code, to read:

502.5. The Adjutant General may order officers in the California Cadet Corps to duty at encampments, exercises, or other activities conducted by the corps. While on duty, the officers shall receive the same base pay, without longevity, as officers of similar grade in the United States Army together with their expenses. Pay and expenses for these purposes shall be paid from funds appropriated for the maintenance and support of the corps.

SEC. 3. Section 640 of the Military and Veterans Code is amended to read:

640. The following decorations are authorized for members of the National Guard, State Military Reserve, and Naval Militia:

(a) Medal of Valor.
(b) Military Cross.
(c) Order of California.
(d) Medal of Merit.
(e) Commendation Medal.
(f) Service Medal.
(g) Good Conduct Medal.

The Order of California, Medal of Merit, and Commendation Medal are also authorized for award to civilians and members of other military services who bring honor to the State of California by their actions.

The Adjutant General may provide and procure appropriate

emblematic devices for each decoration, together with suitable ribbons and insignia to be worn therewith or in lieu thereof.

SEC. 4. Section 643.1 of the Military and Veterans Code is amended to read:

643.1. A Commendation Medal may be presented to each person who, while an officer, warrant officer, or enlisted member of the National Guard, State Military Reserve, or Naval Militia distinguishes himself or herself while serving in any capacity with the National Guard, State Military Reserve, or Naval Militia by meritorious achievement or meritorious service. The meritorious achievement or meritorious service is less exceptional than that required for the Medal of Merit but shall be accomplished with distinction.

The Commendation Medal may also be awarded to civilians and members of other military services who distinguish themselves as indicated in this section.

SEC. 5. Section 647 of the Military and Veterans Code is amended to read:

647. The Adjutant General may hold and conduct competitions and competitive military exercises, may procure and issue appropriate ribbons, badges, or insignia in connection therewith and for excellence in marksmanship, for drill attendance, and for competitive military training, and may authorize participation in national or state military or civil marksmanship competitions. All expenses in relation thereto shall be paid from state funds.

CHAPTER 567

An act to add and repeal Section 18379.5 of the Welfare and Institutions Code, relating to elderly persons.

[Approved by Governor August 25, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. The Legislature finds and declares that the Preventive Health Care for the Aging program has proven to be an effective program in those counties in the state in which it operates. The Legislature further finds and declares that the effectiveness of this program is demonstrated by the success which preventive health care measures utilized under the program have had in detecting early signs of death and untimely illness, thereby enabling the prevention of adverse effects both in terms of loss of life and increased treatment costs.

SEC. 2. Section 18379.5 is added to the Welfare and Institutions Code, to read:

18379.5. The California Conference of Local Health Officers, in consultation with representatives from the State Department of

Health Services, the Department of Aging, the Association of Area Agencies on Aging, and the Advisory Council to the Area Agencies on Aging, shall conduct a survey of the need to expand the program provided for in this chapter. This survey shall examine both the need to expand the program in local health departments in counties currently being served by the program, as well as the need to expand the program into local health departments in counties currently not being served. The California Conference of Local Health Officers, with the assistance of the other entities referred to in this section, shall, by April 1, 1987, submit to the Legislature a report of the findings and recommendations made pursuant to this section. The State Department of Health Services shall provide any funds necessary to implement 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 prior to January 1, 1988, deletes or extends that date.

CHAPTER 568

An act to add Section 1367.10 to the Health and Safety Code, and to add Sections 10123.12 and 11512.176 to the Insurance Code, relating to insurance.

[Approved by Governor August 25, 1986. Filed with Secretary of State August 26, 1986]

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

SECTION 1. Section 1367.10 is added to the Health and Safety Code, to read:

1367.10. Every health care service plan which will affect the choice of physician, hospital, or other health care providers shall include within its disclosure form and within its evidence or certificate of coverage a statement clearly describing how participation in the plan may affect the choice of physician, hospital, or other health care providers, and shall clearly inform prospective enrollees that participation in that plan will affect the person's choice in this regard by placing the following statement in a conspicuous place on all material required to be given to prospective enrollees including promotional and descriptive material, disclosure forms, and certificates and evidences of coverage:

PLEASE READ THE FOLLOWING INFORMATION SO YOU WILL KNOW FROM WHOM OR WHAT GROUP OF PROVIDERS HEALTH CARE MAY BE OBTAINED

It is not the intent of this section to require that the names of individual health care providers be enumerated to prospective

enrollees.

SEC. 2. Section 10123.12 is added to the Insurance Code, to read:

10123.12. Every disability insurer, including those insurers which contract for alternative rates of payment pursuant to Section 10133, and every self-insured employee welfare benefit plan, which will affect the choice of physician, hospital, or other health care providers shall include within its disclosure form and within its evidence or certificate of coverage a statement clearly describing how participation in the policy or plan may affect the choice of physician, hospital, or other health care providers, and shall clearly inform prospective insureds or plan enrollees that participation in the policy or plan will affect the person's choice in this regard by placing the following statement in a conspicuous place on all material required to be given to prospective insureds or plan enrollees including promotional and descriptive material, disclosure forms, and certificates and evidences of coverage:

PLEASE READ THE FOLLOWING INFORMATION SO YOU WILL KNOW FROM WHOM OR WHAT GROUP OF PROVIDERS HEALTH CARE MAY BE OBTAINED

It is not the intent of this section to require that the names of individual health care providers be enumerated to prospective enrollees.

SEC. 3. Section 11512.176 is added to the Insurance Code, to read:

11512.176. Every nonprofit hospital service plan, including a plan which contracts for alternative rates of payment pursuant to Section 11512, which will affect the choice of physician, hospital, or other health care providers shall include within its disclosure form and within its evidence or certificate of coverage a statement clearly describing how participation in the plan may affect the choice of physician, hospital, or other health care providers, and shall clearly inform prospective enrollees that participation in the plan will affect the person's choice in this regard by placing the following statement in a conspicuous place on all material required to be given to prospective enrollees including promotional and descriptive material, disclosure forms, and certificates and evidences of coverage:

PLEASE READ THE FOLLOWING INFORMATION SO YOU WILL KNOW FROM WHOM OR WHAT GROUP OF PROVIDERS HEALTH CARE MAY BE OBTAINED

It is not the intent of this section to require that the names of individual health care providers be enumerated to prospective enrollees.

SEC. 4. Notwithstanding any provision of this act, every health care service plan, disability insurer, and nonprofit hospital service plan subject to this act shall be authorized to continue the use of

existing promotional and descriptive material, disclosure forms and evidence or certificates of coverage until January 1, 1988.

CHAPTER 569

An act to amend Section 11628 of the Insurance Code, relating to insurance.

[Approved by Governor August 25, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. Section 11628 of the Insurance Code is amended to read:

11628. (a) No admitted insurer, licensed to issue and issuing motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for such insurance, to issue such insurance to an applicant therefor, or issue or cancel such insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance.

As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for such geographic area shall include the breakdown of actual loss experience statistics by zip code area (as designated by the United State Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1½-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and which are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for such geographic area, including such statistical data by zip code area, shall be submitted annually to the commissioner for examination by each insurer. An insurer may satisfy its obligation to report statistical data under this subparagraph by providing its loss experience data to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner annually after examination; however, it shall be released in aggregate form by zip

code in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

All information reported to the department pursuant to this subdivision shall be confidential.

As used in this section, "language" means the inability to speak, read, write, or comprehend the English language.

(b) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for such insurance, refuse to issue such insurance to an applicant therefor, or cancel such insurance solely for the reason that the applicant for such insurance or any insured is employed in a specific occupation.

Nothing in this section shall prohibit an insurer from:

(1) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(2) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1 and is based upon actuarial data which demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling such actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if: (A) the majority of his or her employment during the previous year was in the occupation, or (B) the majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation, or (C) the person is a member in good standing of a union which is an authorized collective bargaining agent for persons engaged in the occupation.

Nothing in this section shall be construed to include in the definition of "occupation" active duty service in the Armed Forces of the United States, any status or activity which does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant's or insured's place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking or salvaging of motor vehicles.

(c) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel such insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle's size, weight, design or intended use.

(d) It is the intent of the Legislature that actuarial data by

occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data which he or she is empowered to examine.

(e) The provisions of this section shall be known and may be cited as the "Rosenthal-Robbins Auto Insurance Nondiscrimination Law."

SEC. 2. Section 11628 of the Insurance Code is amended to read:

11628. (a) No admitted insurer, licensed to issue and issuing motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for such insurance, to issue such insurance to an applicant therefor, or issue or cancel such insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance.

As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for such geographic area shall include the breakdown of actual loss experience statistics by zip code area (as designated by the United State Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1½-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and which are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for such geographic area, including such statistical data by zip code area, shall be submitted annually to the commissioner for examination by each insurer. An insurer may satisfy its obligation to report statistical data under this subparagraph by providing its loss experience data to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner annually after examination; however, it shall be released in aggregate form by zip code in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

All information reported to the department pursuant to this subdivision shall be confidential.

As used in this section, "language" means the inability to speak, read, write, or comprehend the English language.

(b) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the

Vehicle Code, shall fail or refuse to accept an application for such insurance, refuse to issue such insurance to an applicant therefor, or cancel such insurance solely for the reason that the applicant for such insurance or any insured is employed in a specific occupation.

(c) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, refuse to issue that insurance to an applicant therefor, place a surcharge or any fee upon the applicant therefor, or cancel that insurance solely for the reason that the applicant is a newly licensed driver or was uninsured for any period of time immediately preceding the application for the insurance.

For purposes of this subdivision:

(1) The term "fee" does not include a membership fee levied by a mutual or reciprocal insurer.

(2) A surcharge or fee upon an applicant shall be allowable if it is actuarily based on individual insurer data.

(3) The provisions of this subdivision shall take effect only if the California Supreme Court lifts the stay in the enforcement of Sections 16028 to 16035, inclusive, of the Vehicle Code.

Nothing in this section shall prohibit an insurer from:

(1) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(2) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1 and is based upon actuarial data which demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling such actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if: (A) the majority of his or her employment during the previous year was in the occupation, or (B) the majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation, or (C) the person is a member in good standing of a union which is an authorized collective bargaining agent for persons engaged in the occupation.

Nothing in this section shall be construed to include in the definition of "occupation" active duty service in the armed forces of the United States, any status or activity which does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant's or insured's place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking or salvaging of motor vehicles.

(d) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel such insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle's size, weight, design or intended use.

(e) It is the intent of the Legislature that actuarial data by occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data which he or she is empowered to examine.

(f) The provisions of this section shall be known and may be cited as the "Rosenthal-Robbins Auto Insurance Nondiscrimination Law."

SEC. 3. Section 2 of this bill incorporates amendments to Section 11628 of the Insurance Code proposed by both this bill and AB 711. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11628 of the Insurance Code, and (3) this bill is enacted after AB 711, in which case Section 1 of this bill shall not become operative.

CHAPTER 570

An act to add Section 1183.5 to the Labor Code, relating to wages, hours, and working conditions.

[Approved by Governor August 25, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. Section 1183.5 is added to the Labor Code, to read:

1183.5. (a) Any employer who intends to use a flexible scheduling technique, as permitted by an order of the Industrial Welfare Commission, requiring a vote of the affected employees shall make a full disclosure in writing to each of the affected employees. The notice shall include the effects of the proposed scheduling, including the employees' wages, hours, and benefits. The employer shall not be required to distribute the notice to employees on a leave of absence for any cause.

(b) Within the health care industry, the disclosure shall include meetings, duly noticed, for the specific purpose of discussing the effects of flexible scheduling.

(c) Failure to comply with this section shall make the election null and void.

CHAPTER 571

An act to amend Section 14115.6 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 25, 1986. Filed with Secretary of State August 26, 1986]

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

SECTION 1. Section 14115.6 of the Welfare and Institutions Code is amended to read:

14115.6. The department shall establish a pilot project under which a nurse practitioner may bill independently for services provided in a skilled nursing facility or an intermediate care facility, as defined in Section 1250 of the Health and Safety Code. Nurse practitioners shall be compensated by the department for those services which would be compensable had the services been provided by a physician. If a nurse practitioner chooses to bill independently for these services, the department shall make the payment for the services directly to the nurse practitioner. The department shall insure that payments made to providers who employ nurse practitioners who bill separately are adjusted to reflect this separation so as not to increase the financial obligation incurred by the Medi-Cal program. The department shall establish a reimbursement rate for nurse practitioners who choose to bill independently pursuant to this section.

The pilot project shall be in operation for one year and the department shall submit a report to the Legislature no later than three months after the completion of the project.

Nurse practitioners shall, however, continue to bill through physicians for Medicare patients until such time as relevant federal regulations are changed or until waivers of relevant federal regulations are obtained.

The department shall seek any federal waivers necessary to avoid conflict with federal law. If a waiver is necessary, the department may, until the waiver is obtained, limit the implementation of this section to the extent that federal matching funds are available.

CHAPTER 572

An act to amend Sections 44234 and 44235 of, and to add Sections 44235.1 and 44235.2 to, the Education Code, relating to credentials.

[Approved by Governor August 25, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. Section 44234 of the Education Code is amended to read:

44234. (a) There is in the State Treasury the Teacher Credentials Fund. All fees levied and collected by the commission shall be deposited in the Teacher Credentials Fund.

(b) Notwithstanding any other law, if at the end of any fiscal year the commission has unencumbered funds in an amount which is in excess of its operating budget plus a prudent reserve, as determined by the Department of Finance, the department shall recommend a reduction in credential or other fees, whether fixed by statute or determined by this commission within limits fixed by statute, in an amount which will reduce any surplus funds of the commission.

SEC. 2. Section 44235 of the Education Code is amended to read:

44235. Fees shall be levied by the commission for the issuance and renewal of teaching and service credentials. Commencing January 1, 1987, the fee for the issuance and renewal of teaching and service credentials shall be fifty dollars ($50). In subsequent years, the commission may set a different fee, but in no case shall a fee exceed sixty-five dollars ($65) without express legislative approval.

A single fee, not to exceed the charge for a single supplemental credential, shall be charged for all supplemental credentials applied for at the same time.

Annually, as part of the budget review process, the Department of Finance and the Legislative Analyst shall recommend to the Legislature an appropriate credential fee sufficient to generate revenues necessary to support the operating budget of the commission plus a prudent reserve, as determined by the Department of Finance pursuant to subdivision (b) of Section 44234.

SEC. 3. Section 44235.1 is added to the Education Code, to read:

44235.1. (a) Effective July 1, 1987, all fees collected by the commission for tests, examinations, or assessments shall be deposited in the Test Development and Administration Account, which is hereby created in the Teacher Credentials Fund.

(b) Any proposed expenditures from this account shall be subject to the normal legislative budget review process.

(c) Except as otherwise provided in subdivision (e) or unless otherwise authorized by the Legislature, funds deposited in this account shall be expended solely for the development, maintenance, or administration of tests or other assessments established, required,

or administered by the commission.

(d) Funds in this account shall not be subject to the provisions of subdivision (b) of Section 44234.

(e) If there is a deficiency in the Teacher Credentials Fund, the Department of Finance may authorize a loan from the Test Development and Administration Account to the Teacher Credentials Fund to the extent needed to cover the projected deficiency.

Any loan made under this subdivision shall be repaid under the terms provided in the authorization.

SEC. 4. Section 44235.2 is added to the Education Code, to read:

44235.2. Effective July 1, 1987, all excess revenues collected by the commission in fiscal year 1986–87 related to examination administration shall be tansferred from the Teacher Credentials Fund to the Test Development and Administration Account of the Teacher Credentials Fund. The exact amount of this transfer shall be determined by the Department of Finance, but in no case shall it exceed eight hundred thousand dollars ($800,000).

SEC. 5. Funding for the development costs of the examinations required by Sections 44252.5, 44253.5, 44253.7, 44280, 44281, 44282, 44479, and 56362.7 of the Education Code shall be subject to appropriation in the annual Budget Act.

CHAPTER 573

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 August 25, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. The sum of five million nine hundred twenty-eight thousand dollars ($5,928,000) is hereby appropriated from the General Fund to the Controller for the payment of claims for reimbursement of state-mandated costs, to be allocated according to the following schedule:

(a) Four million four hundred twenty thousand dollars ($4,420,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred in the 1978–79, 1979–80, 1980–81, 1981–82, 1982–83, 1983–84, 1984–85, 1985–86, and 1986–87 fiscal years due to the limitation, adopted pursuant to Chapter 718 of the Statutes of 1978, of the number of court days on which a trial juror may be required to appear.

(b) Sixty-three thousand dollars ($63,000) for the payment of claims of public employers seeking reimbursable state-mandated

costs incurred due to inspections of employee personnel files pursuant to Chapter 1220 of the Statutes of 1983 in the 1983–84, 1984–85, 1985–86, and 1986–87 fiscal years.

(c) One million four hundred forty-five thousand dollars ($1,445,000) for the payment of claims of local agencies seeking reimbursable state-mandated costs incurred due to personal alarm devices for fire-fighters provided pursuant to subdivision (c) of Section 3401 of Title 8 of the California Administrative Code in the 1982–83, 1983–84, 1984–85, 1985–86, and 1986–87 fiscal years.

SEC. 2. The Commission on State Mandates shall revise the parameters and guidelines for the reimbursement of claims made under the provisions set forth in subdivisions (a) and (b) of this section prior to reporting each claim pursuant to Section 2255 of the Revenue and Taxation Code as follows:

(a) Chapter 1255 of the Statutes of 1980: to limit reimbursement to the costs of actually storing job order records, taking into account any relevant recommendations made by the Legislative Analyst in the 1986 report on state mandated costs prepared pursuant to Section 2246.1 of the Revenue and Taxation Code.

(b) Chapter 1264 of the Statutes of 1980 and PERS Circular Letter No. 800-510: to limit reimbursable costs to only those incurred as a direct result of Chapter 1264 of the Statutes of 1980.

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 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 574

An act to add Sections 51881.5 and 51900.5 to the Education Code, and to amend Section 66780.5 of, and to add Article 9 (commencing with Section 66798) to Chapter 3 of Title 7.3 of, the Government Code, relating to hazardous substances.

[Approved by Governor August 26, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. Section 51881.5 is added to the Education Code, to read:

51881.5. (a) The Legislature finds and declares that hazardous substances, as defined in Section 25316 of the Health and Safety Code, are an integral part of daily life, and that some substances, which are routinely found in and around homes, present potential

hazards to the public and to the environment because of the lack of public awareness and education on the hazards of these substances and because of the lack of safe disposal options for hazardous substances from households.

(b) The Legislature, therefore, finds that hazardous substances education programs in the public schools would serve a beneficial purpose by fostering in students an understanding of their role in protecting the environment, and in safeguarding themselves from other health and safety dangers which may be posed by hazardous substances.

(c) It is the intent of the Legislature that the department provide school districts with information concerning the availability of educational materials and curricula on hazardous substances.

SEC. 2. Section 51900.5 is added to the Education Code, to read:

51900.5. On or before July 1, 1987, the department shall prepare and distribute to school districts a list and description of educational materials and curricula which are available on hazardous substances, as defined in Section 25316 of the Health and Safety Code. In preparing the list of educational materials and curricula, the department shall solicit suggestions for placing materials on the list from the California Waste Management Board and from the advisory committee established pursuant to Section 66798.7 of the Government Code.

SEC. 3. Section 66780.5 of the Government Code is amended to read:

66780.5. In addition to the other requirements of this title, the county solid waste management plan prepared pursuant to Section 66780 shall:

(a) Include in the first revision as required in Section 66780.7 an amendment delineating an enforcement program in accordance with Chapter 3 (commencing with Section 66795), which has been reviewed by the board and the State Department of Health Services.

(b) Identify a program for the safe management of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households and which should be separated from the solid waste stream, to the extent that the county determines a need for this program.

(c) Be reviewed, and revised, if appropriate, at least every three years and revised where necessary to be consistent with state policy. A report of the results of the plan review shall be submitted to the board and to the department beginning on the third anniversary of the date of board approval of the plan submitted pursuant to Section 66780 with subsequent reviews and reports at least every three years thereafter.

(d) Any amendment to the plan shall be approved by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county. Each proposed amendment shall be submitted to each city within the county. Each city shall act upon the proposed amendment within 90 days after the

city has received the amendment. If a city fails to act upon the proposed amendment within 90 days after receiving the amendment, the city shall be deemed to have approved the amendment as submitted. Each amendment shall be submitted to the board for approval as to its compliance with state policy.

SEC. 4. Article 9 (commencing with Section 66798) is added to Chapter 3 of Title 7.3 of the Government Code, to read:

Article 9. Hazardous Substances Information

66798. (a) The Legislature finds and declares that, because hazardous substances are an integral part of daily life, it would benefit the public to have access to practical and consistent information concerning chemicals in daily life, products which contain hazardous substances, and proper procedures for the disposal of hazardous substances. This information would improve the ability of all Californians to assist in protecting the state's natural resources from environmental degradation.

(b) The Legislature also finds that the disposal of hazardous substances by households can be injurious to sanitation workers, the general public, and wildlife and domestic animals, and can pose a threat to the environment.

(c) The Legislature, therefore, declares that the state should assist the efforts of local governments and other agencies to provide safer disposal methods for household hazardous waste and to provide public information on the proper disposal of hazardous substances commonly found in and around homes.

(d) For purposes of this article, "hazardous waste" has the same meaning as defined in Section 25117 of the Health and Safety Code, and "hazardous substance" has the same meaning as defined in Section 25316 of the Health and Safety Code.

66798.1. The board shall, in consultation with the advisory committee established pursuant to Section 66798.7, develop and implement a public information program to provide uniform and consistent information on the proper disposal of hazardous substances found in and around homes. The program may include information, consistent with product labeling, on the proper use and storage of products which contain hazardous substances.

The public information program shall be designed to provide uniform responses to public inquiries about household hazardous substances, and to assist the efforts of local governments and other agencies to provide services related to household hazardous substances.

The public information program shall include the development of pamphlets or other written materials which could be used by local governments and other agencies in conjunction with household hazardous waste collection or other programs which these agencies may offer. The written materials shall be prepared with the intent of promoting consistency in how these local programs define and

handle household hazardous wastes.

66798.3. The board shall designate a household hazardous waste coordinator to advise and assist local governments and other agencies which offer programs for household hazardous waste management.

The board shall provide technical assistance to local governments and other agencies which establish household hazardous waste management programs.

66798.4. (a) The board shall prepare, in consultation with the department and the advisory committee established pursuant to Section 66798.7, guidelines and a state policy to guide the efforts of local governments and other agencies to provide community services related to the safe disposal of hazardous substances commonly found in and around homes. The guidelines required by this section shall include all the following elements:

(1) Development of a model operation plan for community household hazardous waste collection programs. The model operation plan shall include a description of proper procedures for hazardous waste handling, storage, transportation, and personnel training.

(2) The establishment of guidelines on the generic types of household hazardous substances which should be disposed of as hazardous waste, and guidelines on the safe management of hazardous wastes generated by households which may be excluded from household hazardous waste collection programs but which may require some special handling. In establishing guidelines on which products should be disposed of as hazardous waste, the board shall consider such factors as toxicity, concentration of toxic ingredients in a product, and other appropriate factors. The board shall also consider the appropriateness of excluding from any listing of household hazardous wastes specific categories of household products, such as products intended for human consumption, personal hygiene products, and other categories of household products intended for general consumer use.

(b) The guidelines and operation plan prepared pursuant to subdivision (a) shall, upon request, be made available to local governments, other agencies, and the public. The board shall advise county health offices of the availability of these materials and of the informational materials developed pursuant to Section 66798.1.

(c) In developing the guidelines required by subdivision (a), the board shall, to the extent feasible, consult existing sources of information, including household hazardous waste collection programs which have been operated in the state and in other states, and industry and academia.

66798.5. Any city or county may, upon a vote of the governing body of the city or county, authorize an increase in solid waste collection fees to offset the cost to the city or county of establishing, publicizing, and maintaining a household hazardous waste management program. Any increase in garbage collection fees

authorized by this section shall be set at a level to bring in revenues no higher than is necessary to fund the reasonable cost of the household hazardous waste management program. Where an appropriately licensed private entity is utilized by a city or county, under a permit or existing franchise, to undertake a household hazardous waste management program, the costs of handling, hauling, and disposing of household hazardous wastes shall be paid through fees or rates charged for service.

66798.6. (a) On or before January 1, 1988, the board shall report to the Legislature on household hazardous waste management issues. The report shall include an assessment of the following:

(1) The effectiveness of the informational program and technical assistance required by this article in serving the needs of local governments and the public.

(2) Household hazardous waste management programs which have been conducted in the state and in other states, including information on the costs of the programs, the quantities of waste collected, and the manner in which the programs were conducted.

(3) The recycling or treatment potential for any of the types of hazardous waste collected by household hazardous waste collection programs. In assessing the recycling or treatment potential of household hazardous wastes, the report shall specifically address the need for, and the feasibility of, programs to provide for the recycling or treatment of paint and solvent products.

(4) The need for, and the feasibility of, extending the services related to household hazardous substances required by this article, to the needs of specific categories of small quantity hazardous waste generators.

(5) The environmental impacts of the disposal of household hazardous wastes at municipal landfills, to waste water treatment facilities, at resource recovery facilities, and through other disposal avenues, and of the threat to sanitation workers and others posed by household hazardous wastes.

66798.7. (a) The board shall establish a nine-member advisory committee on household hazardous waste management to review and comment on the guidelines and state policy prepared by the board pursuant to Section 66798.4, to review and comment on the informational materials developed pursuant to Section 66798.1, to review and comment on the report required by Section 66798.6 prior to its submittal to the Legislature, and to perform other functions related to household hazardous waste management, as requested by the board.

(b) The membership of the advisory committee shall be as follows:

(1) A representative of county government, from a rural county, to be selected by the County Supervisors Association of California.

(2) A representative of city government, to be selected by the League of California Cities.

(3) A representative of a hazardous waste transfer station

operation, to be selected by the department.

(4) A representative of public information programs, to be selected by the League of Women Voters of California.

(5) A representative of publicly owned municipal landfill operations, to be selected by the board.

(6) A representative of product manufacturers, to be selected by the Chemical Specialties Manufacturers Association.

(7) A representative of waste haulers, to be selected by the Southern California Refuse Council and the Northern California Refuse Council.

(8) A representative of environmental organizations, to be selected by the League of Women Voters of California.

(9) A representative of paint and coatings manufacturers, to be selected by the National Paint and Coatings Association.

(c) The organizations selecting advisory committee members shall select individuals with experience in, or knowledge of, household hazardous waste management programs.

(d) The board shall serve as staff to the advisory committee established pursuant to subdivision (a).

(e) If any of the appointing authorities for members of the advisory committee fails to make an appointment, the chairperson of the board shall make the appointment.

(f) The chairperson of the advisory committee shall be selected by the committee members. The committee shall meet at least twice a year. The chairperson shall call meetings of the committee after consultation with the board.

(g) Committee members shall serve without compensation, but shall be reimbursed for expenses incurred in attending advisory committee meetings.

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 575

An act to amend Section 11126 of the Government Code, relating to open meetings.

[Approved by Governor August 26, 1986. Filed with Secretary of State August 26, 1986.]

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 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 provisions 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 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.

(z) This article shall not prevent the Teachers' Retirement Board from holding closed session when considering matters pertaining to the appointment or removal of the chief executive officer of the State Teachers' Retirement System.

SEC. 2. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing 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) (1) 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 provisions of law.

(2) Nothing in this article shall be construed to prohibit an administrative law judge, either sitting alone or with a state body, in a proceeding conducted pursuant to Chapter 5 (commencing with Section 11500), from closing a hearing to the public during the testimony of any witness who is a minor, where the testimony of the witness before the general public would, in the opinion of the administrative law judge, be likely to cause serious psychological harm to the witness. For purposes of this subdivision, none of the following individuals shall be excluded from the hearing: state body members assigned to hear the proceeding, an administrative law judge sitting with state body members or assigned to hear the proceeding alone, a reporter or electronic recording monitor, the state body's counsel and one state body representative, the respondent, the respondent's legal counsel or other representative, the minor witness, his or her counsel, and up to two family members or other support persons. This paragraph shall apply where no alternative procedures are available for closing a hearing to the public.

(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 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.

(z) This article shall not prevent the Teachers' Retirement Board from holding closed session when considering matters pertaining to the appointment or removal of the chief executive officer of the State Teachers' Retirement System.

SEC. 3. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing 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 provisions 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 a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or

persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

Nothing in this subdivision shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (q).

(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 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. For the purpose of real property investment decisions which may be considered in a closed session pursuant to this subdivision, a state body shall also be exempt from the provisions of subdivision (i) relating to the identification of real properties prior to the closed session.

(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 based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(2) (A) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body; or

(B) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (A).

(3) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to paragraph (2) or (3), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code. Except as otherwise permitted by this section, the lawyer-client privilege shall not be used as the basis for a closed session of a state body.

(r) 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.

(s) 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.

(t) 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.

(u) 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.

(v) 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.

(w) 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.

(x) 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.

(y) This article shall not prevent the Teachers' Retirement Board from holding closed session when considering matters pertaining to the appointment or removal of the chief executive officer of the State Teachers' Retirement System.

SEC. 4. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing 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) (1) 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 provisions of law.

(2) Nothing in this article shall be construed to prohibit an administrative law judge, either sitting alone or with a state body, in

a proceeding conducted pursuant to Chapter 5 (commencing with Section 11500), from closing a hearing to the public during the testimony of any witness who is a minor, where the testimony of the witness before the general public would, in the opinion of the administrative law judge, be likely to cause serious psychological harm to the witness. For purposes of this subdivision, none of the following individuals shall be excluded from the hearing: state body members assigned to hear the proceeding, an administrative law judge sitting with state body members or assigned to hear the proceeding alone, a reporter or electronic recording monitor, the state body's counsel and one state body representative, the respondent, the respondent's legal counsel or other representative, the minor witness, his or her counsel, and up to two family members or other support persons. This paragraph shall apply where no alternative procedures are available for closing a hearing to the public.

(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 a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

Nothing in this subdivision shall preclude a state body from

holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (q).

(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 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. For the purpose of real property investment decisions which may be considered in a closed session pursuant to this subdivision, a state body shall also be exempt from the provisions of subdivision (i) relating to the identification of real properties prior to the closed session.

(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, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(2) (A) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body; or

(B) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (A).

(3) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to paragraph (2) or (3), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code. Except as otherwise permitted by this section, the lawyer-client privilege shall not be used as the basis for a closed session of a state body.

(r) 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.

(s) 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.

(t) 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.

(u) 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.

(v) 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.

(w) 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.

(x) 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.

(y) This article shall not prevent the Teachers' Retirement Board from holding closed session when considering matters pertaining to the appointment or removal of the chief executive officer of the State Teachers' Retirement System.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 11126 of the Government Code proposed by both this bill and AB 4230. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 11126 of the Government Code, and (3) SB 2173 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 4230, in which case Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 11126 of the Government Code proposed by both this bill and SB 2173. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 11126 of the Government Code, (3) AB 4230 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 2173 in which case Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 11126 of the Government Code proposed by this bill, AB 4230, and SB 2173. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1987, (2) all three bills amend Section 11126 of the Government Code, and (3) this bill is enacted after AB 4230 and SB 2173, in which case Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 576

An act to add Section 17789.5 to the Education Code, relating to classrooms.

[Approved by Governor August 26, 1986 Filed with Secretary of State August 26, 1986]

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

SECTION 1. Section 17789.5 is added to the Education Code, to read:

17789.5. The board may lease portable classrooms to any school district or county superintendent of schools which serves infant or preschool individuals with exceptional needs, as defined in Section 56026, and which operates programs pursuant to Part 30 (commencing with Section 56000). These portable classrooms shall be adequately equipped to meet the educational needs of these students, including, but not limited to, sinks and restroom facilities.

CHAPTER 577

An act to add Article 3 (commencing with Section 4660) to Chapter 5 of Division 4.5 of the Welfare and Institutions Code, relating to open meetings.

[Approved by Governor August 26, 1986. Filed with Secretary of State August 26, 1986]

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

SECTION 1. The Legislature finds and declares both of the following:

(a) In order to ensure that regional centers for the developmentally disabled are responsive and open to the needs of persons with developmental disabilities and the public, actions taken by regional center governing boards should be taken openly and their deliberations should be conducted openly.

(b) Given the important nature of the decisions made by a regional center governing board and the effect these decisions have on the lives of persons with developmental disabilities and their communities, it is critical that there be appropriate community input into the decisionmaking process.

SEC. 2. Article 3 (commencing with Section 4660) is added to Chapter 5 of Division 4.5 of the Welfare and Institutions Code, to read:

Article 3. Regional Center Board Meetings

4660. All meetings of the board of directors of each regional center shall be open and public, and all persons shall be permitted to attend any meeting, except as otherwise provided in this section. Regional center board meetings shall be open and public in accordance with all of the following provisions:

(a) Each regional center shall provide a copy of this article to each member of the regional center governing board upon his or her assumption of board membership.

(b) As used in this article, board meetings include meetings conducted by any committee of the governing board which exercises authority delegated to it by that governing board. However, board meetings shall not be deemed to include board retreats planned solely for educational purposes.

(c) At each regional center board meeting, time shall be allowed for public input.

(d) Any person attending an open and public meeting of a regional center shall have the right to record the proceedings on a tape recorder in the absence of a reasonable finding of the regional center governing board that such recording constitutes, or would constitute, a disruption of the proceedings.

4661. Regional centers shall provide notice of their meetings to any person who requests notice in writing. Notice shall be mailed at least seven days in advance of each meeting. The notice shall include the date, time, and location of, and a specific agenda for, the meeting, which shall include an identification of all substantive topic areas to be discussed, and no item shall be added to the agenda subsequent to the provision of this notice. The notice requirement shall not preclude the regional center board from taking action on any urgent request made by the department, not related to purchase of service reductions, for which notice could not have been provided at least seven days before the meeting, or on new items brought before the board at meetings by members of the public.

4662. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of regional center services, an emergency meeting may be called without complying with the advanced notice requirement of Section 4661. For the purposes of this article, "emergency situation" means any activity which severely impairs public health, safety, or both, as determined by a majority of the members of the regional center board. In these situations, advance notice shall be provided if practicable. In addition, the area board shall be notified by telephone of each emergency meeting. The minutes of an emergency meeting, including a description of any actions taken at the meeting, shall be mailed immediately to those persons described in Section 4661.

4663. (a) The governing board of a regional center may hold a closed meeting to discuss or consider one or more of the following:

(1) Real estate negotiations.

(2) The appointment, employment, evaluation of performance, or dismissal of a regional center employee.

(3) Employee salaries and benefits.

(4) Labor contract negotiations.

(5) Pending litigation.

(b) Any matter specifically dealing with a particular regional center client must be conducted in a closed session, except where it is requested that the issue be discussed publicly by the client, the client's conservator, or the client's parent or guardian where the client is a minor. Minutes of closed sessions shall be kept by a designated officer or employee of the regional center, but these minutes shall not be considered public records. Prior to and directly after holding any closed session, the regional center board shall state the specific reason or reasons for the closed session. In the closed session, the board may consider only those matters covered in its statement.

4664. The governing board of a regional center may hold a closed session regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the regional center in the litigation. Litigation shall be considered pending when any of the following circumstances exist:

(a) An adjudicatory proceeding to which the regional center is a party has been initiated formally.

(b) A point has been reached where, based upon existing facts and circumstances and the advice of legal counsel, it is determined that there is a significant exposure to litigation against the regional center.

(c) Based on existing facts and circumstances, the regional center has decided to initiate or is deciding whether to initiate ligitation.

Prior to holding a closed session pursuant to this section, the regional center governing board shall state publicly to which subdivision it is pursuant.

4665. Agendas and other writings or materials distributed prior to or during a regional center board meeting for discussion or action at the meeting shall be considered public records, except those materials distributed during, and directly related to, a closed session authorized under Section 4663. Writings which are distributed prior to commencement of a board meeting shall be made available for public inspection upon request prior to commencement of the meeting. Writings which are distributed during a board meeting shall be made available for public inspection at the time of their discussion at the meeting. A reasonable fee may be charged for a copy of a public record distributed pursuant to this section.

4666. No regional center shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, sex, or handicap.

4667. All regional center board meetings shall be held in facilities accessible to persons with physical disabilities.

4668. (a) Any action taken by a regional center governing board in violation of this article is null and void. Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial declaration that an action taken in violation of this article is null and void.

(b) A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to this section where it is found that a regional center board has violated the provisions of this article.

(c) This section does not prevent a regional center governing board from curing or correcting an action challenged pursuant to this section.

4669. The provisions of this article shall not apply to the corporate affairs of the governing board of a regional center which have no relationship to the role and responsibility of a regional center set forth in this chapter.

CHAPTER 578

An act to amend Sections 831.3 and 56036 of the Government Code, to amend Section 40708 of the Health and Safety Code, and to add Sections 1160.5, 1168.8, and 1168.9 to the Streets and Highways Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. Section 831.3 of the Government Code is amended to read:

831.3. Neither a public entity nor a public employee is liable for any injury occurring on account of the grading or the performance of other maintenance or repair on or reconstruction or replacement of any road which has not officially been accepted as a part of the road system under the jurisdiction of the public entity if the grading, maintenance, repair, or reconstruction or replacement is performed with reasonable care and leaves the road in no more dangerous or unsafe condition than it was before the work commenced. No act of grading, maintenance, repair, or reconstruction or replacement within the meaning of this section shall be deemed to give rise to any duty of the public entity to continue any grading, maintenance, repair, or reconstruction or replacement on any road not a part of the road system under the public entity's jurisdiction. As used in this section "reconstruction or replacement" means reconstruction or replacement performed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

SEC. 2. Section 56036 of the Government Code is amended to read:

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.

(8) A permanent road division formed pursuant to Article 3

(commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

(9) An air pollution control district or an air quality maintenance district.

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

(1) 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), none of the following entities is a "district" or a "special district":

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

(B) A bridge and highway district.

(C) A joint highway district.

(D) A transit or rapid transit district.

(E) A metropolitan water district.

(2) Any conducting authority proceedings for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

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

(1) 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), none of the following entities is a "district" or "special district" 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."

(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.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any conducting authority proceedings for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

SEC. 3. Section 40708 of the Health and Safety Code is amended to read:

40708. The Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) is not applicable to the districts.

SEC. 4. Section 1160.5 is added to the Streets and Highways Code, to read:

1160.5. This article shall be known and may be cited as the Permanent Road Division Law.

SEC. 5. Section 1168.8 is added to the Streets and Highways Code, to read:

1168.8. (a) Property may be annexed to or detached from a permanent road division in the same manner and under the same procedures provided in Sections 1162 to 1168, inclusive, for the formation of a division. Any reference to "proposed division" in any of these sections shall be deemed to be a reference to the area proposed for annexation to or detachment from the existing division.

(b) If the board finds that the proposed annexation or detachment should occur, with or without modification, the board may by resolution declare the change to be made and establish a date upon which the boundaries of the division, as amended, shall become effective.

(c) Property annexed to a division in which bonds are outstanding for work performed pursuant to this article shall not be deemed to be property in the division for the purpose of Section 1184.

(d) Property detached from a division in which bonds are outstanding for work done pursuant to this article shall be deemed to be property in the division for purposes of Section 1184 until the bonds are retired.

(e) This section is alternative to any other provision of this article providing for a change in boundaries of a permanent road division.

SEC. 6. Section 1168.9 is added to the Streets and Highways Code, to read:

1168.9. (a) The board may order two or more divisions consolidated if the board finds that their boundaries are contiguous at any point or that a consolidated program of construction, improvement, or maintenance will reduce the costs of or increase the efficiency of providing highway construction, improvement, or maintenance.

(b) Property within a division proposed to be consolidated with another division and in which bonds are not outstanding for work performed pursuant to this article shall not be deemed to be property in the division for the purpose of Section 1184 as it applies to the consolidated division.

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 correct obsolete references regarding reorganization of air pollution control districts and air quality maintenance districts, and to provide for the public safety by encouraging the reconstruction, replacement, and maintenance of roads that are not within any road system maintained by a public entity, it is necessary that this act take effect immediately.

CHAPTER 579

An act to amend Section 76001 of the Government Code, relating to courthouse construction.

[Approved by Governor August 26, 1986. Filed with Secretary of State August 26, 1986]

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

SECTION 1. Section 76001 of the Government Code is amended to read:

76001. (a) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower courthouse.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (a) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the community of Reseda, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, has commenced construction on a courthouse for the superior court with at least 15 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles or immediately adjacent thereto, and has commenced construction on a courthouse for the West Los Angeles Branch of the Los Angeles Municipal Court District.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse

Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the Pasadena Judicial District, within the Southeast Municipal Court District, or the Southbay Judicial District, or within the Santa Monica Judicial District, until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (a) and (b), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, the Southbay Judicial District, and the Santa Monica Judicial District.

(d) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(e) Notwithstanding any other provision of law, to assist the County of Los Angeles in the funding of courtroom construction, the Board of Supervisors of Los Angeles County shall establish in the county treasury a Robbins Courthouse Construction Fund. Deposits shall be made to the fund, as follows:

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

(2) 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 violation which is not filed in court to the county treasurer. The payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

(f) 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 Robbins Courthouse Construction Fund together with any interest earned thereon shall be payable only for courtroom

construction and land acquisition as authorized in subdivision (a) and, after the requirement of subdivision (a) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirements of subdivisions (a) and (b) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c). However, on or after June 1 in any fiscal year and until June 1, 1988, the County of Los Angeles may make temporary transfers of fund moneys to its general fund to assist the county in balancing its general fund. Any such transfer shall be treated as an advance and shall be repaid to the Robbins Courthouse Construction Fund within 180 days of the transfer.

(g) Deposits to the fund in accordance with subdivision (d) shall continue through and including either (1) the 25th 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 pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of Section 76000 and this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirement of Section 76000.

CHAPTER 580

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. This act may be cited as the Second Validating Act of 1986.

SEC. 2. As used in this act:

(a) "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 all of 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 rehabilitation 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 agency formation commissions.
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) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, all instruments payable from revenues or special funds of such public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. 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. 4. 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. 5. 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. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any such public body for any public purpose are hereby authorized, 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, execution, delivery, or exchange of such bonds.

All bonds of, or relating to, 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, or relating to, 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, or relating to, 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, or relating to, 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. 7. (a) This act shall operate to supply such legislative authorization as may be necessary to authorize, confirm, and 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) 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) This act shall not operate to authorize, 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 authorize, 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 authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. 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, or in connection with, the authorization, issuance, sale, execution, delivery, 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 act 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. 9. 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 those sections.

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:

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 581

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced.

[Approved by Governor August 26, 1986. Filed with Secretary of State August 26, 1986.]

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

SECTION 1. This act may be cited as the Third Validating Act of 1986.

SEC. 2. As used in this act:

(a) "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 all of 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 rehabilitation 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 agency formation commissions.
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) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes,

revenues, or other income of such body, all instruments payable from revenues or special funds of such public bodies, all certificates of participation evidencing interests in the leases or, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. 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. 4. 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. 5. 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. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any such public body for any public purpose are hereby authorized, 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, execution, delivery, or exchange of such bonds.

All bonds of, or relating to, 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, or relating to, 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, or relating to, 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, or relating to, 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. 7. (a) This act shall operate to supply such legislative authorization as may be necessary to authorize, confirm, and 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) 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) This act shall not operate to authorize, 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 authorize, 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 authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. 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, or in connection with, the authorization, issuance, sale, execution, delivery, 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 act 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. 9. 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 those sections.

CHAPTER 582

An act to add Section 53684 to the Government Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1986 Filed with Secretary of State August 26, 1986.]

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

SECTION 1. Section 53684 is added to the Government Code, to read:

53684. (a) Unless otherwise provided by law, if the treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the treasurer or other official may, upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the county treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to Section 53601 or 53635.

(b) The county treasurer shall, quarterly, apportion any interest or other increment derived from the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and district.

Prior to distributing that interest or increment, the county treasurer may deduct the actual costs incurred by the county in administering this section in proportion to the average daily balance of the amounts deposited by the local agency.

(c) In conjunction with the monthly report required to be prepared pursuant to subdivision (b) of Section 53646, the county treasurer shall provide the information described in that subdivision to the treasurer or other official responsible for the funds of any local agency which has funds on deposit in the county treasury and that information shall, except as otherwise provided in paragraph (4) of subdivision (b) of Section 53646, be included by the treasurer or

other official in a monthly report to the legislative or governing body of the local agency.

(d) The treasurer or other official responsible for the funds of the local agency may withdraw the funds of the local agency at any time but shall give the county treasurer 30 days' written notice of his or her intent to withdraw the funds.

(e) Any moneys deposited in the county treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.

(f) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this section operative in the county.

(g) It is the intent of the Legislature in enacting this section to provide an alternative procedure to Section 51301 for local agencies to deposit money in the county treasury for investment purposes. Nothing in this section shall, therefore, be construed as a limitation on the authority of a county and a city to contract for the county treasurer to perform treasury functions for a city pursuant to Section 51301.

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 local governments to be able to take advantage of this act and to maximize the return on the investment of surplus funds as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 583

An act to add Section 53085 to the Government Code, relating to crimes.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 28, 1986]

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

SECTION 1. Section 53085 is added to the Government Code, to read:

53085. A local agency, as defined in Section 54951, may require an applicant for economic development loans, grants, or similar financial assistance to sign a statement under penalty of perjury that he or she has not been convicted of a felony.

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 584

An act to add Section 40300.6 to the Vehicle Code, relating to driving offenses.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Section 40300.6 is added to the Vehicle Code, to read:

40300.6. Section 40300.5 shall be liberally interpreted to further safe roads and the control of driving while under the influence of an alcoholic beverage or any drug in order to permit arrests to be made pursuant to that section within a reasonable time and distance away from the scene of a traffic accident.

The enactment of this section during the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 585

An act to add Section 5054.1 to the Penal Code, relating to prisoners.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Section 5054.1 is added to the Penal Code, to read:

5054.1. The Director of Corrections has full power to order returned to custody any person under the director's jurisdiction. The written order of the Director of Corrections shall be sufficient warrant for any peace officer to return to actual custody any escaped state prisoner. It is hereby made the duty of all peace officers to execute the order in like manner as ordinary criminal process.

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 586

An act to add Section 1701 to the Fish and Game Code, relating to marine resources, and making an appropriation therefor.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Section 1701 is added to the Fish and Game Code, to read:

1701. (a) The department shall conduct research and management studies of marine fishery resources.

(b) Consistent with the policies established in Section 1700, the department shall closely monitor changes in the status of any marine fishery resource.

(c) When the department determines, based on the best available scientific information, that a marine fishery resource cannot be maintained at levels necessary to meet the policies and objectives established in Section 1700, the department shall report that determination to the Legislature.

(d) Determinations made by the department pursuant to subdivision (c) shall be based on, but not limited to, an analysis of catch and effort data, the age and size composition of the catch, information of the relative contribution of individual year classes to the fishery, and estimates of maximum sustainable yield when that information is available or when other fishery dependent or fishery independent information, which can describe changes in the fishery resource, is available.

(e) Any report to the Legislature pursuant to subdivision (c) shall include, but not be limited to, recommendations on measures necessary to rehabilitate the resource to levels necessary to meet the policies and objectives established in Section 1700.

CHAPTER 587

An act to amend Section 11372.5 of the Health and Safety Code, relating to crimes.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986.]

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

SECTION 1. 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, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550 or subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code 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 shall, 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 Section 11350, 11351, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550, subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Section 11502. The deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of this 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 the 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 those surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

CHAPTER 588

An act to amend Section 1048 of the Penal Code, relating to trials.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986]

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

SECTION 1. Section 1048 of the Penal Code is amended to read:

1048. (a) The issues on the calendar shall be disposed of in the following order, unless for good cause the court directs an action to be tried out of its order:

(1) Prosecutions for felony, when the defendant is in custody.

(2) Prosecutions for misdemeanor, when the defendant is in custody.

(3) Prosecutions for felony, when the defendant is on bail.

(4) Prosecutions for misdemeanor, when the defendant is on bail.

(b) Notwithstanding subdivision (a), all criminal actions in which (1) a minor is detained as a material witness or is the victim of the alleged offense, (2) a person who was 70 years of age or older at the time of the alleged offense or is a dependent adult, as defined in subdivision (d) of Section 368, was a witness to, or is the victim of, the alleged offense or (3) any person is a victim of an alleged

violation of Section 261, 264.1, 273a, 273d, 285, 286, 288, 288a, or 289, committed by the use of force, violence, or the threat thereof, shall be given precedence over all other criminal actions in the order of trial. In those actions, continuations shall be granted by the court only after a hearing and determination of the necessity thereof, and in any event, the trial shall be commenced within 30 days after arraignment, unless for good cause the court shall direct the action to be continued, after a hearing and determination of the necessity of the continuance, and states the findings for a determination of good cause on the record.

(c) Nothing in this section shall be deemed to provide a statutory right to a trial within 30 days.

CHAPTER 589

An act to amend Section 12811 of, and to add Section 12811.1 to, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Section 12811 of the Public Utilities Code is amended to read:

12811. The board may provide for the collection of fees, tolls, rates, rentals, or other charges in any lawful manner and may provide for collection by action at law, and all remedies for the collection and enforcement thereof are cumulative and may be pursued alternatively or consecutively as the board determines. In addition to the amount of the fees, tolls, rates, rentals, or other charges, the board may provide for a penalty of not more than 10 percent or interest at the prevailing prime interest rate, but not to exceed 1½ percent per month, or both, in the event of nonpayment within the time and in the manner prescribed by the board, and may provide for collection of the penalty and interest.

SEC. 2. Section 12811.1 is added to the Public Utilities Code, to read:

12811.1. (a) A district may, by resolution or ordinance, require the owner of record of real property within the district to pay the fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or other occupant of the property and those fees, tolls, rates, rentals, and other charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (b). No lien may be created under this section on any publicly owned property.

(b) A lien under this section attaches when the district files for

recordation in the office of the county recorder a certificate specifying the amount of the delinquent fees, tolls, rates, rentals, or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(c) In filing any instrument for recordation under this section, the district shall pay the fees specified in Sections 27361 and 27361.4 of the Government Code.

(d) The remedies in this section are in addition to any other remedy provided by law.

(e) This section does not apply to delinquent fees or charges for the furnishing of water to residential property or electrical service.

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 590

An act to amend Section 11570 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Section 11570 of the Health and Safety Code is amended to read:

11570. Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division, and every building or place wherein or upon which such acts take place, is a nuisance which shall be enjoined, abated, and prevented, whether it is a public or private nuisance.

CHAPTER 591

An act to add Article 6 (commencing with Section 3450) to Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, relating to wildlife, and making an appropriation therefor.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Article 6 (commencing with Section 3450) is added to Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, to read:

Article 6. Management of Fish and Wildlife on Military Lands

3450. It is the policy of the state to actively encourage the biologically sound management of fish and other wildlife resources on lands administered by the United States Department of Defense. The department may develop a program to implement this article in cooperation with the military services.

3451. The department may coordinate and cooperate with all branches of the United States military service, Department of Defense, for the purpose of developing fish and wildlife management plans and programs on military installations. The plans and programs shall be designed to provide biologically optimum levels of fish and wildlife resource management and use compatible with the primary military use of those lands. Military lands involved in programs developed pursuant to this article shall not be available to the general public without the consent of the military service administering the lands.

3452. The commission may adopt regulations and authorize the department to enter into agreements with the United States Department of Defense for the administration of this article.

3453. (a) Upon approval of specific management plans and programs, which reflect the recommendations of the department, the commission may authorize actions and adopt regulations governing those actions pursuant to this article.

(b) The provisions of Sections 457, 458, 459, and 460 do not apply to regulations adopted under this article.

(c) The activities conducted pursuant to this program shall be reviewed annually by the department and the commission.

CHAPTER 592

An act to repeal and add Article 37 (commencing with Section 74934) of Chapter 10 of Title 8 of the Government Code, relating to courts.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Article 37 (commencing with Section 74934) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 2. Article 37 (commencing with Section 74934) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 37. Municipal Court Districts in Butte County

74934. This article applies only to municipal courts established in the following judicial districts in Butte County:

(a) A district embracing the Cities of Chico and Paradise, designated as the North County Judicial District headquartered in the City of Chico.

(b) A district embracing the Cities of Oroville, Biggs, and Gridley, designated as the South County Judicial District which is hereby created and shall be headquartered in the City of Oroville.

74935. Each of the municipal court districts established in Butte County shall have the number of judges set out below opposite the name of the judicial district over which that court has jurisdiction and each judge shall be a resident of the county:

North County Judicial District	2
South County Judicial District	2

74935.5. There shall be maintained in both the City of Gridley and the Town of Paradise branch court facilities, including staff and other necessary personnel, so that the citizens of those communities may utilize such facilities as needed for small claims, infractions (traffic), civil matters, and misdemeanors.

74936. There shall be one clerk of the court in each judicial district.

74937. The Clerk of the North County Court may appoint the following positions subject to budget appropriation:

(a) Four deputy court clerks II/I.

(b) Five deputy court clerks I.

(c) One senior account clerk.

(d) Four typist clerks I/II.

The Clerk of the South County Court may appoint the following positions subject to budget appropriation:

(a) Four and one-half deputy court clerks II/I.

(b) Four deputy court clerks I.

(c) One senior account clerk.

74938. The Sheriff of Butte County shall be the ex officio marshal of the North County Judicial District and the South County Judicial District.

74939. The bailiffs of the Sheriff of Butte County shall be the ex officio deputy marshals of the North County Judicial District and the South County Judicial District.

74940. Whenever reference is made to a range number in this section of this article, the schedule of biweekly salaries shall be that as set forth in the Butte County Salary Ordinance.

(a) Clerk of the court - range 23.0.

(b) Deputy court clerk I - range 9.5.

(c) Deputy court clerk II - range 11.5.

(d) Typist clerk II - range 8.5.

(e) Account clerk - range 9.5.

(f) Typist clerk I - range 6.5.

(g) Senior account clerk - range 11.5.

74941. Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed by the Butte County Merit System Rules and Procedures, Salary Ordinance, and Memorandum of Understanding with the recognized labor organizations representing court employees.

74942. The officers and attachés of the municipal courts shall be entitled to the same vacation, sick leave, and benefits and privileges as are granted to other comparable employees of Butte County.

74943. All fees collected by the marshal or his deputies for services to the municipal courts shall be deposited with the county treasurer.

74944. All officers and attachés of the municipal courts shall devote their full time to the performance of their duties.

74945. All matters affecting the employment of such municipal court officers and attachés which are not specifically determined by this article or other provisions of state law shall be governed and regulated by the then current ordinances and resolutions of the Board of Supervisors of Butte County.

SEC. 3. This act shall become operative only if the Board of Supervisors of Butte County finds there are sufficient funds available for the court reorganization set forth in this act and adopts a resolution to that effect, which shall be transmitted to the Secretary of State. The act shall become operative upon receipt of that resolution by the Secretary of State.

CHAPTER 593

An act to add Section 34316.2 to the Health and Safety Code, relating to housing authorities.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 28, 1986.]

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

SECTION 1. Section 34316.2 is added to the Health and Safety Code, to read:

34316.2. An authority may deposit the money of the authority with the county treasurer. The county treasurer shall deposit those funds in the county treasury and disburse them upon warrants of the county auditor issued at the request of the authority.

The county may require the authority to reimburse the county for any expenses incurred by the county in performing any of the services required to be performed by the county by this section.

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 594

An act to amend Section 11270 of the Government Code, relating to the California State Library.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 28, 1986]

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

SECTION 1. Section 11270 of the Government Code is amended to read:

11270. As used in this article "administrative costs" means the amounts expended by the Legislature, Controller, Treasurer, the State Personnel Board, the Department of General Services, the State Board of Control, the State Department of Finance, the Office of Administrative Law, the Department of Personnel Administration, the Secretary of the State and Consumer Services Agency, the Secretary of the Business, Transportation and Housing Agency, the Secretary of the Health and Welfare Agency, the Secretary of the Resources Agency, the Secretary of the Youth and

Adult Correctional Agency, and the California State Library, and a proration of any other cost to or expense of the state for services or facilities provided for the Legislature and the above agencies, for supervision or administration of the state government or for services to the various state agencies.

CHAPTER 595

An act to add and repeal Chapter 8 (commencing with Section 92680) of Part 57 of the Education Code, relating to economic development.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Chapter 8 (commencing with Section 92680) is added to Part 57 of the Education Code, to read:

CHAPTER 8. TECHNOLOGY TRANSFER AND EDUCATION PROGRAM

92680. It has become increasingly evident that the strength of California business will depend on how new knowledge-intensive and technologically advanced small businesses perform in creating jobs and economic stability for the state's communities.

In order for both new and existing small businesses to be competitive, it is necessary that they have access to, and can avail themselves of, the most advanced technical information available. The bulk of the scientific and technical information necessary to assist California's small businesses to compete resides in the University of California. There are few vehicles outside of agricultural extension for the state's small businesses to take advantage of the technical expertise resident in the university. Large well-established businesses with their own research staffs or the ability to acquire technical help via consultants from the university and elsewhere can either develop the technical capacity they require or purchase it elsewhere. Small minority businesses in inner city environments are at a particular disadvantage in this regard, since they seldom know how to gain access to, or adapt, the latest technical information to produce new products or increase their capacity. Therefore, it is particularly important for the state to develop mechanisms by which the minority small business community can gain special access to the enormous resources of the university to assist them in improving their ability to increase job creation capabilities in the inner city.

92681. (a) In order to facilitate technology transfer to small

business, the University of California is requested to establish an experimental technology project. This experimental project shall be directed toward serving initially the five bay area counties covered by the Association of Bay Area Governments.

(b) The project shall, upon acceptance by the Regents of the University of California, be operated by the regents.

92682. The project shall be operated by the University of California to do the following:

(a) Identify and coordinate resources within the university that could benefit small businesses, and assess the potential need of small businesses for those resources.

(b) Seek to provide at least the following types of assistance:

(1) Technology education for small business, to include seminars, workshops, and similar education endeavors aimed at acquainting small business owners and operators with information on new technological advances that may have potential for new business opportunities or improved business practices.

(2) Technology assessments for small business, designed to assist new entrepreneurs or existing businesses that provide scientifically based products or services. These assessments shall be limited to the scientific merits of the proposed product, and where appropriate, advice and assistance.

(3) Technology development and transfer studies, aimed at perfecting and adapting new technological advances to the needs of small business enterprises. These studies may include the examination of recent innovative business technologies in robotics, telecommunications, and other similar fields, and their relation to the needs of small businesses.

(4) An inner city small business technology service oriented to the special needs of minority inner city enterprises. The objective of this service shall be to assist these businesses to identify their needs and potentials for utilizing or developing new technologies.

92684. The project shall be coordinated, as much as possible, with existing state and small business assistance programs, so as to avoid duplication, particularly with respect to the California Small Business Development Center Plan.

92685. It is the intent of the Legislature that assistance to small businesses be provided under the project on a fee-for-service basis. The fee schedule shall be on a sliding scale that permits the owners and operators of small- and medium-sized businesses to utilize the services of the project.

92686. The University of California shall report to the Legislature by January 1, 1988, on the organization and design for the project outlined in this chapter and any modifications to this approach that the university has introduced to implement the project. Further, the university shall coordinate this effort, where practical and feasible, with the State Department of Commerce.

92687. This chapter 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. 2. It is the intent of the Legislature that the project established under Section 1 be funded by the fees described in Section 92685 of the Education Code.

CHAPTER 596

An act to add Sections 586 and 3552 to the Public Utilities Code, relating to carriers.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 586 is added to the Public Utilities Code, to read:

586. (a) Every highway common carrier shall keep a current repair and maintenance record for each vehicle operated in carriage for compensation showing the date and nature of each repair to the vehicle, the mileage or odometer reading, and the person performing the repair and the date and mileage of each maintenance service performed on the vehicle, the systems or components maintained or serviced, and the person performing the maintenance service. The record shall be open to inspection by the commission.

(b) Every highway common carrier keeping a maintenance and repair record in accordance with regulations of the Department of the California Highway Patrol is in compliance with subdivision (a).

SEC. 2. Section 3552 is added to the Public Utilities Code, to read:

3552. (a) Every highway permit carrier shall keep a current maintenance and repairs record for each vehicle operated in carriage for compensation showing the date and nature of each repair to the vehicle, the mileage or odometer reading, and the person performing the repair and the date and mileage of each maintenance service performed on the vehicle, the systems or components maintained or serviced, and the person performing the maintenance service. The record shall be open to inspection by the commission.

(b) Every highway permit carrier keeping a maintenance and repair record in compliance with regulations of the Department of the California Highway Patrol is in compliance with subdivision (a).

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 Sections 11510 and 11523 of, and to add Section 11511.5 to, the Government Code, relating to administrative hearings.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 11510 of the Government Code is amended to read:

11510. (a) Before the hearing has commenced, the agency or the assigned administrative law judge shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing. Subpoenas and subpoenas duces tecum shall be issued in accordance with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. After the hearing has commenced, the agency itself hearing a case or an administrative law judge sitting alone may issue subpoenas and subpoenas duces tecum.

(b) The process issued pursuant to subdivision (a) shall be extended to all parts of the state and shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend unless the witness is a resident of the state at the time of service.

(c) All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court. Witnesses appearing pursuant to subpoena, except the parties, who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day shall be entitled in addition to fees and mileage to a per diem compensation of three dollars ($3) for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearing. Fees, mileage, and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

SEC. 2. Section 11511.5 is added to the Government Code, to read:

11511.5. (a) On motion of a party or by order of an administrative law judge, the administrative law judge may conduct a prehearing conference. The administrative law judge shall set the time and place for the prehearing conference, and the agency shall give reasonable written notice to all parties.

(b) The prehearing conference may deal with one or more of the following matters:

(1) Exploration of settlement possibilities.
(2) Preparation of stipulations.
(3) Clarification of issues.
(4) Rulings on identity and limitation of the number of witnesses.
(5) Objections to offers of evidence.
(6) Order of presentation of evidence and cross-examination.
(7) Rulings regarding issuance of subpoenas and protective orders.
(8) Schedules for the submission of written briefs and schedules for the commencement and conduct of the hearing.
(9) Any other matters as shall promote the orderly and prompt conduct of the hearing.

(c) The administrative law judge shall issue a prehearing order incorporating the matters determined at the prehearing conference. The administrative law judge may direct one or more of the parties to prepare a prehearing order.

SEC. 3. 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 or her, 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 an administrative law judge, 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 or her. 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 598

An act to amend Section 18587 of the Financial Code, relating to premium finance agencies.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 18587 of the Financial Code is amended to read:

18587. The provisions of Sections 18607, 18625, and 18626 shall not apply to any bona fide loan with a principal amount of two thousand five hundred dollars ($2,500) or more or to a premium finance agency in connection with such loans if the provisions of this section are not used for the purpose of evading this division.

CHAPTER 599

An act to amend Section 13142.4 of the Health and Safety Code, relating to firefighters.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 13142.4 of the Health and Safety Code is amended to read:

13142.4. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall:

(a) Establish and validate recommended minimum standards for fire protection personnel and fire protection instructors at all career levels.

(b) Develop course curricula for arson, fire technology, and apprenticeship training for use in academies, colleges, and other educational institutions.

(c) Develop, validate, update, copyright, and maintain security over a complete series of promotional examinations based on the minimum standards established pursuant to subdivision (a).

(d) Have the authority to make the examinations developed pursuant to subdivision (c) available to any agency of the state, to

any political subdivision within the state, or to any other testing organization, as he or she deems appropriate.

(e) Promote participation in, sponsor jointly with the Federated Firefighters of California, and administer the California Firefighter Joint Apprenticeship Program as the preemployment recruitment, selection, and training system to be utilized for entry level firefighters.

(f) Establish advisory committees or panels, as necessary, to assist the State Fire Marshal in carrying out his or her functions under this section.

(g) Establish such fees as necessary to implement this section.

(h) Promote, sponsor, and administer the California Fire Academy System.

(i) This section shall be known, and may be cited, as the California Fire and Arson Training Act.

(j) The recommended minimum standards established pursuant to subdivision (a) shall not apply to any agency of the state or any agency of any political subdivision within the state unless that agency elects to be subject to these standards.

CHAPTER 600

An act to amend Section 11156 of, and to amend and repeal Sections 3058.5 and 6250 of, the Penal Code, and to amend and repeal Section 1180 of, the Welfare and Institutions Code, relating to prisoners and parolees.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 3058.5 of the Penal Code, as amended by Section 2 of Chapter 196 of the Statutes of 1983, is amended to read:

3058.5. The Department of Corrections shall provide within 10 days, upon request, to the chief of police of a city or the sheriff of a county, information available to the department, including actual, glossy photographs, no smaller than 3⅛ x 3⅛ inches in size, and, in conjunction with the Department of Justice, fingerprints, concerning persons then on parole who are or may be residing or temporarily domiciled in that city or county.

SEC. 2. Section 3058.5 of the Penal Code, as added by Section 3 of Chapter 196 of the Statutes of 1983, is repealed.

SEC. 3. Section 6250 of the Penal Code, as amended by Section 4 of Chapter 196 of the Statutes of 1983, is amended to read:

6250. (a) The Director of Corrections may establish and operate facilities to be known as community correctional centers. No later than 60 days prior to award of a contract for the establishment of such

a center, the director shall notify the county board of supervisors or city council in whose jurisdiction the center will be located of the pending contract. The notice may be delivered by hand or sent by any form of mail requiring a return receipt. Failure to provide the notice shall be grounds for extinguishing the contract upon motion of the board of supervisors or city council.

(b) The Director of Corrections shall not change the use of or significantly increase the capacity of a community correctional center established pursuant to subdivision (a) unless the director has first notified the county board of supervisors or city council in whose jurisdiction the center is located at least 30 days prior to such change of use or capacity. Failure to provide the notice shall be grounds for enjoining such change in use or capacity.

SEC. 4. Section 6250 of the Penal Code, as added by Section 5 of Chapter 196 of the Statutes of 1983, is repealed.

SEC. 5. Section 11156 of the Penal Code is amended to read:

11156. The notice sent to the chief of police and county sheriff pursuant to Section 11155 shall include an actual glossy photograph no smaller than 3⅛ x 3⅛ inches in size, in conjunction with the Department of Justice, fingerprints of each inmate in the reentry or work furlough program.

SEC. 6. Section 1180 of the Welfare and Institutions Code, as amended by Section 10 of Chapter 196 of the Statutes of 1983, is amended to read:

1180. The Department of the Youth Authority shall provide, within 10 days, upon request to the chief of police of a city or the sheriff of a county information available to the department, including actual, glossy photographs, no smaller than 3⅛ x 3⅛ inches in size, and, in conjunction with the Department of Justice, fingerprints concerning persons then on parole who are or may be residing or temporarily domiciled in that city or county.

SEC. 7. Section 1180 of the Welfare and Institutions Code, as added by Section 11 of Chapter 196 of the Statutes of 1983, is repealed.

CHAPTER 601

An act to add Section 3542 to the Public Utilities Code, relating to carriers.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 3542 is added to the Public Utilities Code, to read:

3542. (a) No highway carrier shall discriminate on the basis of

race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age in entering into any contract or other business relationship with another carrier that relates to the provisions of transportation services. In addition to any other penalty provided by law, any person injured through a violation of this section may institute an action against the carrier for an injunction or damages, or both.

(b) Nothing in this section limits any right or remedy arising under Section 51 to 53, inclusive, of the Civil Code or Section 12948, 12965, or 12970 of the Government Code or any other provision of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), and any right or remedy arising under this section is in addition to any right or remedy arising under any other law.

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 602

An act to amend Section 5841 of the Public Resources Code, relating to the American River.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 5841 of the Public Resources Code is amended to read:

5841. (a) "American River Parkway Plan" means the revised, updated management plans for the lower American River adopted by the County of Sacramento on December 11, 1985, by Resolution No. 85-1870, and by the City of Sacramento on March 25, 1986, by Resolution No. 86-225.

(b) "Lower American River" means that portion of the American River between Nimbus Dam and the confluence of the American River with the Sacramento River and the adjacent lands as described in the American River Parkway Plan.

(c) "American River Parkway" means the area described in the American River Parkway Plan.

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 603

An act to amend Section 22462 of the Business and Professions Code, to amend Sections 409.4, 1985, and 1986.5 of the Code of Civil Procedure, and to amend Sections 1158, 1560, 1561, 1563, and 1564 of the Evidence Code, relating to civil procedure.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 22462 of the Business and Professions Code is amended to read:

22462. (a) All records transmitted or distributed by a professional photocopier shall be accompanied by a certificate containing all of the following:

(1) An affidavit signed by the custodian of the original records that were reproduced for transmittal. It shall conform to the requirements specified in Article 4 (commencing with Section 1560) of Chapter 2 of Division 11 of the Evidence Code.

(2) An affidavit signed by the professional photocopier or his or her employee stating that the records shall be transmitted or distributed to the authorized persons or entities.

(b) The certificate shall bear the name, address, and registration number and county of registration of the professional photocopier. The custodian of records shall be entitled to a copy of the certificate, completed as provided in subdivision (a).

(c) The custodian of records shall not be liable for the improper release of the records when the records:

(1) Were released to a professional photocopier for the production of records under authorization or subpoena or other means.

(2) Were certified pursuant to this section.

SEC. 2. Section 409.4 of the Code of Civil Procedure is amended to read:

409.4. An order granting or denying a motion to expunge a notice of pendency of action made pursuant to Section 409.1 or 409.2 shall not be appealable. When that order is made, the party aggrieved by that order may, within the time hereinafter provided, petition the proper reviewing court to review the order by writ of mandate. The petition for writ of mandate may be filed within 20 days after service of written notice of the order, or within such additional time not exceeding 20 days as the trial court may, within the original 20 days, allow, but in no event later than 60 days after entry of the order. A

copy of the petition for writ of mandate shall be delivered to the clerk of the trial court with a request that it be placed in the trial court file.

SEC. 3. Section 1985 of the Code of Civil Procedure is amended to read:

1985. The process by which the attendance of a witness is required is the subpoena. It is a writ or order directed to a person and requiring his attendance at a particular time and place to testify as a witness. It may also require him to bring with him any books, documents, or other things under his control which he is bound by law to produce in evidence. When a county recorder is using the microfilm system for recording, and he is subpoenaed to present a record, he shall be deemed to have complied with the subpoena if he produces a certified copy thereof.

A copy of an affidavit shall be served with a subpoena duces tecum issued before trial, showing good cause for the production of the matters and things described in such subpoena, specifying the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case, and stating that the witness has the desired matters or things in his possession or under his control.

The clerk, or a judge, shall issue a subpoena or subpoena duces tecum signed and sealed but otherwise in blank to a party requesting it, who shall fill it in before service. An attorney at law who is the attorney of record in an action or proceeding, may sign and issue a subpoena to require attendance before the court in which the action or proceeding is pending or at the trial of an issue therein, or upon the taking of a deposition in an action or proceeding pending therein; the subpoena in such a case need not be sealed. An attorney at law who is the attorney of record in an action or proceeding, may sign and issue a subpoena duces tecum to require production of the matters or things described in the subpoena. Nothing herein shall authorize the issuance of a subpoena or subpoena duces tecum in cases provided for by Sections 68097.1 to 68097.10, inclusive, of the Government Code unless the required payment or deposit has been made.

SEC. 4. Section 1986.5 of the Code of Civil Procedure is amended to read:

1986.5. Any person who is subpoenaed and required to give a deposition shall be entitled to receive the same witness fees and mileage as if the subpoena required him or her to attend and testify before a court in which the action or proceeding is pending. Notwithstanding this requirement, the only fees owed to a witness who is required to produce business records under Section 1560 of the Evidence Code pursuant to a subpoena duces tecum, but who is not required to personally attend a deposition away from his or her place of business, shall be those prescribed in Section 1563 of the Evidence Code.

SEC. 5. Section 1158 of the Evidence Code is amended to read:

1158. Whenever, prior to the filing of any action or the appearance of a defendant in an action, an attorney at law or his or her representative presents a written authorization therefor signed by an adult patient, by the guardian or conservator of his person or estate, or, in the case of a minor, by a parent or guardian of such minor, or by the personal representative or an heir of a deceased patient, or a copy thereof, a physician and surgeon, dentist, registered nurse, dispensing optician, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, or pharmacist or pharmacy, duly licensed as such under the laws of the state, or a licensed hospital, shall make all of the patient's records under his, hers or its custody or control available for inspection and copying by such attorney at law or his, or her, representative, promptly upon the presentation of the written authorization.

No copying may be performed by any medical provider enumerated above, or by an agent thereof, when the requesting attorney has employed a professional photocopier or anyone identified in Section 22451 of the Business and Professions Code as his or her representative to obtain or review the records on his or her behalf. The presentation of the authorization by the agent on behalf of the attorney shall be sufficient proof that the agent is the attorney's representative.

Failure to make such records available, during business hours, within five days after the presentation of the written authorization, may subject the person or entity having custody or control of the records to liability for all reasonable expenses, including attorney's fees, incurred in any proceeding to enforce the provisions of this section.

All reasonable costs incurred by any person or entity enumerated above in making patient records available pursuant to this section may be charged against the person whose written authorization required the availability of such records.

"Reasonable cost," as used in this section, shall include, but not be limited to, the following specific costs: ten cents ($0.10) per page for standard reproduction of documents of a size 8½ by 14 inches or less; twenty cents ($0.20) per page for copying of documents from microfilm; actual costs for the reproduction of oversize documents or the reproduction of documents requiring special processing which are made in response to an authorization; reasonable clerical costs incurred in locating and making the records available to be billed at the maximum rate of sixteen dollars ($16) per hour per person, computed on the basis of four dollars ($4) per quarter hour or fraction thereof; actual postage charges; and actual costs, if any, charged to the witness by a third person for the retrieval and return of records held by that third person.

Where the records are produced for inspection or photocopying at the record custodian's place of business, the only fee for complying with the authorization shall not exceed fifteen dollars ($15).

SEC. 6. Section 1560 of the Evidence Code is amended to read:

1560. (a) As used in this article:

(1) "Business" includes every kind of business described in Section 1270.

(2) "Record" includes every kind of record maintained by such a business.

(b) Except as provided in Section 1564, when a subpoena duces tecum is served upon the custodian of records or other qualified witness of a business in an action in which the business is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the business, it is sufficient compliance therewith if the custodian or other qualified witness, within five days after the receipt of the subpoena in any criminal action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, or within 15 days after the receipt of the subpoena in any civil action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, delivers by mail or otherwise a true, legible, and durable copy of all the records described in the subpoena to the clerk of court or to the judge if there be no clerk or to such other person as described in subdivision (a) of Section 2018 of the Code of Civil Procedure, together with the affidavit described in Section 1561.

(c) The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness, and date of subpoena clearly inscribed thereon; the sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of such court, or to the judge thereof if there be no clerk.

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the subpoena for the taking of the deposition or at the officer's place of business.

(3) In other cases, to the officer, body, or tribunal conducting the hearing, at a like address.

(d) Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or other hearing, upon the direction of the judge, officer, body, or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial, deposition, or hearing. Records which are original documents and which are not introduced in evidence or required as part of the record shall be returned to the person or entity from whom received. Records which are copies may be destroyed.

(e) As an alternative to the procedures described in subdivisions

(b), (c), and (d), the subpoenaing party may direct the witness to make the records available for inspection or copying by the party's attorney or the attorney's representative at the witness' business address under reasonable conditions during normal business hours. It shall be the responsibility of the attorney's representative to deliver any copy of the records as directed in the subpoena.

SEC. 7. Section 1561 of the Evidence Code is amended to read:

1561. (a) The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

(1) The affiant is the duly authorized custodian of the records or other qualified witness and has authority to certify the records.

(2) The copy is a true copy of all the records described in the subpoena.

(3) The records were prepared by the personnel of the business in the ordinary course of business at or near the time of the act, condition, or event.

(4) The records described in the subpoena duces tecum were delivered to the attorney or his or her representative for copying at the custodian's or witness' place of business, pursuant to subdivision (e) of Section 1560 of the Evidence Code.

(b) If the business has none of the records described, or only part thereof, the custodian or other qualified witness shall so state in the affidavit, and deliver the affidavit and such records as are available in the manner provided in Section 1560.

(c) Where the records described in the subpoena were delivered to the attorney or his or her representative for copying at the custodian's or witness' place of business, in lieu of the affidavit required by subdivision (a), the records shall be accompanied by an affidavit by the attorney or his or her representative stating that the copy is a true copy of all the records delivered to the attorney or his or her representative for copying.

SEC. 8. Section 1563 of the Evidence Code is amended to read:

1563. (a) This article shall not be interpreted to require tender or payment of more than one witness fee and one mileage fee or other charge unless there is an agreement to the contrary.

(b) All reasonable costs incurred in a civil proceeding by any witness which is not a party with respect to the production of all or any part of business records the production of which is requested pursuant to a subpoena duces tecum may be charged against the party serving the subpoena duces tecum.

(1) "Reasonable cost," as used in this section, shall include, but not be limited to, the following specific costs: ten cents ($0.10) per page for standard reproduction of documents of a size 8½ by 14 inches or less; twenty cents ($0.20) per page for copying of documents from microfilm; actual costs for the reproduction of oversize documents or the reproduction of documents requiring special processing which are made in response to a subpoena; reasonable clerical costs incurred in locating and making the records available to be billed at

the maximum rate of sixteen dollars ($16) per hour per person, computed on the basis of four dollars ($4) per quarter hour or fraction thereof; actual postage charges; and actual costs, if any, charged to the witness by a third person for the retrieval and return of records held by that third person.

(2) The requesting party shall not be required to pay those costs or any estimate thereof prior to the time such records are available for delivery pursuant to the subpoena, but the witness may demand payment of costs pursuant to this section simultaneous with actual delivery of the subpoenaed records, and until such time as payment is made, is under no obligation to deliver the records.

(3) The witness shall submit an itemized statement for such costs to the requesting party setting forth the reproduction and clerical costs incurred by the witness. Upon demand by the requesting party, the witness shall furnish a statement setting forth the actions taken by the witness in justification of such costs.

(4) The requesting party may petition the court in which the action is pending to recover from the witness all or a part of the costs paid to the witness, or to reduce all or a part of the costs charged by the witness, pursuant to this subdivision, on the grounds that such costs were excessive. Upon the filing of the petition the court shall issue an order to show cause and from the time the order is served on the witness the court has jurisdiction over the witness. The court may hear testimony on the order to show cause and if it finds that the costs demanded and collected, or charged but not collected, exceed the amount authorized by this subdivision, it shall order the witness to remit to the requesting party, or reduce its charge to the requesting party by an amount equal to, the amount of the excess. In the event that the court finds the costs excessive and charged in bad faith by the witness, the court shall order the witness to remit the full amount of the costs demanded and collected, or excuse the requesting party from any payment of costs charged but not collected, and the court shall also order the witness to pay the requesting party the amount of the reasonable expenses incurred in obtaining the order including attorney's fees. If the court finds the costs were not excessive, the court shall order the requesting party to pay the witness the amount of the reasonable expenses incurred in defending the petition, including attorney's fees.

(5) If a subpoena is served to compel the production of business records and is subsequently withdrawn, or is quashed, modified or limited on a motion made other than by the witness, the witness shall be entitled to reimbursement pursuant to paragraph (1) for all costs incurred in compliance with the subpoena to the time that the requesting party has notified the witness that the subpoena has been withdrawn or quashed, modified or limited. In the event the subpoena is withdrawn or quashed, if those costs are not paid within 30 days after demand therefor, the witness may file a motion in the court in which the action is pending for an order requiring payment, and the court shall award the payment of expenses and attorney's

fees in the manner set forth in paragraph (4).

(6) Where the records are produced for inspection or photocopying at the witness' place of business, the only fee for complying with the subpoena shall not exceed fifteen dollars ($15).

(c) When the personal attendance of the custodian of a record or other qualified witness is required pursuant to Section 1564, in a civil proceeding, he or she shall be entitled to the same witness fees and mileage permitted in a case where the subpoena requires the witness to attend and testify before a court in which the action or proceeding is pending and to any additional costs incurred as provided by subdivision (b).

SEC. 9. Section 1564 of the Evidence Code is amended to read:

1564. The personal attendance of the custodian or other qualified witness and the production of the original records is not required unless, at the discretion of the requesting party, the subpoena duces tecum contains a clause which reads:

"The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized pursuant to subdivision (b) of Section 1560, and Sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena."

Original records produced pursuant to this section may be inspected or copied by the subpoenaing attorney or his or her representative at the address of the witness. The only fee for such copying shall be fifteen dollars ($15), except for the retrieval of records stored on microfilm which may be charged at the rate specified in paragraph (1) of subdivision (b) of Section 1563.

CHAPTER 604

An act to amend Sections 33032 and 33320.1 of, and to add Section 33331.5 to, the Health and Safety Code, relating to redevelopment.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 33032 of the Health and Safety Code is amended to read:

33032. A blighted area is characterized by properties which suffer from economic dislocation, deterioration, or disuse because of one or more of the following factors which cause a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social, or economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone:

(a) The subdividing and sale of lots of irregular form and shape

and inadequate size for proper usefulness and development.

(b) The laying out of lots in disregard of the contours and other topography or physical characteristics of the ground and surrounding conditions.

(c) The existence of inadequate public improvements, public facilities, open spaces, and utilities which cannot be remedied by private or governmental action without redevelopment.

(d) A prevalence of depreciated values, impaired investments, and social and economic maladjustment.

(e) The existence within the Lake Tahoe basin of substandard public or private facilities and improvements, insufficient open space, or water quality protection systems which do not comply with the environmental threshold carrying capacities established by the Tahoe Regional Planning Agency and the regional plan in accordance with the Tahoe Regional Planning Compact set forth in Section 66801 of the Government Code.

SEC. 2. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. "Project area" means, except as provided in Section 33320.2 or 33320.3, a predominantly urbanized area of a community which is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and which is selected by the planning commission pursuant to Section 33322.

As used in this section, "predominantly urbanized" means that not less than 80 percent of the privately owned property in the project area has been or is developed for urban uses, is characterized by the conditions described in subdivision (a), (b), or (e) of Section 33032, or is an integral part of an area developed for urban uses. For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner which is either consistent with zoning or is otherwise permitted under law. For the purposes of this section, if property is acquired by the community less than 180 days prior to the date of adoption of the survey area resolution and is not dedicated or devoted to a public use on the date the survey area resolution is adopted, that property shall be deemed privately owned property.

The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area which is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 2.5. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. "Project area" means, except as provided in Section 33320.2, 33320.3, or 33320.4, a predominantly urbanized area of a community which is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and which is selected by the planning commission pursuant to Section 33322.

As used in this section, "predominantly urbanized" means that not less than 80 percent of the privately owned property in the project area has been or is developed for urban uses, is characterized by the conditions described in subdivision (a), (b), or (e) of Section 33032, or is an integral part of an area developed for urban uses. For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner which is either consistent with zoning or is otherwise permitted under law. For the purposes of this section, if property is acquired by the community less than 180 days prior to the date of adoption of the survey area resolution and is not dedicated or devoted to a public use on the date the survey area resolution is adopted, that property shall be deemed privately owned property.

The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area which is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 3. Section 33331.5 is added to the Health and Safety Code, to read:

33331.5. Any redevelopment plan for a project area meeting the criteria specified in subdivision (e) of Section 33032 shall be consistent with the environmental threshold carrying capacities established by the regional plan adopted by the Tahoe Regional Planning Agency in accordance with the Tahoe Regional Planning Compact set forth in Section 66801 of the Government Code and the remedial programs adopted by the agency for the attainment of that regional plan.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 33320.1 of the Health and Safety Code proposed by both this bill and AB 2884. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 33320.1 of the Health and Safety Code, and (3) this bill is enacted after AB 2884, in which case Section 2 of this bill shall not become operative.

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.

CHAPTER 605

An act to amend Sections 1985.3 and 1987 of the Code of Civil Procedure, relating to subpoenas.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986]

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, telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, or psychotherapist, as defined in Section 1010 of the Evidence Code, or a private or public preschool, elementary school or secondary school.

(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. If the consumer is a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is at least 12 years of age.

(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. 2. Section 1987 of the Code of Civil Procedure is amended to read:

1987. (a) Except as provided in Sections 68097.1 to 68097.8, inclusive, of the Government Code, the service of a subpoena is made by delivering a copy, or a ticket containing its substance, to the witness personally, giving or offering to the witness at the same time, if demanded by him or her, the fees to which he or she is entitled for travel to and from the place designated, and one day's attendance there. The service shall be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. The service may be made by any person. When service is to be made on a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is 12 years of age or older.

(b) In the case of the production of a party to the record of any civil action or proceeding or of a person for whose immediate benefit in action or proceeding is prosecuted or defended or of anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena upon any such witness is not required if written notice requesting the witness to attend before a court, or at a trial of an issue therein, with the time and place thereof, is served upon the attorney of that party or person. The notice shall be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. If entitled thereto, the witness, upon demand, shall be paid witness fees and mileage before being required to testify. The giving of the notice shall have the same effect

as service of a subpoena on the witness, and the parties shall have such rights and the court may make such orders, including the imposition of sanctions, as in the case of a subpoena for attendance before the court.

(c) If the notice specified in subdivision (b) is served at least 20 days before the time required for attendance, or within such shorter time as the court may order, it may include a request that the party or person bring with him or her books, documents or other things. The notice shall state the exact materials or things desired and that the party or person has them in his or her possession or under his or her control. Within five days thereafter, or such other period as the court may allow, the party or person of whom the request is made may serve and file written objections to the request or any part thereof, with a statement of grounds. Thereafter, upon noticed motion of the requesting party, accompanied by a showing of good cause and of materiality of the items to the issues, the court may order production of items to which objection was made, unless the objecting party or person establishes good cause for nonproduction or production under limitations or conditions. The procedure of this subdivision is alternative to the procedure provided by Sections 1985 and 1987.5 in the cases herein provided for, and no subpoena duces tecum shall be required.

Subject to this subdivision, the notice herein provided shall have the same effect as is provided in subdivision (b) as to a notice for attendance of that party or person.

SEC. 3. 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, pharmacist, pharmacy, 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, or psychotherapist, as defined in Section 1010 of the Evidence Code, or a private or public preschool, elementary school, or secondary school.

(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. If the consumer is a minor, service shall be made on the minor's parent, guardian, conservator, or similiar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is at least 12 years of age.

(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. 4. Section 3 of this bill incorporates amendments to Section 1985.3 of the Code of Civil Procedure proposed by both this bill and SB 1980. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 1985.3 of the Code of Civil Procedure, and (3) this bill is enacted after SB 1980, in which case Section 1 of this bill shall not become operative.

CHAPTER 606

An act to add Section 53080 to the Government Code, relating to insurance.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 53080 is added to the Government Code, to read:

53080. (a) No city or county may require an applicant for a building or encroachment permit to file a certificate of insurance evidencing coverage for bodily injury or property damage liability as a condition to the issuance of either, or both, of those permits, unless the city or county imposes that requirement by ordinance.

(b) This section does not apply to contracts for public works of improvement entered into by a city or county.

CHAPTER 607

An act to add Sections 51206, 51207, and 51220.5 to, and to repeal Section 51283.1 of, the Government Code, relating to open space lands.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 51206 is added to the Government Code, to read:

51206. The Department of Conservation may meet with and assist local, regional, state, and federal agencies, organizations, landowners, or any other person or entity in the interpretation of this chapter. The department may research, publish, and disseminate information regarding the policies, purposes, procedures, administration, and implementation of this chapter. This section shall be liberally construed to permit the department to advise any interested person or entity regarding this chapter.

SEC. 2. Section 51207 is added to the Government Code, to read:

51207. On or before December 31 of each year, the Department of Conservation shall report to the Legislature regarding the implementation of this chapter by cities and counties. The report shall contain, but not be limited to, the number of acres of land under contract in each category and the number of acres of land which were removed from contract through cancellation, eminent domain,

annexation, or nonrenewal. The department may recommend changes to this chapter which would further promote its purposes.

SEC. 3. Section 51220.5 is added to the Government Code, to read:

51220.5. The Legislature finds and declares that agricultural operations are often hindered or impaired by uses which increase the density of the permanent or temporary human population of the agricultural area. For this reason, cities and counties shall determine the types of uses to be deemed "compatible uses" in a manner which recognizes that a permanent or temporary population increase often hinders or impairs agricultural operations.

SEC. 4. Section 51283.1 of the Government Code is repealed.

CHAPTER 608

An act to amend Sections 61, 75.21, 75.43, 205.5, 218, 227, 278, 401.3, 407, 408, 830, 833, 2229, and 6012.8 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 61 of the Revenue and Taxation Code is amended to read:

61. Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals regardless of the period during which the right may be exercised. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on

rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(d) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62, Section 63 and Section 65.

(e) The creation. transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

(f) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(g) Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his or her spouse) when a revocable trust becomes irrevocable.

(h) The transfer of stock of a cooperative housing corporation, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or a portion thereof. A "cooperative housing corporation" is a real estate development in which membership in the corporation, by stock ownership, is coupled with the exclusive right to possess a portion of the real property.

(i) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

SEC. 2. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of claims for exemption, any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a

current claim, in such form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive 100 percent exemption.

(1) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, public schools, community colleges, state colleges, state universities, or welfare exemption was available but for which a timely application for exemption was not filed, 90 percent of any tax or penalty or interest thereon shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52. Notwithstanding the above provision, any tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount shall be canceled or refunded, provided that it is imposed upon property entitled to relief under the above provision for which an appropriate claim for exemption has been filed.

(2) With respect to property as to which the veterans', homeowners', or disabled veterans' exemption was available but for which a timely application for exemption was not filed, that portion of tax attributable to 80 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(3) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, 90 percent of any tax or penalty or interest thereon shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

Where a late application for exemption has not been filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, no exemption is available. Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

SEC. 3. Section 75.43 of the Revenue and Taxation Code is amended to read:

75.43. (a) If a refund is due the assessee, the auditor shall make the refund within 90 days of the date of enrollment of the negative assessment on the supplemental roll. Refunds shall be made from taxes collected on assessments made on the supplemental roll.

(b) If the refund is not made as provided in subdivision (a), interest shall be paid at a rate provided by Section 5151, computed from a date 30 days after the date of enrollment of the negative assessment to the date the refund is mailed when the interest is ten

dollars ($10) or more on amounts refunded under Section 5096.

(c) Refunds made under this chapter shall be limited to the amount by which the tax, penalty, or interest paid exceeds the amount of tax, penalty, or interest which is lawfully due and owing based upon the new base year value.

SEC. 4. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes or has lost the use of two or more limbs as a result of injury or disease incurred in military service or that does not exceed one hundred thousand dollars ($100,000), if the veteran is totally disabled as a result of injury or disease incurred in military service. The forty thousand dollars ($40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars ($100,000), in the case of a veteran who was totally disabled; provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The forty thousand dollars ($40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes all of the following:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(h) This section shall remain in effect until January 1, 1991, and on that date is repealed, unless a later enacted statute, which is

chaptered on or before that date, deletes or extends that date.

SEC. 5. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be sixty thousand dollars ($60,000) in the case of an eligible veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided, however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes all of the following:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse

with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(h) This section shall become operative on January 1, 1991.

SEC. 6. Section 218 of the Revenue and Taxation Code is amended to read:

218. The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. Such exemption shall be in the amount of seven thousand dollars ($7,000) of the full value of the dwelling.

The exemption does not extend to property which is rented, vacant, under construction on the lien date, or which is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption. "Owner" includes a person purchasing the dwelling under a contract

of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling. As used in this section, "dwelling" shall include:

(a) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.

(b) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(c) A condominium occupied by an owner thereof as his principal place of residence on the lien date.

(d) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (h) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

"Dwelling" means a building, structure or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section a two-dwelling unit shall be considered as two separate single-family dwellings.

The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure or other shelter and the excess, if any, shall be applied to any land on which it may be located.

SEC. 7. Section 227 of the Revenue and Taxation Code is amended to read:

227. A documented vessel, as defined in Section 130, shall be assessed at 4 percent of its full cash value only if the vessel is engaged or employed exclusively in either of the following:

(a) In the taking and possession of fish or other living resource of the sea for commercial purposes.

(b) In instruction or research studies as an oceanographic research vessel.

(c) In carrying or transporting seven or more people for hire for commercial passenger fishing purposes and holds a current certificate of inspection issued by the United States Coast Guard.

The Controller shall audit all claims for reimbursement to determine whether those claims are valid with respect to the requirements of this section.

SEC. 8. Section 278 of the Revenue and Taxation Code is amended to read:

278. For the 1977–78 fiscal year and thereafter, county assessors shall each year mail a notice to all disabled veterans who received the disabled veterans' exemption in the immediately preceding year, except where such person has transferred title in the property since

the immediately preceding lien date. The notice shall inform the taxpayer of the requirements that must be met in order to be eligible for the exemption, of the penalties if the taxpayer allows the exemption to continue when he is not eligible for the exemption, and of his duty to inform the assessor when he is no longer eligible for the exemption.

SEC. 9. Section 401.3 of the Revenue and Taxation Code is amended to read:

401.3. The assessor shall assess all property subject to general property taxation on the lien date as provided in Articles XIII and XIII A of the Constitution and any legislative authorization thereunder.

SEC. 11. Section 407 of the Revenue and Taxation Code is amended to read:

407. Annually, on the second Monday in July, the assessor shall transmit a statistical statement to the board, supplying any statistical information which the board may require, and shall supply from time to time any other information required by the board.

SEC. 12. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b) and (c), any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to

Section 25303 of the Government Code, the Controller, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Transportation and the Department of General Services, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Transportation or the Department of General Services pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

SEC. 13. 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 state assessee shall not be subject to any further penalties on subsequent assessments for failure to comply with any subsequent request seeking information or data with respect to the same issue as set forth in the claim for refund filed within the time limits set forth above, until the assessment 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. 14. 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. 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. 15. Section 2229 of the Revenue and Taxation Code is amended to read:

2229. No classification or exemption of property for purposes of ad valorem property taxation enacted by the Legislature after January 1, 1973, shall extend for more than five years or shall exempt more than 75 percent of the value thereof from such taxation.

Any such classification or exemption enacted by the Legislature after January 1, 1973, shall be reimbursed by the state for the 1973–1974 fiscal year and for each fiscal year thereafter.

For purposes of this section the actual loss of revenue does not include potential revenue from property of a type which was not

being assessed and taxed on January 1, 1973.

Upon appropriation of reimbursement funds by the Legislature, each county auditor shall file a claim with the Controller on or before September 30 for reimbursement of the tax loss attributable to the exemption. The Controller shall pay on or before December 30 of each year one-half of the amount claimed and shall pay the other one-half on or before April 30. The Controller may audit, or may request the State Board of Equalization to audit, any of these claims or payments. This section does not apply to classes of property affected by Sections 988, 1152, 5303, and subdivision (c) of Section 227.

The Legislative Analyst shall review any classification or exemption of property to which this section is applicable and shall report to the Legislature on the general economic effects thereof. This report shall be submitted at least one year prior to the date on which the classification or exemption is scheduled to terminate.

Any claim alleging that the reimbursement requirements of this section have not been complied with shall be presented directly to the Legislature and Sections 905.2 and 945.4 of the Government Code shall not apply thereto.

SEC. 16. 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 18002.6 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.

CHAPTER 609

An act to amend Section 25400 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 25400 of the Health and Safety Code is amended to read:

25400. (a) The Legislature finds and declares that a threat to the public health and safety exists wherever there is a discharge, spill, or presence of hazardous substances on public or private property; and that public entities, county public health directors, public safety employees, or registered sanitarian employees should be encouraged to abate those hazards, and to that end a qualified immunity from liability should be provided for public entities, county public health directors, public safety employees, or registered sanitarian employees.

(b) Except as provided in Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code, a public entity, county public health director, a public safety employee, or a registered sanitarian employee shall not be liable for any injury caused by an action taken by a county public health director, a public safety employee, or a registered sanitarian employee acting within

the scope of employment to abate or attempt to abate hazards reasonably believed to be an imminent peril to public health and safety caused by the discharge, spill, or presence of a hazardous substance, unless the action taken was performed in bad faith or in a grossly negligent manner.

(c) For the purposes of this section, it shall be presumed that the action was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

(d) For the purposes of this section, "hazardous substance" means a substance that presents a threat to the public because of its toxicity, radioactivity, flammability, or other characteristic dangerous to the public health or the environment.

(e) For the purposes of this section, a "registered sanitarian employee" means a person who is registered pursuant to Section 520 and who is a paid employee of a state or local public entity.

(f) It is not the intent of this section to impair any cause of action against the person, firm, or entity creating the spill, discharge, or presence of the hazardous material giving rise to the response of the public entity, county public health director, public safety employee, or registered sanitarian employee.

(g) The immunity for county public health directors or registered sanitarian employees provided by this section shall apply only where the person, at the request of a public safety employee in charge of scene management, provides emergency assistance or advice at the scene of the peril in mitigating or attempting to mitigate the effects of an actual or threatened discharge, spill, or presence of a hazardous substance on private or public property. The request issued by the scene manager shall be confirmed by that person in a written report of the incident.

CHAPTER 610

An act to amend Sections 38731, 38732, 38741, and 38742 of, to add Section 38736 to, and to add Article 41 (commencing with Section 38895.1) to Chapter 5 of Part 3 of Division 15 of, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 38731 of the Food and Agricultural Code is amended to read:

38731. Market milk or market milk combined with nonfat milk from market milk, with or without added milk solids which are derived from market milk, flavoring, nutritive carbohydrate sweeteners, color additives, or seasoning, which is certified raw milk

or has been pasteurized and afterwards fermented by a characterizing bacterial culture that contains one or more strains of Lactobacillus bulgaricus (including yogurt strains), Streptococcus thermophilus, and Lactobacillus acidophilus may be sold as yogurt, lowfat yogurt, nonfat yogurt, mazun, or any names that may be characteristic for the product and approved by the director. The product may contain harmless edible stabilizer not to exceed 0.6 percent. It shall contain no more than 10 coliform bacteria per gram and shall be free of molds, yeasts, other fungi, and other objectionable bacteria which may impair the quality of the product.

SEC. 2. Section 38732 of the Food and Agricultural Code is amended to read:

38732. Yogurt, before the addition of bulky flavors, shall contain not less than 3.5 percent of milk fat. Lowfat yogurt shall contain not less than 1.9 percent, nor more than 2.1 percent, of milk fat before the addition of bulky flavors. Nonfat yogurt shall contain a maximum of 0.5 percent of milk fat.

SEC. 3. Section 38736 is added to the Food and Agricultural Code, to read:

38736. The phrase "_____ percent milk fat" shall accompany the name " lowfat yogurt" on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in the name. The milk fat percentage is to be expressed as the fraction ½ or multiple thereof closest to the actual fat content of the lowfat yogurt after the addition of any bulky flavor.

SEC. 4. Section 38741 of the Food and Agricultural Code is amended to read:

38741. Bulky flavored yogurt is yogurt, lowfat yogurt, or nonfat yogurt which contains clean, mature, sound fruit or its equivalent in other forms, or other bulky flavoring ingredients.

SEC. 5. Section 38742 of the Food and Agricultural is amended to read:

38742. When bulky flavor is added to yogurt, lowfat yogurt, or nonfat yogurt, the name of the bulky flavor shall accompany the name of the product on a panel of the carton or container. "Grade A," when used in the label of the product, shall appear on a principal panel of the container. Bulky flavored yogurt in its composition and labeling shall otherwise comply with all the requirements of Article 27 (commencing with Section 38731).

SEC. 6. Article 41 (commencing with Section 38895.1) is added to Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 41. Lactose Reduced Dairy Products

38895.1. Safe and suitable enzymes, as approved by the director, may be added to dairy products for the purpose of conversion of lactose to glucose or galactose. Any added enzyme shall appear in the ingredient list of the product.

38895.2. "Lactose reduced" may be included in the nomenclature of the product if there has been conversion of sufficient amounts of lactose to glucose or galactose so that the remaining lactose is less than 30 percent of the original lactose of the dairy product. Lactose reduced dairy products shall meet all other compositional standards for the products except that the minimum solids-not-fat content for flavored lowfat milk labeled as "lactose reduced" shall be 8.7 percent.

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 611

An act to amend Sections 8801, 8802, 8803, 8804, 8805, 8806, 8807, 8808, 8809, 8810, 8811, 8813, 8814, 8815, and 8816 of, and to add Sections 8817, 8818, and 8819 to, the Public Resources Code, relating to surveying and mapping.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. (a) The National Ocean Service/National Geodetic Survey is nearing completion of a redefinition of the National Geodetic Horizontal Datum. This readjustment, known as the North American Datum of 1983 (NAD83), is necessary because recent improvements in positioning technology have detected discrepancies in horizontal locations based on the present reference system, known as the North American Datum of 1927 (NAD27), sufficient in magnitude to require readjustment.

(b) After the readjustment is completed, the National Geodetic Survey will no longer publish information in support of NAD27. If California does not amend existing laws to adopt the readjustment (NAD83), the state may be left with an obsolete horizontal control datum not supported by the federal government or compatible with datum used in adjacent states.

(c) It is the purpose of the Legislature, in enacting this act, to amend existing law by adopting NAD83 as an official geodetic datum for use within the state and to provide for the orderly transition from NAD27 to NAD83 as the reference system from which State Plane Coordinates are calculated.

(d) It is further the intent of the Legislature that this act does not result in the impairment of land titles, legal descriptions, or

jurisdictional or land boundaries.

SEC. 1.5. Section 8801 of the Public Resources Code is amended to read:

8801. (a) The system of plane coordinates which has been established by the United States Coast and Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within the State of California is based on the North American Datum of 1927 and is identified as the "California Coordinate System." After January 1, 1987, this system shall be known as the "California Coordinate System of 1927."

(b) The system of plane coordinates which has been established by the National Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within the State of California and which is based on the North American Datum of 1983 shall be known as the "California Coordinate System of 1983."

(c) As used in this chapter:

(1) "NAD27" means the North American Datum of 1927.

(2) "CCS27" means the California Coordinate System of 1927.

(3) "NAD83" means the North American Datum of 1983.

(4) "CCS83" means the California Coordinate System of 1983.

(5) "USC&GS" means the United States Coast And Geodetic Survey.

(6) "NGS" means the National Geodetic Survey.

(7) "FGCC" means the Federal Geodetic Control Committee.

(d) The use of the term "State Plane Coordinates" refers only to CCS27 and CCS83 coordinates.

SEC. 2. Section 8802 of the Public Resources Code is amended to read:

8802. For CCS27, the state is divided into seven zones. For CCS83, the state is divided into six zones. Zone 7 of CCS27, which encompasses Los Angeles County, is eliminated and the area is included in Zone 5.

Each zone of CCS27 is a Lambert conformal conic projection based on Clarke's Spheroid of 1866, which is the basis of NAD27. The points of control of zones one to six, inclusive, bear the coordinates: Northing (y) = 000 00 feet and Easting (x) = 2,000,000 feet. The point of control of Zone 7 bears the coordinates: Northing (y) = 4,160,926.74 feet and Easting (x) = 4,186,692.58 feet.

Each zone of CCS83 is a Lambert conformal conic projection based on the Geodetic Reference System of 1980, which is the basis of NAD83. The point of control of each of the six zones bear the coordinates: Northing (y) = 500,000 meters and Easting (x) = 2,000,000 meters.

The area included in the following counties constitutes Zone 1 of CCS27 and CCS83: Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, and Trinity.

The area included in the following counties constitutes Zone 2 of CCS27 and CCS83: Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lake, Mendocino, Napa, Nevada, Placer, Sacramento, Sierra, Solano,

Sonoma, Sutter, Yolo, and Yuba.

The area included in the following counties constitutes Zone 3 of CCS27 and CCS83: Alameda, Calaveras, Contra Costa, Madera, Marin, Mariposa, Merced, Mono, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Stanislaus, and Tuolumne.

The area included in the following counties constitutes Zone 4 of CCS27 and CCS83: Fresno, Inyo, Kings, Monterey, San Benito, and Tulare.

The area included in the following counties and Channel Islands constitutes Zone 5 of CCS27: Kern, San Bernardino, San Luis Obispo, Santa Barbara (excepting Santa Barbara Island), and Ventura (excepting San Nicholas Island) and the Channel Islands of Santa Cruz, Santa Rosa, San Miguel, and Anacapa.

The area included in the following counties and Channel Islands constitutes Zone 5 of CCS83: Kern, Los Angeles (excepting San Clemente and Santa Catalina Islands), San Bernardino, San Luis Obispo, Santa Barbara (excepting Santa Barbara Island), and Ventura (excepting San Nicholas Island) and the Channel Islands of Santa Cruz, Santa Rosa, San Miguel, and Anacapa.

The area included in the following counties and Channel Islands constitutes Zone 6 of CCS27 and CCS83: Imperial, Orange, Riverside, and San Diego and the Channel Islands of San Clemente, Santa Catalina, Santa Barbara, and San Nicholas.

The area included in Los Angeles County constitutes Zone 7 of CCS27.

SEC. 3. Section 8803 of the Public Resources Code is amended to read:

8803. Zone 1 coordinates shall be named, and, on any map on which they are used, they shall be designated as "CCS27, Zone 1 or CCS83, Zone 1."

On their respective spheroids of reference: (1) the standard parallels of CCS27, Zone 1 and CCS83, Zone 1 are at north latitudes 40 degrees 00 minutes and 41 degrees 40 minutes, along which parallels the scale shall be exact; and (2) the point of control of coordinates is at the intersection of the zone's central meridian, which is at 122 degrees 00 minutes west longitude, with the parallel 39 degrees 20 minutes north latitude.

SEC. 4. Section 8804 of the Public Resources Code is amended to read:

8804. Zone 2 coordinates shall be named, and, on any map on which they are used, they shall be designated as "CCS27, Zone 2 or CCS83, Zone 2."

On their respective spheroids of reference: (1) the standard parallels of CCS27, Zone 2 and CCS83, Zone 2 are at north latitudes 38 degrees 20 minutes and 39 degrees 50 minutes, along which parallels the scale shall be exact; and (2) the point of control of coordinates is at the intersection of the zone's central meridian, which is at 122 degrees 00 minutes west longitude, with the parallel 37 degrees 40 minutes north latitude.

SEC. 5. Section 8805 of the Public Resources Code is amended to read:

8805. Zone 3 coordinates shall be named, and, on any map on which they are used, they shall be designated as "CCS27, Zone 3 or CCS83, Zone 3."

On their respective spheroids of reference: (1) the standard parallels of CCS27, Zone 3 and CCS83, Zone 3 are at north latitudes 37 degrees 04 minutes and 38 degrees 26 minutes, along which parallels the scale shall be exact; and (2) the point of control of coordinates is at the intersection of the zone's central meridian, which is at 120 degrees 30 minutes west longitude, with the parallel 36 degrees 30 minutes north latitude.

SEC. 6. Section 8806 of the Public Resources Code is amended to read:

8806. Zone 4 coordinates shall be named, and, on any map on which they are used, they shall be designated as "CCS27, Zone 4 or CCS83, Zone 4."

On their respective spheroids of reference: (1) the standard parallels of CCS27, Zone 4 and CCS83, Zone 4 are at north latitudes 36 degrees 00 minutes and 37 degrees 15 minutes, along which parallels the scale shall be exact; and (2) the point of control of coordinates is at the intersection of the zone's central meridian, which is at 119 degrees 00 minutes west longitude, with the parallel 35 degrees 20 minutes north latitude.

SEC. 7. Section 8807 of the Public Resources Code is amended to read:

8807. Zone 5 coordinates shall be named, and, on any map on which they are used, they shall be designated as "CCS27, Zone 5 or CCS83, Zone 5."

On their respective spheroids of reference: (1) the standard parallels of CCS27, Zone 5 and CCS83, Zone 5 are at north latitudes 34 degrees 02 minutes and 35 degrees 28 minutes, along which parallels the scale shall be exact; and (2) the point of control of coordinates is at the intersection of the zone's central meridian, which is at 118 degrees 00 minutes west longitude, with the parallel 33 degrees 30 minutes north latitude.

SEC. 8. Section 8808 of the Public Resources Code is amended to read:

8808. Zone 6 coordinates shall be named, and, on any map on which they are used, they shall be designated as "CCS27, Zone 6 or CCS83, Zone 6."

On their respective spheroids of reference: (1) the standard parallels of CCS27, Zone 6 and CCS83, Zone 6 are at north latitudes 32 degrees 47 minutes and 33 degrees 53 minutes, along which parallels the scale shall be exact; and (2) the point of control of coordinates is at the intersection of the zone's central meridian, which is at 116 degrees 15 minutes west longitude, with the parallel 32 degrees 10 minutes north latitude.

SEC. 9. Section 8809 of the Public Resources Code is amended to

read:

8809. Zone 7 coordinates shall be named, and, on any map on which they are used, they shall be designated as "CCS27, Zone 7."

On its respective spheroid of reference: (1) the standard parallels of CCS27, Zone 7 are at north latitudes 33 degrees 52 minutes and 34 degrees 25 minutes, along which parallels the scale shall be exact; and (2) the point of control of coordinates is at the intersection of the zone's central meridian, which is at 118 degrees 20 minutes west longtitude, with the parallel 34 degrees 08 minutes north latitude.

SEC. 10. Section 8810 of the Public Resources Code is amended to read:

8810. The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of the point in the appropriate zone of CCS27 or CCS83, shall consist of two distances, expressed in feet and decimals of a foot or meters and decimals of a meter. When the values are expressed in feet, the "U.S. Survey foot," (one foot = 1200/3937 meters) shall be used as the standard foot for CCS27 and CCS83. One of these distances, to be known as the "East x-coordinate," shall give the distance east of the Y axis; the other, to be known as the "North y-coordinate," shall give the distance north of the X axis. The Y axis of any zone shall be parallel with the central meridian of that zone. The X axis of any zone shall be at right angles to the central meridian of that zone.

SEC. 11. Section 8811 of the Public Resources Code is amended to read:

8811. The state plane coordinates of a point in any zone shall be based upon the plane coordinates of published horizontal control stations or derived from published horizontal control stations of the USC&GS and the NGS or their successors.

SEC. 12. Section 8813 of the Public Resources Code is amended to read:

8813. The CCS27 and CCS83 shall be based on monumented first- and second-order stations which have been published by USC&GS and NGS or their successors. The geodetic positions of CCS27 and CCS83 stations which are used to increase the density of control and which purport to be of first- or second-order accuracy shall have been surveyed in conformity with first- or second-order survey standards and specifications in effect at the time of the survey as defined by the Federal Geodetic Control Committee. Any survey or map which is to be based on state plane coordinates shall show established field-measured connections to at least two stations of corresponding accuracy or better whose credentials are based upon published stations of USC&GS or NGS or their successors. If an FGCC order of accuracy is claimed for a survey or a map, it shall be justified by additional written data that shows equipment, procedures, closures, adjustments, and a control diagram.

SEC. 13. Section 8814 of the Public Resources Code is amended to read:

8814. State plane coordinates may be used for property

identification on any map, survey, conveyance, or other instrument which delineates or affects the title to real property or which delineates, describes, or refers to the property, or any part thereof. However, to constitute, when recorded, constructive notice thereof under the recording laws, the delineating, describing, or referring to the property, or part thereof, shall also refer to data appearing of record in any office, the records of which constitute constructive notice under the recording laws. That record data shall be sufficient to identify the property without recourse to those coordinates, and in case of conflict between them, the references to that recorded data shall be controlling for the purpose of determining constructive notice under the recording laws.

SEC. 14. Section 8815 of the Public Resources Code is amended to read:

8815. The use of the term "California Coordinate System" on any map or document or in any field notes shall be suffixed either with "27" (shown as "CCS27") for coordinates based on NAD27 or with "83" (shown as "CCS83") for coordinates based on NAD83.

SEC. 15. Section 8816 of the Public Resources Code is amended to read:

8816. The use of the State Plane Coordinates by any person, corporation, or governmental agency engaged in land surveying or mapping is optional.

SEC. 16. Section 8817 is added to the Public Resources Code, to read:

8817. Prior to January 1, 1995, use of State Plane Coordinates for new projects may be based either on CCS27 or CCS83. On or after January 1, 1995, when State Plane Coordinates are used on new surveys and new mapping projects, the use shall be limited to CCS83.

SEC. 17. Section 8818 is added to the Public Resources Code, to read:

8818. This chapter does not impair or invalidate land titles, legal descriptions, or jurisdictional or land boundaries and, further, this chapter does not impair or invalidate references to, or the use of, CCS 27 coordinates, except as provided in Section 8817.

SEC. 18. Section 8819 is added to the Public Resources Code, to read:

8819. This chapter does not prohibit the use of new geodetic surveying technologies for which FGCC specifications have not yet been published, except that if first- or second-order accuracy is claimed for any of the resulting monumented stations, the state plane coordinates shall conform to FGCC accuracy standards.

SEC. 19. No reimbursement is required 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 612

An act to amend Section 27297.5 of the Government Code, relating to the county recorder.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 27297.5 of the Government Code is amended to read:

27297.5. (a) Upon recordation of an abstract of judgment or other document creating an involuntary lien affecting the title to real property, unless the county recorder has received from the judgment creditor proof of service pursuant to subdivision (b) of a copy of the document being recorded, the county recorder shall, whenever the recorded document evidencing such lien contains the address of the person or persons against whom such involuntary lien is recorded or the address of the judgment debtor's attorney of record, within 10 days notify such person or persons or attorney of record by mail of such recordation.

(b) As an alternative to notice by the recorder, the judgment creditor or lienholder may serve upon the person or persons against whom the abstract of judgment or document creating an involuntary lien is to be recorded, a copy thereof in one of the following ways:

(1) By personal delivery. Proof of service pursuant to this paragraph shall be shown by the affidavit of the person making the service, showing the time, place, and manner of service, the name and address of the person served, and any other facts necessary to show that service was made in accordance with this paragraph. If there is no address for a person to be served known to the judgment creditor or lienholder, he or she shall append to the abstract of judgment or involuntary lien an affidavit to that effect.

(2) By leaving it at the person's residence or place of business in the care of some person in charge. Proof of service pursuant to this paragraph shall be shown by the affidavit of the person making the service, showing the time, place, and manner of service, the name and address of the person served, together with the title or capacity of the person accepting service, and any other facts necessary to show that service was made in accordance with this paragraph.

(3) By registered or certified mail, postage prepaid, addressed to the person's residence or place of business. This service is complete at the time of mailing. Proof of service pursuant to this paragraph shall be shown by an affidavit setting forth the fact of service, the name and residence or business address of the person making this service, showing that he or she is a resident of, or employed in, the county where the mailing occurs, the fact that he or she is over the age of 18 years, the date and place of deposit in the mail, the name

and address of the person served as shown on the envelope, and the fact that the envelope was sealed and deposited in the mail, with the postage thereon fully prepaid, and sent by registered or certified mail.

(c) The judgment creditor may add the actual cost of service pursuant to subdivision (b) to the judgment or involuntary lien. Said costs shall not exceed the cost had the abstract of judgment or involuntary lien been recorded pursuant to subdivision (a).

(d) As used in this section, "involuntary lien" means a lien which the person or persons against whom such lien is recorded has not executed or has not consented to by contract.

(e) This section shall not apply to the recordation of any documents relating to an involuntary lien in favor of the federal government pursuant to federal law or statute or to the recordation of any state tax lien against real property.

(f) The failure of the county recorder or a judgment creditor or lienholder to notify the person or persons against whom an abstract of judgment or involuntary lien is recorded as required by this section shall not affect the constructive notice otherwise imparted by recordation, nor shall it affect the force, effect, or priority otherwise accorded such a lien.

CHAPTER 613

An act to amend Sections 66413, 66498.1, 66498.2, 66498.3, and 66498.4 of, and to add Section 66498.9 to, the Government Code, relating to subdivisions.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 66413 of the Government Code is amended to read:

66413. (a) When any area in a subdivision as to which a final map has been finally approved by a board of supervisors and filed for record pursuant to this division is thereafter annexed to a city, the final map and any agreements relating to the subdivision shall continue to govern the subdivision.

(b) When any area in a subdivision or proposed subdivision as to which a tentative map or vesting tentative map has been filed but a final map has not been finally approved, or as to which a parcel map is required by this division or local ordinance but the final act required to make the parcel map effective has not been taken, is annexed to a city, all procedures and regulations required by this division or by local ordinance of the annexing city shall be deemed to commence as of the effective date of the annexation and the map

shall comply with the requirements of any applicable ordinance of the city to which the area is annexed.

SEC. 1.5. Section 66498.1 of the Government Code is amended to read:

66498.1. (a) Whenever a provision of this division requires that a tentative map be filed, a vesting tentative map may instead be filed.

(b) When a local agency approves or conditionally approves a vesting tentative map, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section 66474.2. However, if Section 66474.2 is repealed, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

(c) Notwithstanding subdivision (b), the local agency may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required, in order to comply with state or federal law.

(d) The rights conferred by this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map. If the final map is approved, the rights conferred by this section shall be subject to the periods of time set forth in subdivisions (g) and (h) of Section 66452.6.

(e) Consistent with subdivision (b), an approved or conditionally approved vesting tentative map shall not limit a local agency from imposing reasonable conditions on subsequent required approvals or permits necessary for the development and authorized by the ordinances, policies, and standards described in subdivision (b).

SEC. 2. Section 66498.2 of the Government Code is amended to read:

66498.2. If the ordinances, policies, or standards described in subdivision (b) of Section 66498.1 are changed subsequent to the approval or conditional approval of a vesting tentative map, the subdivider, or his or her assignee, at any time prior to the expiration of the vesting tentative map pursuant to subdivisions (g) and (h) of Section 66452.6, may apply for an amendment to the vesting tentative map to secure a vested right to proceed with the changed ordinances, policies, or standards. An application shall clearly specify the changed ordinances, policies, or standards for which the amendment is sought.

SEC. 3. Section 66498.3 of the Government Code is amended to read:

66498.3. (a) Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning ordinance in existence at that time, that inconsistency

shall be noted on the map. The local agency may deny a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the zoning ordinance to eliminate the inconsistency. If the change in the zoning ordinance is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding subdivision (b) of Section 66498.1, confer the vested right to proceed with the development in substantial compliance with the change in the zoning ordinance and the map, as approved.

(b) The rights conferred by this section shall be for the time periods set forth in subdivisions (g) and (h) of Section 66452.6.

SEC. 4. Section 66498.4 of the Government Code is amended to read:

66498.4. Notwithstanding any provision of this chapter, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in subdivision (b) of Section 66498.1 and subdivision (a) of Section 66498.3, and local agencies may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law.

SEC. 5. Section 66498.9 is added to the Government Code, to read:

66498.9. By the enactment of this article, the Legislature intends to accomplish all of the following objectives:

(a) To establish a procedure for the approval of tentative maps that will provide certain statutorily vested rights to a subdivider.

(b) To ensure that local requirements governing the development of a proposed subdivision are established in accordance with Section 66498.1 when a local agency approves or conditionally approves a vesting tentative map. The private sector should be able to rely upon an approved vesting tentative map prior to expending resources and incurring liabilities without the risk of having the project frustrated by subsequent action by the approving local agency, provided the time periods established by this article have not elapsed.

(c) To ensure that local agencies have maximum discretion, consistent with Section 66498.1, in the imposition of conditions on any approvals occurring subsequent to the approval or conditional approval of the vesting tentative map, so long as that discretion is not exercised in a manner which precludes a subdivider from proceeding with the proposed subdivision.

CHAPTER 614

An act to amend Section 25141 of, and to add Section 17140.5 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 17140.5 is added to the Revenue and Taxation Code, to read:

17140.5. (a) Gross income shall not include compensation for military or naval service within the meaning of Section 574 of Title 50 of the United States Code (Soldiers' and Sailors' Civil Relief Act of 1940) performed by a nonresident not domiciled in this state and attributable to a resident spouse solely because of the application of any community property law or rule.

(b) This section shall apply to all taxable years in which the limitation period for the mailing of a notice of a deficiency assessment has not expired.

SEC. 2. Section 25141 of the Revenue and Taxation Code is amended to read:

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

(1) "Entity" means an individual, corporation, association, partnership, estate, trust, or any combination thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) For purposes of the minimum tax imposed under Sections 23151 and 23151.1, an entity which operates a professional athletic team shall be treated as a corporation. The liability under Sections 23151 and 23151.1 of any corporation owning any portion or share of

an entity shall be satisfied by payment of the minimum tax by that entity, if the corporation is not otherwise doing business in this state.

SEC. 3. For several years the Franchise Tax Board has interpreted state law and the federal Soldiers' and Sailor's Civil Relief Act to exclude income from taxation consistent with the result provided in Section 17140.5 of the Revenue and Taxation Code, as provided by this act. Although no new authority or case law has been discovered by the Franchise Tax Board, that board has recently notified the public that it is reversing its long-standing interpretation and will tax income of a military nonresident if it is attributable to a resident spouse because of community property rules or law. Administration of this new policy will be difficult if not impossible. The amount of new tax revenue which can realistically be collected is insignificant. Implementation of this new policy may thwart the spirit if not express provisions of the Soldiers' and Sailors' Civil Relief Act. Accordingly, the Legislature finds and declares that the purpose of the addition of Section 17140.5 to the Revenue and Taxation Code is to prevent a grave injustice by the tax laws, and that a proper public purpose is served by making the provisions of Section 17140.5 of the Revenue and Taxation Code applicable to all open tax years.

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

CHAPTER 615

An act to amend Section 2352 of the Probate Code, relating to guardianships and conservatorships.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 2352 of the Probate Code is amended to read:

2352. (a) The guardian or conservator may fix the residence of the ward or conservatee at either of the following:

(1) Any place within this state without the permission of the court. In fixing the residence, the guardian or conservator shall select the least restrictive appropriate setting which is available and necessary to meet the needs of the ward or conservatee, and which is in the best interests of the ward or conservatee. In making a determination of the appropriate level of care for wards or conservatees, guardians or conservators may utilize the statewide nursing home preadmission screening program or a comparable assessment by a community-based case management organization.

(2) A place not within this state if permission of the court is first obtained.

(b) An order under paragraph (2) of subdivision (a) shall require the guardian or conservator either to return the ward or conservatee to this state, or to cause a guardianship or conservatorship proceeding or its equivalent to be commenced in the place of the new residence, when the ward or conservatee has resided in the place of new residence for a period of four months or such longer or shorter period as is specified in the order.

(c) The guardian or conservator shall promptly mail to the court notice of all changes in the residence of the ward or conservatee.

(d) This section does not apply where the court has made an order under Section 2351 pursuant to which the conservatee retains the right to fix his or her own residence.

CHAPTER 616

An act to amend Section 217.1 of, and to add Sections 241.7 and 243.7 to, the Penal Code, relating to crimes.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 217.1 of the Penal Code is amended to read:

217.1. (a) Every person who commits any assault upon the President or Vice President of the United States, the Governor of any state or territory, any justice or judge of the United States or any state or territory, the secretary or director of any executive agency or department of the United States or any state or territory, or any other official of the United States or any state or territory holding elective office, any mayor, city council member, county supervisor, sheriff, district attorney, public defender, or the chief of police of any municipal police department, in retaliation for or to prevent the performance of the victim's official duties, shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

(b) Every person who attempts to commit murder against any person listed in subdivision (a) in retaliation for or to prevent the performance of the victim's official duties, shall be confined in the state prison for a term of 15 years to life. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 15 years in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time.

SEC. 2. Section 241.7 is added to the Penal Code, to read:

241.7. Any person who is a party to a civil or criminal action in which a jury has been selected to try the case and who, while the legal action is pending or after the conclusion of the trial, commits

an assault against any juror or alternate juror who was selected and sworn in that legal action, shall be punished by a fine not to exceed two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment, or by imprisonment in the state prison.

SEC. 3. Section 243.7 is added to the Penal Code, to read:

243.7. Any person who is a party to a civil or criminal action in which a jury has been selected to try the case and who, while the legal action is pending or after the conclusion of the trial commits a battery against any juror or alternate juror who was selected and sworn in that legal action shall be punished by a fine not to exceed five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment, or by the imprisonment in the state prison for 16 months, or for two or three years.

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 617

An act to add Section 12424.5 to the Penal Code, relating to crime.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 12424.5 is added to the Penal Code, to read:

12424.5. Notwithstanding Section 12423, a bank, a savings and loan association, a credit union, or an industrial loan company which maintains more than one office or branch may make a single annual application for a permit. In addition to the requirements set forth in this article, that application shall separately state the business address and a full description of each office or branch in which the tear gas or tear gas weapons are to be kept, installed, or maintained. Any location additions or deletions as to offices or branches shall be reported to the department within 60 days of the change.

A single permit issued under this section shall allow for the possession, operation, and maintenance of tear gas at each office or branch named in the application, including location changes.

CHAPTER 618

An act to amend Section 2924e of the Civil Code, relating to real property.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 2924e of the Civil Code is amended to read:

2924e. (a) The beneficiary or mortgagee of any deed of trust or mortgage on real property containing one to four residential units may, with the written consent of the trustor or mortgagor that is either effected through a signed and dated agreement which shall be separate from other loan and security documents or disclosed to the trustor or mortgagor in at least 10-point type, submit a written request by certified mail to the beneficiary or mortgagee of any lien which is senior to the lien of the requester, for written notice of any or all delinquencies of four months or more, in payments of principal or interest on any obligation secured by that senior lien notwithstanding that the loan secured by the lien of the requester is not then in default as to payments of principal or interest.

The request shall be sent to the beneficiary or mortgagee, or agent which it might designate for the purpose of receiving loan payments, at the address specified for the receipt of these payments, if known, or, if not known, at the address shown on the recorded deed of trust or mortgage.

(b) The request for notice shall identify the ownership or security interest of the requester, the date on which the interest of the requester will terminate as evidenced by the maturity date of the note of the trustor or mortgagor in favor of the requester, the name of the trustor or mortgagor and the name of the current owner of the security property if different from the trustor or mortgagor, the street address or other description of the security property, the loan number (if available to the requester) of the loan secured by the senior lien, the name and address to which notice is to be sent, and shall include or be accompanied by the signed written consent of the trustor or mortgagor, and a fee of forty dollars ($40). The request shall remain valid until withdrawn in writing and shall be applicable to all delinquencies as provided in this section, which occur prior to the date on which the interest of the requester will terminate as specified in the request or the expiration date, as appropriate. A request for notice shall be effective for five years from the mailing of the request or the recording of that request, whichever occurs later, and may be renewed within six months prior to its expiration date by sending the beneficiary or mortgagee, or agent, as the case may be, at the address to which original requests for notice are to be sent, a copy of the earlier request for notice together with a signed

statement that the request is renewed and a renewal fee of fifteen dollars ($15). Upon timely submittal of a renewal request for notice, the effectiveness of the original request is continued for five years from the time when it would otherwise have lapsed. Succeeding renewal requests may be submitted in the same manner. The request for notice and renewals thereof shall be recorded in the office of the county recorder of the county in which the security real property is situated. The rights and obligations specified in this section shall inure to the benefit of, or pass to, as the case may be, successors in interest of parties specified in this section. Any successor in interest of a party entitled to notice under this section shall file a request for that notice with any beneficiary or mortgagee of the senior lien and shall pay a processing fee of fifteen dollars ($15). No new written consent shall be required from the trustor or mortgagor.

(c) Unless the delinquency has been cured, within 15 days following the end of four months from any delinquency in payments of principal or interest on any obligation secured by the senior lien which delinquency exists or occurs on or after 10 days from the mailing of the request for notice or the recording of that request, whichever occurs later, the beneficiary or mortgagee shall give written notice to the requester of the fact of any delinquency and the amount thereof.

The notice shall be given by personal service, or by deposit in the mail, first-class postage paid. Following the recording of any notice of default pursuant to Section 2924 with respect to the same delinquency, no notice or further notice shall be required pursuant to this section.

(d) If the beneficiary or mortgagee of any such senior lien fails to give notice to the requester as required in subdivision (c), and a subsequent foreclosure or trustee's sale of the security property occurs, the beneficiary or mortgagee shall be liable to the requester for any monetary damage due to the failure to provide notice within the time period specified in subdivision (c) which the requester has sustained from the date on which notice should have been given to the earlier of the date on which the notice is given or the date of the recording of the notice of default under Section 2924, and shall also forfeit to the requester the sum of three hundred dollars ($300). A showing by the beneficiary or mortgagee by a preponderance of the evidence that the failure to provide timely notice as required by subdivision (c) resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error shall be a defense to any liability for that failure.

(e) If any beneficiary or mortgagee, or agent which it had designated for the purpose of receiving loan payments, has been succeeded in interest by any other person, any request for notice received pursuant to this section shall be transmitted promptly to that person.

(f) Any failure to comply with the provisions of this section shall not affect the validity of a sale in favor of a bona fide purchaser or

the rights of an encumbrancer for value and without notice.

(g) This section shall become operative on July 1, 1985, and shall remain in effect until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

The repeal of this section shall not affect the validity of requests for notice of delinquency filed before January 1, 1991.

CHAPTER 619

An act to add Section 2821.5 to the Public Utilities Code, relating to electrical corporations.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 2821.5 is added to the Public Utilities Code, to read:

2821.5. The Legislature finds and declares all of the following:

(a) Small power producers provide important alternative sources of electrical energy.

(b) The commission is required to approve and establish equitable charges to be paid by electrical corporations which purchase electricity or electrical generating capacity, or both, from qualifying small power producers.

(c) The commission recognized the importance of developing standard offer contracts based on long-run avoided costs in order to encourage the development of qualifying small power producers. On September 7, 1983, in Decision 83-09-054, the commission approved interim standard offer No. 4, which established a long-term power purchase contract.

(d) Many pioneer small power producers operating prior to September 7, 1983, did so under power purchase contracts based on short-term energy prices and long-term capacity prices. When interim standard offer No. 4 was approved, the commission allowed its provisions to be offered to qualified facility projects which had not yet obtained construction financing or otherwise entered a contract and started construction. Pioneer small power producers with existing contracts were not allowed to switch to the new interim standard offer No. 4 until their existing contracts were no longer in effect.

(e) On April 17, 1985, pursuant to Decision 85-04-075, the commission suspended all payment options offered under interim standard offer No. 4 due to the contrasting of excessive energy capacity, and the conclusion that prices were too high.

(f) Many qualifying small power producers who were operating

under contracts made prior to September 7, 1983, were thus precluded by the commission from adopting interim standard offer No. 4, and may be required to accept new prices and terms which provide less compensation than the suspended interim standard offer No. 4.

(g) These financially stressed qualifying small power producers assert they were unfairly denied the opportunity to adopt interim standard offer No. 4 by the commission. They also assert that much of the capacity contracted for under the suspended interim standard offer No. 4 will never be constructed. They further allege that they are being forced to close small powerplants which are currently in operation while producers with interim standard offer No. 4 contracts are constructing new plants.

SEC. 2. The Public Utilities Commission shall make a written report and submit to the Legislature not later than May 1, 1987, its findings on whether the pioneer small power producers who entered contracts prior to September 7, 1983, have been unfairly denied the opportunity to adopt interim standard offer No. 4 by the commission, and what remedies are available to correct any such denial. In making its findings, the commission shall consider both the adverse financial impacts on pioneer producers and the cost impacts on utility ratepayers and other small power producers. In addition, the commission shall estimate the amount of capacity eligible for interim standard offer No. 4 which will not be constructed, and whether pioneer plants should be substituted for these projects.

SEC. 3. The Public Utilities Commission shall conduct any investigation or proceeding pursuant to Section 2 of this act within the commission's existing budget.

CHAPTER 620

An act to amend Section 83105 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 28, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 83105 of the Government Code is amended to read:

83105. Each member of the commission shall be an elector. No member of the commission, during his or her tenure, shall hold any other public office, serve as an officer of any political party or partisan organization, participate in or contribute to an election campaign, or employ or be employed as a lobbyist nor, during his or her term of appointment, seek election to any other public office. Members of the commission may be removed by the Governor, with

concurrence of the Senate, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this section, after written notice and opportunity for a reply.

SEC. 2. It is the intent of the Legislature that Section 83105 of the Government Code, as amended by Section 1 of this act, shall not prohibit any member of the Fair Political Practices Commission who assumed office prior to January 1, 1987, from resigning from office to seek election to any other public office during his or her term of appointment. However, no member of the Fair Political Practices Commission who assumed office prior to January 1, 1987, shall, during his or her tenure, seek election to any other public office.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 621

An act to amend Section 13826.6 of, and to add Section 1272.1 to, the Penal Code, relating to crimes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 1986. Filed with Secretary of State August 29, 1986]

I am deleting the $500,000 appropriation contained in Assembly Bill No. 441 This appropriation is no longer needed since a portion of the $2 million budget augmentation for gang violence suppression has been earmarked for implementation of the specialized gang violence prevention element contained in this measure.

With this deletion, I approve Assembly Bill No. 441.

GEORGE DEUKMEJIAN

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

SECTION 1. Section 1272.1 is added to the Penal Code, to read:

1272.1. Release on bail pending appeal under subdivision (3) of Section 1272 shall be ordered by the court if the defendant demonstrates all the following:

(a) By clear and convincing evidence, the defendant is not likely to flee. Under this subdivision the court shall consider the following criteria:

(1) The defendant's ties to the community, including his or her employment, the duration of his or her residence, the defendant's family attachments and his or her property holdings.

(2) The defendant's record of appearance at past court hearings or of flight to avoid prosecution.

(3) The severity of the sentence the defendant faces.

(b) By clear and convincing evidence, the defendant does not

pose a danger to the safety of any other person or to the community.

(c) The appeal is not for the purpose of delay and, based upon the record in the case, raises a substantial legal question which, if decided in favor of the defendant, is likely to result in reversal.

For purposes of this subdivision, a "substantial legal question" means a close question, one of more substance than would be necessary to a finding that it was not frivolous. In assessing whether a substantial legal question has been raised on appeal by the defendant, the court shall not be required to determine whether it committed error.

In making its decision on whether to grant defendants' motions for bail under subdivision (3) of Section 1272, the court shall include a brief statement of reasons in support of an order granting or denying a motion for bail on appeal. The statement need only include the basis for the order with sufficient specificity to permit meaningful review.

SEC. 2. Section 13826.6 of the Penal Code is amended to read:

13826.6. For purposes of this chapter, a "community-based" organization is defined as a nonprofit operation established to serve gang members, their families, schools, and the community with programs of community supervision and service which maintain community participation in the planning, operation and evaluation of their programs.

(a) Unless funded pursuant to subdivision (c), community-based organizations supported under the Gang Violence Suppression Program shall implement the following activities:

(1) Providing information to law enforcement agencies concerning gang related activities in the community.

(2) Providing information to school administrators and staff concerning gang related activities in the community.

(3) Provide conflict resolution by means of intervention or mediation to prevent and limit gang crisis situations.

(4) Increase witness cooperation through coordination with local law enforcement and prosecutors and by education of the community about the roles of these government agencies and the availability of witness protection services.

(b) Community-based organizations funded pursuant to subdivision (a) shall also implement at least one of the following activities:

(1) Maintaining a 24-hour public telephone message center for the receipt of information and to assist individuals seeking services from the organization.

(2) Maintaining a "rumor control" public telephone service to provide accurate and reliable information to concerned citizens.

(3) Providing technical assistance and training concerning gang related activities to school staff members, law enforcement personnel, and community members including parental groups. Such training and assistance shall include coverage of how to prevent and minimize intergang confrontations.

(4) Providing recreational activities for gang members or potential gang members.

(5) Providing job training and placement services for youth.

(6) Referring gang members, as needed, to appropriate agencies for the treatment of health, psychological, and drug-related problems.

(c) Community-based organizations funded under the Gang Violence Suppression Program for specialized school prevention and intervention activities shall only be required to implement activities in the schools which are designed to discourage students from joining gangs and which offer or encourage students to participate in alternative programs.

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 allocation and disbursement to community-based organizations which elect to establish activities pursuant to subdivision (c) of Section 13826.6 of the Penal Code. Of this appropriation, one hundred thousand dollars ($100,000) shall be available for encumbrance in the 1986–87 fiscal year, two hundred thousand dollars ($200,000) shall be available for encumbrance in the 1987–88 fiscal year, and two hundred thousand dollars ($200,000) shall be available for encumbrance in the 1988–89 fiscal year.

Notwithstanding any other provision of law, the Office of Criminal Justice Planning shall not utilize, for administrative expenses, more than 10 percent of the funds appropriated by this section, and the office shall not be required to provide matching federal funds for any expenditure of funds appropriated by this section.

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 expeditiously deal with the urgent problems associated with crimes, as addressed in this act, it is essential that this act take effect immediately.

CHAPTER 622

An act to amend Sections 6897, 7301, and 7303 of, to amend the heading of Chapter 1 (commencing with Section 7301) of, and the heading of Article 1 (commencing with Section 7301) of Chapter 1 of, Part 3 of Division 6 of, to amend and renumber the heading of Article 3 (commencing with Section 7401) of Chapter 1 of Part 3 of Division 6 of, to add Section 7306 to, and to repeal Section 7302 and Article 2 (commencing with Section 7351) of Chapter 1 of Part 3 of Division 6 of, the Public Resources Code, relating to public lands.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 6897 of the Public Resources Code is amended to read:

6897. (a) All deposits of minerals, other than oil, gas, and geothermal resources in lands belonging to the state, which have been classified by the commission as lands containing commercially valuable mineral deposits and all deposits of such minerals within lands embraced within a prospecting permit and not subject to preferential lease to the permittee, may be leased by the commission in either of the following ways:

(1) By competitive bidding to the highest qualified and responsible bidder. The bidding shall be on the basis of a cash bonus, royalty rate, net profit, or other single biddable factor, and shall be conducted under general regulations and in a form to be determined by the commission to be in the best interest of the state.

(2) By a negotiated lease or other agreement, if the lands are determined by the commission to be unsuitable for competitive bidding for reasons such as small size, irregular configuration, lack of access, or if a negotiated lease is in the best interest of the state.

(b) In addition to the payment of a royalty in money or in kind or a percentage of the net profits derived from mineral extraction operations provided therein, each bid and each lease shall also provide for an annual payment in advance of rent of not less than one dollar ($1) per acre or a greater sum as the commission may specify.

SEC. 2. The heading of Chapter 1 (commencing with Section 7301) of Part 3 of Division 6 of the Public Resources Code is amended to read:

CHAPTER 1. SALE OF SCHOOL LANDS AND LIEU LANDS

SEC. 3. The heading of Article 1 (commencing with Section 7301) of Chapter 1 of Part 3 of Division 6 of the Public Resources Code is amended to read:

Article 1. Sale of School Lands

SEC. 4. Section 7301 of the Public Resources Code is amended to read:

7301. The unsold portions of the 16th and 36th sections of school lands, the unsold portions of the 500,000 acres granted to the state for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the 16th and 36th sections and losses to the school grant, may be sold by the commission under rules and regulations prescribed, and at a price fixed, by the commission.

SEC. 5. Section 7302 of the Public Resources Code is repealed.

SEC. 6. Section 7303 of the Public Resources Code is amended to read:

7303. The commission may, in the best interest of the state, exchange any public lands for lands of the United States of equal area or equal value, and the lands acquired in the exchange may then be sold in the manner and for cash as provided by this article.

SEC. 7. Section 7306 is added to the Public Resources Code, to read:

7306. The commission may sell timber separately from the land. Timber sold separately shall be removed in accordance with the Z'Berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4).

SEC. 8. Article 2 (commencing with Section 7351) of Chapter 1 of Part 3 of the Public Resources Code is repealed.

SEC. 9. The heading of Article 3 (commencing with Section 7401) of Chapter 1 of Part 3 of the Public Resources Code is amended and renumbered to read:

Article 2. Lieu Lands

CHAPTER 623

An act to amend Section 12007 of the Fish and Game Code, relating to fish and game.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 12007 of the Fish and Game Code is amended to read:

12007. Notwithstanding Section 12002, the punishment for (1) a second or subsequent violation of Section 1601 or 1603 on the same project or streambed alteration agreement; (2) each violation of Section 2270, 2271, 6400, 6400.5, 15202, 15509, or 15600; or (3) each violation of any regulation adopted pursuant to Section 15510, is a fine of not more than five thousand dollars ($5,000) or imprisonment in the county jail for a period not to exceed one year, or both the 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 624

An act to add Section 11006.4 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 11006.4 is added to the Welfare and Institutions Code, to read:

11006.4. Notwithstanding any other provision of law, when payment of aid under Chapter 2 (commencing with Section 11200) of this part is made by mail, the envelope shall bear on its face:

(a) A statement that it is not to be forwarded.

(b) A statement that address correction is requested.

CHAPTER 625

An act to amend Sections 44219, 44244, and 44341 of the Education Code, relating to education.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 44219 of the Education Code is amended to read:

44219. The commission shall meet at least once each month in no fewer than ten months each year. The chairperson, with the approval of the commission, may call additional meetings.

In order that any allegation of misconduct and the effect thereof, if any, upon the application or credential of a certified employee are determined, as required by subdivision (b) of Section 44244, no later than six months after an investigation is commenced, the commission or the Committee of Credentials shall meet more frequently than once each month, if possible.

SEC. 2. Section 44244 of the Education Code is amended to read:

44244. (a) At least 30 days prior to any Committee of Credentials meeting or hearing at which the application or credential of a certified employee is to be considered, the committee shall notify the certified employee of the specific allegations of misconduct for which the application or credential may be denied, suspended, or revoked, or for which the employee may be privately admonished, in ordinary and concise language setting forth the acts or omissions charged and the statutes or rules violated. Supplemental allegations

of misconduct shall be sent to the certified employee at least 30 days prior to the meeting or hearing. The portions of the investigation of the original or supplemental allegations which constitute the basis for the allegations shall be open to inspection and copying by the employee and his or her attorney. The statement of the allegations shall inform the employee that the allegations, if true, are sufficient to cause his or her application or credential to be denied, suspended, or revoked, or to cause him or her to be privately admonished.

(b) The investigation shall be commenced within 21 days after all allegations of misconduct have been filed with the committee and a meeting or hearing shall be scheduled no later than six months thereafter for the purpose of making a determination either that no adverse action shall be taken; that the allegations are sufficient to cause his or her application or credential to be denied, suspended, or revoked; or that the allegations are sufficient to cause him or her to be privately admonished.

(c) Notwithstanding subdivision (b), the chairperson of the commission may grant the committee an extension of time, not exceeding six months, when the committee demonstrates that additional time is necessary to complete its investigation or determination, as described in subdivision (b).

(d) The recommended decision of the committee shall be in writing and a copy of the decision shall be delivered to the certified employee personally or sent to him or her by registered mail within 14 days after the meeting or hearing together with specific information relative to any administrative hearing to which the employee is entitled.

SEC. 3. Section 44341 of the Education Code is amended to read:

44341. (a) For the sole purpose of ascertaining the moral character and true identity of the holder of a credential or an applicant for a credential or the renewal of a credential, the commission is authorized to require the production of information, records, reports, and other data from any public agency, except where that production is prohibited by law, pursuant to authority identified by the public agency.

This information shall be provided to the commission within 30 days of the request.

The commission shall maintain the confidentiality of such information in accordance with Chapter 1 (commencing with Section 1798) of Title 1.8 of the Civil Code.

(b) Except for the situation prescribed in subdivision (d), every applicant for a credential or for the renewal of a credential shall be deemed to have given his or her consent for the securing of, and disclosure of, information to the commission for the sole purpose of ascertaining the moral character and true identity of the holder of a credential, the applicant for a credential, or the applicant for the renewal of the credential.

(c) The Department of Justice shall furnish, upon application of the commission or its authorized representative, all information

pertaining to any applicant of whom there is a record in its office except that information which may compromise or prejudice an ongoing criminal investigative matter may be withheld until such matter is completed.

(d) With the written consent of an applicant for a credential or a credential holder, the commission upon written request of any private school authority, shall release to that private school authority information and other data relative to the identification or fitness of any applicant for a teaching position in the private school so long as not otherwise prohibited by any other provision of law.

(e) Each application for a credential shall contain notice that the information provided by the applicant is subject to investigation for, and verification of, the applicant's moral character and true identity by means of review of information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, secured by the commission for such purposes.

SEC. 4. The Commission on Teacher Credentialing shall study the current teacher misconduct hearing and meeting process. Areas that shall be studied include, but are not limited to, the level of due process owed to teachers in these hearings and meetings, and the current time limits in these proceedings. The commission shall report its findings and recommendations to the Legislature by December 31, 1987.

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.

CHAPTER 626

An act to amend Sections 10301, 10302, 10303, 10311, 10320, and 10332 of the Public Contract Code, relating to state purchases.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 10301 of the Public Contract Code is amended to read:

10301. Except in cases when the agency and the department agree that an article of a specified brand or trade name is the only article which will properly meet the needs of the agency, or in cases where the State Board of Control has made a determination pursuant

to Section 10308, all written contracts for the sale or hiring of materials, supplies, or equipment in an amount of ten thousand dollars ($10,000) or more, and all other purchases or hiring of materials, supplies, or equipment in an amount of ten thousand dollars ($10,000) or more, shall be made or entered into with the lowest responsible bidder meeting specifications.

For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid.

SEC. 2. Section 10302 of the Public Contract Code is amended to read:

10302. Except in cases of emergency where immediate purchase of supplies or equipment without bid is necessary for the protection of the public health, welfare, or safety, whenever the department purchases supplies or equipment in excess of ten thousand dollars ($10,000), all vendors who have notified the department in writing they desire to bid on such supplies or equipment, and who have been prequalified in accordance with the provisions of this section, shall be furnished with complete specifications as to the type, quality, quantity, and whenever practicable the date, place and method of delivery of the equipment or supplies to be purchased. In addition to notifying all such persons, the department shall post in a public place a copy of such specifications which shall remain posted until seven days after an award has been made. Whenever a purchase in excess of ten thousand dollars ($10,000) is made under this section or Section 10301 without the taking of bids, the department shall report to the State Board of Control the fact of the purchase together with a written statement of the facts requiring the purchase of the supplies or equipment without the taking of bids.

SEC. 3. Section 10303 of the Public Contract Code is amended to read:

10303. The department shall adopt, publish and apply uniform standards of rating bidders, on the basis of questionnaires and required statements, with respect to contracts upon which each bidder is qualified to bid. The department may adopt and publish lists of qualified bidders. No list so adopted and published shall preclude a qualified bidder not on the list from submitting a bid or bids and from being awarded a contract or contracts as the successful bidder.

The department may remove, for a period not less than 90 calendar days, but not to exceed 360 calendar days, from any list of qualified bidders prepared by the department any bidder who, based upon his performance on contracts which he has previously been awarded by the state, has demonstrated a lack of reliability in complying with and completing such previously awarded contracts.

Any bidder temporarily removed under this section shall be returned to the list of qualified bidders at any time after the initial 90-day period, upon demonstrating to the department's satisfaction that the problems which resulted in the bidder's previously demonstrated unreliability in completing state contracts, have been

corrected.

SEC. 4. Section 10311 of the Public Contract Code is amended to read:

10311. An estimate or requisition approved by the state agency in control of the appropriation or fund against which a purchase is to be charged, is full authority for any contract and purchase of supplies of the quality specified by the agency or determined by the Board of Control as provided in this article made pursuant thereto by the department.

The department shall issue a call for bids within 30 days after receiving a requisition for any supplies, material, or equipment that are regularly purchased within this state. The period of closing time designated in the invitations for bids shall be exclusive of holidays and shall be extended to the next working day after a holiday.

After the closing date for receiving any bids within or without this state, the contract of purchase shall be awarded or the bids shall be rejected within 45 days unless a protest is filed as provided in Section 10306.

SEC. 5. Section 10320 of the Public Contract Code is amended to read:

10320. The Department of General Services shall annually prepare a purchasing delegation program for district agricultural associations to be administered by the Department of Food and Agriculture and the Department of General Services pursuant to the following criteria:

(a) Purchases shall not exceed ten thousand dollars ($10,000).

(b) The Department of General Services shall annually review purchases to be included in the program and the amount of delegation for each type of purchase.

(c) The Department of General Services shall annually review with the Department of Food and Agriculture the aggregate limit for the delegation program.

(d) The Department of General Services shall annually communicate with each fair eligible for the delegation program, information relating to the procedure to be followed for using the delegation, including, but not limited to, the things included in the delegation program.

SEC. 6. Section 10332 of the Public Contract Code is amended to read:

10332. Any state agency which receives delegated authority to purchase materials, supplies, and equipment shall be authorized, at a minimum, to make the following types of purchases:

(a) Purchases not exceeding the dollar value established pursuant to Section 10330.

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

a valid contract.

(c) Purchases in any amount of articles, materials, and supplies which state agencies are required, by Section 2807 of the Penal Code, to purchase from the prison industry authority.

(d) Purchases not exceeding ten thousand dollars ($10,000) of materials, supplies, and equipment designated in price schedules which the office has established with vendors. Purchases not exceeding ten thousand dollars ($10,000) of materials, supplies, and equipment designated in price schedules may be made from a vendor other than the vendor specified on a price schedule if another vendor offers the same or an equivalent commodity at a price lower than the price established in the price schedule. The agency shall notify the office prior to making the purchase. The purchase may be made 48 hours after receipt of the notice by the office unless the office advises the agency that the commodity to be purchased is not the same or equivalent to a commodity specified on a price schedule.

(e) Purchases not exceeding ten thousand dollars ($10,000) of materials, supplies, and equipment which are available from the state warehouses but which the state agency can purchase from another vendor at a price lower than the price charged by the department. The agency shall notify the office prior to making such a purchase. The purchase may be made 48 hours after receipt of the notice by the office unless the office advises the agency that the commodity to be purchased is not the same or equivalent to the commodity available from the state warehouses.

CHAPTER 627

An act to amend Section 4350 of, and to add Section 4355 to, the Business and Professions Code, relating to pharmacy.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 4350 of the Business and Professions Code is amended to read:

4350. (a) Every certificate, license, permit, registration, or exemption issued may be suspended or revoked.

(b) The board may refuse a certificate, license, permit, registration, or exemption to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary certificate to any applicant for a pharmacist's certificate of licensure who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the certificate subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.
(2) Continuing medical or psychiatric treatment.
(3) Restriction of type or circumstances of practice.
(4) Continuing participation in a board-approved rehabilitation program.
(5) Abstention from the use of alcohol or drugs.
(6) Random fluid testing for alcohol or drugs.
(7) Compliance with laws and regulations governing the practice of pharmacy.

The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms or conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(c) 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 board shall have all the powers granted therein. Such action shall be final, except that the propriety of such action is subject to review by the superior court.

SEC. 2. Section 4355 is added to the Business and Professions Code, to read:

4355. The revocation, suspension, or other discipline by another state of a license, registration, permit, or certificate to practice pharmacy, operate a pharmacy, or do any other act for which a license, registration, permit, or certificate is required by this chapter, shall constitute grounds for disciplinary action against a licensee or grounds for the denial of licensure of an applicant in this state.

CHAPTER 628

An act to amend Section 98.2 of the Labor Code, relating to the payment of wages.

[Approved by Governor August 29, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 98.2 of the Labor Code is amended to read:

98.2. (a) Within 10 days after service of notice of an order, decision, or award the parties may seek review by filing an appeal to the justice, municipal, or superior court, in accordance with the appropriate rules of jurisdiction, where the same shall be heard de novo. A copy of the appeal request shall be served upon the Labor Commissioner by the appellant.

(b) If the party seeking review by filing an appeal to the justice, municipal, or superior court is unsuccessful in the appeal, the court

shall determine the costs and reasonable attorneys' fees incurred by the other parties to the appeal, and assess that amount as a cost upon the party filing the appeal.

(c) If no notice of appeal is filed within 10 days of receipt of the notice of decision or award, the decision or award shall, in the absence of fraud, be deemed the final order.

(d) The Labor Commissioner shall file, within 10 days of the order becoming final pursuant to subdivision (c), a certified copy of the final order with the clerk of the justice, municipal, or superior court, in accordance with the appropriate rules of jurisdiction, of the appropriate county unless a settlement has been reached by the parties and approved by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered shall have the same force and effect as, and shall be subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. Enforcement of the judgment shall receive court priority.

(e) Notwithstanding subdivision (d), the Labor Commissioner may stay execution of any judgment entered upon an order, decision, or award which has become final upon good cause appearing therefore and may impose the terms and conditions of the stay of execution. A certified copy of the stay of execution shall be filed with the clerk entering the judgment.

(f) When a judgment is satisfied in fact, otherwise than by execution, the Labor Commissioner may, upon the motion of either party or on its own motion, order entry of satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment upon the filing of a certified copy of the order.

(g) The Labor Commissioner shall make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action and requiring the employer to deposit a bond as provided in Section 240.

CHAPTER 629

An act to add Section 895.5 to the Evidence Code, relating to blood tests.

[Approved by Governor August 29, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. It is the intent of the Legislature to standardize the process by which paternity is established in order to achieve a greater degree of equity and consistency in paternity determinations. The Legislature finds that the science of genetic

testing has advanced to the degree that paternity determinations resulting from such testing are so reliable that the burden of proof can be shifted to the putative father.

SEC. 2. Section 895.5 is added to the Evidence Code, to read:

895.5. (a) There is a rebuttable presumption, affecting the burden of proof, of paternity, if the court finds that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is 100 or greater. This presumption may only be rebutted by a preponderance of the evidence.

(b) As used in this section:

(1) "Genetic markers" mean separate identifiable genes or complexes of genes generally isolated as a result of blood typing, at least seven of which are normally tested in a paternity determination.

(2) "Paternity index" means the commonly accepted indicator used for denoting the existence of paternity. It represents the mathematically computed probability that the putative father is the true father of the child, as opposed to any other man of similar ethnic background. The paternity index, computed using results of various paternity tests following accepted statistical principles for the computation of probability, shall be in accordance with the method of expression accepted at the International Conference on Parentage Testing at Airlie House, Virginia, May 1982, sponsored by the American Association of Blood Banks.

CHAPTER 630

An act to add Section 14007.4 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 14007.4 is added to the Welfare and Institutions Code, to read:

14007.4. Any children under the jurisdiction of the county welfare department, who are dependent children in relative placement, foster home placement, or group home placement, and any child in custody pending the filing of a petition for placement, who are receiving or are eligible to receive services from the county welfare department, shall be deemed to have met the residence requirements for services under this chapter, and no further verification of residence shall be required.

This section shall be implemented only to the extent that full federal financial participation is made available.

CHAPTER 631

An act to amend Section 40519 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 40519 of the Vehicle Code is amended to read:

40519. (a) Any person who has received a written notice to appear for an infraction may, prior to the time at which the person is required to appear, make a deposit and declare the intention to plead not guilty to the clerk of the court named in the notice to appear. The deposit shall be in the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 or 42050 of this code, for the offense charged, and shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place scheduled by the clerk for arraignment and for trial, and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. The case shall thereupon be set for arraignment and trial on the same date, unless the defendant requests separate arraignment.

(b) Any person who has received a written notice to appear or a notice of parking violation issued under Section 41103 for an infraction may, prior to the time at which the person is required to appear, plead not guilty in writing in lieu of appearing in person. The written plea shall be directed to the court named in the notice to appear or to the court or city agency indicated on the notice of parking violation and, if mailed, shall be sent by certified or registered mail postmarked not later than five days prior to the day upon which appearance is required. The written plea and request to the court or city agency shall be accompanied by a deposit consisting of the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 or 42050 of this code, for that offense, which amount shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place set by the court for trial and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. Upon receipt of the plea and deposit, the case shall be set for arraignment and trial on the same date, unless the defendant requests separate arraignment. Thereafter, the case shall be conducted in the same manner as if the defendant had appeared in person, had made his or her plea in open court, and had deposited that sum as bail. The court or the clerk of the court shall notify the accused of the time and place of trial by first-class mail postmarked

at least 10 days prior to the time set for the trial. Any person using this procedure shall be deemed to have waived the right to be tried within the statutory period.

(c) Any person using the procedure set forth in subdivision (a) or (b) shall be deemed to have given a written promise to appear at the time designated by the court for trial, and failure to appear at the trial shall constitute a misdemeanor.

SEC. 2. Section 40519 of the Vehicle Code is amended to read:

40519. (a) Any person who has received a written notice to appear for an infraction may, prior to the time at which the person is required to appear, make a deposit and declare the intention to plead not guilty to the clerk of the court named in the notice to appear. The deposit shall be in the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 of this code or Section 1464 of the Penal Code, for the offense charged, and shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place scheduled by the clerk for arraignment and for trial, and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. The case shall thereupon be set for arraignment and trial on the same date, unless the defendant requests separate arraignment.

(b) Any person who has received a written notice to appear or a notice of parking violation issued under Section 41103 for an infraction may, prior to the time at which the person is required to appear, plead not guilty in writing in lieu of appearing in person. The written plea shall be directed to the court named in the notice to appear or to the court or city agency indicated on the notice of parking violation and, if mailed, shall be sent by certified or registered mail postmarked not later than five days prior to the day upon which appearance is required. The written plea and request to the court or city agency shall be accompanied by a deposit consisting of the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 of this code or Section 1464 of the Penal Code, for that offense, which amount shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place set by the court for trial and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. Upon receipt of the plea and deposit, the case shall be set for arraignment and trial on the same date, unless the defendant requests separate arraignment. Thereafter, the case shall be conducted in the same manner as if the defendant had appeared in person, had made his or her plea in open court, and had deposited that sum as bail. The court or the clerk of the court shall notify the accused of the time and place of trial by first-class mail postmarked at least 10 days prior to the time set for the trial. Any person using this procedure shall be deemed to have waived the right to be tried within the statutory period.

(c) Any person using the procedure set forth in subdivision (a) or

(b) shall be deemed to have given a written promise to appear at the time designated by the court for trial, and failure to appear at the trial shall constitute a misdemeanor.

SEC. 3. Section 2 of this bill incorporates amendments to Section 40519 of the Vehicle Code proposed by both this bill and AB 3082. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 40519 of the Vehicle Code, and (3) this bill is enacted after AB 3082, in which case Section 1 of this bill shall not become operative.

SEC. 4. The Judicial Council shall submit a report to the Legislature, on or before January 1, 1990, regarding the overall success of the program prescribed by this act, as measured by its impact on court congestion as related to traffic offenses. The report shall also contain information regarding the number of state mandate claims arising from this act, which shall be obtained from the Commission on State Mandates.

SEC. 5. 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 632

An act to add Section 44439 to, and Article 9 (commencing with Section 44360) to Chapter 2 of Part 25 of, the Education Code, relating to certificated employees.

[Approved by Governor August 29, 1986 Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Article 9 (commencing with Section 44360) is added to Chapter 2 of Part 25 of the Education Code, to read:

Article 9. Penalties for the Submission of Fraudulent Documents

44360. Any person is guilty of a misdemeanor who, individually or in a representative or any other capacity, does any of the following:

(a) Alters with fraudulent intent, or uses or attempts to use any altered diploma, certificate, transcript, affidavit, or any other evidence to be used in obtaining a credential or certificate authorizing service in the public schools.

(b) Assumes any degree or title not conferred upon him or her in the manner and by the authority recognized in this chapter with intent to represent falsely that he or she has received that degree or

title, or who willfully makes any false statement on any application for examination, license, credential, or certificate under this chapter.

(c) Sells, barters, or offers to sell or barter, or purchase or procure directly or indirectly with the intent that it be fraudulently used, any license, credential, or permit authorizing service in the public schools, or any diploma, certificate, affidavit, transcript, or any other evidence required for use in connection with any application for, or the granting of any license, credential, or certificate authorizing service in, the public schools.

(d) Performs or attempts to perform any teaching or other certified service in any public school under a false or assumed name, or under any name other than that inscribed by the commission on any license, credential, or certificate authorizing him or her to perform those services. This provision shall not apply to persons who, because of marriage or other good faith reasons, have given notice of a name change.

(e) Refuses or willfully fails to surrender upon demand of the commission, his or her license, credential, or certificate authorizing teaching or service in the public schools upon revocation, suspension, or voiding of those documents under this chapter.

44361. Every person filing for record or attempting to file for record the license, credential, or certificate issued to another person, falsely claiming himself or herself to be the person named in or entitled to the license, credential, or certificate, is guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for not more than one year.

44362. Every fact necessary to establish the qualifications of an applicant for the issuance of any license, credential, or certificate authorizing the performance of services in the public schools shall be verified under penalty of perjury. An oath to this effect shall be displayed prominently on each application form, and shall be dated and subscribed by the applicant.

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. 2. Section 44439 is added to the Education Code, to read:

44439. The commission may deny, suspend, revoke or otherwise restrict a license on the ground that an applicant or licensee has subverted or attempted to subvert any licensing examination or the administration of an examination, including, but not limited to:

(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials; the unauthorized xerographic, photographic, or other mechanical reproduction of any portion of the actual licensing examination; aiding by any means the unauthorized xerographic, 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 use or purport to use any examination questions or materials which 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.

(b) 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 prossession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

CHAPTER 633

An act to amend Section 56.10 of the Civil Code, relating to medical information.

[Approved by Governor August 29, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care shall disclose medical information regarding a patient of the provider without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a government law enforcement agency.

(7) When otherwise specifically required by law.

(c) A provider of health care may disclose medical information as follows:

(1) The information may be disclosed to providers of health care or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. The information may also be disclosed to another provider as necessary to assist the other provider in obtaining payment for health care services rendered by that provider to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way which would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, or to licensed health care service plans, or to professional standards review organizations, or to utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, or to persons or organizations insuring, responsible for, or defending professional liability which a provider may incur, if the committees, agents, plans, organizations, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of

charges.

(5) The information in the possession of any provider of health care may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care. However, no patient identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office.

(7) The information may be disclosed to public agencies, clinical investigators, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way which would permit identification of the patient.

(8) A provider of health care that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information which:

(A) Is relevant in a law suit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided it may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy which the patient seeks coverage by or benefits from, if the information was created by the provider of health care as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a group practice prepayment health care service plan by providers which contract with the plan and may be transferred among providers which contract with the plan, for the purpose of administering the plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information

if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent.

CHAPTER 634

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

[Approved by Governor August 29, 1986 Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 1203.1d of the Penal Code is amended to read:

1203.1d. In determining the amount and manner of disbursement under an order made pursuant to this code requiring a defendant to make reparation or restitution to a victim of a crime, to pay any money as reimbursement for legal assistance provided by the court, to pay any cost of probation or probation investigation, or to pay any cost of jail or other confinement, or to pay any other reimbursable costs, the court, after determining the amount of any fine and penalty assessments, and a county financial evaluation officer when making a financial evaluation, shall first determine the amount of restitution to be ordered paid to any victim, and shall then determine the amount of the other reimbursable costs.

If payment is made in full, the payment shall be apportioned and disbursed in the amounts ordered by the court.

If reasonable and compatible with the defendant's financial ability, the court may order payments to be made in installments.

With respect to installment payments, the board of supervisors may establish the priorities of payment, first between fines, penalty assessments, and reparation or restitution, and then between other reimbursable costs. The board of supervisors may also establish priorities of payment between orders or parts of orders in cases where defendants have been ordered to pay more than one court order.

Documentary evidence, such as bills, receipts, repair estimates, insurance payment statements, payroll stubs, business records, and similar documents relevant to the value of the stolen or damaged property, medical expenses, and wages and profits lost shall not be

excluded as hearsay evidence.

CHAPTER 635

An act to amend Section 44009 of the Education Code, relating to certificated employees.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 44009 of the Education Code is amended to read:

44009. A plea or verdict of guilty or finding of guilt by a court in a trial without a jury is deemed to be a conviction within the meaning of Sections 44425, 44436, 44836, and 45123, irrespective of a subsequent order for probation suspending the imposition of a sentence or an order under Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information. The record of a conviction of a sex offense, as defined in Section 44010, or of a narcotics offense, as defined in Section 44011, shall be sufficient proof of conviction of a crime involving moral turpitude for the purposes of Sections 44892, 44907, and 44923, and Sections 44932 to 44947, inclusive, relating to the dismissal of permanent employees.

CHAPTER 636

An act to amend Section 75093 of the Government Code, relating to the Judges' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986.]

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

SECTION 1. Section 75093 of the Government Code is amended to read:

75093. Notwithstanding any other provisions of this article to the contrary, the surviving spouse of any judge who died in office on or after January 1, 1987, shall receive a monthly allowance, equal to 25 percent of the monthly salary payable at the time payment of the allowance falls due, to the judge last holding the judicial office to which the deceased judge was last elected or appointed.

A surviving spouse who receives an allowance pursuant to this section, shall have no other claim with respect to the Judges' Retirement Fund or with respect to any other provisions of the Judges' Retirement Law except that a surviving spouse who receives an allowance pursuant to this section on account of a death in office on or after January 1, 1987, and who was eligible to elect the allowance payable pursuant to Section 75091, may elect, within a 24-month period after the date of the death of the judge, to become subject to Section 75091 in lieu of the benefit payable pursuant to this section, and that any surviving spouse who was, prior to January 1, 1987, eligible to elect the monthly allowance provided by Section 75091 but, instead, had elected at the time of the judge's death, the monthly allowance payable pursuant to this section, may elect, within a 24-month period after the date of the death of the judge, to receive the monthly allowance provided by Section 75091 in lieu of the benefit payable pursuant to this section. An election revoking the benefit payable pursuant to this section and electing to receive the monthly allowance payable pursuant to Section 75091 shall be filed with the Judges' Retirement System and the effective date of payment provided by Section 75091 shall be the first of the month following the date on which that election was filed.

If the surviving spouse has received a benefit under Division 4 (commencing with Section 3201) of the Labor Code, on account of the death of such a person, the amount of any such benefit shall be deducted from the allowance payable under this section.

The allowance provided by this section shall be payable commencing with the day following the date of the judge's death.

This section does not apply to the death of any retired judge while serving on assignment in any court.

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

In order that the needed options made available by this act to surviving spouses of judges may be made available at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 637

An act to amend Sections 20006, 20862, 20863, 20898, 20930.86, 21253.1, and 22503 of, to add Section 20900.1 to, and to repeal Section 20930.85 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986]

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

SECTION 1. Section 20006 of the Government Code is amended to read:

20006. "Actuary" means an actuary regularly employed on a full- or part-time basis by the board.

SEC. 2. Section 20862 of the Government Code is amended to read:

20862. One year of service credit shall be granted for service rendered and compensated in a fiscal year in full-time employment for any of the following:

(a) One academic year of service for persons employed on an academic year basis, under terms and conditions prescribed by the board.

(b) Ten months of service for persons employed on a monthly basis.

(c) Two hundred fifteen days of such service after June 30, 1951, and 250 days prior to July 1, 1951, for persons employed on a daily basis.

(d) One thousand seven hundred twenty hours of such service after June 30, 1951, and 2,000 hours prior to July 1, 1951, for persons employed on an hourly basis.

A fractional year of credit shall be given for service rendered in a fiscal year in full-time employment for less than the time prescribed in this section.

SEC. 3. Section 20863 of the Government Code is amended to read:

20863. For the purpose of calculating retirement allowances, credit for service rendered on a part-time basis in each fiscal year shall be based on the ratio that the service rendered bears:

(a) To one academic year if rendered on an academic year basis.

(b) To 10 months if rendered on a monthly basis.

(c) To 215 days if the service was rendered after June 30, 1951, or to 250 days if the service was rendered prior to July 1, 1951, for services rendered on a daily basis.

(d) To 1,720 hours if the service was rendered after June 30, 1951, or to 2,000 hours if the service was rendered prior to July 1, 1951, for service rendered on an hourly basis.

SEC. 4. Section 20898 of the Government Code is amended to

read:

20898. "Leave of absence" also means any time during which a state member, other than a school member, was excused from performance of his duties on approved leave for the purpose of further education. Any member electing to receive credit for such a leave of absence shall, in addition to contributions and interest otherwise required by this article, contribute an amount equal to (1) the contribution that would have been made by his employer in respect to him had he not been absent, assuming that the employer rate of contribution in effect at the time of election had been in effect during the absence and (2) the amount of interest that would have accrued to the member and employer contributions if they had been deposited at the beginning date of the member's first subsequent period of service in membership until the date of completion of payments at the interest rate in effect on the date of election. Credit granted under this section may not exceed two years.

This section shall be applicable to persons who are members or became members of this system on and after January 1, 1975.

SEC. 5. Section 20900.1 is added to the Government Code, to read:

20900.1. "Leave of absence" also means time during which a state member is excused from the performance of a portion of his or her duties and did not, during such absence, receive full compensation; provided, however, that such partial leave of absence was formally granted by the employer for one of the purposes specified in this article. The contributions and interest required of the member shall be determined by the section which defines the purpose of the leave and by the amount of service credit the member would have received had he or she not been absent.

SEC. 6. Section 20930.85 of the Government Code is repealed.

SEC. 7. Section 20930.86 of the Government Code is amended to read:

20930.86. "Public service" for purposes of this article also means employment under a program sponsored by, and financed at least in part by, the Comprehensive Employment and Training Act of 1973, as amended.

Notwithstanding any other provision of law, a member electing to receive credit for public service under this section shall contribute in a lump sum, or by installment payments over such period and subject to such minimum payments as may be prescribed by regulation, an amount equal to the contributions which both the employee and the employer would have been required to make had the employee been a member during such period of service, assuming the rate of compensation in effect at the beginning of the employee's first period of service in membership subsequent to such service, and contribution rates applicable to such public service on the date of election, plus interest on such contributions from the first date of membership subsequent to such service until the date of completion of payments at the annual interest rate in effect on the

date of election.

Benefits arising from service credited to a member under this section shall become a liability of the employer for which such service was rendered.

SEC. 8. Section 21253.1 of the Government Code is amended to read:

21253.1. Whenever a contracting agency amends its contract to become subject to Section 21252.61 instead of Section 21252.6, a member who previously elected, pursuant to Section 21253, to remain subject to Section 21252.1, or a member who entered employment under Section 21252.1 after attaining age 30 and continued to be subject to that section, shall elect in writing within 90 days of notification by the board whether to be subject to Section 21252.61 or Section 21252.1.

SEC. 9. Section 22503 of the Government Code is amended to read:

22503. The board may delegate to the executive officer authority to perform any act within the power of the board itself to perform under this part. The executive officer may delegate to his or her subordinates any act or duty unless the board, by motion or resolution recorded in the minutes, has required the executive officer to act personally.

CHAPTER 638

An act to amend Sections 1401.5, 10270.98, and 13000 of the Insurance Code, relating to insurance.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. 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, subdivision (b) 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. 2. Section 10270.98 of the Insurance Code is amended to read:

10270.98. Group disability policies may provide, among other things, that the benefits payable thereunder are subject to reduction if the individual insured has any other coverage (other than individual policies or contracts) providing hospital, surgical or medical benefits, whether on an indemnity basis or a provision of service basis, resulting in such insured being eligible for more than 100 percent of the covered expenses.

Except as permitted by this section and by Section 10323, 10369.5, 10369.6, or 11515.5, and except in the case of group practice prepayment plan contracts which do not provide for coordination of benefits, to the extent they provide for a reduction of benefits on

account of other coverage with respect to emergency services that are not obtained from providers that contract with the plan, no group or individual disability insurance policy or service contract issued by nonprofit hospital service plans operating under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 shall limit payment of benefits by reason of the existence of other insurance or service coverage.

The policy provisions authorized by this section shall contain a provision that payments of funds may be made directly between insurers and other providers of benefits. Such policy provisions shall also contain a provision that if benefits are provided in the form of services rather than cash payments the reasonable cash value of each service rendered shall be deemed to be both an allowable expense and a benefit paid. The reasonable cash value of any contractual benefit provided to the insured in the form of service rather than cash payment by or through any hospital service organization or medical service organization or group-practice prepayment plan shall be deemed an expense incurred by the insured for such service, whether or not actually incurred, and the liability of the insurer shall be the same as if the insured had not been entitled to any such service benefit, unless the policy contains a provision authorized by Section 10323, 10369.5 or 10369.6 in the case of an individual disability policy, or by this section, in the case of a group disability policy.

This section shall not be construed to require that benefits payable under group disability policies be subject to reduction by the benefit amounts payable under Chapter 3 (commencing with Section 2800) of Part 2 of Division 1 of the Unemployment Insurance Code.

The provisions of this section, and all regulations adopted pursuant thereto pertaining to coordination of benefits with other group disability benefits, shall apply to all employers, labor-management trustee plans, union welfare plans (including those established in conformity with 29 U.S.C. Sec. 186), employer organization plans or employee benefit organization plans, health care service plan contracts, pursuant to regulations adopted by the Commissioner of Corporations which shall be uniform with those issued under this section for those plans that elect to coordinate benefits, group practice, individual practice, any other prepayment coverage for medical or dental care or treatment, and administrators, within the meaning of Section 1759 not otherwise subject to the provisions of this section whenever such plan, contract or practice provides or administers hospital, surgical, medical or dental benefits to employees or agents who are also covered under one or more additional group disability policies which are subject to this section or health care service plans.

SEC. 3. Section 13000 of the Insurance Code is amended to read:

13000. (a) Upon written request to an insurer by officers designated in subdivisions (a) and (b) of Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code, an insurer, or agent authorized by that insurer to act on behalf of the insurer, shall

release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental agency which the insurer may possess relating to any specific insurance fraud. Relevant information may include, but is not limited to, all of the following:

(1) Insurance policy information relevant to the insurance fraud under investigation, including, but not limited to, any application for a policy.

(2) Policy premium payment records which are available.

(3) History of previous claims made by the insured.

(4) Information relating to the investigation of the insurance fraud, including statements of any person, proof of loss, and notice of loss.

(5) Complete copies of both sides of payment drafts.

(b) The provisions of subdivision (a) shall not operate to authorize disclosure of medical information not otherwise authorized for disclosure pursuant to law.

(c) For purposes of this article, "authorized governmental agency" means those agencies employing officers designated in subdivisions (a) and (b) of Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code.

CHAPTER 639

An act to amend Section 65008 of the Government Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 65008 of the Government Code is amended to read:

65008. (a) Any action pursuant to this title by any city, county, or city and county in this state which denies to any individual or group of individuals the enjoyment of residence, land ownership, tenancy, or any other land use in this state because of religious or ethnic reasons is null and void.

(b) No city, county, or city and county shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against any residential development or emergency shelter because of the method of financing or the race, sex, color, religion, national origin, ancestry, lawful occupation, or age of the owners or intended occupants of the residential development or emergency shelter.

(c) No city, county, or city and county shall, in the enactment or

administration of ordinances pursuant to this title, prohibit or discriminate against a residential development or emergency shelter because the development or shelter is intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) No city, county, or city and county may impose different requirements on a residential development or emergency shelter which is subsidized, financed, insured, or otherwise assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e).

(e) Nothing in this title shall be construed to prohibit a city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements which reduce development costs of these developments.

(f) "Residential development," as used in this section, means a single family residence or a multifamily residence.

(g) This section shall apply to chartered cities.

The Legislature finds and declares that discriminatory practices which inhibit the development of housing for persons and families of low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

SEC. 2. The Legislature declares that the amendments to Section 65008 of the Government Code by this act are declaratory of 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 prohibit cities and counties from prohibiting or discriminating against any residential development or emergency shelter on the basis of the occupation of the intended occupants of the development or shelter as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 640

An act to add Section 361.3 to the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986]

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

SECTION 1. Section 361.3 is added to the Welfare and Institutions Code, to read:

361.3. (a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative. In determining whether such a placement is appropriate, the probation officer and court shall consider the ability of the relative to provide a secure and stable environment for the child. Factors to be considered in that assessment include, but are not limited to, the good moral character of the relative, the ability of the relative to exercise proper and effective care and control of the child; the ability of the relative to provide a home and the necessities of life for the child; which relative is most likely to protect the child from his or her parents; which relative is most likely to facilitate visitation with the child's other relatives and to facilitate reunification efforts with the parents: and the best interests of the child. In this regard, the Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of children, and a probation officer's determination as to the ability of a disabled relative to exercise care and control should center upon whether the relative's disability prevents him or her from exercising care and control.

(b) In any case in which more than one appropriate relative requests preferential consideration pursuant to this section, the probation officer and the court, in making his or her determination as to which relative should receive preferential consideration, shall consider the best interests of the child, and which of the relatives is most likely to protect the child from his or her parents, to facilitate visitation with the child's other relatives, and to facilitate reunification efforts with the parents. Consideration shall also be given to attempting to place siblings and stepsiblings in the same home if such a placement is found to be in their best interests.

(c) For purposes of this section:

(1) "Preferential consideration" means that the relative seeking placement shall be the first placement to be considered and investigated.

(2) "Relative" means an adult who is a grandparent, aunt, uncle, first cousin, or sibling.

CHAPTER 641

An act to amend Sections 35144, 35145, 72121, and 72129 of the Education Code, to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 35144 of the Education Code is amended to read:

35144. A special meeting of the governing board of a school district may be called at any time by the presiding officer of the board, or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board, and to each local newspaper of general circulation, radio, or television station requesting notice in writing. The notice shall be delivered personally or by mail at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at those meetings by the governing board. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the board a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public and district employees.

SEC. 2. Section 35145 of the Education Code is amended to read:

35145. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 35146 of, and subdivision (c) of Section 48918 of, this code, all meetings of the governing board of any school district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in

violation of this subdivision or Section 35144 is null and void.

SEC. 3. Section 72121 of the Education Code is amended to read:

72121. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 48914 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in violation of this subdivision or subdivision (b) of Section 72129 is null and void.

SEC. 4. Section 72129 of the Education Code is amended to read:

72129. (a) Special meetings may be held at the call of the president of the board or upon a call issued in writing and signed by a majority of the members of the board.

(b) A notice of the meeting shall be posted at least 24 hours prior to the special meeting and shall specify the time and location of the meeting and the business to be transacted and shall be posted in a location that is freely accessible to members of the public and district employees.

SEC. 5. Section 54954.2 is added to the Government Code, to read:

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. No action shall be taken on any item not appearing on the posted agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

SEC. 6. Section 54954.3 is added to the Government Code, to read:

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on items of interest to the public that are within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, in the case of a meeting of a city council in a city or a board of supervisors in a city and county, the agenda need not provide an opportunity for members of the public to address the council or board on any item that has already been considered by a committee, composed exclusively of members of the council or board, at a public meeting wherein all interested members of the public were afforded the oportunity to address the committee on the item, unless the item has been substantially changed since the committee heard the item, as determined by the council or board.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

SEC. 7. Section 54956 of the Government Code is amended to read:

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of

the public.

SEC. 8. Section 54956.5 of the Government Code is amended to read:

54956.5. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

For purposes of this section, "emergency situation" means any of the following:

(a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

However, each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting by telephone and all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

Notwithstanding Section 54957, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

SEC. 9. Section 54960.1 is added to the Government Code, to read:

54960.1. (a) Any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action

challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation. The written demand shall be made within 30 days from the date the action was taken. Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action. If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, the expiration of the 30-day period to cure or correct, or 75 days from the date the challenged action was taken, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c) An action taken shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, and 54956.

(2) 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 thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid, upon which a party has, in good faith, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(d) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(e) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

SEC. 10. Section 54960.5 of the Government Code is amended to read:

54960.5. A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency

has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

SEC. 11. The Legislature does not intend, by including an express reference to Sections 54954.2 and 54960.1 of the Government Code in Sections 35145 and 72121 of the Education Code, as amended by this act, to imply that other sections of the Ralph M. Brown Act which have been construed as applying to meetings of the governing boards of school and community college districts shall not continue to apply to those meetings.

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.

CHAPTER 642

An act to amend Sections 27538 and 27641 of, and to add Section 27537.5 to, the Health and Safety Code, relating to food facilities.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 27537.5 is added to the Health and Safety Code, to read:

27537.5. "Stationary mobile food preparation unit" means any mobile food preparation unit, as defined by Section 27526, which operates at a state, county, district, or citrus fair or any approved occasional event, and which remains in a fixed position during food preparation and its hours of operation.

SEC. 2. Section 27538 of the Health and Safety Code is amended to read:

27538. "Temporary food facility" means a food facility operating out of temporary facilities approved by the enforcement officer at a fixed location for a period of time not to exceed 21 days in any 90-day period in conjunction with a single event or celebration.

SEC. 3. Section 27641 of the Health and Safety Code is amended to read:

27641. Notwithstanding the provisions of this chapter, neither the state department nor any city, county, or city and county shall require the enclosure of an open-air barbecue facility if the appropriate enforcement officer determines that the barbecue facility meets all of the following requirements:

(a) The facility is operated on the same premises as, in reasonable proximity to, and in conjunction with, a food establishment or a stationary mobile food preparation unit.

(b) All food waste and rubbish containing food waste is handled in accordance with the requirements of Section 27608.

(c) The facility is operated in compliance with the provisions of Articles 6 (commencing with Section 27590) and 7 (commencing with Section 27600), except for Sections 27607, 27610, and 27613.

(d) The multiuse utensils and equipment used in conjunction with the open-air barbecue facility are made of nontoxic materials, are constructed and maintained in a manner so they can be easily cleaned, and are kept clean and in good repair.

(e) Food and beverages served out of doors are dispensed from units approved by the enforcement officer. No other food may be prepared or stored in the out of doors, except for food cooked on the open-air barbecue unit.

(f) (1) Except as otherwise provided in paragraph (2), no live animals, birds, or fowl shall be kept or allowed in an area within 20 feet of any area where food or beverage is prepared, stored, kept, or served.

(2) Paragraph (1) does not prohibit the presence, in any area where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) Those persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(g) If the barbecue facility is a permanent structure, it is equipped with an impervious and easily cleaned floor surface that extends a minimum of five feet from the open-air barbecue facility on all open sides.

(h) The barbecue facility is located in an area reasonably protected from dust, as determined by the enforcement officer.

(i) The barbecue facility is not operated in, or out of, any motor vehicle or in any area or location that may constitute a fire hazard, as determined by the enforcement officer. For the purposes of this section, a motor vehicle does not include a stationary mobile food preparation unit, as defined in Section 27537.5.

(j) Sanitary facilities, including, but not limited to, toilet facilities and handwashing facilities shall be available for use within 200 feet of the barbecue facility and shall comply with all provisions of this chapter. Sanitary facilities that do not meet the requirements of this chapter shall not be located closer to the barbecue facility than the sanitary facilities required to be provided by this section.

SEC. 4. Prior to the adoption of regulations relating to special purpose commercial coaches, which are also known as stationary mobile food preparation units, the Department of Housing and Community Development shall consult with representatives from the manufacturers and owners of special purpose commercial coaches, as determined by the department.

CHAPTER 643

An act to add Section 39660.5 to the Health and Safety Code, relating to air pollution.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 39660.5 is added to the Health and Safety Code, to read:

39660.5. (a) In evaluating the level of potential human exposure to toxic air contaminants, the state board shall assess that exposure in indoor environments as well as in ambient air conditions.

(b) The state board shall consult with the State Department of Health Services, pursuant to the program on indoor environmental quality established under Article 9.5 (commencing with Section 426) of Chapter 2 of Part 1 of Division 1, concerning which potential toxic air contaminants may be found in the indoor environment and on the best methodology for measuring exposure to these contaminants.

(c) When the state board identifies toxic air pollutants that have been found in any indoor environment, the state board shall refer all available data on that exposure and the suspected source of the pollutant to the State Department of Health Services, the Division of Occupational Safety and Health of the Department of Industrial Relations, the State Energy Resources Conservation and Development Commission, the Department of Housing and Community Development, and the Department of Consumer Affairs.

CHAPTER 644

An act to amend Section 1182.7 of the Labor Code, relating to wages, hours, and working conditions.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 1182.7 of the Labor Code is amended to read:

1182.7. (a) The Legislature finds that the time permitted the Industrial Welfare Commission to consider petitions, including, but not limited to, daily overtime compensation petitions that are to be given priority attention by the commission pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated and unwarranted delays in the review and possible modification of applicable commission orders. The Legislature finds further that legislation is necessary to provide redress of hardships resulting from these delays by the enactment of special commission review procedures that augment, and do not limit in any way, the rights and privileges of parties before the Industrial Welfare Commission under this chapter.

(b) Notwithstanding any other provisions of this chapter to the contrary, if a labor organization or a trade association recognized in the health care industry files or has filed a petition with the commission that requests an amendment to an order of the commission that would directly regulate only the health care industry, the petitioner may request that the ordinary procedure established by this chapter for the review of petitions of this nature not be used and that the procedure specified in subdivisions (c) and (d) be followed instead. If the request is made by the petitioner, the commission shall be required to follow the procedure specified in subdivisions (c) and (d).

(c) Upon the filing of a request under subdivision (b), the procedure to revise an order of the commission provided in Sections 1178 to 1182, inclusive, shall be waived. In lieu of that procedure, the commission shall propose the adoption or rejection of the petition, in whole or in part, without appointing a wage board. The commission shall make its proposal within 45 days of the date the petition is originally filed.

The commission shall thereafter publish its proposed action in the manner provided in Section 1181 and shall conduct hearings on its proposal in the manner specified in subdivision (c) of Section 1178.5. However, the hearings shall be conducted within 90 days of the date the petition is originally filed.

(d) Not more than 30 days following the hearings specified in subdivision (c), the commission shall take final action with respect

to its proposal. No later than 15 days following final action, notice of the action taken shall be given in the manner provided for in Sections 1182.1 and 1183. Any action adopting, amending, or repealing an order of the commission pursuant to this section shall take effect 60 days following the date of this notice.

(e) Notwithstanding any other provisions of this chapter, the commission shall not adopt, amend, or repeal a proposal which has been changed from that which has originally been made available to the public unless the change is nonsubstantive in nature and the commission complies with the procedure specified in this subdivision.

If a substantive change is made to the original proposal after the close of the public hearing, the full text of the resulting change shall be noticed within five days and made available to the public for comments for at least 10 days before the commission adopts, amends, or repeals the regulation. No later than 10 days following the close of the public comment period, the commission shall take final action with respect to its modified proposal, and give notice of that action within 10 days in the manner provided in Sections 1182.1 and 1183. In no case shall any action adopting, amending, or repealing an order take effect more than 60 days following the close of the public comment period.

CHAPTER 645

An act to amend Section 667.5 of the Penal Code, relating to crime.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986]

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

SECTION 1. Section 667.5 of the Penal Code is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior was one of the violent felonies specified in subdivision (c); provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term served

for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in subdivision (2) of Section 261.

(4) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(5) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(6) Lewd acts on a child under 14 as defined in Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for such extraordinary crimes of violence against the person.

(d) For the purposes of this section the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole whichever first occurs including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which if committed in California is punishable by imprisonment in state prison if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while defendant is temporarily removed from prison pursuant to Section 2690 or while defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

CHAPTER 646

An act to amend Sections 33352, 33353, 33353.5, 33354, and 35179 of, and to repeal Section 33352 of, the Education Code, relating to school athletics.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 33352 of the Education Code, as amended by Section 1 of Chapter 1001 of the Statutes of 1981, is amended to read:

33352. The State Department of Education shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; advise school officials, school boards, and teachers in matters of physical education; and investigate the work in physical education in the public schools.

This section shall remain in effect only until June 30, 1992, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1992, deletes or extends such date. If that date is not deleted or extended, then, on and after June 30, 1992, pursuant to Section 9611 of the Government Code, Section 33352 of the Education Code, as added by Section 2 of Chapter 1010 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 33352 of the Education Code, as added by Section 2 of Chapter 1001 of the Statutes of 1981, is repealed.

SEC. 3. Section 33353 of the Education Code is amended to read:

33353. The California Interscholastic Federation is a voluntary organization consisting of school and school related personnel with responsibility, generally, for administering interscholastic activities in secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the State Department of Education, implement the following policies:

(a) Give local school boards specific authority to select their athletic league representatives.

(b) Require that all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(c) Establish a neutral final appeals body to hear complaints related to interscholastic athletic policies.

This section shall remain in effect only until June 30, 1992, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1992, deletes or extends such date.

SEC. 3.5. Section 33353.5 of the Education Code is amended to read:

33353.5. (a) The California Interscholastic Federation shall not transact insurance as defined in Section 35 of the Insurance Code.

(b) The California Interscholastic Federation shall not make any misrepresentation or material omission in any endorsements or recommendation of an insurance program.

(c) In any endorsement or recommendation of any insurance program made by the California Interscholastic Federation, there shall be included all of the following:

(1) A complete specimen copy of each policy and certificate recommended or endorsed.

(2) A full schedule of rates.

(3) A statement of any remuneration, commission, fees or other valuable consideration which the California Interscholastic Federation receives as inducement to endorse or recommend an insurance program.

SEC. 4. Section 33354 of the Education Code is amended to read:

33354. (a) The State Department of Education shall have the following authority over interscholastic athletics:

(1) The State Department of Education may state that the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are in compliance with both state and federal law.

(2) If the State Department of Education states that a school district, an association or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the State Department of Education may require the school district, association or consortium, or the federation to adjust its policy so that it is in compliance. However, the State Department of Education shall not have authority to determine the specific policy which a school district, association or consortium, or the federation must adopt in order to comply with state and federal laws.

(3) If the State Department of Education states that a school district, association or consortium, or the federation is not in compliance with state or federal law in matters relating to interscholastic activities, and the school district, association or consortium, or the federation does not change its policy in order to comply with these laws, the State Department of Education may commence with appropriate legal proceedings against the California Interscholastic Federation, the school district or against school districts which are members of the California Interscholastic Federation or the association or consortium which the department states is in noncompliance. In such a legal proceeding the court shall determine the matter de novo. The State Department of Education may make recommendations for appropriate remedies in these proceedings.

(b) This section shall not be construed or interpreted to limit the discretion of local governing boards, or voluntary associations formed or maintained pursuant to subdivision (b) of Section 35179, in any policy, program, or activity which is in compliance with state and federal law.

(c) This section shall remain in effect only until June 30, 1992, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1992, deletes or extends such date.

SEC. 5. Section 35179 of the Education Code is amended to read:

35179. (a) Each school district governing board shall have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities in its district, including, but not limited to, eligibility, season of sport, number of sports, personnel, and sports facilities. In addition, the board shall assure that all interscholastic policies, programs, and activities in its district are in compliance with state and federal law.

(b) Governing boards may enter into associations or consortia with other boards for the purpose of governing regional or statewide interscholastic athletic programs by permitting the public schools under their jurisdictions to enter into a voluntary association with other schools for the purpose of enacting and enforcing rules relating

to eligibility for, and participation in, interscholastic athletic programs among and between schools.

(c) Each governing board, or its designee, shall represent the individual schools located within its jurisdiction in any voluntary association of schools formed or maintained pursuant to this section.

(d) No voluntary interscholastic athletic association, of which any public school is a member, shall discriminate against, or deny the benefits of any program to, any person on the basis of race, sex, or ethnic origin.

(e) Interscholastic athletics is defined as those policies, programs, and activities which are formulated or executed in conjunction with, or in contemplation of, athletic contests between two or more schools, either public or private.

This section shall remain in effect only until June 30, 1992, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1992, deletes or extends such date.

CHAPTER 647

An act to amend Section 19144 of the Government Code, relating to state service.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 19144 of the Government Code is amended to read:

19144. Subject to Sections 21152 and 21153, a person who has retired from state service may be employed temporarily in a civil service position at any time following retirement, provided that the position is either:

(a) In the class in which the person had permanent or probationary status or a career executive assignment appointment at the time of retirement.

(b) In another class to which the person could have been permanently transferred, reinstated, or demoted at the time of retirement.

CHAPTER 648

An act to amend the heading of Article 7 (commencing with Section 798.70) of Chapter 2.5 of Part 2 of Division 2 of, and to add Section 798.80 to, the Civil Code, relating to mobilehomes.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. The heading of Article 7 (commencing with Section 798.70) of Chapter 2.5 of Part 2 of Division 2 of the Civil Code is amended to read:

Article 7. Transfer of Mobilehome or Mobilehome Park

SEC. 2. Section 798.80 is added to the Civil Code, to read:

798.80. (a) When the owner of a mobilehome park enters into a written listing agreement with a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 2 of Part 1 of Division 4 of the Business and Professions Code, for the sale of the park, or offers to sell the park to any party, the owner shall provide written notice by first-class mail or by personal delivery to the president, secretary, and treasurer of a resident organization formed pursuant to Section 50561 of the Health and Safety Code, not less than 10 days but no more than 30 days prior to entering into any written listing agreement for the sale of the park, or making any offer to sell the park to any party. An offer to sell a park shall not be construed as an offer under this subdivision unless it is initiated by the park owner or agent.

(b) An owner of a mobilehome park shall not be required to comply with subdivision (a) unless the following conditions are met:

(1) The resident organization has first furnished the park owner or park manager a written notice of the name and address of the president, secretary, and treasurer of the resident organization to whom the notice of sale shall be given.

(2) The resident organization has first notified the park owner or manager in writing that the park residents are interested in purchasing the park. The initial notice by the resident organization shall be made prior to a written listing or offer to sell the park by the park owner, and the resident organization shall give subsequent notice once each year thereafter that the park residents are interested in purchasing the park.

(3) The resident organization has furnished the park owner or park manager a written notice, within five days, of any change in the name or address of the officers of the resident organization to whom the notice of sale shall be given.

(c) Nothing in this section affects the validity of title to real

property transferred in violation of this section, although a violation shall subject the seller to civil action pursuant to Article 8 (commencing with Section 798.84) by homeowner residents of the park or the resident organization.

(d) Nothing in this section affects the ability of a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to collect a commission pursuant to an executed contract between the broker and the mobilehome park owner.

(e) This section does not apply to any of the following:

(1) Any sale or other transfer by a park owner who is a natural person to any relation specified in Section 6401 or 6402 of the Probate Code.

(2) Any transfer by gift, devise, or operation of law.

(3) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means any shareholder of the transferring corporation, any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation, or any other corporation or entity controlled, directly or indirectly, by any shareholder of the transferring corporation.

(4) Any transfer by a partnership to any of its partners.

(5) Any conveyance resulting from the judicial or nonjudicial foreclosure of a mortgage or deed of trust encumbering a mobilehome park or any deed given in lieu of such a foreclosure.

(6) Any sale or transfer between or among joint tenants or tenants in common owning a mobilehome park.

(7) The purchase of a mobilehome park by a governmental entity under its powers of eminent domain.

CHAPTER 649

An act to amend Sections 13625, 13626, 13627, and 13632 of the Water Code, relating to water quality.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986]

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

SECTION 1. Section 13625 of the Water Code is amended to read:

13625. As used in this chapter:

(a) "Certificate" means a certificate of competency issued by the state board stating that the supervisor or operator has met the requirements for a specific classification in the certification program.

(b) "Waste water treatment plant" means either of the following:

(1) Any facility owned by a state, local, or federal agency and used in the treatment or reclamation of sewage and industrial wastes.

(2) Any privately owned facility used in the treatment or reclamation of sewage and industrial wastes, and regulated by the Public Utilities Commission pursuant to Sections 216 and 230.6 of, and Chapter 4 (commencing with Section 701) of Part 1 of Division 1 of, the Public Utilities Code.

(c) "Operator" means any person who operates a municipal or private utility waste water treatment plant.

(d) "Supervisor" means any person who has direct responsibility for the operation of a utility waste water treatment plant or who supervises any operators of such a plant.

SEC. 2. Section 13626 of the Water Code is amended to read:

13626. The state board shall classify types of waste water treatment plants for the purpose of determining the levels of competence necessary to operate them. The state board shall adopt regulations setting forth the types of plants and the factors on which the state board based its classification.

SEC. 3. Section 13627 of the Water Code is amended to read:

13627. (a) Supervisors and operators of waste water treatment plants shall possess a certificate of appropriate grade in accordance with, and to the extent recommended by the advisory committee and required by, regulations adopted by the state board. The state board shall develop and specify in its regulations the training necessary to qualify a supervisor or operator for certification for each type and class of plant. The state board may accept experience in lieu of qualification training. In lieu of a properly certified waste water treatment plant operator, the state board may approve use of a water treatment plant operator of appropriate grade certified by the State Department of Health Services, where water reclamation is involved.

(b) A person employed as a waste water treatment plant supervisor or operator on the effective date of regulations adopted pursuant to this chapter shall be issued an appropriate certificate if the person meets the training, education, and experience requirements prescribed by regulations.

(c) The state board may refuse to grant, suspend, or revoke any certificate issued by the state board to operate a waste water treatment plant, or may place on probation, or reprimand, the certificate holder upon any reasonable ground, including, but not limited to, all of the following reasons:

(1) Submitting false or misleading information on an application for a certificate.

(2) The employment of fraud or deception in the course of operating the municipal or private utility waste water treatment plant.

(3) A certificate holder's failure to use reasonable care or judgment in the operation of the plant.

(4) A certificate holder's inability to perform operating duties properly.

(5) Willfully or negligently violating, or causing, or allowing the

violation of, waste discharge requirements or permits issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(d) The state board shall conduct all proceedings for the refusal to grant a certificate, and suspension or revocation of a certificate, pursuant to subdivision (c), in accordance with the rules adopted pursuant to Section 185.

SEC. 4. Section 13632 of the Water Code is amended to read:

13632. The advisory committee appointed pursuant to Section 13631 shall consist of the following:

(a) Two persons from a statewide organization representing waste water treatment plant operators and supervisors, who shall be employed in a waste water treatment plant as an operator or supervisor.

(b) Two persons from statewide organizations representing municipalities, including counties or private utility waste water treatment plants.

(c) Two persons from statewide organizations representing local sanitation agencies, other than agencies specified in subdivision (b).

(d) One person who is a professional engineer specializing in sanitary engineering.

(e) One person from a university or a state university school or division of engineering.

(f) One person who is a member of an organized labor union which represents waste water treatment plant operators.

CHAPTER 650

An act to add Section 155.5 to the Penal Code, relating to crimes.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 155.5 is added to the Penal Code, to read:

155.5. (a) Any defendant who enters a plea of guilty or nolo contendere, or against whom a judgment of guilty is entered, for the commission of a misdemeanor and who after such plea or judgment and prior to sentencing, sells, conveys, assigns, or conceals his or her property with the intent to lessen or impair his or her financial ability to pay in full any fine or restitution which he or she may lawfully be ordered to pay or to avoid forfeiture of assets pursuant to the California Control of Profits of Organized Crime Act (Chapter 9 (commencing with Section 186) of this title) is guilty of a misdemeanor.

(b) Any defendant who enters a plea of guilty or nolo contendere, or against whom a judgment of guilty is entered for the commission

of a felony and prior to sentencing for the same felony offense, sells, conveys, assigns, or conceals his or her property with the intent to lessen or impair his or her financial ability to pay in full any fine or restitution which he or she may lawfully be ordered to pay or to avoid forfeiture of assets derived from either criminal profiteering pursuant to Chapter 9 (commencing with Section 186) of this title or trafficking in controlled substances pursuant to Chapter 8 (commencing with Section 11470) of Division 10 of the Health and Safety Code is guilty of a felony.

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 651

An act to add Section 321.5 to the Public Utilities Code, relating to public utilities, and making an appropriation therefor.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 321.5 is added to the Public Utilities Code, to read:

321.5. The commission shall establish a separate office of the public advisor in the Los Angeles office of the commission. The commission shall staff the office with a minimum of three employees to assist in fulfilling the duties of the public advisor.

SEC. 2. The sum of eighty-one thousand dollars ($81,000) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund to the Public Utilities Commission for expenditure during the 1986–87 fiscal year for purposes of Section 321.5 of the Public Utilities Code.

CHAPTER 652

An act to amend Sections 53371.3, 53382, and 53387.7 of, to amend and renumber the headings of Article 6 (commencing with Section 53387) and Article 7 (commencing with Section 53392) of, to add Article 7 (commencing with Section 53393) to, and to repeal Article 5 (commencing with Section 53385) of, Chapter 2.7 of Part 1 of Division 2 of Title 5 of, the Government Code, relating to community rehabilitation districts.

[Approved by Governor August 29, 1986 Filed with Secretary of State September 2, 1986]

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

SECTION 1. Section 53371.3 of the Government Code is amended to read:

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 community 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.

SEC. 2. Section 53382 of the Government Code is amended to read:

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) Issue senior obligation bonds as authorized by this chapter.

(*l*) Adopt regulations governing the use of district facilities and property.

(m) Enter into joint powers agreements in accordance with Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

SEC. 3. Article 5 (commencing with Section 53385) of Chapter 2.7 of Part 1 of Division 2 of Title 5 of the Government Code is repealed.

SEC. 4. The heading of Article 6 (commencing with Section 53387) of Chapter 2.7 of Part 1 of Division 2 of Title 5 of the Government Code is amended and renumbered to read:

Article 5. Senior Obligation Bonds

SEC. 5. Section 53387.7 of the Government Code is amended to read:

53387.7. The clerk of the legislative body shall publish the resolution adopted pursuant to Section 53387 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.

SEC. 6. The heading of Article 7 (commencing with Section 53392) of Chapter 2.7 of Part 1 of Division 2 of Title 5 of the Government Code is amended and renumbered to read:

Article 6. Bond Payment

SEC. 7. Article 7 (commencing with Section 53393) is added to Chapter 2.7 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 7. Alternative Revenue Sources

53393. The legislative body may pledge any source of revenues, in addition to any property tax revenues, to pay the principal and interest on bonds approved and issued pursuant to this chapter, including, but not limited to, any fees or charges for services provided by, or in conjunction with, facilities rehabilitated with the proceeds of any bond issuance as long as those fees or charges do not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed.

53393.3. The legislative body may proceed under the authority of Section 53393 only if it states its intention to so proceed and describes the proposed revenue source in the resolution of intention to establish the district adopted pursuant to Section 53373 and in the resolution of intention to issue bonds adopted pursuant to Section 53387.

53393.6. (a) If the legislative body elects to pledge the revenues described in Section 53393, it shall require both of the following by ordinance:

(1) That a specified amount of the proceeds of the pledged revenue source shall be annually or more frequently, as specified, appropriated and paid into the Bond Payment Fund required to be established by Section 53392 in an amount sufficient to pay all or any portion of the principal and interest payments due on the bond issuance and into the bond reserve fund, required to be established by paragraph (2), to replenish that fund, as needed.

(2) That a bond reserve fund be established by the district from bond proceeds or any available revenue source, including any property tax revenues paid into the fund pursuant to subdivision (b), sufficient to pay the principal and interest due on the bonds for the next fiscal year.

(b) If the legislative body elects to pledge the revenues described in Section 53393, the county auditor shall pay the property tax revenues described in subdivision (a) of Section 53392 into the bond reserve fund established pursuant to paragraph (2) of subdivision (a), rather than into the Bond Payment Fund as provided by

subdivision (a) of Section 53392. The county auditor shall make those payments to the bond reserve fund only if that fund has unencumbered balances at the beginning of the payment period in an amount less than the amount necessary to pay the principal and interest on the bonds for the next fiscal year. The county auditor shall pay any amount of property tax revenues which exceed the amount necessary for this purpose into the general fund of the city or county.

53394. 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 article.

SEC. 8. 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 653

An act to amend Section 91003.5 of, and to add Article 4.5 (commencing with Section 87450) to Chapter 7 of Title 9 of, the Government Code, relating to public employees.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Article 4.5 (commencing with Section 87450) is added to Chapter 7 of Title 9 of the Government Code, to read:

Article 4.5. Disqualification of State Officers and Employees

87450. (a) In addition to the provisions of Article 1 (commencing with Section 87100), no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family, has engaged in any business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods or services totaling in value one thousand dollars ($1,000) or more within 12 months prior to the time the official action is to be performed.

(b) As used in subdivision (a), "state administrative official" has the same meaning as defined in Section 87400.

SEC. 2. Section 91003.5 of the Government Code is amended to

read:

91003.5. Any person who violates a provision of Article 2 (commencing with Section 87200), 3 (commencing with Section 87300), or 4.5 (commencing with Section 87450) of Chapter 7 is subject to discipline by his or her agency, including dismissal, consistent with any applicable civil service or other personnel laws, regulations, and procedures.

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 654

An act to amend Sections 82028 and 89001 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 82028 of the Government Code is amended to read:

82028. (a) "Gift" means, except as provided in subdivision (b), any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(b) The term "gift" does not include:

(1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(2) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

(3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary

for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 of this title.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars ($250).

SEC. 2. Section 89001 of the Government Code is amended to read:

89001. No newsletter or other mass mailing shall be sent at public expense by or on behalf of any elected officer to any person residing within the jurisdiction from which the elected officer was elected, or to which he or she seeks election, after the elected officer has filed the nomination documents, as defined in Section 6489 of the Elections Code, for any local, state, or federal office.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 655

An act to amend Sections 130, 2222, 2225, 2262, 2291, 2317, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2473, 2475, 2475.2, 2475.3, 2479, 2480, 2481, 2483, 2484, 2486, 2487, 2488, 2489, 2492, 2495, 2496, 2497, 2497.5, 2498, 2499, 2499.5, and 2499.6 of the Business and Professions Code, relating to podiatry, and making an appropriation therefor.

[Approved by Governor August 30, 1986 Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other provision of law, as the term of office of any member of an agency designated in subdivision (b) expires on or after the effective date of this section, the first appointment to that office thereafter shall be for a term expiring on June 1st of the third year following the year in which that previous term expired. Thereafter, appointment to that office shall be for a term of four years expiring on June 1st.

(b) Subdivision (a) applies to the following boards or committees:

(1) Board of Medical Quality Assurance of the State of California

(2) California Board of Podiatric Medicine

(3) Physical Therapy Examining Committee

(4) Board of Registered Nursing

(5) Board of Vocational Nurse and Psychiatric Technician

Examiners of the State of California
(6) State Board of Optometry
(7) California State Board of Pharmacy
(8) Board of Examiners in Veterinary Medicine
(9) California State Board of Architectural Examiners
(10) California State Board of Landscape Architects
(11) State Board of Barber Examiners
(12) State Board of Registration for Professional Engineers and Land Surveyors
(13) Contractors' State License Board
(14) State Board of Cosmetology
(15) State Board of Guide Dogs for the Blind
(16) State Board of Funeral Directors and Embalmers
(17) Board of Behavioral Science Examiners
(18) Structural Pest Control Board
(19) Cemetery Board
(20) Bureau of Electronic and Appliance Repair Advisory Board
(21) Certified Shorthand Reporters Board
(22) State Board of Registration for Geologists and Geophysicists
(23) State Athletic Commission
(24) California Advisory Board to the Bureau of Employment Agencies
(25) Board of Osteopathic Examiners of the State of California

SEC. 2. Section 2222 of the Business and Professions Code is amended to read:

2222. The California Board of Podiatric Medicine shall enforce and administer this article as to podiatry certificate holders. The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any podiatrist's certificate within its authority as granted by this chapter. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted in this chapter.

SEC. 3. Section 2225 of the Business and Professions Code is amended to read:

2225. Notwithstanding Section 2263 and any other provision of law making a communication between a physician and surgeon or a podiatrist and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted under this chapter. Members of the board and the California Board of Podiatric Medicine, and employees, agents, and representatives of the board shall keep in confidence during the course of investigations, the names of any patients whose records are reviewed and may not disclose or reveal, except as is necessary during the course of an investigation, those names unless and until proceedings are instituted. The board's authority to examine records of patients in the office of a physician and surgeon or a podiatrist is limited to records of patients who have complained to the board about that

licensee.

Waiver of privileges shall not apply to investigations under Section 2297 relating to mental illness.

SEC. 4. Section 2262 of the Business and Professions Code is amended to read:

2262. Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars ($500) for a violation of this section.

SEC. 5. Section 2291 of the Business and Professions Code is amended to read:

2291. It is unprofessional conduct for any licensee not a member or authorized official of the board, or of the California Board of Podiatric Medicine in the case of a doctor of podiatric medicine, to sign or issue or cause to be signed or issued any certificate authorized by this chapter.

SEC. 6. Section 2317 of the Business and Professions Code is amended to read:

2317. If a person, not a regular employee of the board, is hired or under contract to provide expertise to the Division of Medical Quality or to the California Board of Podiatric Medicine in the evaluation of the conduct of a licensee, and such person is named as a defendant in a civil action for defamation directly resulting from opinions rendered, statements made, or testimony given to the division or committee or its representatives, the board shall provide for representation required to defend the defendant in that civil action. The board shall not be liable for any judgment rendered against that person. The Attorney General shall be utilized in those actions as provided in Section 2020.

SEC. 7. Section 2460 of the Business and Professions Code is amended to read:

2460. There is created within the jurisdiction of the Division of Allied Health Professions of the Board of Medical Quality Assurance, the California Board of Podiatric Medicine.

SEC. 8. Section 2461 of the Business and Professions Code is amended to read:

2461. As used in this article:

(a) "Division" means the Division of Allied Health Professions of the Board of Medical Quality Assurance.

(b) "Board" means the California Board of Podiatric Medicine.

(c) "Podiatric licensing authority" refers to any officer, board, commission, committee, or department of another state upon whose certificate a reciprocity certificate may be issued.

SEC. 9. Section 2462 of the Business and Professions Code is amended to read:

2462. The board shall consist of six members, two of whom shall

be public members. Not more than one member of the board shall be a full-time faculty member of a college or school of podiatric medicine. The Governor shall give consideration to recommendations of the board after the division has consulted with the board, except with regard to the public members.

The Governor shall appoint the four members qualified as provided in Section 2463. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member , and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 10. Section 2463 of the Business and Professions Code is amended to read:

2463. Each member of the board, except the public members, shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his or her appointment.

(b) Be a graduate of a recognized school or college of podiatric medicine.

(c) Have a valid certificate to practice podiatric medicine in this state.

(d) Have engaged in the practice of podiatric medicine in this state for at least five years next preceding his or her appointment.

SEC. 11. Section 2464 of the Business and Professions Code is amended to read:

2464. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his or her appointment.

(b) Shall not be an officer or faculty member of any college, school, or other institution engaged in podiatric medical instruction.

(c) Shall not be a licentiate of the board or of any board under this division or of any board created by an initiative act under this division.

SEC. 12. Section 2465 of the Business and Professions Code is amended to read:

2465. No person who directly or indirectly owns any interest in any college, school, or other institution engaged in podiatric medical instruction shall be appointed to the board or shall any incumbent member of the board have or acquire any interest, direct or indirect, in any such college, school, or institution.

SEC. 13. Section 2466 of the Business and Professions Code is amended to read:

2466. All members of the board shall be appointed for terms of four years. Vacancies shall immediately be filled by the appointing power for the unexpired portion of the terms in which they occur. In filling vacancies, the Governor shall consider recommendations as provided in Section 2462. No person shall serve as a member of the

board for more than two consecutive terms.

SEC. 14. Section 2467 of the Business and Professions Code is amended to read:

2467. (a) The board shall hold at least one regular meeting annually in the County of Sacramento, the County of Los Angeles, and the City and County of San Francisco or the environs of any such county or city and county. The board may otherwise convene from time to time as it deems necessary. Other meetings of the board may be held at such places as the board may designate.

(b) Four members of the board constitute a quorum for the transaction of business at any meeting.

(c) It shall require the affirmative vote of a majority of those members present at a meeting, such members constituting at least a quorum, to pass any motion, resolution, or measure.

(d) The board shall annually elect one of its members to act as president and a member to act as vice president who shall hold their respective positions at the pleasure of the board. The president may call meetings of any duly appointed subcommittee at a specified time and place.

SEC. 15. Section 2468 of the Business and Professions Code is amended to read:

2468. Notice of each meeting of the board shall be given twice a week for two weeks next preceding the meeting in one daily newspaper published in the Cities of Sacramento, San Francisco, and Los Angeles. Subcommittee meetings need not be advertised.

SEC. 16. Section 2469 of the Business and Professions Code is amended to read:

2469. Each member of the board shall receive per diem and expenses as provided in Section 2016.

SEC. 17. Section 2470 of the Business and Professions Code is amended to read:

2470. The board may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations which are necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine. All regulations adopted, amended, or repealed by the board, except those regulations adopted in furtherance of Sections 2496 and 2499.5, shall be subject to the review and approval of the division in accordance with the following procedure:

(a) The board shall file with the division, and concurrently with the Office of Administrative Law, the notice of proposed adoption, amendment, or repeal of regulations, the express terms of such proposed regulations, and the initial statement of reasons for those regulations. The division may file written testimony regarding any proposed regulations with the board, and the board shall file the testimony with the Office of Administrative Law.

(b) After the board adopts, amends, or repeals regulations as originally made available to the division, the board shall submit those regulations to the division. The division shall notify the board of its

approval or rejection of the regulations within 30 days of the submittal by the board. If the division fails to act within 30 days, the regulations shall be deemed approved. The division may act on the regulations at a regularly scheduled meeting or by a review of the written material from the board. Any action taken after a review of the written material may be taken by a mail vote. The approval of regulations shall require the affirmative vote of a majority of the members then appointed.

(c) In the event the division disapproves a regulation, it shall notify the board in writing of the basis for its disapproval.

SEC. 18. Section 2471 of the Business and Professions Code is amended to read:

2471. (a) The board may select and contract with necessary podiatric medical consultants who are licensed doctors of podiatric medicine to assist it in its enforcement program on an intermittent basis. Notwithstanding any other provision of law, the board may contract with these consultants on a sole source basis.

(b) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the board shall be considered a public employee.

SEC. 19. Section 2473 of the Business and Professions Code is amended to read:

2473. A doctor of podiatric medicine may perform surgical treatment of the ankle, provided that the person is certified by the board to perform that treatment. The board shall require licensees who apply for the certification to demonstrate sufficient knowledge of surgical treatment of the ankle and related subject matter and to provide evidence of staff privileges at a licensed general acute care facility. The board may accept successful completion of certification examinations administered by the American Board of Podiatric Surgery in lieu of any examination it may require.

SEC. 20. Section 2475 of the Business and Professions Code is amended to read:

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the division. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine, doctor of podiatry, or doctor of surgical chiropody has been conferred, who is issued a limited license for this purpose by the division upon recommendation of the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program under the following conditions:

(a) A graduate in an approved internship, residency, or fellowship program may engage in the practice of medicine for a period not to

exceed two years wherever and whenever required as a part of the training program, and may receive compensation for that practice. If the graduate fails to receive a license to practice podiatric medicine under this chapter within two years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

(b) Podiatric hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident podiatrists with another approved college or school of podiatric medicine not located in this state, or those hospitals may appoint a graduate of an approved school as such a resident for purposes of postgraduate training. Those instructors and residents may practice and be compensated as provided in subdivision (a), but that practice and compensation shall be for a period not to exceed one year.

(c) A graduate in an approved preceptorship program may engage in the practice of podiatric medicine in a general acute care facility or otherwise under the supervision of an approved preceptor, where required as part of the training program, and may receive compensation as provided by subdivision (a). That practice shall be for a period not to exceed two years as provided by subdivision (a).

SEC. 21. Section 2475.2 of the Business and Professions Code is amended to read:

2475.2. As used in this article, "podiatric residency" means a program of supervised postgraduate clinical training, one year or more in duration, approved by the board.

SEC. 22. Section 2475.3 of the Business and Professions Code is amended to read:

2475.3. The board shall approve podiatric residency programs, as defined in Section 2475.2, in the field of podiatric medicine, affiliated with, and under the supervision of, schools of podiatric medicine approved by the board, for persons who are applicants for or have been issued a certificate to the practice of podiatry pursuant to this article.

SEC. 23. Section 2479 of the Business and Professions Code is amended to read:

2479. The division shall issue, upon the recommendation of the board, a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

SEC. 24. Section 2480 of the Business and Professions Code is amended to read:

2480. The board shall have full authority to investigate and to evaluate each applicant applying for a certificate to practice podiatric medicine and to make a determination of the admission of the applicant to the examination and the issuance of a certificate in

accordance with the provisions and requirements of this chapter.

SEC. 25. Section 2481 of the Business and Professions Code is amended to read:

2481. Each applicant who commenced professional instruction in podiatric medicine after September 1, 1959, shall present an official transcript or other official evidence to the board that he or she has completed two years of preprofessional postsecondary education, or its equivalent, including the subjects of chemistry, biology or other biological science, and physics or mathematics, before completing the resident course of professional instruction.

SEC. 26. Section 2483 of the Business and Professions Code is amended to read:

2483. (a) Each applicant for a certificate to practice podiatric medicine shall show by official transcript or other official evidence satisfactory to the board that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a college or school of podiatric medicine approved by the board. The total number of hours of all courses shall consist of a minimum of 4,000 hours.

The board, by regulation, shall adopt standards for determining equivalent training authorized by this section.

(b) The curriculum for all applicants shall provide for adequate instruction in the following:

Anatomy, including embryology and histology
Bacteriology
Biochemistry
Biomechanics-foot orthopedics
Dermatology
Didactic podiatry
Hygiene
Immunology
Neurology
Orthopedic surgery
Pathology
Pharmacology, including materia medica and toxicology
Physical and laboratory diagnosis
Physical therapy
Physiology
Podiatric medicine
Podiatric surgery
Preventive medicine
Psychology
Roentgenologic technique and radiation safety
Shoe therapy
Syphilology

SEC. 27. Section 2484 of the Business and Professions Code is amended to read:

2484. On and after January 1, 1983, in addition to any other requirements of this chapter, before a certificate to practice

podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the board that he or she has satisfactorily completed one year of approved postgraduate podiatric surgical training in a general acute care facility. If an approved postgraduate podiatric surgical training residency was not available nationally for the applicant, a one-year preceptorship approved by the board may be substituted until January 1, 1987, and it is the intent of the Legislature that this date not be extended beyond January 1, 1987.

SEC. 28. Section 2486 of the Business and Professions Code is amended to read:

2486. Notwithstanding any other provision of law, the division shall issue, upon the recommendation of the board, a certificate to practice podiatric medicine on the basis of successful completion of the examination administered by the National Board of Podiatry Examiners of the United States if the applicant meets the following requirements:

(a) The applicant takes and passes an oral examination administered by the board in accordance with Section 2148.

(b) The applicant graduated from an approved school or college of podiatric medicine after June 30, 1958.

(c) The standards of the national board on the date the examination was successfully completed were in no degree or particular less than those required for a certificate to practice podiatric medicine under this chapter on the same date.

(d) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine which the board determines constitutes evidence of a pattern of negligence or incompetence.

SEC. 29. Section 2487 of the Business and Professions Code is amended to read:

2487. Any applicant for a certificate to practice podiatric medicine who does not qualify for licensure based on the successful completion of the examination administered by the National Board of Podiatry Examiners under Section 2486 or as a reciprocity applicant under Section 2488 shall apply for a certificate under the provisions of Section 2479, shall take and pass the examination designated by the board under Section 2492 and shall take and pass an oral and practical examination to ascertain clinical competence.

SEC. 30. Section 2488 of the Business and Professions Code is amended to read:

2488. Notwithstanding any other provision of law, the division shall issue, upon the recommendation of the board, a certificate to

practice podiatric medicine by reciprocity to an applicant if the following requirements are met:

(a) The applicant is licensed as a podiatrist in any other state whose written licensing examination is recognized by the board to be the equivalent in content to that administered in this state.

(b) Except for the requirement of postgraduate training, the standards of the other state on the date the license was issued were substantially equivalent to the requirements for the issuance of a certificate under this chapter on the same date.

(c) The applicant has successfully completed after June 30, 1958, the examination administered by the National Board of Podiatry Examiners of the United States or has passed, after June 30, 1958, a written examination which is recognized by the board to be the equivalent in content to that administered in this state.

(d) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(e) The applicant takes and passes an oral and practical examination to ascertain clinical competence.

(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine which the board determines constitute evidence of a pattern of negligence or incompetence.

(g) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

SEC. 31. Section 2489 of the Business and Professions Code is amended to read:

2489. The division or board shall not reject an application for a certificate to practice podiatric medicine by reciprocity solely on the basis that the podiatric licensing authority issuing the applicant's certificate or license permitted the applicant to take the basic science examination given by the National Board of Medical Examiners or the National Board of Podiatry Examiners, as a part of that state's qualifying examination.

SEC. 32. Section 2492 of the Business and Professions Code is amended to read:

2492. (a) The board shall examine every applicant for a certificate to practice podiatric medicine at the time and place designated by the board in its discretion, but at least twice a year.

(b) The board shall perform all examination functions pertaining to applicants under this article and may participate in uniform examination systems. For that purpose the board may make such arrangements with organizations furnishing examination material as it may deem desirable. Applicants shall be required to take and pass the examination administered by the National Board of Podiatry Examiners.

(c) The board may appoint qualified persons to give the whole or

any portion of any examination as provided in this article, who shall be designated as examination commissioners. The board may fix the compensation of those persons subject to the provisions of applicable state laws and regulations.

(d) The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the board except where those provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants under this article any references to the "Division of Licensing" or "division" shall be deemed to apply to the board.

SEC. 33. Section 2495 of the Business and Professions Code is amended to read:

2495. Notwithstanding any other provision of this chapter, the board may delegate to officials of the board the authority to approve the admission of applicants to the examination and to approve the issuance of certificates to practice podiatric medicine to applicants who have met the specific requirements therefor in routine cases where applicants clearly meet the requirements of this chapter.

SEC. 34. Section 2496 of the Business and Professions Code is amended to read:

2496. In order to insure the continuing competence of persons licensed to practice podiatric medicine, the board shall adopt and administer regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) requiring continuing education of those licensees. The board shall require those licensees to demonstrate satisfaction of the continuing education requirements at each license renewal.

SEC. 35. Section 2497 of the Business and Professions Code is amended to read:

2497. (a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The board may hear all matters, including but not limited to, any contested case or any petition for reinstatement or modification of probation, or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board.

SEC. 36. Section 2497.5 of the Business and Professions Code is amended to read:

2497.5. (a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the

actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Podiatry Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

SEC. 37. Section 2498 of the Business and Professions Code is amended to read:

2498. (a) The board shall have the responsibility for reviewing the quality of podiatric medical practice carried out by persons licensed to practice podiatric medicine.

(b) Each member of the board, or any licensed podiatrist appointed by the board, shall additionally have the authority to inspect, or require reports from, a general or specialized hospital and the podiatric staff thereof, with respect to the podiatric care, services, or facilities provided therein, and may inspect podiatric patient records with respect to the care, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a podiatrist and shall be subject to the restrictions against disclosure described in Section 2263.

SEC. 38. Section 2499 of the Business and Professions Code is amended to read:

2499. There is in the State Treasury the Podiatry Fund. Notwithstanding Section 2445, the division shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the board, pursuant to this chapter, and shall pay the entire

amount thereof to the Treasurer for deposit into the fund. On and after July 1, 1981, all revenue received by the board and the division from fees authorized to be charged relating to the practice of podiatry shall be deposited in the fund as provided in this section, and shall be continuously appropriated to the board to carry out the provisions of this chapter relating to the regulation of the practice of podiatry.

SEC. 39. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 2499.6.

(a) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an application fee fixed by the board at an amount of one hundred fifty dollars ($150). If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the board 30 days prior to the examination date, the sum of twenty dollars ($20) shall be retained and the remainder of the fee is returnable to the applicant. The board may fix a reexamination fee not to exceed one hundred twenty dollars ($120).

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based upon reciprocity shall pay an application fee of twenty dollars ($20) at the time the application is filed. The oral examination fee shall be two hundred fifty dollars ($250), or the actual cost, whichever is lower, and shall be paid by each applicant required to take the examination under Section 2486. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the board 30 days prior to the examination date, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee. The initial license fee shall be five hundred twenty-five dollars ($525). If the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the initial license fee fixed by the board. The board may waive or refund the initial license fee where the license will expire within 45 days after it is issued.

(d) The biennial renewal fee shall be five hundred twenty-five dollars ($525). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee is twenty-five dollars ($25).

(f) The duplicate wall certificate fee is an amount equal to the cost to the board for the issuance of the duplicate certificate.

(g) The duplicate renewal receipt fee is twenty dollars ($20).

(h) The endorsement fee is twenty dollars ($20).

(i) The letter of good standing fee is ten dollars ($10).

(j) There shall be a fee of twenty-five dollars ($25) for the issuance of a limited license under Section 2475.

(k) The fee for certification under Section 2473 shall be fixed by the board at an amount of two hundred fifty dollars ($250).

SEC. 40. Section 2499.6 of the Business and Professions Code is amended to read:

2499.6. The fees in this article shall be fixed by the board by regulations duly adopted by the board.

CHAPTER 656

An act to amend Sections 12964, 12973, and 12981 of the Government Code, relating to employment.

[Approved by Governor August 30, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 12964 of the Government Code is amended to read:

12964. Any agreement entered into by conference, conciliation and persuasion shall be reduced to writing, signed by all parties, and approved by the director or the authorized representative of the director. Within one year of the effective date of every agreement, the department shall conduct a compliance review to determine whether the agreement has been fully obeyed and implemented. Whenever the department believes, on the basis of evidence presented to it, that any person is violating or about to violate any agreement, the department may bring an action in the superior court against the person to enjoin him or her from continuing or engaging in the violation, or from doing anything in furtherance of the violation. In the action an order or judgment may be entered awarding a temporary restraining order or a preliminary or final injunction as may be proper. The action may be brought in any county in which actions may be brought under subdivision (b) of Section 12965. In resolving allegedly unlawful practices through conciliation the resolutions may be in the nature of, but are not limited to, types of remedies that might be ordered after accusation and hearing.

SEC. 2. Section 12973 of the Government Code is amended to read:

12973. (a) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether the order or decision has been fully obeyed and implemented.

(b) If the time for judicial review of a final commission order or decision has lapsed, or if all means of judicial review have been exhausted, the department may apply to the superior court in any county in which an action could have been brought under subdivision (b) of Section 12965 for the enforcement of the order or decision or order as modified in accordance with a decision on judicial review. If, after a hearing, the court determines that an order or decision has been issued by the commission and that either the time limits for judicial review have lapsed, or the order or decision was upheld in whole or in part on judicial review, the court shall issue a judgment and order enforcing the order or decision or order as modified in accordance with a decision on judicial review. The court shall not review the merits of the order or decision. The court's judgment shall be nonappealable and shall have the same force and effect as, and shall be subject to all the provisions of law relating to, a judgment in a civil action.

SEC. 3. Section 12981 of the Government Code is amended to read:

12981. (a) In the case of failure to eliminate a violation of Section 12955 through conference, conciliation, and persuasion, or in advance thereof if circumstances warrant, the director in his or her discretion may cause to be issued in the name of the department a written accusation, in the same manner and with the same powers as provided in Section 12965.

(b) The commission shall hold hearings on accusations issued pursuant to subdivision (a) in the same manner and with the same powers as provided in Sections 12967 to 12972, inclusive.

(c) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether the order or decision has been fully obeyed and implemented.

(d) If the time for judicial review of a final commission order or decision has lapsed, or if all means of judicial review have been exhausted, the department may apply to the superior court in any county in which an action could have been brought under subdivision (b) of Section 12965 for the enforcement of the order or decision or order as modified in accordance with a decision on judicial review. If, after a hearing, the court determines that an order or decision has been issued by the commission and that either the time limits for judicial review have lapsed, or the order or decision was upheld in whole or in part on judicial review, the court shall issue a judgment and order enforcing the order or decision or order as modified in accordance with a decision on judicial review. The court shall not review the merits of the order or decision. The court's judgment shall be nonappealable and shall have the same force and

effect as, and shall be subject to all the provisions of law relating to, a judgment in a civil action.

CHAPTER 657

An act to amend Sections 19839, 19849.6, 19853, 19863, 19864, 19865.1, 19872, 19888, and 19991.4 of, and to add Section 19879.1 to, and to add Article 2.5 (commencing with Section 19858.3) to Chapter 2.5 of Part 2 of Division 5 of Title 2 of, the Government Code, relating to state employees.

[Approved by Governor August 30, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 19839 of the Government Code is amended to read:

19839. (a) Upon separation from service without fault on his or her part, a person is entitled to a lump-sum payment as of the time of separation for any unused or accumulated vacation or annual leave or for any time off to which he or she is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the appointing power or by rules of the department. This sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount which the employee would have been paid had he or she taken the time off but not separated from the service.

(b) Persons separated from service through fault of their own are entitled to a lump-sum payment for compensating time off for overtime work, and in addition, the portion, if any, of unused vacation or annual leave as the department may determine. The computation of this sum shall be based on actual accumulated time without projection as provided in subdivision (a).

(c) Lump-sum payment for vacation or annual leave shall not be made to a person who separates from a position for the purpose of accepting another position in the state service except upon movement to a position in which vacation credits or annual leave are neither accrued nor used. However, a lump-sum payment shall not be made to a person who returns to a position in the same class and agency within 15 working days of the date of his or her resignation.

(d) Except for payment authorized or excluded under subdivision (c), an employee who returns to state service during the period through which his or her lump-sum payment was computed may refund the amount of lump-sum payment which exceeds his or her break in service and have the balance of credits restored as though he or she had remained in state service and taken the time off.

(e) If the provisions of this section are in conflict with the

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

SEC. 2. Section 19849.6 of the Government Code is amended to read:

19849.6. Any person who vacates a position in the state civil service to accept appointment by the Governor or by the Legislature to a position or an office for which the salary is fixed by statute and who thereafter is reinstated to his or her former position as provided by Section 19141 shall be credited only with such accumulated sick leave, and with such unused or accumulated vacation or annual leave for which he or she did not receive a lump-sum payment, as he or she was entitled to at the time he or she vacated the position.

SEC. 3. Section 19853 of the Government Code is amended to read:

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

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

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

(c) Any employee, who is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory

employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall be entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, the third Monday in January, February 12, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, and any personal holiday chosen pursuant to Section 19854. The department head or designee may require an employee to provide five working days' advance notice before a personal holiday is taken, and may deny use subject to operational needs.

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

(3) When a holiday, other than a personal holiday or November 11, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, only accrue an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned workweek group.

(6) Less than full-time employees shall receive holidays in accordance with Department of Personnel Administration rules.

SEC. 4. Article 2.5 (commencing with Section 19858.3) is added to Chapter 2.5 of Part 2 of Division 5 of Title 2 of the Government Code, to read:

Article 2.5. Annual Leave

19858.3. This article shall apply to all of the following:

(a) Employees designated managerial by the Department of Personnel Administration in accordance with subdivision (e) of Section 3513 and Section 18801.1.

(b) Nonelected officers of the executive branch of government exempt from civil service designated by the department as eligible to receive managerial benefits.

(c) A State Traffic Sergeant in the California Highway Patrol.

19858.4. In lieu of the sick leave and vacation provisions of Sections 19858.1 and 19859, eligible employees may make an irrevocable election to participate in an annual leave program. Each employee who has elected to participate in the annual leave program and who is employed full time shall receive credit for annual leave with pay in accordance with the following schedule:

1 month to 3 years	11 hours per month
37 months to 10 years	15 hours per month
121 months to 15 years	17 hours per month
181 months to 20 years	18 hours per month
241 months and over	19 hours per month

Part-time and hourly employees shall accrue proportional annual leave credits based on the schedule in this section. The time when annual leave shall be taken shall be determined by the appointing power of the officer or employee. Employees shall have use of any accrued sick leave they have accrued at the time they elect the annual leave program under the same conditions as other employees not participating in the program.

The department shall provide by rule for the regulation and accumulation of annual leave, the effect of an absence from the payroll of 10 work days or less in any calendar month upon credit for annual leave, methods by which employees leaving the employment of one state agency and entering the employment of another state agency may be compensated for, transfer, or otherwise receive proper credit for, their accumulated annual leave, and other provisions necessary for the administration of this section.

SEC. 5. Section 19863 of the Government Code is amended to read:

19863. (a) A state officer or employee who is or may be entitled to temporary disability indemnity under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100) of the Labor Code shall receive any accumulated sick leave, or accumulated compensable overtime, or accumulated vacation, or accumulated annual leave for the absence. The appointing power shall decrease the charge of sick leave, or compensable overtime, or vacation, or annual leave in the amount of temporary disability payment received so that the state officer or employee shall not receive payment in excess of full salary or wage.

If a state officer or employee does not wish to use his or her accumulated sick leave, or accumulated compensable overtime, or accumulated vacation, or accumulated annual leave, he or she shall notify his or her appointing power within 15 days after the injury is reported to the appointing power. After the 15 days his or her accumulations shall be used until the date he or she notifies the appointing power in writing that he or she no longer wishes to use the accumulations. When computing sick leave, or overtime, or vacation, or annual leave under this section the employee shall be given credit for any holidays that occur during the period of absence hereunder.

He or she is nevertheless entitled to medical, surgical, and hospital treatment as provided in the Labor Code. When his or her accumulated sick leave, or overtime, or vacation, or annual leave, or all, are exhausted, he or she is still entitled to receive disability

indemnity.

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

SEC. 6. Section 19864 of the Government Code is amended to read:

19864. (a) The department may provide by rule for sick leave or annual leave without pay for those employees who have used all sick leave or annual leave with pay to which they are entitled.

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

SEC. 7. Section 19865.1 of the Government Code is amended to read:

19865.1. When an employee uses sick leave, vacation, annual leave, or any combination of these, because of an injury compensable under the Labor Code, and the state is reimbursed by a third person for its damages by reason of such use, there shall be granted, for credit to the employee's sick leave or vacation or annual leave account, sick leave or vacation or annual leave equivalent to the amount so used or proportionately if reimbursement is only in part. If the state does not collect from the third person the full amount of the compensation paid and other damages for which it is liable to the employee and if the amount collected is not itemized so that there may be ascertained the amount collected in reimbursement for the sick leave or vacation or annual leave used, the sick leave or vacation or annual leave to be credited shall be in the same ratio to the sick leave or vacation or annual leave used as the total amount collected bears to the total amount of the state's damages. "Sick leave" or "vacation" or "annual leave" as used in this rule includes sick leave or vacation or annual leave credit used to augment disability indemnity.

SEC. 8. Section 19872 of the Government Code is amended to read:

19872. (a) The disabled employee shall not receive temporary disability indemnity or sick leave or annual leave with pay for any period for which he or she receives industrial disability leave; however, he or she may elect to waive the provisions of this article and to receive disability indemnity pursuant to Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section

6100) of the Labor Code and to payments under Section 19863 in lieu of the benefits provided in this article. If the amount of the employee's benefits payable under this article is less than the amount he would receive under Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code, the employee shall be deemed to have rejected the benefits of this article and shall be paid benefits pursuant to Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code.

(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. 9. Section 19879.1 is added to the Government Code, to read:

19879.1. (a) For the purpose of this section, an eligible employee is an employee designated managerial by the Department of Personnel Administration under subdivision (e) of Sections 3513 and 18801.1; a nonelected officer of the executive branch of government exempt from civil service designated by the department as eligible to receive managerial benefits; or a State Traffic Sergeant in the California Highway Partol.

(b) Notwithstanding any other provision of this article, an eligible employee who has enrolled in the annual leave program under Article 2.5 (commencing with Section 19858.3) shall receive nonindustrial disability leave benefits in accordance with all of the following:

(1) A disabled employee shall be eligible to receive Nonindustrial Disability Insurance benefits in an amount equal to one-half full pay, 50 percent of gross salary.

(2) A disabled employee shall be eligible to receive Nonindustrial Disability Insurance benefits without being required to use any sick leave accrued under Article 3 (commencing with Section 19859) or annual leave accrued under Article 2.5 (commencing with Section 19858.3) unless the employee, in his or her sole discretion, elects to use sick leave or annual leave in lieu of receiving benefits.

(3) If the employee elects to use sick leave or annual leave credits prior to receiving Nonindustrial Disability Insurance payments, he or she shall not be required to exhaust the accrued leave balance.

(4) Following the start of Nonindustrial Disability Insurance payments, an employee may at any time change from the receipt of Nonindustrial Disability Insurance payments to the utilization of sick leave or annual leave. Once such an election is made, the employee may not recommence receiving Nonindustrial Disability Insurance payments until that leave is exhausted.

(5) In accordance with the state's return to work policy, an

employee who is eligible to receive Nonindustrial Disability Insurance benefits and who is medically certified as unable to return to his or her full-time work during the period of his or her disability, may, with medical approval, and at the discretion of his or her appointing power, work up to the number of hours, in hour increments, which when combined with his or her Nonindustrial Disability Insurance benefits will result in a salary which does not exceed 100 percent of his or her regular full pay.

(6) If an employee refuses to return to work in a position offered by the employer under the state's Injured State Worker Assistance Program, Nonindustrial Disability Insurance benefits will be terminated effective as of the date of the offer.

(7) An employee may with his or her department head's approval elect to supplement Nonindustrial Disablity Insurance benefits with sick or annual leave up to 100 percent of his or her regular full pay.

SEC. 10. Section 19888 of the Government Code is amended to read:

19888. Service under emergency appointment shall be credited for purposes of vacation, sick leave, annual leave, and salary adjustment only if and as provided by department rule.

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. 11. Section 19991.4 of the Government Code is amended to read:

19991.4. Any period of time during which an employee is required to be absent from his or her position by reason of an injury or disease for which he or she is entitled to receive temporary disability compensation under the provisions of Division 4 or 4.5 of the Labor Code is not a break in his or her continuous service for the purpose of his or her right to salary adjustments, sick leave, vacation, annual leave, or seniority.

If an employee is unable to return to work at the time or during the period he or she is entitled to permanent disability compensation under Division 4 or 4.5 of the Labor Code, he or she shall be paid any sick leave balance, vacation balance, annual leave balance, or accumulated compensable overtime. Such payment shall be computed by projecting the accumulated time on a calendar basis as though the employee was taking time off. If during the period of projection the employee is able to return to work, he or she shall be returned to his or her former position.

If a permanent or probationary employee is still not able to return to his or her former position and continues to receive permanent disability compensation, the appointing power shall take at least one of the following actions:

(a) Demote or transfer the employee to a position in a comparable or lower class in the same agency if he or she is able to perform such duties;

(b) Request the department to assist in placing the employee in another position in state service;

(c) Grant a leave of absence for the period during which the employee receives permanent disability compensation or is being retrained through rehabilitation;

(d) Encourage the employee to accept disability or service retirement; or

(e) Terminate under the provisions of Section 19253.5.

If the employee is demoted or transferred he or she shall receive the maximum of the salary range provided such salary is not greater than the salary he or she received on the date his or her accumulated time was exhausted.

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

CHAPTER 658

An act to add Section 1270.2 to the Penal Code, relating to bail.

[Approved by Governor August 30, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 1270.2 is added to the Penal Code, to read:

1270.2. When a person is detained in custody on a criminal charge prior to conviction for want of bail, that person is entitled to an automatic review of the order fixing the amount of the bail by the judge or magistrate having jurisdiction of the offense. That review shall be held not later than five days from the time of the original order fixing the amount of bail on the original accusatory pleading. The defendant may waive this review.

CHAPTER 659

An act to add Section 750.1 to the Insurance Code, relating to insurance.

[Became law without Governor's signature. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 750.1 is added to the Insurance Code, to read:

750.1. The Legislature hereby finds and declares that the continued regulation of the business practices of insurers and their producers is in the interest of the citizens of the state and that the control and limitations of unlawful rebates, profits, and commissions is an essential component of that regulation which is necessary to effectuate an adequate and complete system and regulation of insurer and producer business practices.

The Legislature finds that the statutes controlling unlawful rebates, profits, and commissions continue to provide critical protection to insureds in this state from the numerous consequences that would occur in the absence of such regulation, including company insolvencies, unfair discrimination between insureds with identical risks creating subsidies from small purchasers of insurance in favor of large purchasers of insurance, decreased quality of services to insurance consumers, increased concentration of insurance distribution and sales mechanisms, and misrepresentation and unethical sales practices such as improper replacement or twisting to the detriment of the public.

It is the intent of the Legislature in enacting this section to clearly set forth the legislative intent supporting the enactment, continuing vitality, and importance of the unlawful rebates, profits, and commissions sections of this code.

CHAPTER 660

An act to add Chapter 1.9 (commencing with Section 15365), Chapter 6 (commencing with Section 15397), and Chapter 7 (commencing with Section 15398) to Part 6.7 of Division 3 of, and to add Article 12 (commencing with Section 16429.30) to Chapter 2 of Part 2 of Division 4 of, Title 2 of, the Government Code, to amend Sections 24274, 24344, 24348, 24667, and 24668 of, to amend and renumber Section 25110 of, to add Sections 24411 and 24670 to, and to add and repeal Article 1.5 (commencing with Section 25110) of Chapter 17 of Part 11 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 5, 1986. Filed with Secretary of State September 5, 1986.]

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

SECTION 1. Chapter 1.9 (commencing with Section 15365) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 1.9. CALIFORNIA EXPORT PROMOTION AND POLICY PROGRAM

Article 1. Trade Policy

15365. There is within the California State World Trade Commission a California Office of Trade Policy.

15365.2. The purposes of the California Office of Trade Policy are the following:

(a) To support vigorous enforcement of trade laws against unfair foreign trade practices in United States markets, in the markets of offending countries, and in third-country markets.

(b) To encourage international negotiations to reduce and eliminate restrictive trade practices abroad, including quotas, tariffs, subsidies, nontariff barriers, and commercial counterfeiting.

(c) To participate in the development of international agreements which affect California's economic interests in cooperation with the Office of the United States Trade Representative.

(d) To respond to industry complaints concerning foreign trade barriers, and help represent their interests before appropriate agencies.

Article 2. Export Promotion

15365.6. There is within the California State World Trade Commission a California Office of Export Promotion.

15365.8. The purpose of the California Office of Export Promotion is to strengthen the state's activities in marketing its agricultural, manufacturing, and service industries overseas. The office shall be responsible for conducting market research; disseminating trade leads; sponsoring trade delegations, missions, marts, seminars, and other appropriate promotional events, and for establishing overseas offices in foreign countries, if appropriate and economically feasible. The office shall consult with the Department of Food and Agriculture on the promotion of agricultural commodities overseas.

SEC. 2. Chapter 6 (commencing with Section 15397) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 6. CALIFORNIA DEVELOPMENT REVIEW PANEL

Article 1. Membership

15397. (a) There is within the Business, Transportation and Housing Agency a Development Review Panel consisting of five members as follows:

(1) The Secretary of the Business, Transportation and Housing Agency, who shall serve as chairperson.

(2) The Secretary of the Resources Agency.

(3) The Secretary for Environmental Affairs.

(4) One Member of the Senate, appointed by the Senate Rules Committee.

(5) One Member of the Assembly, appointed by the Speaker of the Assembly.

(b) The Members of the Senate and Assembly shall meet with and, except as otherwise provided by the Constitution, advise the panel to the extent that this participation is not incompatible with their respective positions as Members of the Legislature.

(c) All necessary staffing to carry out the panel's duties and responsibilities shall be provided by the Department of Commerce.

Article 2. Purpose and Powers

15397.3. The purpose of the Development Review Panel shall be to promote and assist economic development projects in the state where additional development or expansion is otherwise not possible due to lack of adequate funding for infrastructure.

15397.5. It is the intent of the Legislature that funds appropriated for the purpose of the Development Review Panel not be used in lieu of or as supplemental funds to any existing state infrastructure financing program, including, but not limited to, the State Transportation Improvement Program or the Clean Water Bond Program.

15397.7. The panel shall meet regularly to review projects submitted to it for funding assistance. To facilitate its activities, the panel shall have the power to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business, and prepare and promulgate rules and regulations.

(b) Contract for legal, financial, and other services as well as services of appropriate state agencies as may, in its judgment, be necessary for it to evaluate an application for financial assistance.

(c) Make secured loans to any local agency in connection with the financing of public capital improvements projects in accordance with a loan agreement between the authority and the local agency.

(d) 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 owed or held by the authority for the benefit of the holders of bonds issued to finance public capital improvements.

(e) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or desirable to carry out any power expressly given to the panel.

(f) Invest any moneys held in reserve or any moneys not required for immediate use or disbursement in obligations that are authorized by law for the investment of trust funds in the custody of the Treasurer.

(g) Request assistance and information from any department, division, board, commission, or other agency of the state as the panel may need to carry out its duties.

(h) Set such other terms and conditions by resolution pursuant to this section as it deems to be necessary, appropriate, and in the public interest in furtherance of the purposes of this chapter.

Article 3. Duties

15397.9. The panel shall establish criteria for the selection of projects to receive financing assistance. Criteria established by the panel shall include, but not be limited to, the following:

(a) The project must be demonstrated to be infeasible without the assistance of the panel.

(b) The project is needed to attract or otherwise accommodate the location or expansion of a specific industrial enterprise with high employment potential.

(c) A demonstration of community need for economic development.

(d) A demonstration of financial need for state assistance.

(e) Evidence of firm financial commitment on the part of the business or enterprise associated with the project.

(f) The cost per job created or retained is greater than or equal to a threshold established by the panel as part of its evaluation criteria.

(g) Evidence of site control, including any leases, easements, covenants, or encumbrances which may affect the project.

(h) Demonstration of ability to administer the project and state assistance requirements.

(i) Consistency with a city, county, or city and county general plan.

(j) Compliance with the California Environmental Quality Act as set forth in Division 13 (commencing with Section 21000) of the Public Resources Code.

15397.11. (a) Not less that 30 percent of the funds appropriated to the panel in any given fiscal year shall be set aside for projects submitted by rural cities and counties.

(b) For the purposes of this section, "rural city" means a city of less than 50,000 population located in a county of less than 600,000

population.

(c) For the purposes of this section, "rural county" means any unincorporated portion of a county of less than 200,000 population located within a county with a population of less than 600,000.

15397.13. Any city or county, or any city or county acting on behalf of a special district or local agency, may submit an application for financing assistance pursuant to this chapter which includes all of the following:

(a) A resolution in support of the public capital improvement and the financial assistance requested that has been adopted by the legislative body of the local agency.

(b) Financial, legal, and other information which is required by the panel to make a determination of significant public benefits.

(c) An estimate of the maximum amount and type of assistance to be requested.

(d) A description of the public capital improvement or project.

(e) A financing plan for the public capital improvement, including the amount of debt, if any, and the maximum term of maturity of any bond issue, and the identification of revenue sources that will be dedicated to the payment of the principal and interest on the bonds.

(f) A description of the public capital improvement's economic feasibility.

(g) The number of any type of permanent jobs to be either created or retained by the project.

15397.15. Applications for projects not in accordance with the reasonable priorities and criteria that the panel has established need not be accepted or further processed by the panel.

15397.17. The panel shall make a determination on the application within 30 days of receipt of the application, excepting that time required to correct deficiencies in the application.

15397.19. (a) The panel shall contract with local jurisdictions submitting projects accepted by the panel for financing assistance. For the purposes of this section, the panel shall be authorized to provide all of the following types of assistance:

(1) Interest rate assistance on local bonds.

(2) Grants-in-aid for projects.

(3) Secured loans.

(4) Matching funds to increase eligibility for other funds.

(b) Not more than 50 percent of the funds committed by the panel in any given fiscal year may be for direct grants.

(c) Not more than two million dollars ($2,000,000) may be spent on any one project.

(d) Grants will only be made when other funding options are financially infeasible.

(e) Contracts will be executed within one week of approval of projects. Funds will be transferred within 30 days of execution of the contract.

(f) A report certifying completion of the project will be required

of the recipient as will a closeout report certifying number of permanent employment opportunities created by the project.

15397.21. Neither the completion of the project nor the operation of the facility will have the proximate effect of relocation of any substantial operations of the company from one area of the state to another or in the abandonment of any substantial operations of the company within other areas of the state, or, if the completion or operation will have either of the effects, then completion or operation is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

15397.23. All moneys loaned or otherwise made available by the panel and that are required to be repaid shall be deposited in the California Unitary Fund (Article 12 (commencing with Section 16429.30) of Chapter 2 of Part 2 of Division 4) and entirely made available for the expenditure for the purposes and uses of the panel, upon appropriation by the Legislature.

SEC. 3. Chapter 7 (commencing with Section 15398) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 7. SMALL BUSINESS BOND INSURANCE CORPORATION

15398. There is in state government a nonprofit public benefit corporation which shall be known as the Small Business Bond Insurance Corporation.

15398.1. The primary goal of the corporation is to increase the availability of long-term financing to small businesses in California. The primary method for accomplishing this goal shall be through the provision of insurance or guarantees of the payment of bonds issued by or for the benefit of small businesses which utilize bond financing as a source of long-term capital, including bonds issued pursuant to the California Industrial Development Financing Act (Title 10 (commencing with Section 91500)). Other methods of achieving the primary goal, including bond pooling, may be adopted by the corporation.

15398.2. The corporation shall be a nonprofit public benefit corporation and shall be subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), except as specifically provided in this chapter.

15398.3. (a) The corporation shall be governed by a board of directors consisting of seven members as follows:

(1) The Secretary of the Business, Transporation and Housing Agency or his or her designee.

(2) The Treasurer or his or her designee.

(3) The Executive Director of the Office of Small Business or his or her designee.

(4) Two members to be appointed by the Governor as follows:

(A) One member with a minimum of three years' experience as

an officer or employee of a financial institution.

(B) One member with a minimum of three years' experience as an owner or employee of a small business.

(5) One member to be appointed by the Senate Rules Committee.

(6) One member to be appointed by the Speaker of the Assembly.

(b) The terms of the Governor's initial appointees shall be two years. The terms of subsequent appointees by the Governor and all appointees by the Senate Rules Committee and the Speaker of the Assembly shall be three years. The terms shall expire on December 31. All appointees shall serve at the pleasure of the appointing authority and vacancies shall be filled by the appointing authority.

(c) Initial appointments to the board shall be made within 90 days of the operative date of this chapter.

15398.4. The board shall do all of the following:

(a) Elect a chair and vice chair from among its members. The chair, if present, shall preside at meetings of the board; otherwise the vice chair shall preside.

(b) Adopt bylaws as required to govern the conduct and operation of the board.

(c) File articles of incorporation with the Secretary of State. The articles shall include a statement of purposes that conforms to the goals set forth in this chapter.

(d) Hold regularly scheduled meetings, at least quarterly, to carry out the objectives and responsibilities of the board.

(e) Hire an executive director to provide overall management for the corporation's programs.

(f) Establish the salaries of the executive director and other staff.

(g) Promulgate rules and regulations necessary to the operation of the corporation's programs in an effective and fiscally sound manner.

(h) Adopt criteria establishing eligibility requirements for its programs.

(i) Issue an annual report to the Governor and the Legislature covering the operations and impact of its programs and recommending ways in which the state can improve the financial health of small businesses.

(j) Appoint advisory groups, as it deems necessary, to carry out the powers and duties of the board.

(k) Design, establish, and implement bond insurance, coinsurance, and bond pooling programs necessary to carry out the goals of this chapter.

15398.5. The executive director shall do all of the following:

(a) Carry out management directives of the board.

(b) Manage and disburse funds and maintain records.

(c) Direct all staff and, hire and dismiss employees.

(d) Submit an annual budget, with the approval of the board, which shall be included in the Governor's proposed budget.

(e) Coordinate the activities and programs of the corporation with those of the Office of Small Business, the State Assistance Fund

for Energy, the California Business and Industrial Corporation, the California Export Finance Office, and the California Industrial Development Financing Advisory Commission in order to minimize duplication of effort and improve the effectiveness of the corporation's programs.

15398.6. (a) There is in the State Treasury the California Small Business Bond Insurance Reserve Fund the purpose of which is to receive federal, state, and private moneys, any return on investments of those moneys by the Treasurer, premiums which may be charged by the corporation for insurance or coinsurance programs, and recoveries and collections on claims paid by the corporation. All moneys in the fund, upon appropriation by the Legislature, shall be allocated by the board for the corporation's small business bond insurance programs in accordance with the purposes of this chapter.

(b) Upon appropriation by the Legislature, all moneys in the fund shall be paid out by the Treasurer on warrants drawn by the Controller upon order of the board in furtherance of the purposes of this chapter, including the payment of claims under programs of the board, payments for insurance, coinsurance, and reinsurance, and payments required by state, federal, or private bond insurance programs conducted by the board.

(c) The state shall not be liable or obligated in any way beyond the state money which is allocated and deposited in the fund from state money which is appropriated for that purpose.

(d) The board may request the Treasurer to invest those moneys in the fund which are not immediately encumbered by the corporation's administrative or program costs, in securities issued by the Treasury of the United States government or the government of the State of California. Returns from these investments shall be deposited in the fund and, upon appropriation by the Legislature, shall be used to support loan guarantees, bond insurance, and bond coinsurance as provided in this chapter.

15398.7. (a) There is in the State Treasury the California Small Business Bond Insurance Corporation Operations Fund the purpose of which is to receive state, federal, and private moneys to be used to cover the operating expenses of the corporation.

(b) Upon appropriation by the Legislature, all moneys in the fund shall be paid out by the Treasurer on warrants drawn by the Controller upon order of the board in furtherance of the purposes of this chapter.

(c) The corporation may charge fees for its guarantees, insurance, coinsurance, and other programs and these fees shall be deposited in the fund and, upon appropriation by the Legislature, shall be used to defray the operating expenses of the corporation.

15398.8. If the Legislature has appropriated funds to the California Small Business Bond Insurance Corporation Operations Fund, board members may receive reimbursement, including per diem equal to that received by state employees, for their actual and

necessary expenses incurred in the performance of their duties. Board members, who are not employees of the state, may also be paid a stipend, at the discretion of the board, for each day they devote to official board business. The board shall determine the amount of the stipend; however, the stipend shall not exceed one hundred dollars ($100) for any calendar day. Board members may not receive stipends for more than 24 calendar days in any calendar year.

15398.9. (a) The Secretary of the Business, Transportation and Housing Agency or his or her designee shall act as the interim chair of the board of directors and shall continue in that capacity until a permanent chair is elected by the board. The interim chair shall, as soon after the operative date of this chapter as is practical, convene a meeting of the board.

(b) The board may request the Office of Small Business to provide staff support and other necessary assistance in establishing the corporation.

SEC. 4. Article 12 (commencing with Section 16429.30) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 12. California Unitary Fund

16429.30. There is in the State Treasury the California Unitary Fund, which is hereby created, consisting of all money deposited in the fund pursuant to any provision of law. There is also hereby created the Future Infrastructure State Targeted Account in the California Unitary Fund and the Local Project Account for Non-Transient Spending in the California Unitary Fund. All money in the fund shall be used exclusively for infrastructure financing and economic development.

16429.32. Eighty percent of the money deposited in the Future Infrastructure State Targeted Account shall be available for expenditure for the purposes and uses of the California Development Review Panel upon appropriation by the Legislature.

16429.34. Twenty percent of the money deposited in the Future Infrastructure State Targeted Account shall be available for expenditure only for the following purposes and uses upon appropriation by the Legislature:

(a) Support of the California Export Finance Program Law (Chapter 5 (commencing with Section 15390) of Part 6.7 of Division 3).

(b) Support of the California Export Promotion and Policy Program (Chapter 1.9 (commencing with Section 15365) of Part 6.7 of Division 3).

(c) Support of the California Small Business Bond Insurance Corporation (Chapter 7 (commencing with Section 15398) of Part 6.7 of Division 3).

(d) Support of the Foreign Market Development Export Incentive Program for California Agriculture Act, as established by

Chapter 1189 of the Statutes of 1985.

16429.36. Any money deposited in the fund pursuant to Section 15397.23 shall not be subject to apportionment under Sections 16429.32 and 16429.34.

16429.38. All proposed appropriations from the fund shall be summarized in a section of the Governor's Budget for each fiscal year and shall bear the caption "California Unitary Infrastructure and Economic Development Program." The section shall contain a separate description of each program for which an appropriation is made. Appropriations shall be made to the department or entity administering the program and shall be accounted for separately.

16429.40. The Secretary of the Business, Transportation and Housing Agency shall be responsible for annually recommending to the Governor, for inclusion in the Budget Bill, which programs shall be supported by the California Unitary Fund.

16429.49. The moneys in the California Unitary Fund shall remain in the fund until appropriated by the Legislature and upon appropriation shall be used only for those purposes provided in this article.

SEC. 5. Section 24274 of the Revenue and Taxation Code is amended to read:

24274. There shall be included in gross income for the income year the amount of any increase in the suspense account required by subparagraph (B) of paragraph (2) of subdivision (c) of Section 24685 (relating to accrual of vacation pay).

SEC. 6. Section 24344 of the Revenue and Taxation Code is amended to read:

24344. (a) Except as limited by subdivision (b), there shall be allowed as a deduction all interest paid or accrued during the income year on indebtedness of the taxpayer.

(b) If income of the taxpayer which is derived from or attributable to sources within this state is determined pursuant to Section 25101 or 25110, the interest deductible shall be an amount equal to interest income subject to apportionment by formula, plus the amount, if any, by which the balance of interest expense exceeds interest and dividend income (except dividends deductible under the provisions of Section 24402 and dividends subject to the deductions provided for in Section 24411 to the extent of those deductions) not subject to apportionment by formula. Interest expense not included in the preceding sentence shall be directly offset against interest and dividend income (except dividends deductible under the provisions of Section 24402 and dividends subject to the deductions provided for in Section 24411 to the extent of those deductions) not subject to apportionment by formula.

(c) Notwithstanding subdivision (b), interest expense incurred for purposes of foreign investments may be offset against dividends deductible under Section 24411.

SEC. 7. Section 24348 of the Revenue and Taxation Code is amended to read:

24348. (a) (1) There shall be allowed as a deduction either of the following:

(A) Debts which become worthless within the income year in an amount not in excess of the part charged off within that income year.

(B) In the case of a savings and loan association, bank, or financial corporation, in lieu of any deduction under subparagraph (A), in the discretion of the Franchise Tax Board, a reasonable addition to a reserve for bad debts.

(2) When satisfied that a debt is recoverable in part only the Franchise Tax Board may allow that debt, in an amount not in excess of the part charged off within the income year, as a deduction; provided, however, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt which in any prior year was charged off, regardless of whether claimed as a deduction in that prior year.

(b) (1) The amendments to this section made during the 1985–86 Regular Session by the act adding this subdivision shall apply only to income years beginning after December 31, 1987.

(2) In the case of any taxpayer who maintained a reserve for bad debts for that taxpayer's last income year beginning before January 1, 1988, and who is required by the amendments to this section to change its method of accounting for any income year, all of the following shall apply:

(A) That change shall be treated as initiated by the taxpayer.

(B) That change shall be treated as made with the consent of the Franchise Tax Board.

(C) The net amount of adjustments required by Article 6 (commencing with Section 24721) of Chapter 13, to be taken into account by the taxpayer shall:

(i) In the case of a taxpayer maintaining a reserve under former subdivision (b) (prior to the amendments made during the 1985–86 Regular Session by the act adding this subdivision), be reduced by the balance in the suspense account under paragraph (4) of that subdivision as of the close of such last income year; and

(ii) Be taken into account ratably in each of the first five income years beginning after December 31, 1987.

SEC. 8. Section 24411 is added to the Revenue and Taxation Code, to read:

24411. (a) For purposes of those taxpayers electing to compute income under Section 25110, 100 percent of the qualifying dividends described in subdivision (c) and 75 percent of the qualifying dividends described in subdivisions (b) and (d). "Qualifying dividends" means those received from corporations regardless of the place it is incorporated if both of the following conditions are satisfied:

(1) The average of the property, payroll, and sales factors within the United States for the corporation is less than 20 percent.

(2) More than 50 percent of the total combined voting power of

all classes of stock entitled to vote is owned by the taxpayer.

(b) Qualifying dividends equal to the greatest amount of dividends received in any one of the income years constituting the base period.

(c) The amount of fully excluded dividends, if the taxpayer's greatest foreign payroll factor for any income year in the base period exceeds the taxpayer's foreign payroll factor for the income year, which shall be determined as follows:

(1) The taxpayer's foreign payroll factor in the income year shall be subtracted from the greatest of the taxpayer's foreign payroll factor for any income year in the base period.

(2) The amount determined pursuant to paragraph (1) shall be divided by the greatest of the taxpayer's foreign payroll factor for any income year in the base period.

(3) The percentage determined in paragraph (2) shall be multiplied by the total qualifying foreign dividends. The amount so determined shall be the amount of fully excluded dividends.

(4) The amount determined in paragraph (3) shall not exceed the amount of qualifying dividends in excess of the base dividends determined in subdivision (b).

(5) If the amount of fully excluded dividends determined pursuant to paragraph (3) is less than the amount of qualified dividends in excess of the amount of base dividends determined pursuant to subdivision (b), the difference shall be added to the base dividends determined pursuant to subdivision (b).

(d) The amount of partially excluded dividends, if the taxpayer's greatest foreign payroll factor for any income year in the base period is the same as or less than the taxpayer's foreign payroll factor in the income year, which shall be determined as follows:

(1) The taxpayer's greatest foreign payroll factor for any income year in the base period shall be subtracted from the taxpayer's foreign payroll factor in the income year.

(2) The amount determined pursuant to paragraph (1) shall be divided by the taxpayer's foreign payroll factor in the income year.

(3) The percentage determined in paragraph (2) shall be multiplied by the total qualifying foreign dividends.

(4) The amount determined in paragraph (3) shall be subtracted from the amount of qualifying dividends in excess of the amount of base dividends determined in subdivision (b).

(5) The balance shall be the amount of partially excluded dividends.

(e) The base period shall consist of the income year ending before January 1, 1987, and the two immediately preceding income years.

(f) A taxpayer's foreign payroll factor for an income year shall be a fraction, the numerator of which is the total amount paid outside the United States during the income year by the taxpayer and its affiliates for compensation, and the denominator of which is the total compensation paid everywhere during the income year.

SEC. 9. Section 24667 of the Revenue and Taxation Code is

amended to read:

24667. (a) Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this part under the installment method.

(b) For purposes of this section—

(1) The term "installment sale" means a disposition of property where at least one payment is to be received after the close of the income year in which the disposition occurs.

(2) The term "installment sale" does not include—

(A) A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.

(B) A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close of the income year.

(c) For purposes of this section, the term "installment method" means a method under which the income recognized for any income year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

(d) (1) Subdivision (a) shall not apply to any disposition if the taxpayer elects to have subdivision (a) not apply to such disposition.

(2) Except as otherwise provided, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this part for the income year in which the disposition occurs. Such an election shall be made in the manner prescribed by the Franchise Tax Board.

(3) An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Franchise Tax Board.

(e) (1) If—

(A) Any person disposes of property to a related person (hereinafter in this subdivision referred to as the "first disposition"), and

(B) Before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subdivision referred to as the "second disposition"),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

(2) (A) Except in the case of marketable securities, paragraph (1) shall apply only if the date of the second disposition is not more than two years after the date of the first disposition.

(B) The running of the two-year period set forth in subparagraph (A) shall be suspended with respect to any property for any period during which the related person's risk of loss with respect to the property is substantially diminished by—

(i) The holding of a put with respect to such property (or similar property),

(ii) The holding by another person of a right to acquire the property, or

(iii) A short sale or any other transaction.

(3) The amount treated for any income year as received by the person making the first disposition by reason of paragraph (1) shall not exceed the excess of—

(A) The lesser of—

(i) The total amount realized with respect to any second disposition of the property occurring before the close of the income year, or

(ii) The total contract price for the first disposition, over

(B) The sum of—

(i) The aggregate amount of payments received with respect to the first disposition before the close of such year, plus

(ii) The aggregate amount treated as received with respect to the first disposition for prior income years by reason of this subdivision.

(4) For purposes of this subdivision, if the second disposition is not a sale or exchange, an amount equal to the fair market value of the property disposed of shall be substituted for the amount realized.

(5) If paragraph (1) applies for any income year, payments received in subsequent income years by the person making the first disposition shall not be treated as the receipt of payments with respect to the first disposition to the extent that the aggregate of such payments does not exceed the amount treated as received by reason of paragraph (1).

(6) For purposes of this subdivision—

(A) Any sale or exchange of stock to the issuing corporation shall not be treated as a first disposition.

(B) A compulsory or involuntary conversion (within the meaning of Section 24944) and any transfer thereafter shall not be treated as a second disposition if the first disposition occurred before the threat or imminence of the conversion.

(C) Any transfer after the earlier of—

(i) The death of the person making the first disposition, or

(ii) The death of the person acquiring the property in the first disposition, and any transfer thereafter shall not be treated as a second disposition.

(7) This subdivision shall not apply to a second disposition (and any transfer thereafter) if it is established to the satisfaction of the Franchise Tax Board that neither the first disposition nor the second disposition had as one of its principal purposes the avoidance of bank and corporation tax.

(8) The period for assessing a deficiency with respect to a first disposition (to the extent such deficiency is attributable to the application of this subdivision) shall not expire before the day which is two years after the date on which the person making the first disposition furnishes (in such manner as the Franchise Tax Board

may prescribe) a notice that there was a second disposition of the property to which this subdivision may have applied. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

(f) For purposes of this section—

(1) Except for purposes of subdivisions (g) and (h), the term "related person" means a person whose stock would be attributed under Section 24497 (other than subdivision (d) thereof) to the person first disposing of the property.

(2) The term "marketable securities" means any security for which, as of the date of the disposition, there was a market on an established securities market or otherwise.

(3) Except as provided in paragraph (4), the term "payment" does not include the receipt of evidences of indebtedness of the person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person).

(4) Receipt of a bond or other evidence of indebtedness which—

(A) Is payable on demand, or

(B) Is issued by a corporation or a government or political subdivision thereof and is readily tradable,

shall be treated as receipt of payment.

(5) For purposes of paragraph (4), the term "readily tradable" means a bond or other evidence of indebtedness which is issued—

(A) With interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

(B) In any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.

(6) In the case of any exchange described in subdivision (b) of Section 24941—

(A) The total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,

(B) The gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of subdivision (b) of Section 24941, and

(C) The term "payment," when used in any provision of this section other than paragraph (1) of subdivision (b), shall not include any property permitted to be received in such exchange without recognition of gain.

Similar rules shall apply in the case of an exchange which is described in Section 24535 and is not treated as a dividend.

(7) The term "depreciable property" means property of a character which (in the hands of the transferee) is subject to the allowance for depreciation provided in Section 24349.

(g) (1) In the case of an installment sale of depreciable property between related persons within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code, subdivision (a) shall not

apply, and, for purposes of this part, all payments to be received shall be deemed received in the year of the disposition.

(2) Paragraph (1) shall not apply if it is established to the satisfaction of the Franchise Tax Board that the disposition did not have as one of its principal purposes the avoidance of bank and corporation tax.

(h) (1) (A) If, in connection with a liquidation to which Section 24512 applies, in a transaction to which Section 24501 applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period set forth in subdivision (b) of Section 24512, then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

(B) Subparagraph (A) shall not apply to an installment obligation described in paragraph (2) of subdivision (a) of Section 24513 unless such obligation is also described in paragraph (2) of subdivision (b) of Section 24513.

(C) If the obligor of any installment obligation and the shareholder are married to each other or are related persons (within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code), to the extent such installment obligation is attributable to the disposition by the corporation of depreciable property—

(i) Subparagraph (A) shall not apply to such obligation, and

(ii) For purposes of this part, all payments to be received by the shareholder shall be deemed received in the year the shareholder receives the obligation.

(D) For purposes of subparagraph (A) of paragraph (1) of subdivision (e), disposition of property by the corporation shall be treated also as disposition of such property by the shareholder.

(E) For purposes of subparagraph (A), in any case to which subdivision (c) of Section 24514 applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder.

(2) If—

(A) Paragraph (1) applies with respect to any installment obligation received by a shareholder from a corporation, and

(B) By reason of the liquidation such shareholder receives property in more than one income year, then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such income years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

(i) (1) In the case of any installment sale of property to which subdivision (a) applies, both of the following shall apply:

(A) Notwithstanding any other provision of this part, any

recapture income shall be recognized in the year of the disposition.

(B) Any gain in excess of the recapture income shall be taken into account under the installment method.

(2) For purposes of paragraph (1), "recapture income" means, with respect to any installment sale, the amount by which the lower of—

(A) The recomputed basis of the property, or

(B) (i) In the case of a sale, exchange, or involuntary conversion, the amount realized, or

(ii) In the case of any other disposition, the fair market value of the property, exceeds the adjusted basis of the property.

(3) This subdivision shall not apply to any installment sale of property which is irrigation equipment which is used to irrigate farmland.

(4) For purposes of this subdivision, "recomputed basis" means the adjusted basis of the property recomputed by adding thereto both of the following:

(A) All depreciation adjustments attributable to periods after December 31, 1962.

(B) Any amount deducted under Section 24356.3 (relating to expensing of certain business assets).

(j) (1) This section shall not apply to any installment obligation arising out of a sale of either of the following:

(A) Stock or securities which are traded on an established securities market.

(B) To the extent provided in regulations, property (other than stock or securities) of a kind regularly traded on an established market under regulations.

(2) This subdivision shall not apply to any sale of crops or livestock held for slaughter.

(3) The Franchise Tax Board may disallow the use of the installment method in whole or in part for transactions in which the rules of this subdivision otherwise would be avoided through the use of related parties or other intermediaries.

(k) (1) The Franchise Tax Board may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.

(2) The regulations prescribed under paragraph (1) shall include regulations providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

(*l*) The amendments to this section made during the 1985–86 Regular Session by the act adding this subdivision shall apply only to dispositions made after December 31, 1987.

SEC. 10. Section 24668 of the Revenue and Taxation Code is amended to read:

24668. (a) (1) Under rules prescribed by the Franchise Tax Board, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in

any income year that proportion of the installment payments actually received in that year which the gross profit, realized or to be realized when payment is completed, bears to the total contract price.

(2) For purposes of paragraph (1), the total contract price of all sales of personal property on the installment plan includes the amount of carrying charges or interest which is determined with respect to such sales and is added on the books of account of the seller to the established cash selling price of such property.

(b) If the carrying charges or interest with respect to sales of personal property, the income from which is returned under paragraph (1) of subdivision (a), is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest.

(c) (1) This section shall not apply to any of the following:

(A) Any disposition of personal property under a revolving credit plan.

(B) Any installment obligation arising out of a sale of either of the following:

(i) Stock or securities which are traded on an established securities market.

(ii) To the extent provided in regulations, property (other than stock or securities) of a kind regularly traded on an established market under regulations.

(2) This subdivision shall not apply to any sale of crops or livestock held for slaughter.

(3) The Franchise Tax Board may disallow the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related parties or other intermediaries.

(d) (1) The amendments to this section made during the 1985–86 Regular Session by the act adding this subdivision shall apply only to dispositions made after December 31, 1987.

(2) In the case of any taxpayer who made sales under a revolving credit plan and was on the installment method under Section 24668 for that taxpayer's last income year beginning before January 1, 1988, and who is required by the amendments to this section made during the 1985–86 Regular Session by the act adding this subdivision to change its method of accounting all of the following apply:

(A) That change shall be treated as initiated by the taxpayer.

(B) That change shall be treated as having been made with the consent of the Franchise Tax Board.

(C) The period for taking into account adjustments under Article 6 (commencing with Section 24721) by reason of that change shall not exceed five years.

SEC. 11. Section 24670 is added to the Revenue and Taxation Code, to read:

24670. (a) For purposes of Section 24667 and 24668, if a taxpayer has allocable installment indebtedness for any income year, that

indebtedness—

(1) Shall be allocated on a pro rata basis to any applicable installment obligation of the taxpayer which meets both of the following requirements:

(A) Arises in that income year.

(B) Is outstanding as of the close of that income year.

(2) Shall be treated as a payment received on that obligation as of the close of that income year.

(b) For purposes of this section:

(1) "Allocable installment indebtedness" means, with respect to any income year:

(A) The installment percentage of the taxpayer's average quarterly indebtedness for that income year, reduced (but not below zero) by --

(B) The aggregate amount treated as allocable installment indebtedness with respect to applicable installment obligations which --

(i) Are outstanding as of the close of that income year, but

(ii) Did not arise during that income year.

(2) "Installment percentage" means the percentage (not in excess of 100 percent) determined by dividing:

(A) The face amount of all applicable installment obligations of the taxpayer outstanding as of the close of the income year, by --

(B) The sum of both of the following:

(i) The aggregate adjusted basis of all assets not described in clause (ii) held as of the close of the income year.

(ii) The face amount of all installment obligations outstanding as of that time.

For purposes of clause (i) of subparagraph (B), a taxpayer may elect to compute the aggregate adjusted basis of all assets using the deduction for depreciation which is used in computing earnings and profits under Section 24491.1.

(3) For purposes of this subdivision:

(A) There shall not be taken into account under subparagraph (B) of paragraph (2) any property used in the trade or business of farming (within the meaning of Section 2032A(e)(4) or (5) of the Internal Revenue Code) or any installment obligation arising from the sale of that property.

(B) There shall not be taken into account in computing the taxpayer's average quarterly indebtedness under subparagraph (A) of paragraph (1) any indebtedness secured by any property described in subparagraph (A).

(c) (1) If any amount is treated as received under subdivision (a) (after application of paragraph (2) of subdivision (d)) with respect to any applicable installment obligation, subsequent payments received on that obligation shall not be taken into account for purposes of Sections 24667 and 24668 to the extent that the aggregate of those subsequent payments does not exceed the aggregate amount treated as received under subdivision (a).

(2) For purposes of applying subparagraph (B) of paragraph (1) of subdivision (b) for the income year in which any payment to which paragraph (1) of this subdivision applies was received, and for any subsequent income year, the allocable installment indebtedness with respect to the applicable installment obligation shall be reduced (but not below zero) by the amount of that payment not taken into account by reason of paragraph (1).

(d) (1) The amount treated as received under subdivision (a) with respect to any applicable installment obligation for any income year shall not exceed the excess (if any) of:

(A) The total contract price, over

(B) Any portion of the total contract price received under the contract before the close of that income year:

(i) Including amounts so treated under subdivision (a) for all preceding income years, but

(ii) Not including amounts not taken into account by reason of subdivision (c).

(2) If after application of paragraph (1), the allocable installment indebtedness for any income year exceeds the amount which may be allocated to applicable installment obligations arising in, and outstanding as of the close of, that income year, that excess shall, subject to the limitations of paragraph (1), be allocated to applicable installment obligations outstanding as of the close of that income year which arose in preceding income years, beginning with applicable installment obligations arising in the earliest preceding income year and shall be treated as a payment under paragraph (2) of subdivision (a).

(e) (1) "Applicable installment obligation" means any obligation which meets both of the following requirements:

(A) Arises from the disposition after December 31, 1987, of any of the following:

(i) Personal property under the installment method by a person who regularly sells or otherwise disposes of personal property on the installment plan.

(ii) Real property under the installment method which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

(iii) Real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of that property exceeds one hundred fifty thousand dollars ($150,000). All sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as one sale or exchange.

(B) Is held by the seller or a member of the same affiliated group as the seller.

(2) For purposes of this section, all members of-

(A) An affiliated group (within the meaning of Section 1504(a) of the Internal Revenue Code, but without regard to Section 1504(b)

of the Internal Revenue Code), or

(B) A group under common control (within the meaning of Section 52(b) of the Internal Revenue Code), shall be treated as one taxpayer. The Franchise Tax Board may prescribe regulations for the treatment under this section of transactions between members of these groups.

(3) The Franchise Tax Board may provide that all (or any portion of) applicable installment obligations of a taxpayer may be treated as one obligation.

(4) (A) If a taxpayer elects the application of this paragraph, this section shall not apply to any installment obligation which meets both of the following requirements:

(i) Arises from a sale in the ordinary course of the taxpayer's trade or business to an individual of either of the following:

(I) A timeshare right to use or a timeshare ownership interest in residential real property for not more than six weeks, or a right to use specified campgrounds for recreational purposes.

(II) Any residential lot but only if the taxpayer (or any related person) is not to make any improvements with respect to that lot.

(ii) Is not guaranteed by any person other than an individual.

(B) If subparagraph (A) applies to any installment obligation, interest shall be paid on the portion of any tax for any income year (determined without regard to any deduction allowable for that interest) which is attributable to the receipt of payments on that obligation in that year (other than payments received in the income year of the sale). That interest shall be computed for the period from the date of the sale to the date on which the payment is received using the federal short-term rate under Section 1274 of the Internal Revenue Code (compounded semiannually) in effect at the time of the sale and adjusted annually to the federal short-term rate in effect on each anniversary of the sale.

(C) Any interest payable under this paragraph with respect to a payment shall be treated as an addition to tax for the income year in which the payment is received, except that the amount of that interest shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during that income year.

(5) Except as otherwise provided, a shareholder who (after application of Section 318 of the Internal Revenue Code) owns stock in a corporation meeting the requirements of Section 1504(a)(2) of the Internal Revenue Code shall be treated as a member of the affiliated group.

(6) The Franchise Tax Board may disallow the use of the installment method in whole or in part for transactions in which the rules of this subdivision otherwise would be avoided through the use of related parties or other intermediaries.

(f) (1) Except as otherwise provided, this section shall apply to income years beginning after December 31, 1987, with respect to dispositions after December 31, 1987.

(2) (A) This section shall not apply to any installment obligation arising from the disposition of tangible personal property by a manufacturer (or any taxpayer owned or controlled by the same interest, as defined by Section 25102) to a dealer if all of the following requirements are met:

(i) The dealer is obligated to pay on that obligation only when the dealer resells (or rents) the property.

(ii) The manufacturer has the right to repurchase the property at a fixed (or ascertainable) price after no later than the 9-month period beginning with the date of the sale.

(iii) The disposition is in an income year with respect to which the requirements of subparagraph (B) are met.

(B) The requirements of this subparagraph are met with respect to any income year if for that income year and the preceding income year the aggregate face amount of installment obligations described in subparagraph (A) is at least 50 percent of the total sales to dealers giving rise to those obligations, except that if the taxpayer met the requirements of this subparagraph for the preceding income year, then the taxpayer shall be treated as failing to meet the requirements of this subparagraph only in the second consecutive income year in which the 50-percent test is not met.

(C) An obligation issued before the date of the enactment of this section shall be treated as described in subparagraph (A) if, within 60 days after that date, the taxpayer modifies the terms of the obligation to conform to the requirements of subparagraph (A).

(D) In applying this section, any obligations described in subparagraph (A) shall not be treated as applicable installment obligations (within the meaning of subparagraph (A) of paragraph (1) of subdivision (e)).

(E) This paragraph shall apply only if the taxpayer meets the requirements of subparagraphs (A) and (B) for its first income year beginning after the date of enactment of this section.

(3) In applying this section to any installment obligation of a corporation incorporated on January 13, 1928, the following indebtedness shall not be taken into account in determining the allocable installment indebtedness of that corporation under this section:

(A) Twelve and five-eighths percent subordinated debentures, with a total face amount of one hundred seventy-five million dollars ($175,000,000) issued pursuant to a trust indenture dated as of September 1, 1985.

(B) A revolving credit term loan in the maximum amount of one hundred thirty million dollars ($130,000,000) made pursuant to a revolving credit and security agreement dated as of September 6, 1985, payable in various stages with final payment due on August 31, 1992.

This paragraph shall also apply to indebtedness which replaces indebtedness described in this paragraph if that indebtedness does not exceed the amount and maturity of the indebtedness it replaces.

SEC. 12. Section 25110 of the Revenue and Taxation Code is amended and renumbered to read:

25108. (a) For corporations whose income is subject to the provisions of Section 25101 or 25101.15, the net operating loss determined in accordance with Section 172 of the Internal Revenue Code, as modified by Section 24416, for a particular income year (taxable year of corporations subject to the tax imposed by Chapter 3) shall be the corporation's "net loss for state purposes" as defined in subdivision (c).

(b) The net operating loss deduction allowed by Section 24416 for an income year (taxable year of corporations subject to the tax imposed by Chapter 3) shall be deducted from "net income for state purposes" (as defined in subdivision (c)) for that income year (taxable year of corporations subject to the tax imposed by Chapter 3).

(c) "Net income (loss) for state purposes" means the sum of the net income or loss of that corporation apportionable to this state and the income or loss allocable to this state as nonbusiness income, as provided by Chapter 17 (commencing with Section 25101).

SEC. 6. Article 1.5 (commencing with Section 25110) is added to Chapter 17 of Part 11 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.5. Water's-Edge Election

25110. (a) Notwithstanding Section 25101, a qualified taxpayer, as defined in paragraph (2) of subdivision (b) which is subject to the tax imposed under this part, may elect to determine its income derived from or attributable to sources within this state pursuant to a water's-edge election in accordance with the provisions of this part, as modified by this article. A taxpayer which makes a water's-edge election shall take into account the income and apportionment factors of the following affiliated entities only:

(1) Affiliated banks or corporations which are eligible to be included in a federal consolidated return as described in Sections 1501 to 1505, inclusive, of the Internal Revenue Code.

(2) Domestic international sales corporations, as described in Sections 991 through 994 of the Internal Revenue Code and foreign sales corporations as described in Sections 921 through 927 of the Internal Revenue Code.

(3) Any corporation, regardless of the place where it is incorporated if the average of its property, payroll, and sales factors within the United States is 20 percent or more.

(4) Banks and corporations which are incorporated in the United States, excluding corporations described in Sections 931 to 936, inclusive, of the Internal Revenue Code, of which more than 50 percent of their stock is controlled directly or indirectly by the same interests, which are not included in paragraph (1).

(5) A bank or corporation which is not described in paragraphs

(1) to (4), inclusive, or paragraph (6), but only to the extent of its income derived from or attributable to sources within the United States and its factors assignable to a location within the United States in accordance with paragraph (3). Income of such a bank or corporation derived from or attributable to sources within the United States shall be limited to and determined from the books of account maintained by the bank or corporation with respect to its activities conducted within the United States as determined by federal income tax law.

(6) Export trade corporations, as described in Sections 970 to 972, inclusive, of the Internal Revenue Code.

(7) (A) (A) The income and factors of the above-enumerated banks and corporations shall be taken into account only if the income and factors would have been taken into account under Section 25101 if this section had not been enacted.

(B) The income and factors of a bank which is not described in paragraphs (1) to (4), inclusive, and (6) and which is an electing taxpayer under this subdivision shall be taken into account in determining its income only to the extent set forth in paragraph (5).

(8) Any affiliated bank or corporation which is a "controlled foreign corporation", as defined in Section 957 of the Internal Revenue Code, if all or part of the income of that affiliate is defined in Section 952 of Subpart F of the Internal Revenue Code ("Subpart F income"). The income and apportionment factors of any affiliate to be included under this paragraph shall be determined by multiplying the income and apportionment factors of that affiliate without application of this paragraph by a fraction (not to exceed one), the numerator of which is the "Subpart F income" of that bank or corporation and the denominator of which is the "earnings and profits" of that bank or corporation, as defined in Section 964 of the Internal Revenue Code.

(b) For purposes of this section:

(1) An "affiliated bank or corporation," for purposes of this article, means a bank or corporation which is part of one or more chains of banks or corporations connected through stock ownership with a common parent if both of the following exist:

(A) Over 50 percent of the voting stock of the bank or corporation is directly or indirectly owned or controlled by one or more of the other banks or corporations.

(B) The common parent owns directly or indirectly over 50 percent of the voting stock of at least one of the other banks or corporations.

(2) A "qualified taxpayer" means a bank or corporation which does both of the following:

(A) Files with the state tax return on which the water's-edge election is made a consent to the taking of depositions from key domestic corporate individuals and to the acceptance of subpoenas duces tecum requiring reasonable production of documents to the Franchise Tax Board as provided in Section 26423 or by the State

Board of Equalization or by the courts of this state. The consent shall remain in effect so long as the water's-edge election is in effect and shall be limited to providing that information necessary to review or to adjust income or deductions in a manner authorized under Sections 482, 861, Subpart F of Part III of Subchapter N, or similar provisions of the Internal Revenue Code, together with the regulations adopted pursuant thereto, and for the conduct of an investigation with respect to any unitary business in which the taxpayer may be involved.

(B) Agrees that for purposes of this article, dividends received by any bank or corporation whose income and apportionment factors are taken into account pursuant to subdivision (a) from either of the following shall be deemed to be functionally related dividends subject to Section 24111 and shall be presumed to be business income:

(i) A bank or corporation of which more than 50 percent of the voting stock is owned, directly or indirectly, by members of the unitary group and which is engaged in the same general line of business.

(ii) Any bank or corporation which is either a significant source of supply for the unitary business or a significant purchaser of the output of the unitary business, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the unitary business. "Significant," as used in this subparagraph, means an amount of 15 percent or more of either input or output.

All other dividends shall be classified as business or nonbusiness income without regard to this subparagraph.

(3) The definitions and locations of property, payroll, and sales shall be determined under the laws and regulations which set forth the apportionment formulas used by the individual states to assign net income subject to taxes on or measured by net income in that state. If a state does not impose a tax on or measured by net income or does not have laws or regulations with respect to the assignment of property, payroll, and sales, the laws and regulations provided in Article 2 (commencing with Section 25120) shall apply.

Sales shall be considered to be made to a state only if the bank or corporation making the sale may otherwise be subject to a tax on or measured by net income under the Constitution or laws of the United States, and shall not include sales made to a bank or corporation whose income and apportionment factors are taken into account pursuant to this subdivision.

(4) The Franchise Tax Board, for purposes of administering the provisions of Sections 25110 and 25115, shall examine the returns filed by taxpayers subject to these provisions. Where this examination reveals potential noncompliance, a detailed examination shall be made notwithstanding the potential net revenue benefit to the state unless the taxpayer is being examined by the Internal Revenue Service for the same year or years on the same issues.

In any case of two or more organizations, trades, or businesses (whether or not organized in the United States and whether or not

affiliated) owned or controlled directly or indirectly by the same interests, the Franchise Tax Board may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among these organizations, trades, or businesses, if the board determines that the distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of these organizations, trades, or businesses.

In making distributions, apportionments, and allocations under this section, the Franchise Tax Board shall generally follow the rules, regulations, and procedures of the Internal Revenue Service in making audits under Section 482 of the Internal Revenue Code. Any of these rules, regulations, and procedures adopted by the Franchise Tax Board shall not be subject to review by the Office of Administrative Law.

If the Internal Revenue Service has conducted a detailed audit under Section 482 of the Internal Revenue Code and has made adjustments pursuant to that section, it shall be presumed that no further adjustments are necessary for this state's purposes. If the Internal Revenue Service has conducted a detailed audit under this section and has made or proposed no adjustments to the transaction examined, it shall be presumed that no adjustment is necessary for this state's purposes. These presumptions shall be overcome if the Franchise Tax Board or the taxpayer demonstrates that an adjustment or a failure to make an adjustment was erroneous, if it demonstrates that the results of such an adjustment would produce a minimal tax change for federal purposes because of correlative or offsetting adjustments or for other reasons, or if substantially the same federal tax result was obtained under other sections of the Internal Revenue Code. No inference shall be drawn from an Internal Revenue Service failure to audit international transactions under Section 482 of the Internal Revenue Code and it shall not be presumed that any such transactions were correctly reported.

(5) "The United States" means the 50 states of the United States and the District of Columbia.

(c) All references in this part to income determined pursuant to Section 25101 shall also mean income determined pursuant to this section.

(d) A water's-edge election may be disregarded by the Franchise Tax Board only if any of the following occurs:

(1) A bank or corporation fails to comply substantially with Section 25114 or any federal law requiring the filing of domestic spreadsheets.

(2) After a reasonable adjustment of transfer prices, royalty rates, the allocation of common expenses, and similar adjustments, the return filed pursuant to this section fails to prevent the evasion of taxes.

(3) An otherwise qualified taxpayer fails to do any of the following:

(A) Retain and make available upon request the documents and

information, including any questionnaires completed and submitted to the Internal Revenue Service or qualified states, which are necessary to audit issues involving attribution of income to the United States or foreign jurisdictions under Sections 482, 861, 863, 902, 904, and Subpart F of Part III of Subchapter N, or similar sections of the Internal Revenue Code.

(B) Identify, upon request, principal officers or employees who have substantial knowledge of and access to documents and records which discuss pricing policies, profit centers, cost centers, and the methods of allocating income and expense among these centers. The information shall include the employees' titles and addresses.

(C) Retain and make available upon request all documents and correspondence ordinarily available to a bank or corporation included in the water's-edge election which are submitted to or obtained from the Internal Revenue Service, foreign countries or their territories or possessions, and competent authority pertaining to ruling requests, rulings, settlement resolutions, and competing claims involving jurisdictional assignment and sourcing of income that affect the assignment of income to the United States. The documents shall include all ruling requests and rulings on reorganizations involving foreign incorporation of branches, all ruling requests and rulings on changing a bank or corporation's jurisdictional incorporation, and all documents which are ordinarily available to a bank or corporation included in the water's-edge election which pertain to the determination of foreign tax liability, including examination reports issued by foreign taxing administrations. If the documents have been translated, the translations shall be furnished.

(D) Prepare and make available upon request for each bank or corporation included in the disclosure spreadsheet referred to in subdivision (a) of Section 25114 in which the taxpayer is included, a list of each state of the United States, including the District of Columbia, territories or possessions, and each foreign country in which it has payroll, property, or sales. The sales shall be determined by destination whether or not the taxpayer is taxable in the destination jurisdiction.

(E) Retain and make available upon request forms filed with the Internal Revenue Service to comply with Sections 6038, 6038A, and 6041 of the Internal Revenue Code.

(F) Prepare and make available upon request, for each bank or corporation organized or created under the laws of the United States or a political subdivision thereof, of which 50 percent or more of its voting stock is directly or indirectly owned or controlled, the information which would be included in the forms described in subparagraph (E) if those forms were required for United States corporations.

(G) Retain and make available upon request all state tax returns filed by each bank or corporation included under subdivision (a) in each state, including the District of Columbia.

(H) Comply with reasonable requests for discovery directed at obtaining information necessary to determine or verify its net income, apportionment factors, or the geographic source of that income pursuant to the Internal Revenue Code.

(I) For purposes of this subdivision, information for any year shall be retained for that period of time in which the taxpayer's income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed or during which an appeal is pending before the State Board of Equalization or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(4) A failure to satisfy any of the requirements of paragraph (3) shall mean a willful failure to retain and make available documents that are material to a determination by the Franchise Tax Board of a qualified taxpayer's tax under this part.

25111. (a) A water's-edge election shall be made by contract with the Franchise Tax Board in the original return for a year and shall be effective only if every affiliated bank or corporation subject to tax under this part consents to the election. Consent by the common parent of an affiliated group shall constitute consent of all members of the group. The form and manner of making the water's-edge election shall be prescribed by the Franchise Tax Board. Each contract making a water's-edge election shall be for an initial term of 10 years, except as provided in subdivision (b). Each contract shall provide that on the anniversary date of the contract or any other annual date specified by the contract a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in subdivision (d). Each contract shall be conditioned by an agreement to pay the amount specified in Section 25115. Except as provided in subdivision (b), the Franchise Tax Board shall enter into a contract as provided by this section with any qualified taxpayer which wishes to make a water's-edge election. An affiliated bank or corporation which becomes subject to tax under this part subsequent to the water's-edge election shall be deemed to have consented to the election. No water's-edge election shall be made for an income year beginning prior to the operative date of this article.

(b) A water's-edge election may be disregarded by the Franchise Tax Board as provided in subdivision (d) of Section 25110 and may be changed by a taxpayer prior to the end of the 10-year period only with the permission of the Franchise Tax Board.

(c) In disregarding an election or in granting a change of election, the Franchise Tax Board shall impose any conditions which are necessary to prevent the avoidance of tax or clearly reflect income for the period the election was, or was purported to be, in effect. These conditions may include a requirement that income, including dividends paid from income earned while a water's-edge election was in effect, which would have been included in determining the income of the taxpayer from sources within and without this state

pursuant to Section 25101 but for the water's-edge election shall be included in income in the year in which the election is changed or disregarded.

(d) If the taxpayer desires in any year not to renew the contract, the taxpayer shall serve written notice of nonrenewal of the contract upon the board in advance of the annual renewal date of the contract. Unless that written notice is served by the taxpayer at least 90 days prior to the renewal date, the contract shall be considered renewed as provided in subdivision (a).

If the taxpayer 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.

25112. (a) If a taxpayer electing under Section 25110 fails to supply any required information, in addition to being subject to disqualification by the Franchise Tax Board pursuant to Section 25110 and to any penalties otherwise provided by this part, the taxpayer shall pay a penalty of one thousand dollars ($1,000) for each income year with respect to which the failure occurs.

(b) If the failure continues for more than 90 days after the date on which the Franchise Tax Board mails notice of that failure to the taxpayer, the taxpayer shall pay a penalty (in addition to the amount required under subdivision (a)) of one thousand dollars ($1,000) for each 30-day period (or fraction thereof) during which the failure continues after the expiration of the 90-day period. The increase in any penalty under this subdivision shall not exceed twenty-four thousand dollars ($24,000).

(c) If the taxpayer fails to comply substantially with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the "examined item") before the 90th day after the date of the mailing of the request, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall, upon motion by the Franchise Tax Board, prohibit the introduction by the taxpayer of any documentation covered by that request.

(d) For purposes of this section, the time in which information is to be furnished (and the beginning of the 90-day period after notice by the Franchise Tax Board) shall be treated as beginning not earlier than the last day on which reasonable cause existed for failure to furnish the information.

(e) This section shall not apply with respect to any requested documentation if the taxpayer establishes that the failure to provide the documentation, as requested by the Franchise Tax Board, is due to reasonable cause. For purposes of subdivision (c), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

(f) For purposes of this section, the term "formal document request" means any request (made after the normal request

procedures have failed to produce the requested documentation) for the production of documentation which is mailed by registered or certified mail to the taxpayer at its last known address and which sets forth all of the following:

(1) The time and place for the production of the documentation.

(2) A statement of the reason the documentation previously produced (if any) is not sufficient.

(3) A description of the documentation being sought.

(4) The consequences to the taxpayer of the failure to produce the documentation described in this section.

(g) Notwithstanding any other law or rule of law, any taxpayer to whom a formal document request is mailed may begin a proceeding to quash that request not later than the 90th day after the date the request was mailed. In any such proceeding, the Franchise Tax Board may seek to compel compliance with the request.

(h) The superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and County of San Francisco shall have jurisdiction to hear any proceeding brought under subdivision (g). An order denying the petition shall be deemed a final order which may be appealed.

The running of the 90-day period referred to in subdivision (b) shall be suspended during any period during which a proceeding brought under subdivision (g) is pending.

(i) For purposes of this section, "documentation" means any documentation which may be relevant or material to the tax treatment of the examined item.

(j) The Franchise Tax Board, and any court having jurisdiction over a proceeding under subdivision (g), may extend the 90-day period referred to in subdivision (b).

(k) If any bank or corporation takes any action as provided in subdivision (g), the running of any period of limitations under Sections 25663 to 25663d, inclusive (relating to the assessment and collection of tax), or under Section 25964 (relating to criminal prosecutions) with respect to that bank or corporation shall be suspended for the period during which the proceedings under subdivision (g) and appeals thereto are pending.

25113. (a) In any administrative or judicial proceeding, the Franchise Tax Board may introduce into evidence the record of any final court determination in another state involving the same taxpayer or a unitary business of which the taxpayer is alleged to be a member.

(b) Tax information pertaining to the examination of multinational operations, including underlying data, obtained from the Internal Revenue Service or a foreign government shall be admissible into evidence in an administrative or judicial proceeding involving a taxpayer's liability under this part without being contestable as to its relevancy.

25114. Any bank or corporation required to file a United States tax return or which could be included in a consolidated federal tax

return shall file with the Franchise Tax Board within three months after the bank or corporation files its federal income tax return a domestic disclosure spreadsheet if it and its related corporation's payroll, property, or sales in a foreign country exceeds one million dollars ($1,000,000) or if it and its related corporation's total assets exceed two hundred fifty million dollars ($250,000,000), or such higher levels as may be subsequently established by regulation. For purposes of this paragraph, two corporations are related if more than 50 percent of the voting stock of one company is directly or indirectly owned or controlled by the other or if more than 50 percent of the voting stock of both is directly or indirectly owned or controlled by the same interest. The spreadsheet shall provide for full disclosure as to the income reported to each state, the state tax liability, and the method used for apportioning or allocating income to the states, and any other information as provided for by regulations as may be necessary to determine properly the amount of taxes due to each state and to identify the corporate parent and those of its affiliates of which more than 20 percent of the voting stock is directly or indirectly owned or controlled by the parent. The spreadsheet shall be reviewed for completeness by the Franchise Tax Board and if it is not properly completed shall not be accepted and shall be subject to penalties.

25115. (a) Each contract described in Section 25111 shall provide that a taxpayer making a water's-edge election pursuant to this article shall pay an annual amount to the Franchise Tax Board for deposit in the California Unitary Fund created pursuant to Section 16429.30 of the Government Code. One-third of the amount shall be deposited in the Local Project Account for Non-Transient Spending in the California Unitary Fund, and two-thirds of the amount shall be deposited in the Future Infrastructure State Targeted Account in the California Unitary Fund.

(b) The amount shall be equal to thirty-thousandths of 1 percent of the sum of the taxpayer's property, payroll, and sales in this state, as defined in this chapter, with the following adjustments:

(1) Intangibles shall not be included in the property factor.

(2) The property and payroll factors shall be with respect to the income year ending during calendar year 1986.

(3) The sum of the property, payroll, and sales shall be reduced by the cumulative amount expended since January 1, 1988, for investment in new plants or facilities in this state, as defined in subdivision (c), and shall further be reduced by the amount expended for new employees in this state as defined in subdivision (e).

(c) A new plant or facility is property described in Section 70, provided that it is not a replacement, in whole or in part, for an existing plant or facility in this state. A plant or facility shall be deemed a replacement if the taxpayer, or an affiliated bank or corporation, as defined in paragraph (1) of subdivision (b) of Section 25110, closes, takes out of service, sells, or leases to an unrelated party,

in either the three immediately preceding or the three immediately succeeding years from the time the new plant or facility is operational, a plant or facility with a cost basis equal to 25 percent or more of the cost basis of the new plant or facility.

(d) The number of new employees in this state for any income year shall be determined by comparing the total number of work years in this state for the income year to the greater of (1) the average of the total number of work years in this state for the income years ending in 1985, 1986, and 1987, or (2) the total number of work years in this state for the income year ending in 1987. A "work year" means, in the case of workers who are paid an hourly wage, 2,000 paid hours, and in the case of salaried employees, a total of 12 paid months.

(e) The amount expended for new employees shall be equal to the product of the number of new employees determined pursuant to subdivision (d) and the average wages paid for each work year in this state for the income year.

(f) Each contract shall provide that the amount described in this section shall not be subject to any statutory changes, for the period the contract is in effect, without the consent of the taxpayer. Any statutory change shall be applicable for any renewal year beginning 10 years after that statutory change.

(g) Amounts determined pursuant to this section shall be collected in the same manner as the taxes imposed by this part and shall be subject to interest and penalties as provided in this part.

(h) In no event shall the amount determined pursuant to this section be less than ten-thousandths of the sum of the taxpayer's property, payroll, and sales in this state for the current year.

(i) The annual amount otherwise determined pursuant to this section and payable under a contract described in Section 25111 shall not be imposed for an income year in which a taxpayer incurs no tax liability under Sections 25101 and 25110.

SEC. 14. The Franchise Tax Board shall study its current auditing practices and those of the Internal Revenue Service for so-called 80-20 corporations, and the equity of the treatment of those corporations pursuant to this act. The Franchise Tax Board shall present a report to the Legislature no later than March 1, 1987, which identifies additional authority needed, if any, to adequately audit so-called 80-20 corporations if those corporations were outside the water's edge and which sets forth its findings with respect to the equity treatment.

SEC. 15. This act shall become operative on January 1, 1988. The provisions of this act shall be applicable in the computation of taxes for income years commencing on or after January 1, 1988.

CHAPTER 661

An act to add Chapter 8 (commencing with Section 851) to Part 1 of Division 1 of the Food and Agricultural Code, relating to agricultural theft prevention.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Chapter 8 (commencing with Section 851) is added to Part 1 of Division 1 of the Food and Agricultural Code, to read:

CHAPTER 8. AGRICULTURE THEFT PREVENTION

Article 1. General Provisions

851. It is the intent of this chapter to establish a means of identifying the owner of any fruits, nuts, or vegetables which are the food product of any tree, vine, or plant so as to provide an additional control over thefts of these commodities within the state.

Article 2. Proof of Ownership

861. For lots of over 200 pounds of any fruits, nuts, or vegetables which are the food product of any tree, vine, or plant and which are marketed for commercial purposes, all of the following apply:

(a) Every person who sells the commodity shall provide the buyer or transporter with a record of proof of ownership for each lot of the commodity.

(b) Every person who buys the commodity for resale shall obtain from the previous buyer or from the transporter a record of proof of ownership for each lot of the commodity.

(c) Every person who transports for commercial purposes shall possess a record showing proof of ownership for each lot of the commodity during transportation.

862. Upon probable cause to believe any fruits, nuts, or vegetables regulated pursuant to this chapter is in unlawful possession, proof of ownership shall be made available for inspection upon request of the director, the commissioner, or by any peace officer. If the director or the commissioner has probable cause to believe that any fruits, nuts, or vegetables regulated pursuant to this chapter is in unlawful possession, he or she may request a peace officer to stop the vehicle pursuant to Section 881 for inspection. The record shall contain the following information:

(a) Name, address, telephone number, and signatures of the seller or the seller's authorized representative.

(b) Name, address, and telephone number of the buyer or

consignee if not sold.

(c) Common or generic name and quantity of the commodity involved.

(d) Date of transaction and date of commencement of transportation.

863. A bill of lading, bill of sale, certified farmers certificate, data obtainable by electronic transmission which is accessible to a common carrier, or a similar type document shall be considered proof of ownership for purposes of this chapter.

864. It is unlawful for any person to knowingly falsify or cause to be falsified any information in a record intended to show proof of ownership.

865. A copy of the record shall be retained by the buyer and seller for a period of 60 days after delivery.

866. This chapter establishes minimal requirements for the transportation and identification of agricultural commodities. A county may, by ordinance, impose additional requirements regarding this transportation and identification.

Article 3. Exceptions

871. This chapter does not apply to the following agricultural commodities:

(a) Commodities transported from the farm or ranch where they are produced to a commercial packing plant within this state for processing or packing.

(b) Commodities transported and accompanied by a valid permit, disposal order, or certificate issued by the director or the commissioner for any reason other than to comply with this chapter.

Article 4. Enforcement

881. Any peace officer, upon probable cause to believe an agricultural commodity regulated pursuant to this chapter is being unlawfully transported, may stop the vehicle and request proof of ownership of the commodity.

882. Upon reasonable belief that a person is in unlawful possession of a commodity regulated by this chapter, the commodity may be held by the director, the commissioner, or by any peace officer and shall be turned over to the custody of the commissioner. The commissioner may hold the commodity on the premises where it was seized until disposed of according to the requirements of Section 884.

883. The director, the commissioner, or a peace officer may investigate to ascertain the ownership of any commodity that has been held pursuant to this chapter. If the lawful owner is located, the commodity shall be released to the owner, or his or her agent. The commissioner may require reasonable payment to cover costs incurred in the storing of the commodity, but not to exceed the value

of the commodity being held.

884. (a) If for any reason the commodity is not released to the rightful owner after being in the custody of the commissioner for 48 hours or, in the case of a highly perishable commodity, any shorter period of time that the commissioner deems necessary, the commissioner may sell the commodity by public auction or by private sale at fair market value to a commercial packer of the commodity. All of the proceeds derived from the sale of the commodity shall be held by the commissioner for a period of not less than six months, during which time the lawful owner of the commodity may submit satisfactory proof of ownership and obtain possession of the proceeds. The commissioner may require the payment by the owner of an amount sufficient to cover the costs incurred for a storage and sale of the commodity, but not to exceed the sale price of the commodity. If, after retention of the proceeds for a period of at least six months, no demand is made or if proof of ownership is not supplied, the commissioner shall deposit the proceeds of the sale of the commodity in the general fund of the county.

(b) If any seized commodity remains unsold after being offered for sale pursuant to this section, the commissioner may donate the commodity to a nonprofit charitable organization.

(c) If the commodity is unfit for human consumption, the commissioner may destroy it.

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 662

An act to amend Sections 6142 and 6143 of, and to add Sections 6086.10 and 6140.7 to, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 6086.10 is added to the Business and Professions Code, to read:

6086.10. (a) Any order imposing a public reproval on a member of the State Bar shall include a direction that the member shall pay costs. In any order imposing discipline, or accepting a resignation with a disciplinary matter pending, the Supreme Court shall include

a direction that the member shall pay costs.

(b) The costs required to be imposed pursuant to this section include all of the following:

(1) The actual expense incurred by the State Bar for the original and copies of any reporter's transcript of the State Bar proceedings, and any fee paid for the services of the reporter.

(2) All expenses paid by the State Bar which would qualify as taxable costs recoverable in civil proceedings.

(3) The charges determined by the State Bar to be "reasonable costs" of investigation, hearing, and review. These amounts shall serve to defray the costs, other than fees for the services of attorneys or experts, of the State Bar in the preparation or hearing of disciplinary proceedings, and costs incurred in the administrative processing of the disciplinary proceeding and in the administration of the client security fund.

(c) A member may be granted relief, in whole or in part, from an order assessing costs under this section, or may be granted an extension of time to pay these costs, in the discretion of the State Bar, upon grounds of hardship, special circumstances, or other good cause.

(d) In the event an attorney is exonerated of all charges following a formal hearing, he or she is entitled to reimbursement from the State Bar in an amount determined by the State Bar to be the reasonable expenses, other than fees for attorneys or experts, of preparation for the hearing.

SEC. 2. Section 6140.7 is added to the Business and Professions Code, to read:

6140.7. Costs assessed against a publicly reproved or suspended member shall be added to and become a part of the membership fee of the member, for the next calendar year. Costs unpaid by a member who resigns with disciplinary charges pending or by a member who is suspended or disbarred shall be paid as a condition of reinstatement of membership.

SEC. 3. Section 6142 of the Business and Professions Code is amended to read:

6142. Upon the payment of the annual membership fees, including any costs imposed pursuant to Section 6140.7, each member shall receive a certificate issued under the direction of the board evidencing the payment.

SEC. 4. Section 6143 of the Business and Professions Code is amended to read:

6143. Any member, active or inactive, failing to pay any fees or costs after they become due, and after two months written notice of his or her delinquency, shall be suspended from membership in the State Bar.

The member may be reinstated upon the payment of accrued fees or costs and such penalties as may be imposed by the board, not exceeding double the amount of delinquent dues or costs.

CHAPTER 663

An act to amend Sections 1855, 1856, 1857, and 1862 of, and to add Sections 1863.1 and 1876.12 to, the Financial Code, relating to travelers checks.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 1855 of the Financial Code is amended to read:

1855. An application for a license shall be in writing, under oath, and in a form prescribed by the superintendent. It shall contain the name and address of the applicant, the location of applicant's principal place of business and, if applicant is a corporation, the name and address of directors and principal officers thereof.

SEC. 2. Section 1856 of the Financial Code is amended to read:

1856. Each application for a license shall be accompanied by such information and documents as the superintendent may by regulation or order reasonably require, including but not limited to:

(a) The most recent audited and unconsolidated statement of income and statement of condition of applicant as prepared by an independent certified public accountant in conformity with generally accepted accounting principles applied on a consistent basis.

(b) Description of applicant's business and mode of operation.

(c) Enumeration of names of parent and active subsidiary organizations of applicant, if any.

(d) Copies of the applicant's filings for the preceding year with the Securities and Exchange Commission, and copies of the most recent filings for the preceding year with the California Corporations Commissioner, or other California state agency.

(e) Detailed statement of eligible securities of applicant, including identification by name and present value, which applicant intends to use in the conduct of its business of issuing travelers checks.

(f) Amount of issuer's liability for travelers checks outstanding in California, and in the United States, as of the last business day of the preceding calendar quarter.

(g) Name and principal office of each agent, selling or to be selling travelers checks in California.

(h) Name of other states, in which applicant has been granted a license or authorization to sell or is selling travelers checks.

SEC. 3. Section 1857 of the Financial Code is amended to read:

1857. The superintendent shall approve an application for a license within 90 days from the date of filing unless after a duly noticed hearing, the superintendent makes any of the following

findings, each of which shall constitute sufficient grounds for the denial of such application:

(a) The granting of the license will be against public interest.

(b) The applicant does not intend actively and in good faith to carry on as a business the transactions which would be permitted by the issuance of the license applied for.

(c) The applicant is not of good business reputation.

(d) The applicant is lacking in integrity.

(e) The applicant has been refused a professional, occupational or vocational license or had such a license suspended or revoked, by any licensing authority for reasons that should preclude the granting of the license applied for.

(f) The applicant or any person acting on behalf of the applicant has willfully made or caused to be made in any application or report filed with the superintendent or in any proceeding before the superintendent, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has willfully omitted to state in any such application or report any material fact which is required to be stated therein.

(g) The applicant has previously engaged in a fraudulent practice or act or has conducted any business in an unlawful or dishonest manner.

(h) The applicant has shown incompetence or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with the applicant to the danger of loss.

(i) The applicant has knowingly failed to perform a duty expressly enjoined upon such applicant by a provision of this chapter or the regulations promulgated by the superintendent or has knowingly committed an act expressly forbidden by such a provision or such rules.

(j) The applicant has been convicted of:

(1) A felony; or

(2) Any crime involving moral turpitude.

(k) The applicant has knowingly aided or abetted any person in any act or omission which would constitute grounds for the suspension, revocation or refusal of a license issued under this chapter to the person aided or abetted.

(*l*) The applicant has knowingly permitted any person in its employ to violate any provision of this chapter.

(m) The applicant does not have an amount of shareholder equity determined to be adequate by the superintendent but in no case shall that amount, as a condition of granting the license, be required to exceed five million dollars ($5,000,000). The amount shall be computed in accordance with generally accepted accounting principles applied on a consistent basis.

SEC. 4. Section 1862 of the Financial Code is amended to read:

1862. The license is not transferable or assignable.

SEC. 5. Section 1863.1 is added to the Financial Code, to read:

1863.1. Each licensee shall, not more than 90 days after the close of each of its fiscal years or within a longer period as the superintendent may by regulation or order specify, file with the superintendent a report containing all of the following:

(a) Financial statements (including balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes in financial position) for or as of the end of that fiscal year, prepared with audit by an independent certified public account or an independent public accountant in accordance with generally accepted accounting principles.

(b) A report, certificate, or opinion of the independent certified public accountant or independent public accountant, stating that the financial statements were prepared in accordance with generally accepted accounting principles.

(c) Any other information as the superintendent may by regulation or order require.

SEC. 6. Section 1876.12 is added to the Financial Code, to read:

1876.12. (a) (1) Upon application, the superintendent may exempt from this article a licensee, or an applicant for licensure under this chapter .

(2) An application for an exemption shall be in writing and in a form prescribed by the superintendent and shall contain whatever information may be necessary to process the application.

(3) The superintendent shall approve an application for exemption if he or she finds that the financial condition, operations, and management of the licensee are satisfactory; otherwise the superintendent shall deny the application.

(b) The superintendent may suspend or revoke any exemption granted pursuant to this section if he or she finds that the financial condition, operations, or management of the licensee is not satisfactory.

CHAPTER 664

An act to amend Section 30801 of the Food and Agricultural Code, to amend Section 38792 of the Government Code, and to amend Section 1920 of the Health and Safety Code, relating to dog licenses.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 30801 of the Food and Agricultural Code is amended to read:

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The

dog licenses shall be:

(1) Stamped with the name of the county and the year of issue.

(2) Unless the board of supervisors designates the animal control department to issue the licenses, issued by the county clerk directly or through judges of justice or municipal courts, to owners of dogs, that make application.

(b) The licenses shall be issued for a period of not to exceed two years.

(c) In addition to the authority provided in subdivisions (a) and (b), a license may be issued, as provided by this section, by a board of supervisors for a period not to exceed three years for dogs that have attained the age of 12 months, or older, and who have been vaccinated. The person to whom the license is to be issued pursuant to this subdivision may choose a license period of one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

SEC. 2. Section 38792 of the Government Code is amended to read:

38792. (a) The legislative body of a city may impose and collect a license fee for a period not to exceed two years and not exceeding the cost of services relating to dogs, including, but not limited to, animal shelters and control and the programs specified in Section 30652 of the Food and Agricultural Code, provided by the city, on every dog owned or harbored within the city limits. The license fee for spayed bitches and neutered males shall be 50 percent of the license fee otherwise imposed.

(b) In addition to the authority provided in subdivision (a), the legislative body of a city may impose and collect a license fee, as described in subdivision (a), for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated. The person from whom the license fee is collected pursuant to this subdivision may choose a license period of one, two, or three years. However, when imposing and collecting a license fee pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination. The license fee for spayed bitches and neutered males, under this subdivision, shall not exceed 50 percent of the license fee otherwise imposed.

SEC. 3. Section 1920 of the Health and Safety Code is amended to read:

1920. In rabies areas, all of the following shall apply:

(a) Every dog owner, after his dog attains the age of four months, shall no less than once every two years secure a license for the dog as provided by ordinance of the responsible city, city and county, or county. License fees shall be fixed by the responsible city, city and county, or county, at an amount not to exceed limitations otherwise prescribed by state law or city, city and county, or county charter.

(b) Every dog owner, after his or her dog attains the age of four

months, shall, at intervals of time not more often than once a year, as may be prescribed by the state department, procure its vaccination by a licensed veterinarian with a canine antirabies vaccine approved by, and in a manner prescribed by the state department.

(c) All dogs under four months of age shall be confined to the premises of, or kept under physical restraint by, the owner, keeper, or harborer. Nothing in this chapter shall be construed to prevent the sale or transportation of a puppy four months old or younger.

(d) Any dog in violation of the provisions of this article and any additional provisions which may be prescribed by any local governing body, shall be impounded, as provided by local ordinance.

(e) It shall be the duty of the governing body of each city, city and county, or county to maintain or provide for the maintenance of a pound system and a rabies control program for the purpose of carrying out and enforcing the provisions of this section.

(f) It shall be the responsibility of each city, county, or city and county to provide dog vaccination clinics, or to arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city, city and county, or county. The vaccination and licensing procedures may be combined as a single operation in the clinics. No charge in excess of the actual cost shall be made for any one vaccination at a clinic. No owner of a dog shall be required to have his or her dog vaccinated at a public clinic if the owner elects to have the dog vaccinated by a licensed veterinarian of the owner's choice.

All public clinics shall be required to operate under antiseptic immunization conditions comparable to those used in the vaccination of human beings.

(g) In addition to the authority provided in subdivision (a), the ordinance of the responsible city, city and county, or county may provide for the issuance of a license for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated. The person to whom the license is issued pursuant to this subdivision may choose a license period of one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination. A dog owner who complies with this subdivision shall be deemed to have complied with the requirements of subdivision (a).

CHAPTER 665

An act to amend Section 66903.7 of, to repeal Section 94310 of, and to add Article 1.5 (commencing with Section 94310) to Chapter 3 of Part 59 of, the Education Code, relating to education.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986]

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

SECTION 1. Section 66903.7 of the Education Code is amended to read:

66903.7. (a) There is hereby established the Commission for the Review of the Master Plan for Higher Education, to be comprised of 16 members who shall be citizens knowledgeable in the area of postsecondary education, business, and community leaders representative of the cultural, ethnic, and geographic diversity of the state. Members of the Commission for the Review of the Master Plan for Higher Education shall be appointed as follows:

(1) One representative appointed by the Regents of the University of California.

(2) One representative appointed by the Trustees of the California State University.

(3) One representative appointed by the Board of Governors of the California Community Colleges.

(4) One representative appointed from among the membership of the California Postsecondary Education Commission.

(5) The Superintendent of Public Instruction, or his or her designee.

(6) Four representatives appointed by the Governor.

(7) Three representatives appointed by the Speaker of the Assembly.

(8) Three representatives appointed by the Senate Rules Committee.

(9) One representative appointed by the Association of Independent California Colleges and Universities.

The Governor may designate any one of the 16 members appointed to the commission pursuant to this subdivision to serve as chairperson of the commission.

(b) No person who is employed or retained by any public or private postsecondary educational institution shall be appointed to or serve on the commission. Representatives to the commission shall receive reimbursement for actual and necessary travel expenses incurred while conducting the business of the commission.

(c) The duties of the Commission for the Review of the Master Plan for Higher Education shall include, but need not be limited to, the review of relevant reports by the California Postsecondary Education Commission, the University of California, the California

State University, the Board of Governors of the California Community Colleges, the Department of Finance, the Legislative Analyst, or any other reports the commission deems appropriate.

The commission shall select and designate a state administrative agency to carry out the personnel, contractual, and all other fiscal services required by the commission.

In addition, the commission shall, at a minimum, report on all of the following to the Joint Legislative Committee on the Review of the Master Plan established pursuant to Assembly Concurrent Resolution 162 of the 1983–84 Regular Session:

(1) California's postsecondary educational needs through the year 2000, with emphasis on the demography of student, societal, and employment needs in the next decade versus the projected supply of postsecondary education faculty.

(2) Basic and lower division instruction at the various postsecondary institutions, with an initial emphasis on the mission and function of the California Community Colleges, as specified in Senate Bill 2064 of the 1983–84 Regular Session.

(3) Strategies to promote an increase in the access and success of students, particularly those underrepresented in postsecondary education, including adult education through graduate instruction, in the following areas:

(A) Preparation and outreach: basic skills and college preparation in kindergarten through grade 12, and community college curriculum.

(B) Matriculation: admission, assessment, and advisement.

(C) Retention: remediation, academic support, and financial assistance.

(D) Articulation: transition from secondary education to postsecondary education and employment.

(E) Accountability: assurance that courses offered are consistent with the mission of various segments of postsecondary education.

(4) The appropriateness of existing educational delivery systems and their ability to serve present and future student populations.

(5) Analysis of direct and indirect expenditures for students attending California postsecondary institutions, including student financial assistance and instructional support, as to the efficient use of state resources.

The commission shall conduct public hearings designed to solicit testimony of private citizens, public interest groups, alumni organizations, or any other interested private groups and organizations, as well as professors, administrators, students, and others who are directly affected by that master plan, for the purpose of soliciting the input of these groups in the formulation of the commission's recommendations regarding the master plan.

The commission shall formulate and submit recommendations regarding the policies and content of the master plan, in addition to recommendations regarding the goals, programs, functions, funding, and interrelationships of the Master Plan for Higher Education.

(d) The commission shall develop and submit a management plan identifying the commission's specific objectives and output for review by the Joint Legislative Committee for the Review of the Master Plan for Higher Education by March 1, 1985. The management plan shall also include resource and staffing requirements and specific dates for the completion of interim and final reports to the Joint Committee.

(e) Not later than June 30, 1987, the Commission for the Review of the Master Plan for Higher Education shall submit a report to the Legislature and the Governor relative to its findings and recommendations regarding the master plan and the functions and interrelationships of public postsecondary education institutions.

(f) It is the intent of the Legislature that any agency receiving public funds for postsecondary education shall, upon request by the commission, provide all necessary information or assistance required by the commission.

(g) This section shall become inoperative on June 30, 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. 2. Section 94310 of the Education Code is repealed.

SEC. 3. Article 1.5 (commencing with Section 94310) is added to Chapter 3 of Part 59 of the Education Code, to read:

Article 1.5. Academic and Honorary Degrees

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the sections of this article.

94310.1. The institution meets the requirements of one or both of the following subdivisions:

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit of the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) An institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is licensed by the superintendent, may issue degrees, diplomas, or certificates.

(1) The superintendent shall not license an institution to issue degrees, diplomas, or certificates pursuant to this subdivision until he or she has conducted a qualitative review and assessment of, and has

approved, the operations of the institution in California, and the superintendent has determined all of the following:

(A) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.

(B) The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.

(C) The education services and curriculum clearly relate to the objectives of the proposed program or programs, which are comparable in scope and sequence to minimum standards of comparable programs offered by accredited institutions already operating in this state.

(D) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(E) The institution has verifiable evidence of academic achievement comparable to that required of graduates of other accredited institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.

(2) All institutions incorporated in another state that were offering educational programs in California and were authorized to operate pursuant to subdivision (a) on December 31, 1985, shall have the option until and including December 31, 1989, of continued operation in California pursuant to authorization under subdivision (a) or through licensure pursuant to this paragraph.

(3) Except as otherwise provided by paragraph (4), the superintendent shall grant licensed status under this section for a period of four years.

(4) The superintendent shall grant licensed status under this subdivision until December 31, 1987, for all other institutions incorporated in another state that offered educational programs in California prior to July 1, 1985, that file with the superintendent within 30 days from October 1, 1985, all of the following information:

(A) A copy of the institution's most recent self-study report prepared for the institution's home regional accrediting association, as well as a copy of the institution's team report prepared by the accrediting association.

(B) A list of the locations of all of the operations of the institution in California.

(C) A list of all degree, diploma, and certificate programs offered by the institution in California, as well as the curriculum, instruction, and faculty utilized in each program.

(D) A list of degrees, diplomas, and certificates offered by the institution.

Institutions licensed under this paragraph shall offer in California only programs that the institution can document to have been acknowledged and favorably reviewed by the home regional

accrediting association.

(5) (A) The Director of the California Postsecondary Education Commission shall establish a special committee of persons with demonstrated knowledge of both regional accrediting standards and procedures and the special demands of off-campus programs. The committee shall include representatives from the State Department of Education, institutions incorporated in other states that offer educational programs in California, and public and private California colleges and universities.

(B) The committee shall develop proposed standards and procedures to be used in the onsite review and licensure of institutions applying for licensure under this subdivision, subject to the principle that educational innovation and competition shall not be hindered unreasonably.

(C) The committee shall report to the California Postsecondary Education Commission and the Superintendent of Public Instruction by November 1, 1985, regarding the proposed standards and procedures. The commission shall take action on the proposed standards within 60 days of receipt of the report by the special committee. This subdivision shall become inoperative on January 1, 1987, if the commission has not adopted standards and procedures proposed by the special committee by that date.

(D) The committee shall utilize the following principles in the development of these standards and procedures:

(i) Within two years from the enactment of this statute, the State Department of Education shall review the operations of all institutions operating under the provisions of this subdivision.

(ii) Following the initial state review, subsequent onsite reviews by the superintendents shall be conducted wherever possible in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the superintendent may initiate a special review of the California operations of the institution.

(iii) Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not site-based.

(iv) The superintendent shall develop a procedural rationale to justify the number of sites to be visited by the state in the review of the institution's operations in California.

(v) The purpose of the onsite review by the superintendent shall be to determine that operations by the institution in California meet the minimum state standards identified in statute.

(vi) The standards and procedures shall not unreasonably hinder educational innovation and competition.

(E) Prior to December 31, 1987, the State Department of Education shall utilize the standards and procedures recommended by the special committee and acted upon by the commission to review all institutions operating pursuant to paragraph (4) of this

subdivision.

94310.2. The institution, which at the time of the issuance of a degree, has full institutional approval by the superintendent to award or issue specific professional, technological, or education degrees.

(a) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, and has approved, each program offered by the institution, and the superintendent has determined, based upon information submitted to him or her, all of the following:

(1) The institution has facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students, and require of students, the completion of a program of education that will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree.

(2) The curriculum is consistent in quality with curricula offered by appropriate established accredited institutions that are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California and issue the appropriate degree upon the satisfactory completion of specific qualitative academic programs.

(3) The course for which the degree is granted achieves its professed or claimed academic objective for higher education, with verifiable evidence of academic achievement comparable to that required of graduates of other recognized schools accredited by an appropriate accrediting commission recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

The criteria developed for conducting the review and assessment shall effectuate the purposes of this chapter, but shall not unreasonably hinder legitimate educational innovation.

(b) The superintendent shall conduct the qualitative review and assessment of the institution and all programs offered through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the superintendent for that purpose. The visiting committee, which shall be impaneled by the superintendent within 90 days of the date of receipt of a completed application, shall be composed of educators from both accredited and state approved institutions. Within 90 days of the receipt of the visiting committee's report and recommendations, the superintendent shall take one of the following actions:

(1) Grant full institutional approval for a period not to exceed three years.

(2) Grant candidate for institutional approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may be renewed only one time, at the discretion of the superintendent.

(3) Disapprove the application.

If the application is disapproved, or candidate for institutional approval status is granted, the institution shall be advised of the specific reasons for the action and the specific corrective measures needed to achieve full institutional approval. An institution may not advertise itself as an approved or fully approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section.

(c) (1) The superintendent shall grant full institutional approval status for three years to all institutions operating pursuant to subdivision (b) of Section 94310 on June 30, 1984, as it read on that date and which have received full approval of all courses offered.

(2) The superintendent shall grant candidate for institutional approval status for a period not to exceed two years to all institutions operating on June 30, 1984, pursuant to both subdivisions (b) and (c) of Section 94310 as it read on that date. The superintendent shall specify a date, prior to June 30, 1986, by which all institutions operating pursuant to this paragraph shall file a completed application for either full institutional approval pursuant to this section, or authorization to operate pursuant to Section 94310.3.

(d) The superintendent may authorize any institution approved to issue degrees pursuant to this subdivision to issue diplomas for the completion of courses of study that do not fully meet the degree requirements, but are within the institution's approved degree program.

The superintendent may approve an application to issue honorary degrees if the applicant institution has received full institutional approval to issue academic degrees.

94310.3. The institution has demonstrated that it is in compliance with formal standards recommended by the Council for Private Postsecondary Educational Institutions and adopted by the superintendent, which shall include, but not be limited to, the standards developed by the special committee pursuant to Section 94304.5.

(a) The institution shall demonstrate compliance with the standards through a comprehensive onsite review process conducted by a three-member visiting committee impaneled by the superintendent for that purpose pursuant to subdivision (b). The process shall review all of the following:

(1) Institutional objectives.
(2) Administrative methods.
(3) Curriculum.
(4) Instruction.
(5) Faculty, including their qualifications.
(6) Physical facilities.
(7) Administrative personnel.
(8) Procedures for keeping educational records.
(9) Tuition, fee, and refund schedules.
(10) Admissions standards.
(11) Scholastic regulations and graduation requirements.

(12) Degrees offered.

(13) Financial stability, including that the capital assets of the institution are sufficient for the type, level, and number of degree programs offered and that the current assets of the institution are sufficient to serve the number of students then currently enrolled and to meet any tuition or fee refunds that may reasonably be expected under the institution's refund policy.

(b) Within 90 days of the date of receipt of a completed application, the superintendent shall impanel a visiting committee for the purpose of reviewing the applicant institution. The visiting committee shall be composed as follows:

(1) One member appointed by the Director of the California Postsecondary Education Commission.

(2) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational Institutions.

(3) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.

(4) Additional members may be appointed by the superintendent if the superintendent determines that their technical expertise is necessary to review the applicant institution. These members shall be nonvoting members.

(c) The visiting committee's responsibilities shall include all of the following:

(1) To verify the accuracy of the information submitted by the applicant institution.

(2) To determine whether the applicant institution complies with the standards required by statute and regulation.

(3) To provide the applicant institution with a preliminary report of its findings, including its recommendation regarding the grant of the requested authorization, no later than 30 days following completion of the onsite review. The applicant institution shall provide the visiting committee with any additional information the visiting committee may request within 30 days after receipt of the preliminary report.

(4) To review the applicant institution's response to the preliminary report, and no later than 30 days following receipt of the response, submit a final report to the superintendent. The final report shall include the visiting committee's recommendation for the grant of authorization or for the denial of that authorization.

(d) If the visiting committee's recommendation regarding authorization is not unanimous, the superintendent shall refer the final report to the council or to an appropriate appeals committee of the council for its advice pursuant to paragraph (8) of subdivision (f) of Section 94304.

(e) Within 90 days of the receipt of a unanimous visiting committee's report or the advice of the council, as appropriate, the superintendent shall take one of the following alternative actions:

(1) Grant the applicant institution full authorization for a period

not to exceed five years. Authorization pursuant to this paragraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.

(2) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to paragraph (2) of this subdivision and of the specific corrective measures needed to obtain authorization. If those corrective measures have been taken, authorization may then be granted for an initial period not to exceed one year, and for periods of five years upon each subsequent renewal, subject to the payment of the annual renewal fee specified in Section 94331.

(f) Not later than 90 days prior to the expiration of an authorization to operate, an institution shall file a completed application for reauthorization pursuant to this section with the superintendent. The reauthorization process for all institutions shall include a full review by a visiting committee.

(g) All institutions operating pursuant to authorization received under this subdivision in effect on June 30, 1984, shall receive conditional authorization for a period not to exceed three years. On a specified date prior to June 30, 1987, determined by the superintendent, each institution granted conditional authorization pursuant to this subdivision shall file a completed application for reauthorization pursuant to this section.

(h) Authorization received pursuant to this subdivision shall not be interpreted to endorse, and it is unlawful for, any institution to represent by any means that the State of California, the Superintendent of Public Instruction, State Board of Education, or the State Department of Education has made any accreditation or endorsement of the course of study or degree.

(i) If at any time the superintendent determines that an authorized institution has significantly deviated from the standards for authorization, but not to an extent that would warrant the withdrawal of the institution's authorization, the superintendent may place the institution on probation for a specific period of time. During the period of probation, the institution shall be subject to special scrutiny by the superintendent. That scrutiny may include required submission of periodic reports, as prescribed by the superintendent, and special visits by authorized representatives of the superintendent. If at the end of the specified probation period, the institution has not taken steps to eliminate the cause for its probation which the superintendent finds satisfactory, the superintendent may withdraw the institution's authorization to award degrees. An institution placed on probation pursuant to this paragraph may appeal the superintendent's action to the council. The appeal shall be filed no later than 30 days following the superintendent's initial action pursuant to this paragraph.

94310.4. The institution is structured by schools of theology, awards degrees primarily in theology and other areas of religious

study, has filed all of the following affidavits with the superintendent:

(a) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(b) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in subdivision (a), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(c) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:

(1) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.

(2) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation, within this state.

(3) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of those records.

(4) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(5) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of the change.

Within 90 days of the receipt of the affidavits described in subdivisions (a), (b), and (c), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary

Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take any steps necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

SEC. 3.5. Article 1.5 (commencing with Section 94310) is added to Chapter 3 of Part 59 of the Education Code, to read:

Article 1.5. Academic and Honorary Degrees

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the sections of this article.

94310.1. The institution meets the requirements of one or both of the following subdivisions:

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit of the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) Any public or private postsecondary educational institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is licensed by the superintendent, may issue degrees, diplomas, or certificates. Accredited public or private postsecondary educational institutions incorporated in another state shall not offer degrees, diplomas, or certificates in California unless they comply with the provisions of this section.

(1) The superintendent shall not license an institution to issue degrees, diplomas, or certificates pursuant to this subdivision until he

or she has conducted a qualitative review and assessment of, and has approved, the operations of the institution in California, and the superintendent has determined all of the following:

(A) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.

(B) The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.

(C) The education services and curriculum clearly relate to the objectives of the proposed program or programs, which are comparable in scope and sequence to minimum standards of comparable programs offered by accredited institutions already operating in this state.

(D) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(E) The institution has verifiable evidence of academic achievement comparable to that required of graduates of other accredited institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.

(2) All institutions incorporated in another state that were offering educational programs in California and were authorized to operate pursuant to subdivision (a) on December 31, 1985, shall have the option until and including December 31, 1989, of continued operation in California pursuant to authorization under subdivision (a) or through licensure pursuant to this paragraph.

(3) Except as otherwise provided by paragraph (4), the superintendent shall grant licensed status under this section for a period consistent with the postsecondary educational institution's home regional accrediting association, but not to exceed five years.

It is the intent of the Legislature that the postsecondary educational institution urge its home regional accrediting association to participate in the licensure process by the state, and that the state's licensure process be conducted whenever possible in concert with the institutional review conducted by the regional association.

(4) The superintendent shall grant licensed status under this subdivision until December 31, 1987, for all other institutions incorporated in another state that offered educational programs in California prior to July 1, 1985, that file with the superintendent within 30 days from October 1, 1985, all of the following information:

(A) A copy of the institution's most recent self-study report prepared for the institution's home regional accrediting association, as well as a copy of the institution's team report prepared by the accrediting association.

(B) A list of the locations of all of the operations of the institution in California.

(C) A list of all degree, diploma, and certificate programs offered

by the institution in California, as well as the curriculum, instruction, and faculty utilized in each program.

(D) A list of degrees, diplomas, and certificates offered by the institution.

Institutions licensed under this paragraph shall offer in California only programs that the institution can document to have been acknowledged and favorably reviewed by the home regional accrediting association.

(5) (A) The Director of the California Postsecondary Education Commission shall establish a special committee of persons with demonstrated knowledge of both regional accrediting standards and procedures and the special demands of off-campus programs. The committee shall include representatives from the State Department of Education, institutions incorporated in other states that offer educational programs in California, and public and private California colleges and universities.

(B) The committee shall develop proposed standards and procedures to be used in the onsite review and licensure of institutions applying for licensure under this subdivision, subject to the principle that educational innovation and competition shall not be hindered unreasonably.

(C) The committee shall report to the California Postsecondary Education Commission and the Superintendent of Public Instruction by November 1, 1985, regarding the proposed standards and procedures. The commission shall take action on the proposed standards within 60 days of receipt of the report by the special committee. This subdivision shall become inoperative on January 1, 1987, if the commission has not adopted standards and procedures proposed by the special committee by that date.

(D) The committee shall utilize the following principles in the development of these standards and procedures:

(i) Within two years from the enactment of this statute, the State Department of Education shall review the operations of all institutions operating under the provisions of this subdivision section.

(ii) Following the initial state review, subsequent onsite reviews by the superintendents shall be conducted wherever possible in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the superintendent may initiate a special review of the California operations of the institution.

(iii) Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not site-based.

(iv) The superintendent shall develop a procedural rationale to justify the number of sites to be visited by the state in the review of the institution's operations in California.

(v) The purpose of the onsite review by the superintendent shall be to determine that operations by the institution in California meet

the minimum state standards identified in statute.

(vi) The standards and procedures shall not unreasonably hinder educational innovation and competition.

(E) Prior to March 1, 1987, the superintendent shall utilize all of the standards and procedures recommended by the special committee and acted upon by the commission to develop regulations for the licensure of all institutions operating pursuant to this subdivision.

The regulations shall provide for consideration of the accredited institutions' stated educational goals, purposes, and objectives, in conducting the licensure review of the California operations of out-of-state based institutions.

These regulations, which shall be developed by the superintendent in cooperation with the Council for Private Postsecondary Educational Institutions, shall include a formula to determine the institutional licensure fee and the number of sites to be visited by the state.

The regulations developed by the superintendent shall include all of the procedures and standards recommended by the special committee and acted upon by the commission. Prior to December 31, 1987, the superintendent shall utilize these regulations to review all institutions operating pursuant to of this subdivision. In conducting the licensure review of the operation of out-of-state accredited institutions in California, the superintendent shall interpret the regulations based upon each institution's accredited educational purposes and objectives.

94310.2. The institution, which at the time of the issuance of a degree, has full institutional approval by the superintendent to award or issue specific professional, technological, or education degrees.

(a) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, and has approved of, each program offered by the institution, and the superintendent has determined based upon information submitted to him or her, all of the following:

(1) The institution has facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students, and require of students, the completion of a program of education that will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree.

(2) The curriculum is consistent in quality with curricula offered by appropriate established accredited institutions that are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California and issue the appropriate degree upon the satisfactory completion of specific qualitative academic programs.

(3) The course for which the degree is granted achieves its professed or claimed academic objective for higher education, with

verifiable evidence of academic achievement comparable to that required of graduates of other recognized schools accredited by an appropriate accrediting commission recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

The criteria developed for conducting the review and assessment shall effectuate the purposes of this chapter, but shall not unreasonably hinder legitimate educational innovation.

(b) The superintendent shall conduct the qualitative review and assessment of the institution and all programs offered through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the superintendent for that purpose. The visiting committee, which shall be impaneled by the superintendent within 90 days of the date of receipt of a completed application, shall be composed of educators from both accredited and state approved institutions. Within 90 days of the receipt of the visiting committee's report and recommendations, the superintendent shall take one of the following actions:

(1) Grant full institutional approval for a period not to exceed three years.

(2) Grant candidate for institutional approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may be renewed only one time, at the discretion of the superintendent.

(3) Disapprove the application.

If the application is disapproved, or candidate for institutional approval status is granted, the institution shall be advised of the specific reasons for the action and the specific corrective measures needed to achieve full institutional approval. An institution may not advertise itself as an approved or fully approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section.

(c) (1) The superintendent shall grant full institutional approval status for three years to all institutions operating pursuant to subdivision (b) of Section 94310 on June 30, 1984, as it read on that date and which have received full approval of all courses offered.

(2) The superintendent shall grant candidate for institutional approval status for a period not to exceed two years to all institutions operating on June 30, 1984, pursuant to both subdivisions (b) and (c) of Section 94310 as it read on that date. The superintendent shall specify a date, prior to June 30, 1986, by which all institutions operating pursuant to this paragraph shall file a completed application for either full institutional approval pursuant to this section, or authorization to operate pursuant to Section 94310.3.

(d) The superintendent may authorize any institution approved to issue degrees pursuant to this subdivision to issue diplomas for the completion of courses of study that do not fully meet the degree requirements, but are within the institution's approved degree program.

The superintendent may approve an application to issue honorary degrees if the applicant institution has received full institutional approval to issue academic degrees.

94310.3. The institution has demonstrated that it is in compliance with formal standards recommended by the Council for Private Postsecondary Educational Institutions and adopted by the superintendent, which shall include, but not be limited to, the standards developed by the special committee pursuant to Section 94304.5.

(a) The institution shall demonstrate compliance with the standards through a comprehensive onsite review process conducted by a three-member visiting committee impaneled by the superintendent for that purpose pursuant to subdivision (b). The process shall review all of the following:

(1) Institutional objectives.
(2) Administrative methods.
(3) Curriculum.
(4) Instruction.
(5) Faculty, including their qualifications.
(6) Physical facilities.
(7) Administrative personnel.
(8) Procedures for keeping educational records.
(9) Tuition, fee, and refund schedules.
(10) Admissions standards.
(11) Scholastic regulations and graduation requirements.
(12) Degrees offered.
(13) Financial stability, including that the capital assets of the institution are sufficient for the type, level, and number of degree programs offered and that the current assets of the institution are sufficient to serve the number of students then currently enrolled and to meet any tuition or fee refunds that may reasonably be expected under the institution's refund policy.

(b) Within 90 days of the date of receipt of a completed application, the superintendent shall impanel a visiting committee for the purpose of reviewing the applicant institution. The visiting committee shall be composed as follows:

(1) One member appointed by the Director of the California Postsecondary Education Commission.

(2) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational Institutions.

(3) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.

(4) Additional members may be appointed by the superintendent if the superintendent determines that their technical expertise is necessary to review the applicant institution. These members shall be nonvoting members.

(c) The visiting committee's responsibilities shall include all of the following:

(1) To verify the accuracy of the information submitted by the applicant institution.

(2) To determine whether the applicant institution complies with the standards required by statute and regulation.

(3) To provide the applicant institution with a preliminary report of its findings, including its recommendation regarding the grant of the requested authorization, no later than 30 days following completion of the onsite review. The applicant institution shall provide the visiting committee with any additional information the visiting committee may request within 30 days after receipt of the preliminary report.

(4) To review the applicant institution's response to the preliminary report, and no later than 30 days following receipt of the response, submit a final report to the superintendent. The final report shall include the visiting committee's recommendation for the grant of authorization or for the denial of that authorization.

(d) If the visiting committee's recommendation regarding authorization is not unanimous, the superintendent shall refer the final report to the council or to an appropriate appeals committee of the council for its advice pursuant to paragraph (8) of subdivision (f) of Section 94304.

(e) Within 90 days of the receipt of a unanimous visiting committee's report or the advice of the council, as appropriate, the superintendent shall take one of the following alternative actions:

(1) Grant the applicant institution full authorization for a period not to exceed five years. Authorization pursuant to this paragraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.

(2) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to paragraph (2) of this subdivision and of the specific corrective measures needed to obtain authorization. If those corrective measures have been taken, authorization may then be granted for an initial period not to exceed one year, and for periods of five years upon each subsequent renewal, subject to the payment of the annual renewal fee specified in Section 94331.

(f) Not later than 90 days prior to the expiration of an authorization to operate, an institution shall file a completed application for reauthorization pursuant to this section with the superintendent. The reauthorization process for all institutions shall include a full review by a visiting committee.

(g) All institutions operating pursuant to authorization received under this subdivision in effect on June 30, 1984, shall receive conditional authorization for a period not to exceed three years. On a specified date prior to June 30, 1987, determined by the superintendent, each institution granted conditional authorization pursuant to this subdivision shall file a completed application for reauthorization pursuant to this section.

(h) Authorization received pursuant to this subdivision shall not be interpreted to endorse, and it is unlawful for, any institution to represent by any means that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any accreditation or endorsement of the course of study or degree.

(i) If at any time the superintendent determines that an authorized institution has significantly deviated from the standards for authorization, but not to an extent that would warrant the withdrawal of the institution's authorization, the superintendent may place the institution on probation for a specific period of time. During the period of probation, the institution shall be subject to special scrutiny by the superintendent. That scrutiny may include required submission of periodic reports, as prescribed by the superintendent, and special visits by authorized representatives of the superintendent. If at the end of the specified probation period, the institution has not taken steps to eliminate the cause for its probation which the superintendent finds satisfactory, the superintendent may withdraw the institution's authorization to award degrees. An institution placed on probation pursuant to this paragraph may appeal the superintendent's action to the council. The appeal shall be filed no later than 30 days following the superintendent's initial action pursuant to this paragraph.

94310.4. The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed all of the following affidavits with the superintendent:

(a) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(b) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in subdivision (a), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(c) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:

(1) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.

(2) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation, within this state.

(3) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of those records.

(4) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(5) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of the change.

Within 90 days of the receipt of the affidavits described in subdivisions (a), (b), and (c), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take any steps necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

SEC. 4. Section 3.5 of this bill incorporates the substance of amendments to Section 94310 of the Education Code proposed by AB 4251. It shall only become operative if both bills are enacted and become effective on or before January 1, 1987, and AB 4251 amends Section 94310 of the Education Code, in which case Section 3.5 of this

bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 5. If this bill is enacted and repeals Section 94310 of the Education Code, and AB 4251 is chaptered before this bill and takes effect immediately as an urgency statute, and amends Section 94310 of the Education Code, it is the intention of the Legislature that Section 94310, as amended by AB 4251, shall remain operative only until the effective date of this bill and on and after that date Section 94310 is repealed, as provided by this bill.

CHAPTER 666

An act to amend Section 53534 of the Government Code, relating to local agencies.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 53534 of the Government Code is amended to read:

53534. (a) Any provision of law to the contrary notwithstanding, the County of Alameda, 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, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, 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, 1994.

CHAPTER 667

An act to amend Sections 1007 and 5017 of, and to add Section 5000.5 to, the Education Code, relating to education.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 1007 of the Education Code is amended to read:

1007. (a) Members of the county board of education shall be elected on the date and in the manner prescribed for the election of members of governing boards of school districts, provided such elections are held throughout the county on the same date; otherwise the election shall be consolidated with the direct primary election. Once established, no subsequent change of circumstances shall require that the time of holding the election be changed. Where the elections for governing board members are held on the same date, then the provisions of Section 5303 of this code shall apply to the election of members of the county board of education. The first election held under this article shall be conducted by the county board of supervisors and thereafter by the county board of education. Members elected at the time of the direct primary shall take office on the first day of July, and members elected at the date on which members of school district governing boards are elected shall take office on the last Friday in November subsequent to their election and shall serve for a term to be determined for each county by the county committee on school district organization. The county committee on school district organization shall also determine the manner in which the county board of education first elected shall effect a staggering of terms.

(b) This section shall govern the election and term of office of members of a county board of education except as provided under Section 5000.5.

Section 5000.5 is added to the Education Code, to read:

5000.5. (a) Notwithstanding any other provision of law, except as provided under Section 5008, after the initial election of governing board members in any school district, or members of a county board of education, the day for the election of governing board members for the district or members of the county board of education may, upon the adoption of an appropriate resolution by the governing board or the county board of education, respectively, be established as the same day upon which a primary, municipal, or general election is held, except that the board of supervisors of any county in which the district or county board of education will hold an election may deny any request for consolidation if it finds that the ballot style, voting equipment, or computer capacity prevent the handling of

additional elections or materials. 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. In the event of consolidation, the election of governing board members or members of the county board of education shall be conducted in accordance with all applicable procedural requirements of the Elections Code pertaining to that primary, municipal, or general election.

(b) The resolution of the governing board or county board of education shall be adopted and submitted to the board of supervisors, for purposes of subdivision (a), no later than January 1 of the year preceding the calendar year in which the revised election date is to be operative.

(c) The resolution of the board or boards of supervisors denying the consolidation request shall be adopted, if at all, for purposes of subdivision (a), no later than March 1 of the year preceding the calendar year in which the revised election date is to be operative. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the county clerk, as defined under Section 23503 of the Elections Code, a report on the cost effectiveness of the proposed action, and provide public notices of the proceedings in which the resolution is to be considered for adoption, pursuant to Section 25151 of the Government Code.

(d) An election day established pursuant to subdivision (a) shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in subdivision (a) of Section 5000 or pursuant to Section 1007, as appropriate.

(e) In the event that the election day for a school district governing board or county board of education is established pursuant to subdivision (a), the term of office of all then incumbent members of that governing board or county board of education shall be extended accordingly.

(f) This section shall not apply to the County of San Diego, pursuant to Section 5000.1, and Section 23509.1 of the Elections Code.

SEC. 3. Section 5017 of the Education Code is amended to read:

5017. (a) Except as provided by Section 5000.5, each person elected at a regular biennial governing board member election shall hold office for a term of four years commencing on the last Friday in November next succeeding his or her election. Any member of the governing board of any school district or community college district whose term has expired shall continue to discharge the duties of the office until his or her successor has qualified. The term of the successor shall begin upon the expiration of the term of his or her predecessor.

(b) Notwithstanding any provisions of law to the contrary, each person elected at a regular election held pursuant to subdivision (b) of Section 5000 shall hold office for a term of four years commencing on the first day of the calendar month next succeeding his or her

election. The term of his or her predecessor shall be deemed to expire on the first day of the calendar month next succeeding that election, regardless of the length of the term as otherwise established by law, provided, however, that the predecessor shall continue to discharge the duties of the office until his or her successor has qualified.

CHAPTER 668

An act to add Chapter 10 (commencing with Section 12120) to Division 5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986]

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

SECTION 1. Chapter 10 (commencing with Section 12120) is added to Division 5 of the Vehicle Code, to read:

CHAPTER 10. SALES OF VEHICLES BY PRIVATE OWNERS

12120. Only a dealer, a person described in Section 286, or the registered owner of record shall sell or offer for sale a vehicle of a type required to be registered pursuant to Division 3 (commencing with Section 4000) or identified pursuant to Division 16.5 (commencing with Section 38000), except as provided in Section 12121.

12121. (a) Section 12120 does not apply to a dealer licensed pursuant to Chapter 4 (commencing with Section 11700) when acting under authority of the license, or to his or her authorized agent.

(b) Section 12120 does not prohibit the sale of a vehicle by any of the following persons not engaged in the business of selling vehicles:

(1) Anyone related by blood, adoption, or marriage to the registered owner.

(2) The receiver, administrator, executor, guardian, or other person appointed by, or acting under, a judgment or order of any court.

(3) The trustee of a trust in which the vehicle is registered as an asset.

(4) Any public officer in the performance of his or her official duties.

(5) An attorney on behalf of a client who is the registered owner.

(6) The owner, officer, or designated representative of a business in whose name the vehicle is registered.

(7) The legal owner as shown on the certificate of ownership.

(8) A person who has prior written authorization from the

registered owner of the vehicle, and that person does not receive or expect to receive a commission, money, brokerage fees, profit, or any other thing of value from either the seller or purchaser of the vehicle.

(9) An insurer selling the salvage of one of its insured's vehicle or the stolen vehicle of one of its insured which has been recovered.

12122. It is a misdemeanor for any party to a sale of a vehicle subject to this chapter in which the sale is a taxable transaction under Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code to report a sales price which is less than the actual sales price of the vehicle and make a false statement in that regard in a document filed with the department within the meaning of Section 20 of this code. The State Board of Equalization shall collect from that party any delinquent sales and use taxes. In addition, the party shall pay any sales and use taxes due and any penalty and interest assessed, plus a mandatory penalty of not less than five hundred dollars ($500) or an amount equal to 100 percent of the tax, whichever is greater.

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 669

An act to amend Sections 43.7 and 43.95 of the Civil Code, and to add Section 1134 to the Harbors and Navigation Code, relating to liability.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986]

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

SECTION 1. Section 43.7 of the Civil Code, as amended by Section 2 of Chapter 1012 of the Statutes of 1984, is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable

effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical specialty society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no

cause of action for damages shall arise against, any physician and surgeon, podiatrist, chiropractor, or attorney who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, chiropractors, or attorneys for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons or attorneys for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code,if the evaluating physician and surgeon, podiatrist, chiropractor, or attorney acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after a reasonable effort to obtain the facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

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 43.7 of the Civil Code, as amended by Section 1.8 of Chapter 1081 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 43.7 of the Civil Code, as amended by Section 1 of Chapter 1012 of the Statutes of 1984, is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable

effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical specialty society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, or chiropractor who is a member of an underwriting committee of an interindemnity or reciprocal or

interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, or chiropractors for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon, podiatrist, or chiropractor acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 3. Section 43.95 of the Civil Code is amended to read:

43.95. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society or any nonprofit corporation authorized by such society to operate a referral service, or their agents, employees, or members, for referring any member of the public to any professional member of such society or service, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no cost added to the initial referral fee as part of a public service referral system organized under the auspices of the professional society. Further, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society for providing a telephone information library available for use by the general public without charge, nor against any nonprofit corporation authorized by such society for providing a telephone information library available for use by the general public without charge. "Professional society" includes legal, psychological, architectural, dental, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the area served by the particular society, or organizations with referral services which have been authorized by the State Bar of California and operated in accordance with its Minimum Standards for a Lawyer Referral Service in California, and organizations which have been established to provide free assistance

or representation to needy patients or clients.

(b) This section shall not apply whenever the professional society, while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary action in either of the following cases:

(1) Where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred; or

(2) Where a period of three years has elapsed since the professional to whom a member of the public was referred has satisfied any terms, conditions, or sanctions imposed upon such professional as disciplinary action; except that if the professional is an attorney, there shall be no time limit on the duty to disclose.

SEC. 4. Section 43.95 of the Civil Code is amended to read:

43.95. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society or any nonprofit corporation authorized by such society to operate a referral service, or their agents, employees, or members, for referring any member of the public to any professional member of such society or service, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no cost added to the initial referral fee as part of a public service referral system organized under the auspices of the professional society. Further, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society for providing a telephone information library available for use by the general public without charge, nor against any nonprofit corporation authorized by such society for providing a telephone information library available for use by the general public without charge. "Professional society" includes legal, psychological, architectural, dental, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, veterinary, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the area served by the particular society, or organizations with referral services which have been authorized by the State Bar of California and operated in accordance with its Minimum Standards for a Lawyer Referral Service in California, and organizations which have been established to provide free assistance or representation to needy patients or clients.

(b) This section shall not apply whenever the professional society, while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary

action in either of the following cases:

(1) Where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred; or

(2) Where a period of three years has elapsed since the professional to whom a member of the public was referred has satisfied any terms, conditions, or sanctions imposed upon such professional as disciplinary action; except that if the professional is an attorney, there shall be no time limit on the duty to disclose.

SEC. 5. Section 43.95 of the Civil Code is amended to read:

43.95. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society or any nonprofit corporation authorized by such society to operate a referral service, or their agents, employees, or members, for referring any member of the public to any professional member of such society or service, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no cost added to the initial referral fee as part of a public service referral system organized under the auspices of the professional society. Further, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society for providing a telephone information library available for use by the general public without charge, nor against any nonprofit corporation authorized by such society for providing a telephone information library available for use by the general public without charge. "Professional society" includes legal, psychological, architectural, medical, dental, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the area served by the particular society, or organizations with referral services which have been authorized by the State Bar of California and operated in accordance with its Minimum Standards for a Lawyer Referral Service in California, and organizations which have been established to provide free assistance or representation to needy patients or clients.

(b) This section shall not apply whenever the professional society, while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary action in either of the following cases:

(1) Where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred.

(2) Where a period of three years has elapsed since the

professional to whom a member of the public was referred has satisfied any terms, conditions, or sanctions imposed upon such professional as disciplinary action; except that if the professional is an attorney, there shall be no time limit on the duty to disclose.

SEC. 6. Section 43.95 of the Civil Code is amended to read:

43.95. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society or any nonprofit corporation authorized by such society to operate a referral service, or their agents, employees, or members, for referring any member of the public to any professional member of such society or service, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no cost added to the initial referral fee as part of a public service referral system organized under the auspices of the professional society. Further, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society for providing a telephone information library available for use by the general public without charge, nor against any nonprofit corporation authorized by such society for providing a telephone information library available for use by the general public without charge. "Professional society" includes legal, psychological, architectural, medical, dental, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, veterinary, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the area served by the particular society, or organizations with referral services which have been authorized by the State Bar of California and operated in accordance with its Minimum Standards for a Lawyer Referral Service in California, and organizations which have been established to provide free assistance or representation to needy patients or clients.

(b) This section shall not apply whenever the professional society, while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary action in either of the following cases:

(1) Where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred.

(2) Where a period of three years has elapsed since the professional to whom a member of the public was referred has satisfied any terms, conditions, or sanctions imposed upon such professional as disciplinary action; except that if the professional is an attorney, there shall be no time limit on the duty to disclose.

SEC. 7. Section 1134 is added to the Harbors and Navigation

Code, to read:

1134. When a pilot goes aboard a vessel, the pilot becomes a servant of the vessel and its owner and operator. Nothing in this division exempts the vessel or its owner or operator from liability to persons or property for damage or loss caused by the vessel or its operation on the ground that (1) the vessel was piloted by a pilot, or (2) the damage or loss was incurred as a result of the error, omission, fault, or neglect of a pilot.

SEC. 8. (a) Section 4 of this bill incorporates amendments to Section 43.95 of the Civil Code proposed by both this bill and AB 3032. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 43.95 of the Civil Code, and (3) SB 1888 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3032, 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 43.95 of the Civil Code proposed by both this bill and SB 1888. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 43.95 of the Civil Code, (3) AB 3032 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1888 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 43.95 of the Civil Code proposed by this bill, AB 3032, and SB 1888. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1987, (2) all three bills amend Section 43.95 of the Civil Code, and (3) this bill is enacted after AB 3032 and SB 1888, in which case Sections 3, 4, and 5 of this bill shall not become operative.

CHAPTER 670

An act to amend Sections 1394, 1398, 1410.1, and 1540 of, and to repeal and add Section 1410 of, the Water Code, relating to water rights.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 1394 of the Water Code is amended to read:

1394. (a) The board may reserve jurisdiction in whole or in part to amend, revise, supplement, or delete terms and conditions in a permit under either of the following circumstances:

(1) If the board finds that sufficient information is not available to finally determine the terms and conditions which will reasonably protect vested rights without resulting in waste of water or which will best develop, conserve, and utilize in the public interest the

water sought to be appropriated, and that a period of actual operation or time for completion of studies will be necessary in order to secure the required information.

(2) If the application or applications being acted upon represent only part of a coordinated project, other applications for the project being pending, and the board finds that the coordinated project requires coordinated terms and conditions which cannot reasonably be decided upon until decision is reached on the other pending applications.

(b) Jurisdiction shall be reserved under this section for no longer period of time than the board finds to be reasonably necessary, and in no case shall jurisdiction be exercised after the issuance of the license. The jurisdicition shall be exercised only after notice to the parties and a hearing. The board's decision or order reserving jurisdiction and the board's decision or order in the exercise of its reserved jurisdiction shall both be subject to reconsideration by the board and judicial review as authorized in this part.

SEC. 2. Section 1398 of the Water Code is amended to read:

1398. (a) The period specified in the permit for beginning construction work, for completion of construction work, for application of the water to beneficial use, or any or all of these periods may, for good cause shown, be extended by the board.

(b) After any hearing on a petition to extend the period or periods, the board may revoke the permit in accordance with Section 1410.

SEC. 3. Section 1410 of the Water Code is repealed.

SEC. 4. Section 1410 is added to the Water Code, to read:

1410. (a) There shall be cause for revocation of a permit if the work is not commenced, prosecuted with due diligence, and completed or the water applied to beneficial use as contemplated in the permit and in accordance with this division and the rules and regulations of the board.

(b) A permit may be revoked under either of the following procedures:

(1) If, after a hearing on a petition for extension of time to complete a project and apply water to beneficial use, the board finds that cause exists to revoke the permit, the board may revoke the permit.

(2) If, after an investigation other than a hearing on a petition for extension of time, it appears that cause exists to revoke a permit, the board shall give notice of proposed revocation in writing, mailed in a sealed, prepaid postage and certified letter to the permittee at his or her last known address. If the permittee fails to request a hearing with the time provided under Section 1410.1, the board shall revoke the permit and declare the water subject to appropriation. After a hearing, when a hearing is requested by the permittee pursuant to Section 1410.1, the board may, upon a finding that cause exists, revoke the permit and declare the water subject to appropriation.

SEC. 5. Section 1410.1 of the Water Code is amended to read:

1410.1. The notice of proposed revocation of the permit pursuant to paragraph (2) of subdivision (b) of Section 1410 shall contain a statement of facts and information upon which the proposed revocation is based, and shall include a statement substantially in the following form:

Unless a written request for a hearing signed by or on behalf of the permittee is delivered or mailed to the board within 15 days after receipt of this notice, the board may act upon the proposed revocation of the permit without a hearing. Any request for a hearing may be made by delivering or mailing the request to the board at the address given on the notice.

SEC. 6. 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, except that no permit fee is required under Section 1525.5.

(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).

CHAPTER 671

An act to amend Sections 8560, 8569, 8585, 8585.1, 8585.2, 8585.6, 8585.7, 8585.9, 8586.2, 8586.3, 8586.4, 8586.5, 8586.6, 8586.7, 8587, 8587.3, and 8589 of, to add Sections 8575.5 and 8585.11 to, to add and repeal Section 8585.10 of, and to repeal Section 8585.3 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. The Legislature intends for the shark and swordfish permits issued under Article 16 (commencing with Section 8560) of Chapter 2 of Part 3 of Division 6 of the Fish and Game Code and the limited entry experimental permits issued under Article 17 (commencing with Section 8585) of that chapter are to be regulated in nearly the same manner, and the Legislature further intends that the two types of permits be combined when the total permits issued are at or less than the resource can reasonably sustain.

The Legislature finds that it needs additional data to provide the best regulations needed to conform the fishery effort to the capability of the resource. The Department of Fish and Game shall

submit its recommendations to accomplish this intent to the Legislature on or before October 15, 1989.

SEC. 2. Section 8560 of the Fish and Game Code is amended to read:

8560. The Legislature finds and declares as follows:

(a) The drift gill net shark fishery is expanding at a rapid rate.

(b) The principal species taken by the fishery are long-lived and have a low rate of reproduction.

(c) The drift gill net shark fishery affects the important swordfish and marlin fisheries.

(d) The swordfish resource in both California waters and Pacificwide is in a healthy condition.

SEC. 2.5. Section 8560 of the Fish and Game Code is amended to read:

8560. The Legislature finds and declares as follows:

(a) The drift gill net shark fishery is expanding at a rapid rate.

(b) The principal species taken by the fishery are long-lived and have a low rate of reproduction.

(c) The drift gill net shark fishery affects the important swordfish and marlin fisheries.

(d) The swordfish resource in both California waters and Pacificwide is in a healthy condition.

Therefore, the department shall study the drift gill net shark fishery for biological and fishery management purposes and shall prepare a report on the status of the thresher shark and swordfish resources off California and on the effects of the fishery on other resources and submit this report to the Legislature on or before January 1, 1989.

SEC. 3. Section 8569 of the Fish and Game Code is amended to read:

8569. (a) Any applicant who qualifies as a prior permittee pursuant to subdivision (a) of Section 8568 shall be issued a drift gill net shark and swordfish permit.

(b) Any person, who possessed a valid drift gill net shark and swordfish permit during the preceding season and whose application has been denied because he or she failed to meet the landing requirements specified in paragraph (3) of subdivision (a) of Section 8568, may appeal to the commission, submitting circumstances surrounding nonuse of the permit and request classification as a prior permittee. The commission may classify the appellant as a prior permittee if it finds the nonuse of the permit was for reasons beyond the control of the applicant under the circumstances.

(c) The commission may establish conditions for the issuance of a permit if a permittee's drift gill net shark and swordfish permit was previously revoked during a preceding season or if a permittee, who possessed a valid drift gill net shark and swordfish permit during the preceding season, did not apply for renewal of his or her permit on or before April 30.

SEC. 3.5. Section 8575.5 is added to the Fish and Game Code, to

read:

8575.5. Drift gill nets used to take shark and swordfish under the permit provided in this article shall not be used in the following areas:

(a) Within 12 nautical miles from the nearest point on the mainland shore north of a line extending due west from Point Arguello.

(b) East of a line running from Point Reyes to Noonday Rock to the westernmost point of Southeast Farallon Island to Pillar Point.

SEC. 4. Section 8585 of the Fish and Game Code is amended to read:

8585. The Legislature finds and declares as follows:

(a) That the swordfish resource in both California waters and Pacificwide is in a healthy condition.

(b) That a limited entry experimental swordfish fishery off California should be established to allow increased access to the swordfish resource.

SEC. 5. Section 8585.1 of the Fish and Game Code is amended to read:

8585.1. There is hereby established a limited entry experimental swordfish fishery off the California coast.

SEC. 6. Section 8585.2 of the Fish and Game Code is amended to read:

8585.2. Notwithstanding Sections 8394 and 8603, and except as provided in Section 8561 or 8563, shark or swordfish may not be taken for commercial purposes with drift gill nets except under a nontransferable, revocable limited entry experimental swordfish permit issued annually by the department. These permits may be revoked or suspended by the commission upon a conviction of a willful violation of this article, or violation of any condition of the permit by the permittee or the permittee's agent, servant, employee, or person acting under the permittee's direction or control.

SEC. 7. Section 8585.3 of the Fish and Game Code is repealed.

SEC. 8. Section 8585.6 of the Fish and Game Code is amended to read:

8585.6. (a) Applications for reissuance of a permit issued under this article pursuant to subdivision (c) of Section 8586.2 to persons who hold a permit issued in the previous year under this article which has not been revoked shall be delivered to an office of the department after January 31 and on or before April 30, or mailed to an office of the department with a postmark date after January 31 and on or before April 30.

(b) Applications for a permit issued under this article pursuant to subdivision (d) of Section 8586.2 shall be delivered to an office of the department after January 31 and on or before April 30 or mailed to an office of the department with a postmark date after January 31 and on or before April 30.

SEC. 9. Section 8585.7 of the Fish and Game Code is amended to read:

8585.7. If a drawing is held pursuant to Section 8586.2, it shall be held in the Sacramento office of the department on the first Wednesday after May 15.

SEC. 10. Section 8585.9 of the Fish and Game Code is amended to read:

8585.9. (a) When a person applies for a permit issued under this article, the person shall specify the vessel he or she will use in operations authorized by the permit and the permit shall be used on operations on that vessel. The permittee shall be the owner or operator of that vessel and shall be listed on the boat registration statement filed with the department pursuant to Sections 7887 and 7888.

(b) Any transfer shall be authorized by the department only after receipt of proof of a compelling reason, which shall be submitted with the request for transfer, such as the sinking of the vessel or sale and purchase of another vessel specified for use in operations authorized by the permit.

SEC. 11. Section 8585.10 is added to the Fish and Game Code, to read:

8585.10. (a) Notwithstanding Section 8586.2, a nontransferable, revocable limited entry experimental swordfish permit may also be issued under this article to a person meeting all of the following requirements:

(1) Previously participated in the spotter plane-harpoon swordfish fishery prior to 1976 when the commission prohibited the use of spotter planes.

(2) Landed at least 5,000 pounds of swordfish and was paid at least five thousand dollars ($5,000) during the 1975 calendar year. Landings shall be verified by the applicant's submission of logs and tax records for the 1975 calendar year.

(3) Possession of a general gill net permit issued under Sections 8681 and 8682.

(4) Ownership of a vessel suitable to take shark or swordfish with drift gill nets.

(5) Ownership of a shark and swordfish gill net of 14-inch mesh and reel of a value of at least twenty-five thousand dollars ($25,000).

(b) Applications for a permit shall be delivered to the Sacramento office of the department, or mailed with a postmark, on or before January 15, 1987.

(c) Section 8101 does not apply to any permit authorized to be issued under this section.

This section shall become inoperative on May 17, 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. 12. Section 8585.11 is added to the Fish and Game Code, to read:

8585.11. A permit, and a person with a permit, issued under Section 8585.10 is otherwise subject to this article, except as expressly

provided in that section.

SEC. 13. Section 8586.2 of the Fish and Game Code is amended to read:

8586.2. (a) The department shall issue not more than 35 permits under this article for any given year.

(b) If more than 35 qualified persons submit certified applications to the department in 1984, the department shall randomly draw 35 names of applicants from the qualified applications submitted to the department. To certify an application under this subdivision, the applicant shall first satisfy the requirements of subdivisions (a) and (b) of Section 8586.1. Before the department issues any permit under this subdivision, an applicant shall also satisfy the requirement of subdivision (c) of Section 8586.1, within six months after his or her application is drawn pursuant to this subdivision.

(c) After January 1, 1985, the department shall reissue permits under this article to persons holding a permit issued in the previous year under this article which has not been revoked, after receipt of a certified application therefor within the period prescribed in subdivision (a) of Section 8585.6. To certify an application under this subdivision, the applicant shall first have satisfied all of the requirements of Section 8586.1 and, additionally, during one of the two immediately preceding permit years, the applicant has landed at least 5,000 pounds of swordfish or shark or landed shark or swordfish for which the permittee was paid at least five thousand dollars ($5,000). Landings shall be verified by the applicant's submission of landing receipts made pursuant to Section 8011.

(d) Any person, who possessed a valid limited entry experimental swordfish permit during the preceding season and whose application was denied because the person failed to meet the landing requirements specified in subdivision (c), may appeal to the commission, submitting circumstances surrounding nonuse of the permit. The commission may authorize the reissuance of a permit if it finds that the nonuse of the permit was for reasons beyond the control of the applicant under the circumstances.

(e) The commission may establish conditions for the reissuance of a permit if a permittee's limited entry experimental swordfish permit was previously revoked during the preceding season or if a permittee, who possessed a valid limited entry experimental swordfish permit during the preceding season, did not apply for renewal of the permit on or before April 30.

(f) If the department receives fewer than 35 applications pursuant to subdivision (c), the department shall hold a random drawing from certified applications received within the period prescribed in subdivision (b) of Section 8585.6. To certify an application under this subdivision, the applicant shall first satisfy the requirements in subdivisions (a) and (b) of Section 8586.1. Before the department issues any permit under this subdivision, the applicant shall also satisfy the requirement in subdivision (c) of Section 8586.1 within six months after his or her application is drawn

pursuant to this subdivision.

SEC. 14. Section 8586.3 of the Fish and Game Code is amended to read:

8586.3. A limited entry experimental swordfish permit issued under this article shall be valid, unless revoked, from May 1 of the year of issue to January 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit is two hundred fifty dollars ($250).

SEC. 15. Section 8586.4 of the Fish and Game Code is amended to read:

8586.4. Drift gill nets may be used to take swordfish under the permit provided in this article and are subject to the following restrictions:

(a) From June 1 to November 15, inclusive, shark or swordfish gill nets shall not be in the water from two hours after sunrise to two hours before sunset east of a line described as follows:

From a point beginning at Las Pitas Point to San Pedro Point on Santa Cruz Island, thence to Gull Island Light, thence to the northeast extremity of San Nicolas Island, thence along the high water mark on the west side of San Nicolas Island to the southeast extremity of San Nicolas Island, thence to the northwest extremity of San Clemente Island, thence along the high water mark on the west side of San Clemente Island to the southeast extremity of San Clemente Island, thence along a line running 150° true from the southeast extremity of San Clemente Island to the westerly extension of the boundary line between the Republic of Mexico and San Diego County.

(b) (1) The total maximum length of a shark or swordfish gill net on the net reel on a vessel, on the deck of the vessel, and in the water at any time shall not exceed 6,000 feet in float line length. The float line length shall be determined by measuring the float line, as tied, of all the net panels, excluding the bridle, towline, or stotza and excluding the parachute or other drogue device.

(2) Any shark or swordfish gill net on the reel shall have the float lines of the adjacent panels tied together, the lead lines of the adjacent panels tied together, and the web of the adjacent panels laced together. No quick disconnect device may be used.

(3) Spare shark or swordfish gill net aboard the vessel shall not exceed 250 fathoms (1,500 feet) in total length, and the spare net shall be in separated panels of not to exceed 80 fathoms (480 feet) in float line length for each panel, with the float lines and leadlines attached to each panel separately gathered and tied, and the spare net panels stowed in lockers, wells, or other storage space.

(4) If a torn panel is replaced in a working shark or swordfish gill net, the torn panel shall be removed from the working net before the replacement panel is attached to the working net.

(c) Any end of the net not attached to the permittee's vessel shall be marked by a pole with a radar reflector. The reflector shall be at least six feet above the surface of the ocean and not less than 10

inches in any dimension except thickness. The permittee's permit number shall be permanently affixed to at least one buoy or float attached to the radar reflector staff. The permit number shall be at least 1½ inches in height and all markings shall be at least one-quarter inch in width.

(d) For purposes of this article, "shark or swordfish gill net" means a drift gill net of 14-inch or greater mesh size.

SEC. 16. Section 8586.5 of the Fish and Game Code is amended to read:

8586.5. (a) Drift gill nets with mesh size less than 14 inches in stretched mesh shall not be used to take swordfish by permittees operating under a limited entry experimental swordfish permit issued under this article, and the permittee shall not have aboard the vessel or in the water a drift gill net with mesh size less than 14 inches and more than eight inches in stretched mesh.

(b) No permittee shall deploy a drift gill net of less than 14-inch mesh size at the time that the permittee has a shark or swordfish gill net deployed.

SEC. 17. Section 8586.6 of the Fish and Game Code is amended to read:

8586.6. Drift gill nets, used to take swordfish under the permit provided in this article, shall not be used in any of the following areas:

(a) Within 12 nautical miles from the nearest point on the mainland shore north of a line extending due west from Point Arguello.

(c) East of a line running from Point Reyes to Noonday Rock to the westernmost point of Southeast Farallon Island to Pillar Point.

(d) Any area closed or restricted as specified in Section 8575, except in compliance with that section.

SEC. 18. Section 8586.7 of the Fish and Game Code is amended to read:

8586.7. (a) Drift gill nets shall not be used to take shark or swordfish from February 1 to April 30, inclusive.

(b) Drift gill nets shall not be used to take shark or swordfish in ocean waters within 75 nautical miles from the mainland coastline between the westerly extension of the California-Oregon boundary line and the westerly extension of the United States-Republic of Mexico boundary line from May 1 to August 14, inclusive.

(c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit issued under Section 8585.2.

(d) Notwithstanding the closure from May 1 through August 14 in subdivision (b), a permittee may land swordfish or thresher shark taken in ocean waters more than 75 nautical miles from the mainland coastline in that period if, for each landing during that closed period, the permittee signs a written declaration under penalty of perjury that the fish landed were taken more than 75 nautical miles from the mainland coastline.

(e) If any person is convicted of falsely swearing a declaration under subdivision (d), in addition to any other penalty prescribed by

law, the following penalties shall be imposed:

(1) The fish landed shall be forfeited or, if sold, the proceeds from the sale shall be forfeited, pursuant to Sections 12159, 12160, 12161, and 12162.

(2) All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 8630 or 12157.

(3) The limited entry experimental swordfish permit shall be revoked by the commission pursuant to Section 8585.2.

(4) The commercial fishing license of the permittee shall be revoked and is forfeited pursuant to Section 12153.

(f) From August 15 of the year of issue to January 31, inclusive, of the following year, swordfish may be taken under a permit issued pursuant to this article.

SEC. 19. Section 8587 of the Fish and Game Code is amended to read:

8587. (a) Notwithstanding any other provision of this code, the director may close the limited entry experimental swordfish fishery established under this article or any area in which this fishery is conducted, if, after a public hearing, the director determines the action is necessary to protect the swordfish or thresher shark and bonito (mako) shark resources.

(b) The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if the director determines that the conditions which necessitated the closure no longer exist.

SEC. 20. Section 8587.3 of the Fish and Game Code is amended to read:

8587.3. A permittee is subject to this article whenever the permittee is using a drift gill net to take swordfish, unless the permittee has surrendered his or her permit to the department. A permittee may surrender his or her permit by notifying the department's Sacramento office of the permittee's intentions by telegram or certified letter and by sending or delivering the permit to a department office. A permittee may reclaim the permit at any time during regular working hours, if the permit has not been suspended or revoked.

SEC. 21. Section 8589 of the Fish and Game Code is amended to read:

8589. This article 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. 22. Section 2.5 of this bill incorporates amendments to Section 8560 of the Fish and Game Code proposed by both this bill and AB 521. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 8560 of the Fish and Game Code, and (3) this bill is enacted after AB 521, in which case Section 8560 of the Fish and Game Code, as amended by AB 521, 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 this bill shall not become

operative.

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 672

An act to amend Section 720.310 of the Code of Civil Procedure, relating to enforcement of judgments.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 720.310 of the Code of Civil Procedure is amended to read:

720.310. (a) Not later than 15 days after the third-party claim is filed with the levying officer pursuant to Section 720.120 or 720.220, or 15 days after filing an undertaking pursuant to Section 720.610, either the creditor or the third person may petition the court for a hearing to determine the validity of the third-party claim and the proper disposition of the property that is the subject of the claim.

(b) The hearing may be held whether or not an undertaking has been filed but not if a deposit has been made pursuant to Section 720.260.

(c) The hearing shall be held within 20 days after the filing of the petition unless continued by the court for good cause shown.

CHAPTER 673

An act to amend Section 14752 of, and to add Sections 14753, 14754, 14755, 14756, 14757, 14758, 14759, 14760, 14761, 14762, 14763, 14764, 14765, and 14766 to, the Financial Code, relating to credit unions.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 14752 of the Financial Code is amended to read:

14752. Except as provided for in Section 14051 and this article, any person who willfully violates any provision of this division, or

who willfully violates any rule or order issued pursuant to this division, shall upon conviction be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment, but no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not bar the exercise of the administrative authority of the commissioner provided in Section 14208.

SEC. 2. Section 14753 is added to the Financial Code, to read:

14753. Any director, officer, or employee of a credit union who asks for, receives, or agrees to receive any money, property, or thing of value for his personal benefit or advantage for (a) procuring or attempting to procure for any person any loan from that credit union, (b) for the purchase or discount of any note, draft, check, bill of exchange, or other obligation by that credit union, or (c) for permitting any person to overdraw any account with that credit union, is guilty of a felony.

SEC. 3. Section 14754 is added to the Financial Code, to read:

14754. Any director, officer, or employee of a credit union who knowingly overdraws his or her account with that credit union, except for any overdraft pursuant to an agreement which is approved in advance as provided in Section 14603 and which is in conformity with Section 15050, is guilty of a felony.

SEC. 4. Section 14755 is added to the Financial Code, to read:

14755. Any director, officer, agent, or employee of any credit union who knowingly receives or possesses the credit union's property otherwise than in payment of a just demand with intent to defraud, omits to make or omits to cause to be made a full and true entry thereof in the credit union's books and accounts, or concurs in omitting to make any material entry thereof, is guilty of a felony.

SEC. 5. Section 14756 is added to the Financial Code, to read:

14756. Any director, officer, agent, or employee of a credit union who (1) knowingly concurs in making or publishing any written report, exhibit, or statement of the credit union's affairs or financial condition containing any material statement which is false, or (2) having the custody of the credit union's books, willfully refuses or neglects to make any proper entry in those books as required by law, or (3) refuses to allow the books to be inspected or extracts to be taken therefrom by the commissioner or the commissioner's deputies or examiners, is guilty of a felony.

SEC. 6. Section 14757 is added to the Financial Code, to read:

14757. Any officer, director, employee, or agent of any credit union who willfully misapplies any money, funds, or property of the credit union, or willfully misapplies the credit union's credit, is guilty of a felony.

SEC. 7. Section 14758 is added to the Financial Code, to read:

14758. Any director, officer, or employee of a credit union who makes or maintains, or attempts to make or maintain, a deposit of the

credit union's funds with any other person on the condition or with the understanding, whether express or implied, that the person receiving that deposit will make a loan or advance, directly or indirectly, to any director, officer, or employee of the credit union is guilty of a felony.

SEC. 8. Section 14759 is added to the Financial Code, to read:

14759. Any officer, director, employee, or agent of any credit union who willfully makes a false or untrue entry in any book, record, report, statement concerning the business or affairs of the credit union, or statement of condition or in connection with any transaction of the credit union with intent to deceive any officer or director thereof, or with intent to deceive any agent or examiner, whether private or public, employed or lawfully appointed to examine into the credit union's condition or to examine into any of the credit union's affairs or transactions, or with intent to deceive any public officer, office, or board to which the credit union is required by law to report or which has authority by law to examine into the credit union's affairs or transactions or to examine into any of the credit union's affairs or transactions or who, with like intent, willfully omits to make a new entry of any matter particularly pertaining to the business, property, condition, affairs, transactions, assets, or accounts of the credit union in any book, record, report, or statement of the credit union, or who with like intent alters, abstracts, conceals, or destroys any book, record, report, or statement of the credit union made, written, or kept, or required to be made, written, or kept by him or her or under his or her direction, is guilty of a felony.

SEC. 9. Section 14760 is added to the Financial Code, to read:

14760. (a) Every director of a credit union is guilty of a misdemeanor who:

(1) In case of the fraudulent insolvency of that credit union, has participated in the fraud; or

(2) Willfully does any act in his or her capacity as director which is expressly forbidden by law or willfully omits to perform any duty imposed upon him or her as such a director by law.

(b) The insolvency of a credit union is deemed fraudulent for the purposes of this section, unless its affairs appear upon investigation to have been administered lawfully and with the same care and diligence that agents receiving a compensation for their services are bound to observe.

SEC. 10. Section 14761 is added to the Financial Code, to read:

14761. Any officer or agent of any credit union who makes or delivers any guaranty or endorsement on behalf of the credit union whereby the credit union may become liable upon any of the credit union's discounted notes, bills, or obligations in a sum beyond the amount of loans and discounts which the credit union may lawfully make, is guilty of a misdemeanor.

SEC. 11. Section 14762 is added to the Financial Code, to read:

14762. A director of a credit union who concurs in any vote or act of the directors of the credit union by which it is intended to make

a loan or discount to any director of the credit union exceeding the amount allowed by law, is guilty of a misdemeanor.

SEC. 12. Section 14763 is added to the Financial Code, to read:

14763. Any officer or employee of any credit union who intentionally conceals from the directors of the credit union any discounts or loans made by the credit union between the regular meetings of its board of directors, or intentionally conceals the purchase of any securities or the sale of the credit union's securities during that period, or who knowingly fails to report to the board of directors when required to do so by law all discounts or loans made by the credit union and all securities purchased or sold by the credit union between the regular meetings of its board of directors, is guilty of a misdemeanor.

SEC. 13. Section 14764 is added to the Financial Code, to read:

14764. No credit union shall purchase any real or personal property or any interest in real or personal property, including, but not limited to, a leasehold, or any contract arising from the sale of real or personal property or any note or bond in which any officer, director, or employee of the credit union is personally or financially interested, directly or indirectly, for that person's own account or as the partner or agent of others, without first obtaining the written consent of the commissioner.

SEC. 14. Section 14765 is added to the Financial Code, to read:

14765. No officer, director, or employee of a credit union shall purchase, directly or indirectly, or be interested in the purchase of, any of the credit union's assets for an amount less than the then current market value thereof. Every person violating this section shall be liable to the people of this state for each offense in the amount of twice the market value of the assets so purchased.

SEC. 15. Section 14766 is added to the Financial Code, to read:

14766. No officer, director, or employee of a credit union, directly or indirectly, shall purchase or be interested in the purchase of, any of the credit union's obligations or assets for an amount less than the book value thereof, unless all the directors of the credit union previously approve the purchase by resolution and a copy of the resolution is delivered to the commissioner immediately after adoption. Every person violating this section shall be liable to the people of this state for each offense in the amount of twice the face value of the assets so purchased.

SEC. 16. Within 45 days of the filing of this act with the Secretary of State, the Commissioner of Corporations, with respect to each state-chartered credit union with aggregate share accounts in the amount of ten million dollars ($10,000,000) or less, as of June 30, 1986, shall notify these credit unions of the new prohibitive practices provisions and penalties of this act.

SEC. 17. 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 674

An act to amend Sections 4216 and 4217 of the Government Code, relating to subsurface installations.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 4216 of the Government Code is amended to read:

4216. (a) For purposes of this section the following terms mean:

(1) "Approximate location of subsurface installations" means a strip of land not more than 24 inches on either side of the exterior surface of the subsurface installation." "Approximate location" does not mean depth.

(2) "Excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives in any of the following ways: grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, cable or pipe plowing and driving, or any other way.

(3) "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Unexpected occurrence" includes, but is not limited to fires, floods, earthquakes or other soil or geologic movements, riots, accidents, or sabotage.

(4) "Inquiry identification number" means the number which is provided by a regional notification center to every person who contacts the center pursuant to subdivision (c) or (d).

(5) "Local agency" means a city, county, city and county, school district, or special district.

(6) "Regional notification center" means a nonprofit association or other organization of operators of subsurface installations which provides advance warning of excavations or other work close to existing subsurface installations, for the purpose of protecting those installations from damage, removal, relocation, or repair.

(7) "State agency" means every state agency, department, division, bureau, board, or commission.

(8) "Subsurface installation" means any underground pipeline, conduit, duct, wire, or other structure, except nonpressurized sewerlines, nonpressurized storm drains, or other nonpressurized drain lines, operated or maintained in or across a public street or

public right-of-way.

(b) Every owner of a subsurface installation, except the Department of Transportation, shall become a member of, participate in, and share in the costs of a regional notification center. Owners of subsurface installations who are members of, participate in, and share in the costs of a regional notification center, including, but not limited to, the South Shore Utility Coordinating Council, the Underground Service Alert—Northern California or the Underground Service Alert—Southern California, on or after July 1, 1984, shall be deemed to be in compliance with the provisions of this section and Section 4217.

(c) Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center, at least two working days prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator and, if practical, that person shall delineate with white paint or other suitable markings the area to be excavated. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation.

(d) Every person planning to conduct an excavation in a private easement may contact the appropriate regional notification center if the private easement is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator and, if practical, that person shall delineate with white paint or other suitable markings the area to be excavated. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation.

(e) Any member who receives timely notification of any proposed excavation work in accordance with subdivision (c) or (d) shall, within two working days of that notification, excluding weekends and holidays, or before the start of the excavation work, whichever is later, or at a later time mutually agreeable to the member and the excavator, locate and field mark the approximate location of subsurface installations which may be affected by the excavation to the extent and degree of accuracy that the information is available either in the records of the member or as determined through the use of standard locating techniques other than excavating, otherwise advise the person who contacted the center of the location of the member's subsurface installations which may be affected by the excavation, or advise the person that the member does not operate any subsurface installations that would be affected by the proposed excavation.

(f) Every member who field marks the location of a subsurface

installation shall make a reasonable effort to make field markings in conformance with the following color code and type of installation:

(1) Safety Red—electric power, distribution, and transmission installations, or municipal electric installations.

(2) High Visibility Safety Yellow—gas distribution and transmission installations, oil distribution and transmission installations, or installations containing or transporting dangerous materials, products, or steam.

(3) Safety Alert Orange—telephone and telegraph installations, police and fire communication installations, and cable television installations.

(4) Safety Precaution Blue—water installations and slurry pipe lines.

(5) Safety Green—Sewer installations.

(g) The excavator shall determine the exact location of subsurface installations located in accordance with subdivision (e) by excavating with hand tools within the area of the approximate location of subsurface installations as determined by the field marking provided in accordance with subdivision (e) before using any power-operated or power-driven excavating or boring equipment within the approximate location of the subsurface installation, except that power-operated or power-driven excavating or boring equipment may be used for the removal of any existing pavement if there are no subsurface installations contained in the pavement. If mutually agreeable with the member and the excavator, the excavator may utilize power-operated or power-driven excavating or boring equipment within the approximate location of a subsurface installation and to any depth.

(h) If the exact location of the subsurface installation cannot be determined by hand excavating in accordance with subdivision (g), the excavator shall request the member to provide additional information to the excavator, to the extent that information is available to the member, to enable the excavator to determine the exact location of the installation.

(i) The requirements of this section shall apply to state agencies and to local agencies which own or operate subsurface installations, except as otherwise provided in subdivision (b). A local agency which is required to provide the services described in subdivision (e) may charge a fee in an amount sufficient to cover the cost of providing that service.

(j) (1) Any member or excavator who knowingly and willfully violates this section is subject to a civil penalty in an amount not to exceed five thousand dollars ($5,000). Any penalties imposed pursuant to this section shall be deposited in the General Fund.

(2) This section is not intended to affect any civil remedies otherwise provided by law for personal injury or for property damage, including any damage to subsurface installations, nor is this section intended to create any new civil remedies for those injuries or that damage.

(3) This section shall not be construed to limit any other provision of law granting governmental immunity to state or local agencies or to impose any liability or duty of care not otherwise imposed by law upon any state or local agency.

(k) This section does not exempt any person or corporation from Sections 7951, 7952, and 7953 of the Public Utilities Code.

SEC. 2. Section 4217 of the Government Code is amended to read:

4217. (a) No permit to excavate issued by any local agency, as defined in Section 4216, or any state agency, shall be valid unless the applicant has been provided an inquiry identification number by a regional notification center pursuant to Section 4216. For purposes of this section, "state agency" means every state agency, department, division, bureau, board, or commission, including the Department of Transportation.

(b) This section does not exempt any person or corporation from Sections 7951, 7952, and 7953 of the Public Utilities Code.

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 675

An act to add Sections 69953.5 and 72199 to the Government Code, relating to courts.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 69953.5 is added to the Government Code, to read:

69953.5. Notwithstanding any other provision of law, whenever a daily transcript is ordered in a civil case requiring the services of more than one phonographic reporter, the party requesting the daily transcript, in addition to any other required fee, shall pay a fee per day, or portion thereof, equal to the per diem rate for pro tempore reporters established by statute, local rule, or ordinance for the services of each additional reporter for the first day and each subsequent day the additional reporters are required.

SEC. 2. Section 72199 is added to the Government Code, to read:

72199. Notwithstanding any other provision of law, whenever a daily transcript is ordered in a civil case requiring the services of more than one phonographic reporter, the party requesting the daily transcript, in addition to any other required fee, shall pay a fee per

day, or portion thereof, equal to the per diem rate for pro tempore reporters established by statute, local rule, or ordinance for the services of each additional reporter for the first day and each subsequent day the additional reporters are required.

CHAPTER 676

An act to amend Sections 208.5 and 707 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 208.5 of the Welfare and Institutions Code is amended to read:

208.5. Notwithstanding any other provision of law, in any case in which a minor who is detained in or committed to a county institution established for the purpose of housing juveniles attains the age of 18 prior to or during the period of detention or confinement he or she may be allowed to come or remain in contact with those juveniles until the age of 19, at which time he or she, upon the recommendation of the probation officer, shall be delivered to the custody of the sheriff for the remainder of the time he or she remains in custody, unless the juvenile court orders continued detention in a juvenile facility. The person shall be advised of his or her ability to petition the court for continued detention in a juvenile facility at the time of his or her attainment of the age of 19. Notwithstanding any other provision of law, the sheriff may allow such a person to come into and remain in contact with other adults in the county jail or in any other county correctional facility in which he or she is housed.

SEC. 2. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation

of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) The provisions of subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Assault with intent to murder or attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in

subdivision (e) of Section 11055 of the Health and Safety Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(d) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is convicted in a court of criminal jurisdiction of an offense listed in subdivision (b) of this section or listed in paragraph (24) of subdivision (c) of Section 1192.7 of the Penal Code, the finding of unfitness which preceded the conviction is applicable to the violation of any law or ordinance defining crime which is alleged to have been committed subsequent to the conviction if the violation would otherwise cause the minor to be a person described in Section 602. The probation officer shall not be required to investigate or submit a report regarding the fitness of a minor for any such subsequent charge. This subdivision shall not be construed to affect the right to appellate review of a finding of

unfitness or the duration of the jurisdiction of the juvenile court as specified in Section 607.

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 677

An act to amend Sections 58775, 58786, 58787, 58788, 58993, 58994, 58995, and 58999 of, and to repeal and add Sections 58991 and 58992 of, the Food and Agricultural Code, relating to marketing orders.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 58775 of the Food and Agricultural Code is amended to read:

58775. To provide the director with accurate and reliable information, if that information is not then on file in the department, regarding the persons that may be directly affected by the provisions of any proposed marketing order for any commodity, the director shall, if he or she has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this chapter, or upon receipt of a written application for a hearing pursuant to Section 58771, notify all handlers of the commodity to file with the director, within 30 days from the last date of the notice, a report, properly certified, which shows all of the following:

(a) The correct name and address of such handler.

(b) The quantities of the commodity that are affected by the proposed marketing order which were handled by the handler in the marketing season next preceding the filing of the report or the current marketing season if the harvest and delivery of the commodity to handlers is complete.

(c) The correct name and address of every producer of the commodity, that may be directly affected by the proposed marketing order, from whom the handler received the commodity in the marketing season next preceding the filing of the report or the current marketing season if the harvest and delivery of the commodity to handlers is complete.

(d) The director may also require all handlers to report quantities of the commodity which were received by the handler from each producer in the marketing season next preceding the filing of the

report or the current marketing season if the harvest and delivery of the commodity to handlers is complete.

SEC. 2. Section 58786 of the Food and Agricultural Code is amended to read:

58786. At a public hearing which is held to consider a proposed marketing order or major amendments to an existing marketing order, the director shall also receive evidence from which the director can determine whether the assent, approval, or favor of the producers, handlers, or processors affected shall be determined by written assents or by referendum as prescribed in Article 12 (commencing with Section 58991).

SEC. 3. Section 58787 of the Food and Agricultural Code is amended to read:

58787. Upon the conclusion of the hearing, the director shall make a finding which is based upon the evidence received, whether assent, approval, or favor shall be determined by written assents or by referendum.

SEC. 4. Section 58788 of the Food and Agricultural Code is amended to read:

58788. If the director finds that a referendum shall be had, the director shall direct that a referendum be held in accordance with Sections 58991 to 58998, inclusive. If a referendum is conducted, the director is not required, with respect to the assent, approval, or favor, to make a finding pursuant to Section 58785 concerning, or to fix and limit, the period during which assents may be received by the director.

SEC. 5. Section 58991 of the Food and Agricultural Code is repealed.

SEC. 6. Section 58991 is added to the Food and Agricultural Code, to read:

58991. A marketing order or major amendment to it, which directly affects handlers, that is issued pursuant to this chapter, shall not become effective unless and until the director finds one of the following has occurred:

(a) It has been assented to in writing by not less than 65 percent of the handlers that are engaged, within the area specified in the marketing order or amendment to it, in the handling of the commodity which is regulated by the marketing order.

(b) It has been assented to in writing by handlers that handle not less than 65 percent of the volume of the commodity which is regulated by the marketing order.

(c) It has been approved by handlers in a referendum among handlers that are directly affected. The director may make the finding pursuant to this subdivision if the valid votes cast in the referendum represent not less than 40 percent of the total number of handlers of the commodity of record with the department, and if the handlers that cast ballots in the referendum in favor of the marketing order or amendment to it represent not less than 65 percent of the total number of handlers that cast ballots in the

referendum and handled not less than 51 percent of the total quantity of the commodity which was marketed in the next preceding marketing season, or the current marketing season if the harvest and delivery of the commodity to handlers is complete, by all of the handlers that cast ballots in the referendum, or if the handlers that cast ballots in the referendum in favor of the marketing order or amendment represent not less than 51 percent of the total number of handlers that cast ballots in the referendum and handled not less than 65 percent of the total quantity of the commodity which was handled in the next preceding marketing season, or the current marketing season if the harvest and delivery of the commodity to handlers is complete, by all of the handlers who cast ballots in the referendum. The quantity of the commodity handled by the handler may be stated on the referendum ballot returned by each handler or may be obtained by requiring handlers to report that volume pursuant to Section 58775.

SEC. 7. Section 58992 of the Food and Agricultural Code is repealed.

SEC. 8. Section 58992 is added to the Food and Agricultural Code, to read:

58992. Any marketing order or major amendment to it which directly affects processors that are engaged in the operation of canning of fresh fruits or vegetables or canning or packing of dried fruits shall not be made effective by the director unless and until the director finds one of the following has occurred:

(a) The marketing order or amendment to it has been assented to in writing by the processors that are engaged in the marketing activity which is regulated by the marketing order or amendment to it that processed not less than 65 percent of the volume of the commodity which is processed within the area defined in the marketing order or amendment to it and by 65 percent of the number of the processors that are engaged in the marketing activity which is regulated by the marketing order or amendment to it.

(b) It has been approved by processors in a referendum among processors that are directly affected. The director may make the finding pursuant to this subdivision if the valid votes cast in the referendum represent not less that 40 percent of the total number of processors of the commodity of record with the department, and if the processors that cast ballots in the referendum in favor of the marketing order or amendment to it represent not less than 65 percent of the total number of processors that cast ballots in the referendum and processed not less than 51 percent of the total quantity of the commodity which was marketed in the next preceding marketing season, or the current marketing season if the harvest and delivery of the commodity to processors is complete, by all of the processors that cast ballots in the referendum, or if the processors that cast ballots in the referendum in favor of the marketing order or amendment represent not less than 51 percent of the total number of processors that cast ballots in the referendum

and processed not less than 65 percent of the total quantity of the commodity which was marketed in the next preceding marketing season or the current marketing season if the harvest and delivery of the commodity to processors is complete, by all of the processors who cast ballots in the referendum. The quantity of the commodity processed by the processor may be stated on the referendum ballot returned by each processor or may be obtained by requiring processors to report that volume pursuant to Section 58775.

SEC. 9. Section 58993 of the Food and Agricultural Code is amended to read:

58993. No marketing order or major amendment to it, which directly affects producers or producer marketing, that is issued pursuant to this chapter, shall be made effective by the director unless and until the director finds one or more of the following has occurred:

(a) It has been assented to in writing by not less than 65 percent of the producers that are engaged, within the area specified in the marketing order or amendment to it, in the production for market, or engaged in the producer marketing, of not less than 51 percent of the commodity which is specified in the marketing order or the amendment to the marketing order in commercial quantities.

(b) It has been assented to in writing by producers that produce not less than 65 percent of the volume of the commodity and by 51 percent of the total number of producers that are so engaged.

(c) It has been approved by producers in a referendum among producers that are directly affected. The director may make the finding if the valid votes cast in the referendum represent not less than 40 percent of the total number of producers of the commodity of record with the department, and if the producers that cast ballots in the referendum in favor of the marketing order or amendment to it represent not less than 65 percent of the total number of producers that cast ballots in the referendum and marketed not less than 51 percent of the total quantity of the commodity which was marketed in the next preceding marketing season, or the current marketing season if the harvest and delivery of the commodity to handlers is complete, by all of the producers that cast ballots in the referendum or if the producers that cast ballots in the referendum in favor of the marketing order or amendment represent not less than 51 percent of the total number of producers that cast ballots in the referendum and marketed not less than 65 percent of the total quantity of the commodity which was marketed in the next preceding marketing season, or the current marketing season if the harvest and delivery of the commodity to handlers is complete, by all of the producers who cast ballots in the referendum. The quantity of the commodity delivered by the producer may be stated on the referendum ballot returned by each producer or may be obtained by requiring handlers to report that volume pursuant to Section 58775.

SEC. 10. Section 58994 of the Food and Agricultural Code is amended to read:

58994. If any marketing order or any major amendment to any marketing order is issued by the director for the approval of producers, handlers, or processors, the director shall determine whether the approval shall be by written assents or by referendum.

SEC. 11. Section 58995 of the Food and Agricultural Code is amended to read:

58995. If the director determines that it should be by referendum, the director shall establish a referendum period not to exceed 30 days. If the director determines that the referendum period so established does not provide sufficient time for the balloting, the director may extend the referendum period not more than 15 additional days. At the close of the referendum period, the director shall count and tabulate the ballots filed during the referendum period.

SEC. 12. Section 58999 of the Food and Agricultural Code is amended to read:

58999. In finding whether the marketing order or major amendment to it is assented to in writing or approved or favored by producers pursuant to the provisions of this chapter, the director shall consider the approval of any nonprofit agricultural cooperative marketing association, which is authorized by its members so to assent, as being the assent, approval, or favor of the producers that are members of, or stockholders in, that nonprofit agricultural cooperative marketing association.

CHAPTER 678

An act to amend Sections 9102.5 and 27906 of, and to add Section 25257.2 to, the Vehicle Code, relating to schoolbuses.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 9102.5 of the Vehicle Code is amended to read:

9102.5. (a) In lieu of all other fees which are specified in this code, except fees for duplicate plates, certificates, or cards, a fee of ten dollars ($10) shall be paid for the registration and licensing of any privately owned schoolbus, as defined in Section 545, which is either of the following:

(1) Owned by a private nonprofit educational organization and operated in accordance with the rules and regulations of the Department of Education and the Department of the California Highway Patrol exclusively in transporting school pupils, or school pupils and employees, of the private nonprofit educational organization.

(2) Operated in accordance with the rules and regulations of the Department of Education and the Department of the California Highway Patrol exclusively in transporting school pupils, or school pupils and employees, of any public school or private nonprofit educational organization pursuant to a contract between a public school district or nonprofit educational organization and the owner or operator of the schoolbus.

This section does not apply to any schoolbus which is operated pursuant to any contract which requires the public school district or nonprofit educational organization to pay any amount representing the costs of registration and weight fees unless and until the contract is amended to require only the payment of an amount representing the fee required by this section.

(b) When a schoolbus under contract and registered pursuant to subdivision (a) is to be temporarily operated in such a manner that it becomes subject to full registration fees specified in this code, the owner may, prior to that operation, as an alternative to the full registration, secure a temporary permit to operate the vehicle in this state for any one or more calendar months. The permit shall be posted upon the windshield or other prominent place upon the vehicle, and shall identify the vehicle to which it is affixed. When so affixed, the permit shall serve as indicia of full registration for the period designated on the permit. Upon payment of the fees specified in Section 9266.5, the department may issue a temporary permit under this section.

(c) Notwithstanding any other provision, any schoolbus used exclusively to transport students at or below the 12th-grade level to or from any school, for an education-related purpose, or for an activity sponsored by a nonprofit organization shall be deemed to be a schoolbus for the purposes of this section and shall pay a fee of ten dollars ($10) in lieu of all other fees which are specified in this code, except fees for duplicate plates, certificates, or cards.

(d) This section does not apply to a schoolbus, operated to transport persons who are developmentally disabled, as defined by the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code), to or from vocational, prevocational, or work training centers sponsored by the State Department of Developmental Services.

SEC. 2. Section 25257.2 is added to the Vehicle Code, to read:

25257.2. Any schoolbus which is also used for the transportation of persons of any age who are developmentally disabled, as defined by the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code), may be equipped with a flashing red light signal system when transporting those persons. However, the flashing red light signal system shall not be lighted at any time while engaged in the transportation of those persons.

SEC. 3. Section 27906 of the Vehicle Code is amended to read:

27906. (a) Every schoolbus, while being used for the

transportation of school pupils at or below the 12th-grade level shall bear upon the front and rear of the bus a plainly visible sign containing the word "schoolbus" in letters not less than eight inches in height. The letters on schoolbus signs shall be of proportionate width.

Except as provided in subdivision (b), no other vehicle shall display a sign containing the word "schoolbus."

(b) Notwithstanding subdivision (a), a schoolbus which is also used to transport persons of any age who are developmentally disabled, as defined by the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code), may display a sign containing the word "schoolbus" while transporting those persons to or from vocational, prevocational, or work training centers sponsored by the State Department of Developmental Services.

(c) Every schoolbus, when operated for the transportation of school pupils at or below the 12th-grade level, shall bear upon the rear of the bus, below the rear windows, a plainly visible sign containing the words "Stop When Red Lights Flash" in letters not less than six inches in height. The letters on schoolbus signs shall be of proportionate width.

CHAPTER 679

An act to amend Section 20134 of the Public Contract Code, relating to jail facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 20134 of the Public Contract Code is amended to read:

20134. (a) In cases of great emergency, including, but not limited to, states of emergency described in Section 8558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of county operations or services, or to avoid danger to life or property, the board of supervisors, by majority consent, may proceed at once to replace or repair any and all structures without adopting the plans, specifications, strain sheets, or working details or giving notice for bids to let contract. The work may be done by day labor under the direction of the board, by contract, or by a combination of the two. If the work is done wholly or in part by contract, the contractor shall be paid the actual cost of the use of machinery and tools and of material, and labor and of workers' compensation insurance expended by him or her in doing

the work, plus not more than 15 percent to cover all profits and administration. No more than the lowest current market prices shall be paid for materials whenever possible.

(b) In a county of the first, second, or third class, which is under court order to relieve jail overcrowding or in which the sheriff certifies that the inmate capacity of the county jail system is exceeded by more than 20 percent and that the overpopulation is likely to continue and poses a threat to public safety, health, and welfare, the board of supervisors may contract for the construction or expansion of jail facilities without the formality of obtaining bids, adopting plans and specifications, or complying with other requirements of this article, except as required by this subdivision. The person to whom the contract is awarded shall execute a bond for faithful performance in accordance with Section 20129. Any plans and specifications adopted by the board may only be altered or changed in accordance with Section 20135 and all contracts awarded pursuant to this subdivision may only be altered or changed in accordance with Sections 20136, 20137, and 20138. The award of the contract shall be made after a public hearing on the basis of a request for proposals advertised in accordance with Section 6062 or 6062a of the Government Code. The contract may be awarded only to a contractor who has responded to the request for proposals and who is licensed to do the work in accordance with Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. The contract shall be upon terms which the board determines are necessary for the expeditious completion of the work. A contract shall not be entered into unless at least three proposals to do the work have been evaluated by a competitive process established by the board. If the board does not select the lowest bidder, it shall make a finding stating the reasons that the lowest bidder was not selected.

(c) Construction or expansion of jail facilities as authorized under this section shall not commence in a county of the third class without the affirmative vote of a majority of the city council of the incorporated city within which the construction or expansion is proposed.

(d) The board of supervisors may waive the requirements of Chapter 5 (commencing with Section 5100) of Part 1 of Division 2 of the Public Contract Code for work performed pursuant to subdivision (a) or (b).

SEC. 2. The Legislature finds that there are unique problems in counties of the first, second, and third class and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution and that the enactment of this act is necessary for the solution of those problems.

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 counties whose facilities for housing prisoners are severely overcrowded may relieve those conditions of overcrowding at the earliest possible time by commencing the construction or replacement of county jail facilities in accordance with procedures authorized by this act, it is necessary that this act go into immediate effect.

CHAPTER 680

An act to amend Sections 18205.5 and 18210 of, and to add Section 18017 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 18017 is added to the Financial Code, to read:

18017. "Assets," as used in this division, means all assets excluding intangibles.

SEC. 2. Section 18205.5 of the Financial Code is amended to read:

18205.5. Notwithstanding any other provision of this division, an industrial loan company may make a loan or acquire an obligation which is repayable in unequal periodic payments during its term, and which is secured by either real property or personal property, or both, provided that it is not a consumer loan or a consumer obligation subject to subdivision (b) of Section 18210. In order to ensure the safety and soundness of industrial loan companies and to avoid an unreasonable concentration of loans and obligations that could result in balloon payments, all these loans and obligations with a term in excess of 10 years shall be repaid in substantially equal weekly, semimonthly, monthly, or quarterly installments during the term. For purposes of this section, "real property" means real property other than home loans and other residential real property loans subject to Title VIII (Alternative Mortgage Transaction Parity Act of 1982) of the Garn-St. Germain Depository Institutions Act of 1982, as those terms are defined in Part 541 of Title 12 of the Code of Federal Regulations, as amended.

SEC. 3. Section 18210 of the Financial Code is amended to read:

18210. (a) Except as provided in Sections 18205.5 and 18209 and subject to subdivisions (b) and (d), an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless the loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term which shall not exceed 15 years from the date the loan or other obligation is made or acquired by the company.

(b) Any consumer loan or any purchase or discount of any consumer obligation having a term in excess of three years from the date the loan or other obligation is made or acquired by the company shall be secured solely by real property or solely by personal property. However, if the original principal amount of the consumer loan or obligation is twenty thousand dollars ($20,000) or more, then the loan or obligation shall be secured solely by real property or solely by personal property, or by both real property and personal property. All loans and obligations made and purchased pursuant to this subdivision shall be repayable in installments and within a term not to exceed the limitations set forth in subdivision (a), except that consumer loans or obligations secured solely by personal property shall have a term not to exceed the term provided for in Section 18205 and except as otherwise may be provided for in Sections 18207, 18208, and 18209.

(c) Notwithstanding any other provision of this division, an industrial loan company may make loans and acquire or discount obligations having a term in excess of three years secured primarily by real property pursuant to subdivision (a) or secured solely or primarily by real property pursuant to subdivision (b), provided that all of the loans and obligations in excess of three years shall not in the aggregate exceed 50 percent of the industrial loan company's total assets.

(d) (1) In order to ensure the safety and soundness of industrial loan companies and to avoid an unreasonable concentration of loans and obligations that could result in balloon payments, all loans and obligations specified in subdivision (c) with a term in excess of 10 years shall be repaid in substantially equal weekly, semimonthly, monthly, or quarterly installments during their term.

(2) In the event paragraph (1) is held invalid by any court of competent jurisdiction as preempted by, or in violation of, any federal law, then the aggregate of all loans and obligations having a term in excess of 10 years secured solely or primarily by real property and having other than substantially equal weekly, semimonthly, monthly or quarterly installments during their term shall not exceed 1 percent of an industrial loan company's assets.

CHAPTER 681

An act to amend Section 1346 of the Penal Code, relating to witnesses.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 1346 of the Penal Code is amended to read:

1346. (a) When a defendant has been charged with a violation of Section 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286, 288, 288a, or 289, where the victim either is a person 15 years of age or less or is developmentally disabled as a result of mental retardation, as specified in subdivision (a) of Section 4512 of the Welfare and Institutions Code, the people may apply for an order that the victim's testimony at the preliminary hearing, in addition to being stenographically recorded, be recorded and preserved on video tape.

(b) The application for the order shall be in writing and made three days prior to the preliminary hearing.

(c) Upon timely receipt of the application, the magistrate shall order that the testimony of the victim given at the preliminary hearing be taken and preserved on video tape. The video tape shall be transmitted to the clerk of the court in which the action is pending.

(d) If at the time of trial the court finds that further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable within the meaning of Section 240 of the Evidence Code, the court may admit the video tape of the victim's testimony at the preliminary hearing as former testimony under Section 1291 of the Evidence Code.

(e) Any video tape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) Any video tape made pursuant to this section shall be made available to the prosecuting attorney, the defendant, and his or her attorney for viewing during ordinary business hours. Any video tape which is made available pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim.

(g) The tape shall be destroyed after five years have elapsed from the date of entry of judgment; provided, however, that if an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been rendered.

CHAPTER 682

An act to amend Section 9054 of the Fish and Game Code, relating to sea urchins.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 9054 of the Fish and Game Code is amended to read:

9054. Rakes, airlifts, or other handheld appliances may be used to take sea urchins under a revocable, nontransferable permit issued by the department, subject to regulations prescribed by the commission. The commission may, whenever necessary to prevent overutilization or to ensure efficient and economic operation of the fishery, limit the number of permits which may be issued. The commission, as it determines appropriate to protect the resource, may limit the number of permits either on a statewide basis or within selected geographical areas.

CHAPTER 683

An act to amend Section 13021 of the Unemployment Insurance Code, relating to income tax withholding.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 13021 of the Unemployment Insurance Code is amended to read:

13021. (a) Every employer required to withhold any tax under Section 13020 shall for each calendar quarter, whether or not wages are paid in the quarter, file a withholding return in a form prescribed by the department, and pay over the taxes so required to be withheld. Except as provided in subdivisions (b), (c), and (d) of this section, the employer shall file a withholding return and remit the total amount of income taxes withheld during the calendar quarter on or before the last day of the month following the close of the calendar quarter.

(b) The employer shall remit the total amount of income tax withheld during each first or second month of each calendar quarter, on or before the 16th day of the second calendar month or within three banking days of the 19th day of the third calendar month, respectively, if the income tax withheld for that month is more than

three hundred fifty dollars ($350).

(c) The employer shall remit the total amount of income tax withheld from the first through the 19th calendar day of the third month of each calendar quarter, within three banking days of the 19th day of the third month if the income tax withheld for that period is more than two hundred twenty-two dollars ($222). Notwithstanding Section 1112, no interest or penalties shall be assessed against any employer who remits at least 95 percent of the amount required by this subdivision provided that the failure is not willful and any remaining amount due is paid with the next payment.

(d) Notwithstanding subdivision (b) or (c), whenever for federal income tax purposes under Section 6302 of the Internal Revenue Code, and regulations adopted thereto, the employer is required to remit the total amount of income tax withheld within three banking days following the close of each eighth-monthly period (first through third day, fourth through seventh day, eighth through 11th day, 12th through 15th day, 16th through 19th day, 20th through 22nd day, 23rd through 25th day, and 26th through last day of month), the employer shall remit the total amount of income tax withheld for state income tax purposes for each eighth-monthly period within three banking days following the close of each eighth-monthly period if the income tax withheld for that period is more than seventy-five dollars ($75). Notwithstanding Section 1112, no interest or penalties shall be assessed against any employer who remits at least 95 percent of the amount required by this subdivision provided that the failure is not willful and any remaining amount due is paid with the next payment. The director may allow any employer to submit the amounts due from multiple locations upon a showing of necessity in order to comply with the provisions of this subdivision.

(e) The department may, if it believes such action is necessary, require any employer to make the return required by this section and pay to it the tax deducted and withheld at any time, or from time to time but no less frequently than provided for in subdivision (a).

(f) For the purpose of this section, payment is deemed complete when it is placed in a properly addressed envelope, bearing the correct postage, and it is deposited in the United States mail.

(g) The amendment to this section made by the act adding this subdivision shall become operative on and after January 1, 1984.

CHAPTER 684

An act to add Chapter 3 (commencing with Section 14999.30) to Part 5.7 of Division 3 of Title 2 of the Government Code, relating to film permits.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986]

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

SECTION 1. (a) The Legislature hereby reaffirms its intent to encourage local governments to develop uniform procedures for issuing film permits and to charge only reasonable fees for the use of agency property or employee services not exceeding the cost of providing the property or services.

The Legislature further recognizes that while all local governments do not require film permits, if a city, county, city or county does require a film permit, then the city, county, city or county is hereby encouraged to adopt and to utilize the uniform application and issuance established by this act process.

SEC. 2. Chapter 3 (commencing with Section 14999.30) is added to Part 5.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3. UNIFORM FILM PERMIT

14999.30. This chapter shall be known and may be cited as the Uniform Film Permit Act.

14999.31. The California Film Office shall encourage the use of the uniform application form described in Section 14999.32 for obtaining a local permit to engage in film production within the jurisdiction of a county, city, or city and county. As used in this chapter "film" includes, but is not limited to, feature motion pictures, video tapes, television motion pictures, commercials, and stills. "Production" means the activity of making a film for commercial or noncommercial purposes on property owned by a county, city, or city and county or on private property within the jurisdiction of a county, city, or city and county.

14999.32. The uniform film permit application form shall include all of the following provisions:

(a) The name, address, and telephone number of the applicant or duly authorized representative, and, if available, of the director, first assistant director, unit production manager, or location manager.

(b) The name and address of the individual or production company to whom the permit is to be issued.

(c) The type of the production or project.

(d) The date(s), time(s), and location(s) (including preparation and striking days).

(e) A brief description of the proposed filming activity, including

any other activity which would affect the use of public facilities in the area.

(f) An estimate of the number of individuals in cast and crew.

(g) An estimate of the types and number of vehicles.

(h) If an applicant intends to use either wild animals, chemicals, explosives or fire, or intends to engage in any other hazardous activity, a statement to that effect.

(i) Any additional information the county, city, or city and county deems necessary.

14999.33. (a) If a county, city, or city and county requires a film permit, it is encouraged to use the uniform film permit application form when processing film permit applications. Those jurisdictions participating in the regional permit pilot project pursuant to Section 14998.15 are also encouraged to work within the provisions of this chapter.

(b) A completed uniform film permit application which has been approved by the county, city, or city and county shall constitute the local film permit.

14999.34. This chapter shall apply to any city, including any charter city.

CHAPTER 685

An act to add and repeal Section 53077.5 of the Government Code, relating to local agencies.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 53077.5 is added to the Government Code, to read:

53077.5. (a) Except as otherwise provided in subdivision (b), any local agency which imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs last, provided, that utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs last; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs last; or on a lump-sum basis when the last dwelling in the

development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (1) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (2) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(c) "Local agency," as used in this section, means a county, city, or city and county, whether general law or chartered, or district. "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.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition.

(f) The Legislative Analyst shall submit a report to the Legislature by January 1, 1992, which evaluates the implementation of this section. In preparing the report, the Legislative Analyst shall consult with individuals and associations who, in the opinion of the Legislative Analyst, are knowledgeable about the impact of this section. Those individuals and associations shall include, but not be limited to, representatives of builders, landowners, planners, civil engineers, land surveyors, counties, cities, school districts, special districts, and public utilities.

(g) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 2. No reimbursement is required 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 686

An act to add Section 4800.8 to the Civil Code, relating to family law.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 4800.8 is added to the Civil Code, to read:

4800.8. The court shall make whatever orders are necessary or appropriate to assure that each party receives his or her full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, either of the following:

(a) Order the division of any retirement benefits payable upon or after the death of either party in a manner consistent with Section 4800.

(b) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, in any case in which a retirement plan provides for such an election.

SEC. 2. It is the intent of the Legislature to abolish the terminable interest rule set forth in Waite v. Waite, 6 Cal. 3d 461, and Benson v. City of Los Angeles, 60 Cal. 2d 355, in order that retirement benefits shall be divided in accordance with Section 4800.

CHAPTER 687

An act to amend Sections 5301, 5302, and 5305 of, and to repeal Article 6 (commencing with Section 8200) of Chapter 4 of Division 3 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 5301 of the Vehicle Code, as added by Chapter 695 of the Statutes of 1982, is amended to read:

5301. Notwithstanding any other provision of this code and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, the registered owner or lessee of a fleet of vehicles consisting of commercial motor vehicles or commercial trailers, proportionately registered commercial trailers base plated in the state under Article 5 (commencing with Section 8150) of Chapter 4, or passenger automobiles may, upon payment of appropriate fees,

apply to the department for permanent license plates or decals and registration cards.

Fleets shall consist of at least 500 vehicles to qualify for this program. However, the department may provide for permanent fleet registration through an association providing a combination of fleets of vehicles of more than 1,000 vehicles with no individual fleet of fewer than 100 vehicles. An association submitting an application of participation in the program shall provide within the overall application a listing identifying the owner of each fleet and the vehicles within each fleet. Identification of the vehicles as provided in this article applies to the ownership of the vehicles and not the association submitting the application.

SEC. 2. Section 5302 of the Vehicle Code is amended to read:

5302. (a) Vehicles registered in any state other than California shall not be permitted to participate in this program.

(b) Section 4604 does not apply to vehicles registered under this article.

(c) The department may conduct an audit of the records of each fleet owner or lessee of the vehicle fleets electing to participate in the program. The department shall be fully reimbursed by the fleet owner or lessee for the costs of conducting the audits.

(d) Vehicles registered under this article shall display in a conspicuous place on both the right and the left side of each motor vehicle and on both the right and left side or on the front and rear of each trailer, the name, trademark, or logo of the company. The display of the name, trademark, or logo shall be in letters in sharp contrast to the background and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet.

SEC. 3. Section 5305 of the Vehicle Code is amended to read:

5305. In addition to any other fees due for vehicles registered pursuant to this article, the department may charge and collect a service fee of one dollar ($1) for each fleet vehicle at the time the initial application is submitted to the department and at the time of registration renewal of each fleet vehicle, except that the department may charge and collect a service fee of two dollars ($2) for each proportionately registered commercial trailer upon initial application for, and upon renewal of, registration.

SEC. 4. Article 6 (commencing with Section 8200) of Chapter 4 of Division 3 of the Vehicle Code is repealed.

CHAPTER 688

An act to amend Sections 56839, 57081, and 65927 of the Government Code, relating to local agencies.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 56839 of the Government Code is amended to read:

56839. (a) If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, 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 local agencies, the commission shall direct the executive officer to give each local agency mailed notice of that change. The commission shall not, without the written consent of all local agencies, 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.

SEC. 2. Section 57081 of the Government Code is amended to read:

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 local agency 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 territory.

(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.

SEC. 3. Section 65927 of the Government Code is amended to read:

65927. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density of intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Nothing in this section shall be construed to subject the approval or disapproval of final subdivision maps to the provisions of this chapter.

"Development" does not mean a "change of organization", as defined in Section 56021 or a "reorganization", as defined in Section 56073.

CHAPTER 689

An act to add and repeal Article 5 (commencing with Section 872.570) of Chapter 2 of Title 10.5 of Part 2 of the Code of Civil Procedure, relating to real property.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Article 5 (commencing with Section 872.570) is added to Chapter 2 of Title 10.5 of Part 2 of the Code of Civil Procedure, to read:

Article 5. Preliminary Proceedings

872.570. (a) This section applies only to actions for the partition of real property having a reasonable estimated market value not exceeding two hundred thousand dollars ($200,000), as determined by the court.

(b) If more than 60 days have elapsed following completion of service of the complaint on all named defendants, or if each named defendant has filed an answer to the complaint and more than 30 days have elapsed following the date on which the last of these answers was filed, the court shall, upon the motion of any party, appoint a referee to make preliminary factual determinations respecting the rights and obligations of the parties. These preliminary determinations shall also include a recommendation for division of the property or for sale of the property and division of the proceeds among the parties. The referee's preliminary determinations and recommendations shall be in writing and shall be submitted to the court no later than 60 days following appointment of the referee.

(c) Upon receipt of the referee's preliminary determinations and recommendations, the court shall set the matter for trial, consider any objections to the report, and determine any contested or remaining issues.

(d) The court shall appoint a referee pursuant to this section no later than 30 days following the filing of a motion therefor by any party.

872.571. 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.

CHAPTER 690

An act to amend Sections 14, 14.1, 14.2, and 14.3 of, to repeal and add Section 8.4 of, and to repeal Section 8.5 of, the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945), relating to the Riverside County Flood Control and Water Conservation District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 8.4 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is repealed.

SEC. 1.2. Section 8.4 is added to the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945), to read:

Sec. 8.4. The annexation and detachment of territory from Zone 6 of the district by the repeal and reenactment of Section 8 by Chapter 271 of the Statutes of 1984 shall be complete and effective on the effective date of this section. A statement and map of this boundary change shall be filed in accordance with Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 of the Government Code. The taxes and assessments previously levied by the Coachella Valley Water District on the territory annexed to the Riverside County Flood Control and Water Conservation District by this boundary change shall be allocated to the Riverside County Flood Control and Water Conservation District. The taxes and assessments previously levied by the Riverside County Flood Control and Water Conservation District on the territory detached from that district by this boundary change shall be allocated to the Coachella Valley Water District.

SEC. 1.4. Section 8.5 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is repealed.

Section 14 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is amended to read:

Sec. 14. (a) The board of supervisors of the district shall have power in any year to do both of the following:

(1) Levy an ad valorem tax or assessment upon all taxable property in the district to pay the costs and expenses of the Riverside County Flood Control and Water Conservation District and to carry out any of the objects or purposes of this act of common benefit to the district as a whole; provided, however, that the ad valorem tax or assessment shall not exceed two and one-half cents ($0.025) on

each one hundred dollars ($100) of assessed valuation.

(2) Levy an ad valorem tax or assessment upon all taxable property in each or any of the zones, according to the benefits derived or to be derived by the respective zones to pay the cost and expenses of carrying out any of the objects or purposes of this act of special benefit to the respective zones, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works or improvements within the respective zones. Except as provided in subdivisions (b) and (c), in the case of any assessment under this act, the benefit may be determined on the basis of the proportionate storm water runoff from each parcel.

(b) Whenever a railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way is included within an area proposed to be assessed, the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the assessment only if, and to the extent that, it is found that it will benefit from the service, and the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the same penalties, and the same procedure and sale, in the event of delinquencies, as other parcels in the assessment area. In determining whether or not the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way benefits from the services provided, its use as a right-of-way for a railroad, gas, water, telephone, cable television, electric, or other utility shall be presumed to be permanent.

(c) Proportionate storm water runoff may be used as a measure of benefit on an undeveloped parcel of land pursuant to this section only if, and to the extent that, it is found that it will benefit from the service.

For the purposes of this section, "undeveloped parcel of land" means a parcel of rural land in its undeveloped natural state, although the land may be grazed, if otherwise undisturbed, in a manner consistent with the normally accepted grazing land management practices for that geographic area. "Undeveloped parcel of land" also includes wetlands and marshlands if undisturbed and subject to periodic inundation. For purposes of this section, "rural land" is land which is outside of an urbanized area as designated by the most recent federal decennial census of the United States Bureau of the Census.

(d) The taxes or assessments shall be levied and collected together with, and not separately from, taxes for county purposes, and the revenues derived from the taxes or assessments shall be paid into the county treasury to the credit of the district and the board of supervisors of the district shall have the power to control and order the expenditure thereof for those purposes; provided, however, that no revenues, or portions thereof, derived in any of the several zones from the taxes or assessments levied under the provisions of

paragraph (2) of subdivision (a) shall be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone except joint projects or joint works of improvement in two or more zones or works of improvement which are for the common benefit of two or more zones; and provided further, however, that the aggregate taxes or assessments levied under this act for any one fiscal year shall not exceed forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation of the taxable property in the zones exclusive of any tax levied to meet the bonded indebtedness of any of the zones and the interest thereon.

SEC. 2. Section 14.1 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is amended to read:

Sec. 14.1. The board of supervisors of the district may issue negotiable promissory notes, pursuant to Sections 14.2 and 14.3, bearing interest at a rate not exceeding the rate specified in Section 53531 of the Government Code. The promissory notes shall be general obligations of the district or any zone or zones thereof payable from revenue, taxes, or assessments, unless paid from other available funds of the district or zones or zones thereof, in the same manner as bonds of the district.

SEC. 3. Section 14.2 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is amended to read:

Sec. 14.2. The board of supervisors of the district may issue negotiable promissory notes pursuant to this section for any district purpose except those purposes specified in Section 14.3. The maturity of the promissory note shall not be later than seven years from the date thereof. The total aggregate amount of the promissory notes outstanding at any one time shall not exceed the lesser of either seven million dollars ($7,000,000) or 2 percent of the assessed valuation of the taxable property in the district or zone or zones thereof as shown on the last assessment roll.

SEC. 4. Section 14.3 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is amended to read:

Sec. 14.3. The board of supervisors of the district may issue negotiable promissory notes pursuant to this section for the purpose of acquiring funds to finance construction of administrative offices, construction of headquarters, commercial offices or facilities for similar district purposes, and for acquisition of land for any of the foregoing district purposes. The maturity of the promissory notes shall not be later than 10 years from the date thereof. The total aggregate amount of the promissory notes outstanding at any one time shall not exceed the lesser of either two million five hundred thousand dollars ($2,500,000) or 1 percent of the assessed valuation of the taxable property in the district or zone or zones thereof as shown on the last assessment roll.

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 permit the Riverside County Flood Control and Water Conservation District to finance urgently needed flood control and other district facilities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 691

An act to add Division 13 (commencing with Section 16000) to the Fish and Game Code, relating to Indian fishing rights.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Division 13 (commencing with Section 16000) is added to the Fish and Game Code, to read:

DIVISION 13. STATE-TRIBAL AGREEMENTS GOVERNING INDIAN FISHING

CHAPTER 1. LEGISLATIVE FINDINGS

16000. The Legislature finds:

(a) Jurisdiction over the protection and development of natural resources, especially the fish resource, is of great importance to both the State of California and California Indian tribes.

(b) To California Indian tribes, control over their minerals, lands, water, wildlife, and other resources is crucial to their economic self-sufficiency and the preservation of their heritage. On the other hand, the State of California is concerned about protecting and developing its resources; protecting, restoring, and developing its commercial and recreational salmon fisheries; ensuring public access to its waterways; and protecting the environment within its borders.

(c) More than any other issue confronting the State of California and California Indian tribes, the regulation of natural resources, especially fish, transcends political boundaries.

(d) In many cases, the State of California and California Indian tribes have differed in their respective views of the nature and extent of state versus tribal jurisdiction in areas where Indians have historically fished. Despite these frequent and often bitter disputes, both the state and the tribes seek, as their mutual goal, the protection and preservation of the fish resource. This division is an attempt to provide a legal mechanism, other than protracted and expensive

litigation over unresolved legal issues, for achieving that mutual goal.

(e) This division creates a pilot project that will involve and encourage the efforts of the State of California and the Covelo Indian Community of the Round Valley Indian Reservation to reach a mutual agreement regarding the legal framework for the exercise of Indian subsistence fishing in the boundary streams of the historic 1873 Round Valley Indian Reservation. It is hoped that this pilot project, if successful, will provide the incentive for enactment of broader legislation that would authorize similar negotiated agreements with other California Indian tribes.

CHAPTER 2. GENERAL PROVISIONS

16001. The definition in this chapter shall govern the construction of this division.

16002. "Covelo Indian Community" means the confederated tribes of the Round Valley Indian Reservation located in Mendocino County, California, recognized as an Indian tribe by the Secretary of the Interior.

16003. "Take" means pursue, catch, capture, or kill, or attempt to pursue, catch, capture, or kill.

16004. "Traditional Indian fishing practice" means a mode, method, or way of taking fish that is recognized in the customs and traditions of the Covelo Indian Community.

16005. "Historic 1873 Round Valley Indian Reservation" means the reservation described and set aside by Congress for the Covelo Indian Community in the Act of March 3, 1873 (17 Stat. 633).

CHAPTER 3. NEGOTIATION AND APPROVAL OF AGREEMENT

16006. Subject to the approval of the commission, the department may enter into a mutual agreement or compact with the Covelo Indian Community respecting jurisdiction and authority to regulate traditional Indian subsistence fishing practices in the boundary streams of the historic 1873 Round Valley Indian Reservation.

16007. Any agreement or compact entered into pursuant to Section 16006 shall be submitted by the department to the commission for review and approval.

16008. Any agreement or compact entered into pursuant to Section 16006 shall not be effective until they are approved by the commission. The commission may consider and approve an agreement or compact at any of its regular or special meetings.

16009. The commission shall give notice of the time and place of any meeting at which the approval of an agreement or compact entered into under this division will be considered by publishing prior notice in any publication issued by the Resources Agency or the department after determining the time and place of the meeting. The commission shall make copies of the proposed agreement or

compact available to the public on request and the notice shall contain a statement to that effect. All meetings required by this section shall be open to the public.

CHAPTER 4. ENFORCEABILITY OF AN AGREEMENT OR COMPACT

16010. Any agreement or compact entered into pursuant to this division shall be enforceable by the parties only to the extent and in the forum or forums provided for under the terms of the agreement or compact.

16011. The department may promulgate regulations consistent with the provisions of any agreement or compact entered into pursuant to Section 16006. The application and enforcement of those regulations shall be in accordance with the express provisions of the agreement or compact.

CHAPTER 692

An act to amend Section 309 of the Health and Safety Code, relating to health.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 309 of the Health and Safety Code is amended to read:

309. (a) It is the policy of the State of California to make every effort to detect, as early as possible, phenylketonuria and other preventable heritable disorders leading to mental retardation or physical defects.

The State Department of Health Services shall establish a genetic disease unit, which shall coordinate all programs of the state department in the area of genetic disease. The unit shall promote a statewide program of testing information and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program. The tests shall be in accordance with accepted medical practices and shall be administered to each child born in California at such time as the state department has established appropriate regulations and testing methods. The state department may provide laboratory testing facilities or contract with any laboratory which it deems qualified to conduct tests required under this section. However, notwithstanding Section 309.5, provision of laboratory testing facilities by the state department shall be contingent upon the provision of funding therefor by specific appropriation to the Genetic Disease Testing Fund enacted by the Legislature. If moneys appropriated for purposes of this section are

not authorized for expenditure to provide laboratory facilities, the state department may nevertheless contract to provide laboratory testing services pursuant to this section and shall perform laboratory services, including, but not limited to, quality control, confirmatory, and emergency testing, necessary to ensure the objectives of this program.

The state department shall charge a fee for any tests performed pursuant to this section. The amount of the fee shall be established and periodically adjusted by the State Director of Health Services in order to meet the costs of this section.

The state department shall inform all hospitals or physicians, or both, of required regulations and tests and may alter or withdraw any of these requirements whenever sound medical practice so indicates.

This section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his or her religious beliefs or practices.

The genetic disease unit is authorized to make grants or contracts for demonstration projects to determine the desirability and feasibility of additional tests or new genetic services or to initiate the development of genetic services in areas of need or to purchase or provide the services from any sums as are appropriated for this purpose.

The genetic disease unit's first task shall be to evaluate and prepare recommendations on the implementation of tests for the detection of the following diseases: galactosemia, histidinemia, galactokinase deficiency, homocystinuria, maple syrup urine disease, hypothyroidism, and tyrosinosis. The State Department of Health Services shall implement a program for the detection of phenylketonuria, galactosemia, and hypothyroidism commencing on or before January 1, 1980. The genetic disease unit shall prepare and submit a report outlining the compliance with an implementation schedule to the Legislature on or before a date two months after September 14, 1979.

(b) Health care providers which contract with a prepaid group practice health care service plan that annually has at least 20,000 births among its membership, may provide, without contracting with the state department, any or all of the testing and counseling services required to be provided under this section or the regulations adopted pursuant thereto, if the services meet the quality standards and adhere to the regulations established by the state department and the plan pays that portion of a fee established under this section which is directly attributable to the state department's cost of administering the testing or counseling service and to any required testing or counseling services provided by the state for plan members. The payment by the plan, as provided in this subdivision, shall be deemed to fulfill any obligation the provider or the provider's patient may have to the state department to pay a fee in connection with the testing or counseling service.

CHAPTER 693

An act to amend Section 42270 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 42270 of the Vehicle Code is amended to read:

42270. (a) The Department of Motor Vehicles and the Department of the California Highway Patrol each shall file, at least monthly with the Controller, a report of money received by the department covering all fees for applications accepted by the department and all other moneys received by the department under this code and, at the same time, shall remit all money so reported to the Treasurer. On order of the Controller, the Treasurer shall deposit in the Motor Vehicle Account in the State Transportation Fund, into which is merged the Motor Vehicle Account in the Transportation Tax Fund, all moneys so reported and remitted.

Any reference in any law or regulation to the Motor Vehicle Fund, or to the Motor Vehicle Account in the Transportation Tax Fund, shall be deemed to refer to the Motor Vehicle Account in the State Transportation Fund, which is created by subdivision (a) of Section 42271.

(b) The amount of any penalties collected by the department pursuant to Sections 9553 and 9554 of this code and Sections 10770 and 10854 of the Revenue and Taxation Code shall, for purposes of subdivision (a), be deemed to be a percentage of the weight fee, registration fee, and vehicle license fee obtained when applying the total of these fees collected, excluding use tax, against the individual weight fees, registration fees, and vehicle license fees collected on each application. Penalties which cannot be allocated in accordance with this subdivision shall be allocated according to subdivision (c).

(c) The amount of any penalties collected by the department, as provided in Sections 9553 and 9554 of this code and Sections 10770 and 10854 of the Revenue and Taxation Code which cannot be allocated in accordance with subdivision (b), shall, for the purposes of subdivision (a), be deemed to be a percentage of the total fees allocated under this section and under Section 11001 of the Revenue and Taxation Code equal to that percentage of the ratio based on the fees previously allocated under this section and under Section 11001 of the Revenue and Taxation Code in the fiscal year preceding the calendar year for which the penalties are to be allocated. That ratio shall be reevaluated periodically and shall be adjusted to reflect any change in the fee structure that may be provided in this code or in Part 5 (commencing with Section 10701) of Division 2 of the

Revenue and Taxation Code.

(d) Whenever any fee paid to the department has not been allocated within one year of the date of collection, the fee shall be allocated to the Motor Vehicle License Fee Account in the Transportation Tax Fund, and the Motor Vehicle Account and the State Highway Account in the State Transportation Fund, in proportion to the revenue allocated to those accounts by the department in the previous fiscal year.

CHAPTER 694

An act to add Section 25170.5 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986]

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

SECTION 1. Section 25170.5 is added to the Health and Safety Code, to read:

25170.5. (a) Except as provided in subdivision (c), on or after January 1, 1988, the department may plan and construct a model incineration facility for the disposal of hazardous waste if the department makes both of the following findings:

(1) Adequate incineration capacity does not exist within the state to dispose of the hazardous wastes specified in subdivision (a) of Section 25155.5.

(2) Adequate incineration capacity will not be constructed and in operation by January 1, 1990, to dispose of the hazardous wastes specified in subdivisions (a) and (b) of Section 25155.5.

(b) A model incineration facility planned and constructed pursuant to subdivision (a) shall be subject to all of the following conditions:

(1) The facility shall comply with all laws, rules, regulations, standards, and requirements applicable to its construction and operation and shall obtain all applicable permits required by law.

(2) The facility shall be located near a part of the state where large quantities of hazardous waste are produced.

(3) The facility shall be operated under a contract with the department by an entity which is not a public agency.

(4) The facility shall be operated as an offsite facility, and the department shall include a condition in the hazardous waste facilities permit issued to the facility prohibiting the operator from refusing to accept because of geographical origin any hazardous waste the facility is otherwise authorized to accept.

(5) The operator shall accept and incinerate hazardous waste upon payment of a fee paid by the person submitting the hazardous

waste for disposal. The department shall set the fee in an amount sufficient to repay the state for any amounts appropriated to pay for the planning and construction of the facility, and to pay for its operation and maintenance.

(c) The department may plan and construct an incineration facility pursuant to subdivision (a) only if the department makes the findings specified in subdivision (a) and the Legislature, in a subsequent act, appropriates or otherwise makes available the funds necessary to plan and construct the model incineration facility.

CHAPTER 695

An act to amend Section 669.1 of the Evidence Code, relating to due care.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 669.1 of the Evidence Code is amended to read:

669.1. A local rule, regulation, or guideline setting forth standards of conduct for peace officers in the use of deadly force shall not be considered a statute, ordinance, or regulation of a public entity within the meaning of Section 669.

This section affects only the application of the presumption set forth in Section 669; it does not affect what evidence is admissible in a civil action.

The provisions of this section shall be applicable to any cause of action arising out of facts occurring on or after January 1, 1984, but before January 1, 1989, regardless of the date the action is commenced or tried.

This section shall remain in effect until January 1, 1989, and on that date is repealed unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

CHAPTER 696

An act relating to parks and recreation.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. The Legislature declares the following:

(1) It is the intent of the Legislature that neither this bill nor the report required by this bill shall be considered an express indication of intent to acquire an interest in the property known as Fields Ranch located adjacent to Montana De Oro State Park in San Luis Obispo County.

(2) However, the Fields Ranch property has a high degree of natural resource values, has been found to have a moderately high priority for state park acquisition and development purposes, and meets the State Coastal Conservancy's criteria for acquisition purposes and it is known that the present owners of the property have indicated an interest in selling the property to the state or other parties. Therefore, it is appropriate that responsible state agencies advise the Legislature on the potential for acquisition of the Fields Ranch and that they also provide advice on potential sources of funding, including state, local, or private resources.

SEC. 2. The State Coastal Conservancy and the Department of Parks and Recreation shall, jointly, in consultation with the County of San Luis Obispo, prepare a feasibility report which reviews the potential for acquisition of the property known as Fields Ranch located adjacent to the Montana De Oro State Park. In preparing the report, the conservancy and the department shall take into consideration all of the following:

(1) The potential sources of funding, including state, local, and private resources.

(2) The status of negotiations, if any, between the executors of the estate responsible for the Fields Ranch property and any other party or parties interested in acquisition of the property.

(3) The potential for development of the property for state park, regional park, or coastal conservation or preservation purposes. The report shall include an analysis of various potential funding strategies and a suggested acquisition plan, if feasible. The report shall be submitted to the chair of the fiscal committee of each house of the Legislature and to the Legislative Analyst on or before March 15, 1987.

CHAPTER 697

An act to amend Section 12648 of the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 12648 of the Food and Agricultural Code is amended to read:

12648. Notwithstanding any other provision of this code, upon making a finding that a crop, commodity, or site has been treated with an economic poison not registered pursuant to Chapter 2 (commencing with Section 12751) for use on the crop, commodity, or site and, upon making a further finding that the treatment has resulted in, or could reasonably result in, the creation of a hazard to human health or an unfair business advantage, the crop or commodity may be declared by the director to be a public nuisance and may be seized and held to prevent harvest and sale. The director shall hold the crop or commodity for 30 days, and if no action has been filed to contest the seizure, the director may order the crop or commodity be destroyed.

CHAPTER 698

An act to amend Section 3372 of the Civil Code, to amend Sections 25012, 25102, and 31400 of, and to add Section 25238 to, the Corporations Code, and to amend Section 7480 of the Government Code, relating to investments.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 3372 of the Civil Code is amended to read:

3372. (a) Any person engaged in the business of advising others for compensation as to the advisability of purchasing, holding or selling property for investment and who represents himself or herself to be an expert with respect to investment decisions in such property, or any class of such property, shall be liable to any person to whom such advisory services are furnished for compensation and who is damaged by reason of such person's reliance upon such services, for the amount of such compensation and for such damages, unless the person rendering such services proves that such services were performed with the due care and skill reasonably to be

expected of a person who is such an expert.

(b) For the purposes of this section, the following apply:

(1) A person represents that such person is an "expert" within the meaning of this section if such person represents that he or she is a "financial planner," "financial adviser," "financial counselor," "financial consultant" or an "investment adviser," "investment counselor" or "investment consultant" or that such person renders "financial planning services," "financial advisory services," "financial counseling services," "financial consulting services" or "investment advisory services," "investment counseling services" or "investment consulting services" or makes substantially equivalent representations with respect to such person's business or qualifications.

(2) "Person" includes an individual, corporation, partnership, joint venture, an association, joint stock company, a trust or unincorporated association.

(c) The following persons are not liable under the provisions of this section:

(1) Any person, when engaged in the purchase or sale of tangible personal property for his or her own account, and the agents and employees of such persons.

(2) Any person, and the agents and employees of such person, licensed under, exempted from licensing under, or not subject to licensing under by reason of an express exclusion from a definition contained in, the Commodity Exchange Act, the Investment Advisers Act of 1940, the California Commodity Law, the Corporate Securities Law of 1968, the Insurance Code, the Real Estate Law, or any state or federal law for the licensing and regulation of banks or savings and loan associations.

SEC. 2. Section 25012 of the Corporations Code is amended to read:

25012. "Owners' association" means a nonprofit corporation or association created to own or lease the commonly owned lots, parcels or areas referred to in clause (a) of Section 25015, or to provide management, maintenance, preservation or control of either such lots, parcels or areas or of the separately owned lots, parcels or areas, or both, or any portion of or interest in them, or interest subject to subdivision (g) of Section 11004.5 of the Business and Professions Code, if the shares or certificates of membership therein are transferable only by transfer of the interests in the lots, parcels or areas. Such shares of stock or memberships shall be considered interests in a real estate development or in subdivided lands or a subdivision.

SEC. 3. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of

securities pursuant to such offer if (1) the agreement contains substantially the following provision: "The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful, unless the sale of securities is exempt from the qualification by Section 25100, 25102, or 25105 of the California Corporations Code. The rights of all parties to this agreement are expressly conditioned upon such qualification being obtained, unless the sale is so exempt"; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of such securities is qualified under this law unless the sale of securities is exempt from the qualification by this section, Section 25100 or 25105.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to such offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of such securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified, or exempt from qualification, at the time of distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) which meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing

for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director or affiliate of the issuer and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision; provided, however, that the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering.

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 35 persons, provided all of the following requirements have been met:

(1) All such stock shall be evidenced by certificates which shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule of the commissioner restricting transfer of such stock in such manner as the rule provides.

(2) The offer and sale of such stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(3) The consideration to be received by the issuer for the stock to be issued shall consist of (i) only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which all of the persons who are to receive the stock to be issued pursuant to this exemption were owners during, and such enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of such enterprise immediately prior to such proposed issuance was in the same proportions as the shares of stock are to be issued, or (ii) only cash or cancellation of indebtedness for money

borrowed or both upon the initial organization of the issuer, provided all such stock is issued for the same price per share, or (iii) only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders, or (iv), in a case where after the proposed issuance there will be only one owner of the stock of the issuer, any legal consideration.

(4) No promotional consideration has been given, paid, or incurred in connection with such issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business or enterprise of an issuer, for services rendered in connection with such founding or organizing.

(5) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of such member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities; provided, however, that the failure to file the notice as required by this subdivision and the rules of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice within the time specified by this subdivision shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. The notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in such form as the commissioner by rule prescribes, appointing the commissioner or his successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation which has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued such stock.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) such security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by such bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law which has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus or employee stock ownership plan provided that (1) the plan meets the requirements for qualification under Section 401 of the

Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer or any other lender.

SEC. 4. Section 25238 is added to the Corporations Code, to read:

25238. No investment adviser licensed under this chapter and no natural person associated with the investment adviser shall engage in investment advisory activities, or attempt to engage in investment advisory activities, in this state in contradiction of such rules as the commissioner may prescribe designed to promote fair, equitable and ethical principles.

SEC. 5. Section 31400 of the Corporations Code is amended to read:

31400. (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order hereunder, the commissioner may in the commissioner's discretion bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people of the State of California, in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) a claim for ancillary relief, including, but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award that additional relief.

SEC. 6. 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, a county welfare department when investigating welfare fraud, or the Department of Corporations when conducting investigations in connection with the enforcement of laws administered by the Commissioner of Corporations, 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.

CHAPTER 699

An act to add Section 22454.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 22454.5 is added to the Vehicle Code, to read:

22454.5. Notwithstanding Section 42001, a person convicted of a first violation of Section 22454 shall be punished by a fine of not less than fifty dollars ($50) or more than one hundred dollars ($100). A person convicted of a second, separate, violation of Section 22454 shall be punished by a fine of not less than fifty dollars ($50) or more

than two hundred fifty dollars ($250). If a person is convicted of a third or subsequent violation of Section 22454 and the offense occurred within two years of two or more separate violations of Section 22454, the court may order the Department of Motor Vehicles to suspend, in which case the department shall suspend, the person's privilege to operate a motor vehicle for one year.

CHAPTER 700

An act to amend Section 57384 of the Government Code, relating to local agencies.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 57384 of the Government Code is amended to read:

57384. (a) Except as provided in subdivision (b), 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) This subdivision applies only to incorporations for which the petition or resolution of application for incorporation is filed with the commission on or after January 1, 1987. Prior to the commission adopting a resolution making determinations, the board of supervisors may request that the city reimburse the county for the net cost of services provided pursuant to subdivision (a). The commission shall impose this requirement as a term and condition of its resolution. The city shall be obligated to reimburse the county within five years of the effective date of the incorporation or for a period in excess of five years, if the board of supervisors agrees to a longer period. As used in this subdivision, "net cost of services" means the total direct and indirect expense to the county of providing services, as determined pursuant to paragraph (2) of subdivision (b) of Section 56842, adjusted by any subsequent change in the California Consumer Price Index, less any revenues which the county retains that were generated from the formerly unincorporated territory during the period of time the services are furnished pursuant to subdivision (a). This subdivision applies only to those services which are to be assumed by the city.

(c) 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 701

An act to amend Section 23399.3 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986]

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

SECTION 1. Section 23399.3 of the Business and Professions Code is amended to read:

23399.3. (a) An on-sale special beer and wine license for hospitals, convalescent homes, and rest homes, authorizes the sale or service of beer and wine purchased from a licensed winegrower or beer and wine wholesaler only to patients or residents of the licensed hospital, convalescent home, or rest home. Such a license shall not be transferable from person to person and no off-sale privileges shall be exercised under such a license. Nothing in this section shall be construed to require a license for the service of beer and wine purchased at retail.

(b) As used in this section, "rest home" includes an apartment building, whether licensed or unlicensed, which rents exclusively to persons age 62 and older, and provides one to three meals daily for tenants.

CHAPTER 702

An act to amend Sections 22053, 22053.1, 24053, and 24053.1 of, to add Article 4 (commencing with Section 22500) to Chapter 3 of Division 9 of, Article 4 (commencing with Section 24500) to Chapter 3 of Division 10 of, and Article 4 (commencing with Section 26500) to Chapter 3 of Division 11 of, and to repeal Sections 22452, 24452, and 26452 of, the Financial Code, relating to loans.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 22053 of the Financial Code is amended to read:

22053. The following sections do not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to any commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale, 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 22404, 22405, 22454, 22456, 22457, 22458, 22458.1, 22458.2, 22458.3, 22458.4, 22458.5, 22461, 22467, 22468, 22469, 22470, 22472, 22473, 22474. and 22652, and the sections enumerated in Section 22053.1.

SEC. 2. 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, 22450, and 22453, subdivision (a) of Section 22454, and Sections 22455, 22459, 22460, 22462, 22463, 22464, 22480, and 22651.

SEC. 3. Section 22452 of the Financial Code is repealed.

SEC. 4. Article 4 (commencing with Section 22500) is added to Chapter 3 of Division 9 of the Financial Code, to read:

Article 4. Open End Credit Programs

22500. As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to this article and pursuant to which:

(a) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(b) The amount of each advance and the charges and other permitted costs are debited to an account.

(c) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs, and expenses.

(d) The borrower has the privilege of paying the account in full

at any time.

22501. If an open end credit program is not primarily for the purpose of purchasing or leasing goods or services from the licensee, then all credit extended through use of the program, including transactions that involve the purchase or lease of goods or services from the licensee, shall be subject to this division.

22502. Subject to the written approval of the commissioner of the licensee's plan of business for making open end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open end loans under Section 22400, a licensee may make open end loans pursuant to this article and may contract for and receive thereon charges as set forth in Sections 22451, 22451.1, and 22454.1. These charges may be calculated on an amount not exceeding the greater of:

(a) The actual daily unpaid balances of the open end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(b) The average daily unpaid balance of the open end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22503. The minimum monthly payment shall be determined by either of the following:

(a) The amount calculated by multiplying the unpaid principal balance after an advance and including the advance by a percent agreed upon by the borrower and the licensee, which shall be no less than 2½ percent. The minimum payment shall continue at the amount determined pursuant to this paragraph until a subsequent loan advance is made.

(b) The amount calculated by multiplying the unpaid balance at the end of each billing cycle by a percent agreed upon by the borrower and the licensee which shall be no less than 5 percent.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22504. On open end loans the licensee may contract for and receive the fees, costs, and expenses permitted on other loans, including those permitted by subdivisions (a), (b), (c), and (d) of Section 22458 and subdivision (d) of Section 22458.1, except that the

charge for credit insurance under Section 22458.1 shall be on a monthly basis and shall be actuarially consistent with the single premium rate for the same coverage.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22505. In lieu of subdivision (a) of Section 22458.1, with respect to open end loans a licensee may provide insurance on the life of one or more borrowers and credit disability insurance to provide indemnity for payments becoming due on the indebtedness, with the borrower's consent, the form to be approved by the Insurance Commissioner, and in an amount not in excess of the amount of the indebtedness. If life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death, or all amounts which become due on the loan thereafter during the period of disability in accordance with subdivision (d) of Section 22458.2, as the case may be, without any exception, reservation, or limitation. Any life insurance as is provided shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later. No credit life insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 22517.

22506. Section 22455 shall apply to open end loans with the following variations.

(a) To comply with Section 22455, in the case of open end loan advances directly to the borrower, the licensee shall deliver to or at the direction of the borrower at the time of each loan advance an amount equal to the face value of the advance.

(b) To comply with Section 22455, in the case of an open end loan advance in the form of a payment by the licensee to a person from whom a borrower obtained money, goods, labor, or services, the licensee shall deliver to such person such amounts, at such times, as to fulfill the obligation to such person under the transaction.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22507. In lieu of Section 22468, the open end loan agreement shall contain the name, address, and license number of the personal property broker and shall disclose the nature of the security taken, the method of determining the minimum payments which will be

required to repay the initial advance and any subsequent advances on the loan, and the agreed rate of charge.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 22517.

22508. In lieu of subdivision (a) of Section 22473, with respect to open end loans, except in the case of an account which the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.), the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after that change.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 22517.

22509. Subdivision (e) of Section 22473 shall not apply to an open end loan with respect to which there is no balance outstanding if the open end loan agreement continues in effect.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 22517.

22510. Section 22469 shall not apply to a change in terms of an open end loan if notice is given to the borrower in accordance with subsection (c) of Section 226.9 of Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.).

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 22517.

22511. Subdivision (a) of Section 22401, Sections 22404 and 22462, and subdivision (b) of Section 22473 shall not apply to a licensee with respect to advances made through an open end credit program.

22512. The payment of fees for participation in an open end credit program, the acceptance by a borrower of the form of the

licensee's program and the borrower's agreement to the licensee's program shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 22004, 22456, or 22457.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 22517.

22513. Nothing in this article limits the authority of the commissioner to disapprove advertising with respect to open end loans pursuant to Section 22414.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22514. This article does not apply to loans other than open end loans.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22515. Section 22480 shall not apply to open end loans.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22516. An open end loan is in compliance with Section 22466 if it is an open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 22517.

22517. (a) In determining whether an open end loan is an open end loan of a bona fide principal amount specified in any section in this article, the open end loan shall be deemed to be for that amount or more if both the following criteria are met:

(1) The line of credit is equal to or more than the specified amount.

(2) The initial advance was equal to or more than the specified amount.

(b) A subsequent advance of money of less than the specified amount pursuant to the open end loan agreement between a borrower and a licensed personal property broker shall be deemed to be a loan of a principal amount of the specified amount if the criteria of paragraphs (1) and (2) of subdivision (a) have been met, even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

SEC. 5. Section 24053 of the Financial Code is amended to read:

24053. The following sections do not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) 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 24404, 24405, 24454, 24458, 24458.1, 24458.2, 24470, and 24652, and the sections enumerated in Section 24053.1.

SEC. 6. 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, 24450, and 24453, subdivision (a) of Section 24454, and Sections 24455, 24459, 24460, 24462, 24463, 24464, 24480, and 24651.

SEC. 7. Section 24452 of the Financial Code is repealed.

SEC. 8. Article 4 (commencing with Section 24500) is added to Chapter 3 of Division 10 of the Financial Code, to read:

Article 4. Open End Credit Programs

24500. As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to this article and pursuant to which:

(a) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(b) The amount of each advance and the charges and other permitted costs are debited to an account.

(c) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs, and expenses.

(d) The borrower has the privilege of paying the account in full at any time.

24501. If an open end credit program is not primarily for the purpose of purchasing or leasing goods or services from the licensee, then all credit extended through use of the program including transactions that involve the purchase or lease of goods or services from the licensee, shall be subject to this division.

24502. Subject to the written approval of the commissioner of the licensee's plan of business for making open end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open end loans under Section 24400, a licensee may make open end loans pursuant to this article and may contract for and receive thereon charges as set forth in Sections 24451, 24451.1, and 24454.1. These charges may be calculated on an amount not exceeding the greater of:

(a) The actual daily unpaid balances of the open end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(b) The average daily unpaid balance of the open end account in the billing cycle for which the charge is made, which is the sum of

the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24503. The minimum monthly payment shall be determined by either of the following:

(a) The amount calculated by multiplying the unpaid principal balance after an advance and including the advance by a percent agreed upon by the borrower and the licensee, which shall be no less than 2½ percent. The minimum payment shall continue at the amount determined pursuant to this paragraph until a subsequent loan advance is made.

(b) The amount calculated by multiplying the unpaid balance at the end of each billing cycle by a percent agreed upon by the borrower and the licensee which shall be no less than 5 percent.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24504. On open end loans the licensee may contract for and receive the fees, costs, and expenses permitted on other loans, including those permitted by subdivisions (a), (b), (c), and (d) of Section 24458 and subdivision (d) of Section 24458.1, except that the charge for credit insurance under Section 24458.1 shall be on a monthly basis and shall be actuarially consistent with the single premium rate for the same coverage.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24505. In lieu of subdivision (a) of Section 24458.1, with respect to open end loans a licensee may provide insurance on the life of one or more borrowers and credit disability insurance to provide indemnity for payments becoming due on the indebtedness, with the borrower's consent, the form to be approved by the Insurance Commissioner, and in an amount not in excess of the amount of the indebtedness. If life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death, or all amounts which become due on the loan thereafter during the period of disability in accordance with subdivision (d) of Section 24458.2, as the case may be, without any exception, reservation, or limitation. Any life insurance as is provided shall be in force as soon

as the loan is made or coverage is agreed upon, whichever is later. No credit life insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 24517.

24506. Section 24455 shall apply to open end loans with the following variations:

(a) To comply with Section 24455, in the case of open end loan advances directly to the borrower, the licensee shall deliver to or at the direction of the borrower at the time of each loan advance an amount equal to the face value of the advance.

(b) To comply with Section 24455, in the case of an open end loan advance in the form of a payment by the licensee to a person from whom a borrower obtained money, goods, labor, or services, the licensee shall deliver to such person such amounts, at such times, as to fulfill the obligation to such person under the transaction.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24507. In lieu of Section 24468, the open end loan agreement shall contain the name, address, and license number of the consumer finance lender and shall disclose the nature of the security taken, the method of determining the minimum payments which will be required to repay the initial advance and any subsequent advances on the loan, and the agreed rate of charge.

24508. In lieu of subdivision (a) of Section 24473, with respect to open end loans, except in the case of an account which the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.), the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any

additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after that change.

24509. Subdivision (e) of Section 24473 shall not apply to an open end loan with respect to which there is no balance outstanding if the open end loan agreement continues in effect.

24510. Section 24469 shall not apply to a change in terms of an open end loan if notice is given to the borrower in accordance with subsection (c) of Section 226.9 of Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.).

24511. Subdivision (a) of Section 24401, Sections 24404 and 24462, and subdivision (b) of Section 24473 shall not apply to a licensee with respect to advances made through an open end credit program.

24512. The payment of fees for participation in an open end credit program, the acceptance by a borrower of the form of the licensee's program and the borrower's agreement to the licensee's program shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 24004, 24456, or 24457.

24513. Nothing in this article limits the authority of the commissioner to disapprove advertising with respect to open end loans pursuant to Section 24414.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24514. This article does not apply to loans other than open end loans.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24515. Section 24480 does not apply to open end loans.

This section does not apply to any open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24516. An open end loan is in compliance with Section 24466 if it is an open end loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24517.

24517. (a) In determining whether an open end loan is an open end loan of a bona fide principal amount specified in any section in this article, the open end loan shall be deemed to be for that amount or more if both the following criteria are met:

(1) The line of credit is equal to or more than the specified amount.

(2) The initial advance was equal to or more than the specified amount.

(b) A subsequent advance of money of less than the specified amount pursuant to the open end loan agreement between a

borrower and a licensed consumer finance lender shall be deemed to be a loan of a principal amount of the specified amount if the criteria of paragraphs (1) and (2) of subdivision (a) have been met, even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

SEC. 9. Section 26452 of the Financial Code is repealed.

SEC. 10. Article 4 (commencing with Section 26500) is added to Chapter 3 of Division 11 of the Financial Code, to read:

Article 4. Open End Credit Programs

26500. As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to this article and pursuant to which:

(a) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(b) The amount of each advance and the charges and other permitted costs are debited to an account.

(c) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs, and expenses.

(d) The borrower has the privilege of paying the account in full at any time.

SEC. 10.5. Open end loan agreements made on or before December 31, 1986, which refer to former Section 22452, 24452, or 26452 of the Financial Code shall be deemed to refer to Article 4 (commencing with Section 22500) of Chapter 3 of Division 9; Article 4 (commencing with Section 24500) of Chapter 3 of Division 10; or Article 4 (commencing with Section 26500) of Chapter 3 of Division 11, respectively, of the Financial Code.

CHAPTER 703

An act to amend Section 56828 of the Education Code, relating to special education.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. 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.

(c) Educational programs for severely handicapped pupils, or any part of those programs, already in operation in school districts pursuant to Part 30 (commencing with Section 56000) may be transferred to the county superintendent of schools, or to other school districts, or from the county superintendent of schools to school districts, upon agreement of the agencies involved in the transfer, if the transfer would not result in an entitlement of increased state aid pursuant to this chapter. If an educational program for severely handicapped pupils, or any part of the program, is transferred, and if the support service ratio for severely handicapped classes of the transferring school district or county office of education is higher than that of the receiving district or county office, the support service ratio for the transferring district or county office shall be transferred to the receiving district or county office. If the transferred support service ratio would result in an entitlement of increased state aid, the Superintendent of Public Instruction shall calculate a lower support service ratio for the receiving district or county office, and shall apply the lower calculated ratio to the receiving district or county office operating the program. The transferred ratio shall thereafter become the support service ratio for severely handicapped classes for the district or the county operating the transferred program.

CHAPTER 704

An act to amend Section 49406 of the Education Code, to amend Sections 3450 and 3451 of the Health and Safety Code, and to amend Sections 5163 and 5163.1 of the Public Resources Code, relating to tuberculosis.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986]

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

SECTION 1. Section 49406 of the Education Code is amended to read:

49406. (a) Except as provided in subdivision (h), no person shall be initially employed by a school district in a certificated or classified position unless the person has submitted to an examination within the past 60 days to determine that he or she is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an approved intradermal tuberculin test, which, if positive, shall be followed by an X-ray of the lungs.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

The district superintendent or his or her designee may exempt, for a period not to exceed 60 days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an X-ray of the lungs.

(b) Thereafter, employees who are skin test negative shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required and a referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) After the examination, each employee shall cause to be on file with the district superintendent of schools a certificate from the examining physician and surgeon showing the employee was examined and found free from active tuberculosis. The county board of education may require, by rule, that all their certificates be filed in the office of the county superintendent of schools or shall require their files be maintained in the office of the county superintendent of schools if a majority of the governing boards of the districts within

the county so petition the county board of education, except that in either case a district or districts with a common board having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that district. "Certificate," as used in this section, means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the American Lung Association which indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section. Nothing in this section shall prevent the governing board, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent physical examination than required by this section, but the rule shall provide for reimbursement on the same basis as required in this section.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse that person in a like manner prescribed in this section for employees.

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for the examination that is reimbursable to employees of the district complying with the provisions of this section.

(f) At the discretion of the governing board, this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils.

The governing board may, however, require an examination described in subdivision (2) and may, as a contract condition, require the examination of persons employed under contract, other than those persons specified in subdivision (a), if the board believes the presence of these persons in and around school premises would constitute a health hazard to pupils.

(g) If the governing board of a school district determines by resolution, after hearing, that the health of pupils in the district would not be jeopardized thereby, this section shall not apply to any employee of the district who files an affidavit stating that he or she adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion and that to the best of his or her knowledge and belief he or she is free from active tuberculosis. If at any time there should be probable cause to believe that the affiant is afflicted with active tuberculosis, he or she may be excluded from service until the governing board of the employing district is satisfied that he or she is not so afflicted.

(h) A person who transfers his or her employment from one school or school district to another shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate which shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has a certificate on file which contains that showing.

A person who transfers his or her employment from a private or parochial elementary school, secondary school, or nursery school to a school or school district subject to this section shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate as provided for in Section 3450 of the Health and Safety Code which shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has a certificate on file which contains that showing.

(i) Any governing board or county superintendent of schools providing for the transportation of pupils under contract authorized by Section 39800, 39801, or any other provision of law shall require as a condition of the contract the examination for active tuberculosis, as provided by subdivision (a), of all drivers transporting these pupils, provided that private contracted drivers who transport these pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

SEC. 2. Section 3450 of the Health and Safety Code is amended to read:

3450. (a) Except as provided in Section 3456, no person shall be initially employed by a private or parochial elementary or secondary school, or any nursery school, unless that person produces or has on file with the school a certificate showing that within the last 60 days such person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter those employees who are skin test negative shall be required to undergo the foregoing examination at least once each four years or more often if directed by the school upon recommendation of the local health officer for so long as the employee remains skin test negative. Once an employee has a documented positive skin test, the foregoing examination is no longer required and a referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) At the discretion of the governing authority of a private school, this section shall not apply to employees who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils. The governing authority may, however, require the examination and may as a contract condition require the examination of persons employed under contract if the governing authority believes the presence of such persons in and around the school premises would constitute a

health hazard to students.

(d) The governing authority of a private school providing for the transportation of pupils under authorized contract shall require as a condition of the contract that every person transporting pupils produce a certificate showing that within the last 60 days such person has been examined and has been found to be free of communicable tuberculosis, except that any private contracted driver who transports pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

(e) The examination attested to in the certificate required pursuant to subdivision (d) of this section shall be made available without charge by the local health officer.

"Certificate," as used in this chapter, means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the Tuberculosis Association which indicates freedom from active tuberculosis.

(f) Nothing in this section shall prevent the governing authority of a private, parochial, or nursery school, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by this section.

SEC. 3. Section 3451 of the Health and Safety Code is amended to read:

3451. The examination shall consist of an approved intradermal tuberculosis test, which, if positive, shall be followed by an X-ray of the lungs.

SEC. 4. Section 5163 of the Public Resources Code is amended to read:

5163. (a) No person shall initially be employed in connection with a park, playground, recreational center, or beach used for recreational purposes by a city or county in a position requiring contact with children, or as a food concessionaire or other licensed concessionaire in that area, unless the person produces or has on file with the city or county a certificate showing that within the last two years the person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter, those employees who are skin test negative shall be required to undergo the foregoing examination at least once each four years for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required and a referral shall be made within 30 days of the examination to the local health officer to determine the need for followup care.

"Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and

Professions Code, or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

SEC. 5. Section 5163.1 of the Public Resources Code is amended to read:

5163.1. The examination shall consist of an approved intradermal tuberculosis test, which, if positive, shall be followed by an X-ray of the lungs.

Nothing in Sections 5163 to 5163.2, inclusive, shall prevent the governing body of any city or county, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by Section 5163 and this section.

CHAPTER 705

An act to amend Section 7172 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 7172 of the Business and Professions Code is amended to read:

7172. Any contract the primary purpose of which is the construction of a swimming pool which does not substantially comply with the applicable provisions of subdivisions (b), (c), (d), (e), (f), and (h) of Section 7167 shall be void and unenforceable by the contractor as contrary to public policy.

CHAPTER 706

An act to amend, repeal, and add Section 99275.5 of, and to add Section 99155 to, the Public Utilities Code, and to amend and repeal Section 13001 of the Vehicle Code, relating to disabled persons.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 99155 is added to the Public Utilities Code, to read:

99155. (a) Each transit operator, whether publicly or privately funded all or in part, nonprofit or profit, which offers reduced fares

to senior citizens shall honor the federal Medicare identification card as sufficient identification to receive reduced fares. A transit operator which offers reduced fares to those senior citizens who are less than 65 years old shall also honor the senior citizen identification card issued pursuant to subdivision (b) of Section 13000 of the Vehicle Code.

(b) Each transit operator, whether publicly or privately funded in whole or in part, nonprofit or profit, which offers reduced fares pursuant to subdivision (a) shall also offer reduced fares to disabled persons, as defined by Section 22511.5 of the Vehicle Code, and disabled veterans, as defined by Section 22511.9 of that code, at the same rate established for senior citizens. A transit operator shall honor the disabled person or disabled veteran placard identification card issued pursuant to subdivision (d) of Section 22511.5 or subdivision (d) of Section 22511.9 of the Vehicle Code.

(c) This section also applies to any dial-a-ride, paratransit, or nonfixed route operator which serves the disabled.

(d) Nothing in this section prohibits a transit operator from issuing its own identification card, except that no such card shall be required to be presented in addition to either a federal Medicare card or a card issued pursuant to subdivision (d) of Section 22511.5 or subdivision (d) of Section 22511.9 of the Vehicle Code, whichever is applicable.

(e) Any transit operator, as defined in subdivision (b), who receives funds pursuant to the Mills-Alquist-Deddeh Act (Chapter 4 (commencing with Section 99200)), shall not require that a person requesting transportation be a resident of that transit operator's service area.

(f) This section shall become operative on July 1, 1987.

SEC. 2. Section 99275.5 of the Public Utilities Code is amended to read:

99275.5. (a) Claims, for purposes of this article, shall be filed in the same manner as claims are filed for purposes of Article 4 (commencing with Section 99260).

(b) The transportation planning agencies shall adopt criteria, rules, and regulations for the evaluation of claims filed under this article and the determination of the cost effectiveness of the proposed community transit services to be provided under the claims.

(c) Prior to approving a claim filed under this article, the transportation planning agency shall make all of the following findings:

(1) That the proposed community transit service is responding to a transportation need currently not being met in the community of the claimant.

(2) That the service shall be integrated with existing transit services, if appropriate.

(3) That the claimant has prepared an estimate of revenues, operating costs, and patronage.

(4) That the claimant is in compliance with Section 99268.3, 99268.4, 99268.5, or 99268.9, whichever is applicable to it, or with regional, countywide, or county subarea performance criteria, local match requirements, or fare recovery ratios adopted by resolution of the transportation planning agency or the county transportation commission for any or all types of community transit services.

(A) In adopting the performance criteria, local match requirements, or fare recovery ratios, the transportation planning agency or the county transportation commission may adopt the criteria of Section 99268.3, 99268.4, 99268.5, or 99268.9, or any combination or all of them.

(B) If a transportation planning agency or county transportation commission has adopted performance criteria, local match requirements, or fare recovery ratios, the rules and regulations of the agency or commission shall apply, and Sections 99205.7 and 99241, subdivision (a) of Section 99247, and Section 99268.8 shall not apply.

(d) This section shall remain in effect only until July 1, 1987, and as of that date is repealed unless a later enacted statute, which is enacted on or before July 1, 1987, deletes or extends that date.

SEC. 3. Section 99275.5 is added to the Public Utilities Code, to read:

99275.5. (a) Claims, for purposes of this article, shall be filed in the same manner as claims are filed for purposes of Article 4 (commencing with Section 99260).

(b) The transportation planning agencies shall adopt criteria, rules, and regulations for the evaluation of claims filed under this article and the determination of the cost effectiveness of the proposed community transit services to be provided under the claims.

(c) Prior to approving a claim filed under this article, the transportation planning agency shall make all of the following findings:

(1) That the proposed community transit service is responding to a transportation need currently not being met in the community of the claimant.

(2) That the service shall be integrated with existing transit services, if appropriate.

(3) That the claimant has prepared an estimate of revenues, operating costs, and patronage.

(4) That the claimant is in compliance with Section 99268.3, 99268.4, 99268.5, or 99268.9, whichever is applicable to it, or with regional, countywide, or county subarea performance criteria, local match requirements, or fare recovery ratios adopted by resolution of the transportation planning agency or the county transportation commission for any or all types of community transit services.

(A) In adopting the performance criteria, local match requirements, or fare recovery ratios, the transportation planning agency or the county transportation commission may adopt the criteria of Section 99268.3, 99268.4, 99268.5, or 99268.9, or any

combination or all of them.

(B) If a transportation planning agency or county transportation commission has adopted performance criteria, local match requirements, or fare recovery ratios, the rules and regulations of the agency or commission apply, and Sections 99205.7 and 99241, subdivision (a) of Section 99247, and Section 99268.8 do not apply.

(5) That the claimant is in compliance with Section 99155.

(d) This section shall become operative on July 1, 1987.

SEC. 4. Section 13001 of the Vehicle Code is amended to read:

13001. Each transit operator which offers reduced fares to senior citizens shall honor the federal Medicare identification card as sufficient identification to receive reduced fares. A transit operator which offers reduced fares to those senior citizens who are less than 65 years old shall also honor the senior citizen identification card issued pursuant to subdivision (b) of Section 13000. Nothing in this section shall prohibit a transit operator from issuing its own identification card except that no such card shall be required to be presented in addition to either a federal Medicare card or a card issued pursuant to subdivision (b) of Section 13000, whichever is applicable.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed unless a later enacted statute, which is enacted on or before July 1, 1987, deletes or extends that date.

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 707

An act to amend Section 4700.7 of the Civil Code, relating to family law.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986]

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

SECTION 1. Section 4700.7 of the Civil Code is amended to read:

4700.7. In any proceeding involving child support or spousal support, no party to the proceeding may refuse to submit copies of his or her state and federal income tax returns to the court, whether individual or joint. The tax returns may be examined by the other party and are discoverable by the other party. A party also may be examined by the other party as to the contents of a tax return so submitted. If the judge finds that it is relevant to the case to retain the tax return, the tax return shall be sealed and maintained as a

confidential record of the court. If the court finds that the tax return is not relevant to disposition of the case, all copies of the tax return shall be returned to the party that submitted it.

CHAPTER 708

An act to amend Section 1719 of the Civil Code, relating to commercial paper.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 1719 of the Civil Code is amended to read:

1719. (a) Notwithstanding any penal sanctions which may apply, any person who makes, utters, draws, or delivers any check, or draft, or order upon any bank or depository, or person, or firm, or corporation, for the payment of money, which refuses to honor the same for lack of funds or credit to pay, or because the maker has no account with the drawee, or because the maker instructed the drawee to stop payment, and who fails to pay the same amount in cash to the payee within 30 days following a written demand therefor informing the maker of the provisions of this section, mailed to the maker by certified mail, shall be liable to the payee, in addition to the amount owing upon that check or draft or order, for damages of treble the amount so owing, but in no case less than one hundred dollars ($100), and in no case more than five hundred dollars ($500), plus the costs of mailing the written demand for payment. However, there shall be no cause of action under this section if a maker stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the damages only upon proving by clear and convincing evidence that there was no good faith dispute, as defined in subdivision (b).

(b) For purposes of this section, in the case of a stop payment the existence of a "good faith dispute" shall be determined by the trier of fact. A "good faith dispute" is one in which the court finds that the maker had a reasonable belief of his or her legal entitlement to withhold payment. Grounds to such entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c) In the case of a stop payment, the notice to the maker required by this section shall be in substantially the following form:

NOTICE

To: _____
(name of maker)

_____ is the payee of a check you wrote
(name of payee)

for $ _____ . The check was not paid because
(amount)

you stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the check in cash within 30 days after this notice was mailed, you could be sued and held responsible to pay at least all of the following:

(1) The amount of the check.

(2) Damages of at least $100 or, if higher, three times the amount of the check up to $500.

(3) The cost of mailing this notice.

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the damages and mailing cost mentioned above. If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

_____
(name of payee)

_____
(street address)

_____
(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

_____
(name of sender of notice)

(d) In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand which, in that case, shall have been sent to the maker and a signed certified mail receipt showing delivery of the written demand to the maker's address.

(e) 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. The payee shall, in order to recover damages because the maker instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

CHAPTER 709

An act to amend Section 20201 of the Public Contract Code, and to amend Section 16077 of the Public Utilities Code, relating to public utility districts.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 20201 of the Public Contract Code is amended to read:

20201. Every complete project for new construction or project for any alteration, maintenance, or repair, if the costs of materials, supplies and labor exceed ten thousand dollars ($10,000), shall be let to the lowest responsible bidder. The board shall adopt plans and specifications, strain sheets, and working details and shall advertise for bids for the project in accordance with the plans and specifications so adopted. Notice inviting bids for all projects shall be published in a newspaper in the district at least one week prior to the time specified for receiving bids.

SEC. 2. Section 16077 of the Public Utilities Code is amended to read:

16077. All tax levies for a purpose other than interest or sinking fund payments shall be first authorized by the board by ordinance when the amount proposed to be raised by a tax levy exceeds fifty thousand dollars ($50,000).

CHAPTER 710

An act to amend Section 1046.5 of the Penal Code, relating to juries.

[Approved by Governor September 9, 1986. Filed with Secretary of State September 9, 1986.]

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

SECTION 1. Section 1046.5 of the Penal Code is amended to read:

1046.5. (a) Jurors for criminal actions shall be entitled to at least the same rights or privileges as are provided for jurors in civil cases, including, but not limited to, any of those rights or privileges granted by Section 239 of the Code of Civil Procedure.

(b) (1) Prior to discharging the jury from the case, the judge in a criminal action shall inform the jurors that they have an absolute right to discuss or not to discuss the deliberation or verdict with

anyone. The judge shall also inform the jurors of the provisions set forth in paragraphs (2), (3), and (4) of this subdivision.

(2) Following the discharge of the jury in a criminal case, the defendant, or his or her attorney or representative, or the prosecutor, or his or her representative, may discuss the jury deliberation or verdict with a member of the jury, provided that the juror consents to the discussion and that the discussion takes place at a reasonable time and place.

(3) Any unreasonable contact with a juror by the defendant, or his or her attorney or representative, or by the prosecutor, or his or her representative, without the juror's consent shall be reported to the trial judge forthwith

(4) Any violation of this subdivision shall be considered a violation of a lawful court order and shall be subject to reasonable money sanctions in accordance with Section 177.5 of the Code of Civil Procedure.

(5) Nothing in this subdivision shall prohibit a peace officer from investigating an allegation of criminal conduct.

CHAPTER 711

An act to amend Section 333 of the Probate Code, relating to probate.

[Approved by Governor September 9, 1986 Filed with Secretary of State September 9, 1986]

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

SECTION 1. Section 333 of the Probate Code is amended to read:

333. (a) Publication of notice pursuant to this section shall be for at least 10 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting such publication dates, are sufficient. Notice shall be published in a newspaper of general circulation in the city where the decedent resided at time of death, or where the decedent's property is located if the court has jurisdiction over the estate pursuant to subdivision (3) of Section 301. If there is no such newspaper, the decedent did not reside in a city, or the property is not located in a city, then notice shall be published in a newspaper of general circulation in the county which is circulated within the community in which the decedent resided or the property is located. If there is no such newspaper, notice shall be published in a newspaper of general circulation published in the State of California nearest to the county seat of the county in which the decedent resided or the property is located, and which is circulated within the community in which the decedent resided or the property is located. If there is no such newspaper, notice shall be

given in written or printed form, posted at three of the most public places within such community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) The caption of such notice and decedent's name shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

"NOTICE OF DEATH OF

_____

AND OF PETITION TO ADMINISTER ESTATE NO._____

To all heirs, beneficiaries, creditors and contingent creditors of _____ and persons who may be otherwise interested in the will and/or estate:

A petition has been filed by _____ in the Superior Court of _____ County requesting that _____ be appointed as personal representative to administer the estate of _____ [under the Independent Administration of Estates Act]. The petition is set for hearing in Dept. No. _____ at _____ on _____

(Address)

_____ at _____ .

(Date of hearing) (Time of hearing)

IF YOU OBJECT to the granting of the petition, you should either appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court or present it to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Section 700 of the Probate Code of California. The time for filing claims will not expire prior to four months from the date of the hearing noticed above.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may serve upon the executor or administrator, or upon the attorney for the executor or administrator, and file with the court with proof of service, a written request stating that you desire special notice of the filing of an inventory and appraisement of estate assets or of the petitions or accounts mentioned in Sections 1200 and 1200.5 of the California Probate Code.

_____

(Name and address of petitioner, or his or her attorney)"

(c) No petition filed pursuant to Section 326 or 440 may be heard

by the court unless an affidavit showing due publication of notice has been filed with the clerk upon completion of the publication. Such affidavit shall contain a copy of the notice, and state the date of its first publication.

(d) When, however, notice has been previously published and an affidavit showing due publication of notice, containing a copy of the notice, and stating the date of its first publication, has been filed with the clerk upon completion of the publication, then, whether published or posted, the caption of any subsequent notice and decedent's name shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

"NOTICE OF

_____

PETITION TO ADMINISTER ESTATE NO._____

To all heirs, beneficiaries, creditors and contingent creditors of _____ and persons who may be otherwise interested in the will and/or estate:

A petition has been filed by _____ in the Superior Court of _____ County requesting that _____ be appointed as personal representative to administer the estate of _____ [under the Independent Administration of Estates Act]. The petition is set for hearing in Dept. No. _____ at _____

_____ on

(Address)

_____ at _____ .

(Date of hearing) (Time of hearing)

IF YOU OBJECT to the granting of the petition, you should either appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may serve upon the executor or administrator, or upon the attorney for the executor or administrator, a written request stating that you desire special notice of the filing of an inventory and appraisement of estate assets or of the petitions or accounts mentioned in Sections 1200 and 1200.5 of the California Probate Code.

_____

(Name and address of petitioner, or his or her attorney)"

CHAPTER 712

An act to amend Sections 27503, 27506, 27517, 27520, 27521, 27522, 27524, 27527, 27528.5, 27531, 27533, 27538, 27540, 27551, 27563, 27564, 27581, 27604, 27605, 27606, 27608, 27613, 27621, 27623, 27624, 27626, 27627.3, 27627.7, 27631, 27632, 27641, 27673, 27675, 27676, 27790, 27791, 27821, and 27831 of, to add Sections 27523.7, 27535.5, 27537.5, 27626.1, 27792, and 27804 to, to add Article 17 (commencing with Section 27850) to Chapter 4 of Division 22 of, to amend the heading of Article 12 (commencing with Section 27790) of Chapter 4 of Division 22 of, and to repeal Section 27523.5 of, the Health and Safety Code, relating to the California Uniform Retail Food Facilities Law.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 27503 of the Health and Safety Code is amended to read:

27503. Nothing in this chapter shall prohibit a local governing body from adopting an evaluation or grading system for food facilities, from adopting an employee health certification or employee training program, from prohibiting any type of food facility, or from regulating the provision of patron toilet and handwashing facilities.

SEC. 2. Section 27506 of the Health and Safety Code is amended to read:

27506. Any construction, alteration, remodeling, or installation of equipment in a food establishment pursuant to this chapter shall be in accordance with applicable building codes and shall be approved by the enforcement officer.

SEC. 2.5. Section 27517 of the Health and Safety Code is amended to read:

27517. "Enforcement officer" means the director, agents, or sanitarians appointed by the Director of Health Services, and all local health officers, directors of environmental health, and their duly authorized registered sanitarians and sanitarian trainees.

SEC. 3. Section 27520 of the Health and Safety Code is amended to read:

27520. "Food establishment" means any room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging, transporting, salvaging, or otherwise handling food at the retail level. "Food establishment" includes a restricted food service transient occupancy establishment, as defined in Section 27535.5.

"Food establishment" does not include a commercial food processing establishment as defined in Section 28280.1, at the wholesale level, a vehicle, vending machine, satellite food

distribution facility, temporary food facility, open-air barbecue, certified farmers' market, stationary mobile food preparation unit, or mobile food preparation unit.

SEC. 4. Section 27521 of the Health and Safety Code is amended to read:

27521. (a) "Food facility" means all of the following:

(1) Food establishment, vehicle, vending machine, produce stand, temporary food facility, satellite food distribution facility, stationary mobile food preparation unit, and mobile food preparation unit.

(2) Any place used in conjunction with the operations described in paragraph (1), including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(3) A certified farmers' market for purposes of permitting and enforcement.

(b) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food, or a private home, church, private club, or other nonprofit association which gives or sells food to its members and guests at occasional events, as defined in Section 27528.

(2) 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.

SEC. 5. Section 27522 of the Health and Safety Code is amended to read:

27522. "Food preparation" means packaging, processing, assembling, portioning, or any operation which changes the form, flavor, or consistency of food, but does not include trimming of produce.

SEC. 5.5. Section 27523.5 of the Health and Safety Code is repealed.

SEC. 6. Section 27523.7 is added to the Health and Safety Code, to read:

27523.7. "Hearing Officer" means a local health officer, a director of environmental health, or his or her designee.

SEC. 7. Section 27524 of the Health and Safety Code is amended to read:

27524. "Hot dog" means a whole cured, cooked sausage that is skinless or stuffed in a casing and which is also known as a frankfurter, frank, furter, wiener, red hot, vienna, bologna, garlic bologna, or knockwurst, and which may be served in a bun or roll.

SEC. 8. Section 27527 of the Health and Safety Code is amended to read:

27527. "Multiservice utensil" means a utensil manufactured and approved for use more than one time.

SEC. 9. Section 27528.5 of the Health and Safety Code is amended to read:

27528.5. "Open-air barbecue facility" means an unenclosed facility for barbecuing food which is operated by a food establishment, stationary mobile food preparation unit, or temporary food facility.

SEC. 10. Section 27531 of the Health and Safety Code is amended to read:

27531. "Potentially hazardous food" means food capable of supporting rapid and progressive growth of microorganisms that may cause food infections or food intoxications. "Potentially hazardous food" does not include edible shell eggs, foods that have a pH level of 4.6 or below, a water activity (Aw) value of 0.85 or less under standard conditions, or food products in hermetically sealed containers processed to prevent spoilage.

SEC. 11. Section 27533 of the Health and Safety Code is amended to read:

27533. "Produce stand" means a food establishment which sells, offers for sale, or gives away only produce or shell eggs, or both.

SEC. 12. Section 27535.5 is added to the Health and Safety Code, to read:

27535.5. "Restricted food service transient occupancy establishment" means an establishment of 20 guestrooms or less, which provides overnight transient occupancy accommodations, which serves food only to its registered guests, which serves only a breakfast or similar early morning meal, and with respect to which the price of the food is included in the price of the overnight transient occupancy accommodation. For purposes of this section, "restricted food service transient occupancy establishment" refers to an establishment as to which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of some other legal relationships as between some occupants and the owner or operator shall be immaterial.

SEC. 12.5. Section 27537.5 is added to the Health and Safety Code, to read:

27537.5. "Stationary mobile food preparation unit" means a mobile food preparation unit which operates at a state, county, district, or citrus fair or any approved occasional event and which reamins in a fixed position during food preparation and its hours of operation.

SEC. 13. Section 27538 of the Health and Safety Code is amended to read:

27538. "Temporary food facility" means a food facility operating out of temporary facilities approved by the enforcement officer at a fixed location for a period of time not to exceed 21 days in any 90-day period in conjunction with a single event or celebration.

SEC. 14. Section 27540 of the Health and Safety Code is amended to read:

27540. "Vehicle" means any motorized or nonmotorized conveyance or portable food service unit upon which prepackaged

food or approved unpackaged food is sold or offered for sale at retail. "Vehicle" does not include a mobile food preparation unit or a stationary mobile food preparation unit.

SEC. 15. Section 27551 of the Health and Safety Code is amended to read:

27551. A food facility shall not be open for business without a valid permit.

A permit shall be issued by the local enforcement agency when investigation has determined that the proposed facility and its method of operation will conform to the requirements of this chapter. A permit, once issued, is nontransferable. A permit shall be valid only for the person, location, type of food sales, or distribution activity approved and, unless suspended or revoked for cause, for the time period indicated.

Any fee for the permit and related services shall be determined by the local governing body. Fees shall be sufficient to cover the actual expenses of administering and enforcing this program. All moneys collected as fees shall be expended in carrying out the provisions of this chapter.

A permit shall be posted in a conspicuous place in the food facility or in the office of a vending machine business.

SEC. 16. Section 27563 of the Health and Safety Code is amended to read:

27563. The owner, manager, or operator of any food facility is responsible for any violation by an employee of any provision of this chapter or any regulation adopted pursuant to this chapter. Each day the violation occurs shall be a separate and distinct offense.

SEC. 17. Section 27564 of the Health and Safety Code is amended to read:

27564. A violation of any provision of this chapter or regulation adopted pursuant to this chapter relating to facilities held in common or shared by more than one food facility shall be deemed a violation for which the owner, manager, or operator of each food facility is responsible.

SEC. 18. Section 27581 of the Health and Safety Code is amended to read:

27581. The hearing officer shall issue a written notice of decision to the permittee within five working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the permittee is charged, and shall state the terms of the suspension or that the permit has been revoked.

SEC. 19. Section 27604 of the Health and Safety Code is amended to read:

27604. (a) No unpackaged food which has been served to any person or returned from any eating area shall be served again or used in the preparation of other food. No food prepared or stored in a private home shall be used, stored, served, offered for sale, sold, or given away in a food facility. A private home shall not be used for the purpose of giving away, selling, or handling food at retail, as defined

in Section 27536.

(b) Except as provided in subdivision (c) of Section 27621, every bakery product shall have a protective wrapping which shall bear a label which complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Division 21 (commencing with Section 26000)). Bakery products sold directly to a restaurant, catering service, retail bakery, or sold over the counter directly to the consumer by the manufacturer or bakery distributor shall be exempt from the provisions of this subdivision. French style, hearth-baked, or hard-crusted loaves and rolls shall be considered properly wrapped if contained in an open-end bag of sufficient size to enclose the loaves or rolls.

SEC. 20. Section 27605 of the Health and Safety Code is amended to read:

27605. All employees preparing, serving, or handling food or utensils shall wear clean, washable outer garments, or other clean uniforms, and shall keep their hands clean. All employees shall wash their hands and arms with cleanser and warm water before commencing work, immediately after using toilet facilities, and at other times as are necessary to prevent contamination of food. Legible signs shall be posted in each toilet room directing attention to this requirement. All employees shall wear hairnets, caps, or other suitable coverings to confine all hair when required to prevent the contamination of food or utensils. Employees serving food shall use tongs or other implements, rather than their hands. No employee shall expectorate or use tobacco in any form in any area where food is prepared, served, or stored or utensils are cleaned or stored. No employee shall commit any act which may result in contamination or adulteration of any food, food contact surface, or utensil. The employer shall post and maintain "No Smoking" signs in food preparation, food storage, utensil cleaning, and utensil storage areas.

When information as to the possibility of disease transmission is presented to an enforcement officer, he or she shall investigate conditions and take appropriate action. The enforcement officer may, after investigation and for reasonable cause, require any or all of the following measures to be taken:

(a) The immediate exclusion of any employee from the affected food facility.

(b) The immediate closing of the food facility until, in the opinion of the enforcement officer, no further danger of disease outbreak exists. Any appeal of the closure shall be made in writing within five days to the applicable enforcement agency.

(c) A medical examination of any employee, with any laboratory examination which may be indicated. Should a medical examination be refused by an employee, the enforcement officer may require the immediate exclusion of the refusing employee from that or any other food facility until an acceptable medical or laboratory examination shows that the employee is not affected with a disease in a communicable form.

SEC. 21. Section 27606 of the Health and Safety Code is amended to read:

27606. No insecticide, rodenticide, or other poisonous substance shall be stored in any food preparation area, except in a separate enclosure provided for that purpose. All poisonous substances, detergents, bleaches, cleaning compounds, or any other injurious or poisonous material shall be specifically and plainly labeled as to contents and hazardous use and shall be stored only in their original, labeled container. None of these products shall be used or stored in a manner which may cause contamination or adulteration of food, food contact surfaces, or utensils.

SEC. 22. Section 27608 of the Health and Safety Code is amended to read:

27608. Each food facility shall be provided with any facilities and equipment necessary to store or dispose of all waste material. All food waste and rubbish containing food waste shall be kept in leakproof and rodentproof containers and shall be contained so as to minimize odor and insect development by covering with close-fitting lids or placement in a disposable bag which is impervious to moisture and then sealed. Trash containers inside a food facility need not be covered during periods of operation. All food waste and rubbish shall be removed and disposed of in a sanitary manner as frequently as may be necessary to prevent the creation of a nuisance.

SEC. 23. Section 27613 of the Health and Safety Code is amended to read:

27613. (a) Manual sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(1) Contact with a solution of 100 ppm available chlorine solution for 30 seconds.

(2) Contact with a solution of 25 ppm available iodine for one minute.

(3) Contact with a solution of 200 ppm quaternary ammonium for one minute.

(4) Contact with water of at least 82 degrees Celsius (180 degrees Fahrenheit) for 30 seconds.

(b) In-place sanitizing shall be as described in paragraph (1), (2), (3), or (4) of subdivision (a).

(c) Other methods may be used if approved by the department.

(d) Testing equipment and materials shall be provided to adequately measure the applicable sanitization method.

SEC. 24. Section 27621 of the Health and Safety Code is amended to read:

27621. (a) Adequate and suitable space shall be provided for the storage of food. Except for large or bulky food containers, all food shall be stored at least 15 centimeters (6 inches) off the floor or under other conditions which are approved. Containers may be stored on dollies, racks, or pallets not meeting this height requirement, if these items are easily movable. All cartons, boxes, or other materials used in the packaging of any food shall be protected at all times from dirt,

vermin, and other forms of contamination or adulteration. All returned or damaged food products and food product from which the label has been removed shall be separated and stored in a separate area and in a manner which will prevent adulteration of other foods and shall not contribute to a vermin problem. Bulk food not stored in original packaging shall be stored in containers identifying the food by common name.

(b) Unpackaged food may be displayed in bulk for customer self-service under the following conditions:

(1) Produce and food requiring further processing may be displayed on open counters or in containers.

(2) Salad bars, buffet-type food service, and other ready-to-eat food shall:

(A) Be shielded so as to intercept a direct line between the customer's mouth and the food being displayed, or shall be in a container which has a tight-fitting, securely attached lid, or may be dispensed from approved mechanical dispensers.

(B) Be stored so as to be protected from vermin or other contamination.

(C) When displayed in a self-service container, shall be provided with a utensil with a handle for dispensing the product.

(3) Except for salad bar and buffet-type food service, a label is conspicuously displayed in plain view of the customer and securely attached to each self-service container, or in clear relationship thereto, which contains all of the following:

(A) The common name of the product.

(B) A declaration of the ingredients used by their common or usual name in descending order of predominance by weight. The declaration shall be provided in writing to the food establishment by the manufacturer, packer, or distributor.

(3) Nonfood items shall be displayed and stored in an area separate from food.

(c) Unpackaged food may be displayed and sold in bulk in other than self-service containers if both of the following conditions are satisfied:

(1) The food is served by an employee of the food establishment directly to a consumer.

(2) The food is displayed in clean, sanitary, and covered or otherwise protected containers.

(d) If the director makes a specific finding that a disease is actually transmitted by the method of dispensing unpackaged foods, as prescribed by this section, the director may establish by regulation greater restrictions on the sale of that food than are required by this section. These regulations shall bear directly on the specific relationship between the disease actually transmitted and the dispensing methods permitted by this section.

SEC. 25. Section 27623 of the Health and Safety Code is amended to read:

27623. (a) All utensils and equipment shall be scrapped, cleaned,

or sanitized as circumstances require.

(b) All food establishments in which food is prepared or in which multiservice kitchen utensils are used shall have at least a two-compartment metal sink with two integral metal drainboards. Additional drainage space may be provided which is not necessarily attached to the sink. The sink compartments and drainage facilities shall be large enough to accommodate the largest utensil or piece of equipment to be cleaned therein. A one-compartment sink which is in use on January 1, 1985, may be continued in use until replaced.

(c) All food establishments in which multiservice consumer utensils are used shall clean the utensils in one of the following ways:

(1) Handwashing of utensils using a three-compartment metal sink with dual integral metal drainboards where the utensils are first washed by hot water and a cleanser until they are clean, then rinsed in clear, hot water before being immersed in a final warm solution meeting the requirements of Section 27613.

(2) Machine washing of utensils in machines using a hot water or chemical sanitizing rinse shall conform to National Sanitation Foundation (NSF) standards, and shall be installed and operated in accordance with those standards. The machines shall be of a type, and shall be installed and operated as approved by the department. The velocity, quantity, and distribution of the washwater, type and concentration of detergent used therein, and the time the utensils are exposed to the water, shall be sufficient to clean the utensils. The quantity and pressure of rinse water and the time of exposure shall provide bactericidal effectiveness equivalent to that provided by compliance with NSF standards, or more restrictive standards if approved by the department. All new spray-type dish machines designed for hot water sanitizing shall be equipped with a self-sealing temperature and pressure test plug. The test plug shall be located immediately upstream of the rinse manifold in a horizontal position and on the machine exterior.

(3) A two-compartment metal sink, having metal drainboards, equipped for hot water sanitization, which is in use on January 1, 1985, may be continued in use until replaced.

(4) Other methods may be used after approval by the department.

(d) Hot and cold water under pressure shall be provided through a mixing valve to each sink compartment in all food establishments constructed on or after January 1, 1985.

(e) All utensil washing equipment, except undercounter dish machines, shall be provided with two integral metal drainboards of adequate size and construction. One drainboard shall be attached at the point of entry for soiled items and one shall be attached at the point of exit for cleaned and sanitized items. Where an undercounter dish machine is used, there shall be two metal drainboards, one for soiled utensils and one for clean utensils, located adjacent to the machine. The drainboards shall be sloped and drained to an approved waste receptor. This requirement may be satisfied by using

the drainboards appurtenant to sinks as required in subdivision (b) and paragraph (1) of subdivision (c), if the facilities are located adjacent to the machine.

(f) The handling of cleaned and soiled utensils, equipment, and kitchenware shall be undertaken in a manner which will preclude possible contamination of cleaned items with soiled items.

(g) All utensils, display cases, windows, counters, shelves, tables, refrigeration units, sinks, dishwashing machines, and other equipment or utensils used in the preparation, sale, service, and display of food shall be made of nontoxic, noncorrosive materials, shall be constructed, installed, and maintained to be easily cleaned, and shall be kept clean and in good repair.

(h) Utensils and equipment shall be handled and stored so as to be protected from contamination. Single-service utensils shall be obtained only in sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used once only.

SEC. 26. Section 27624 of the Health and Safety Code is amended to read:

27624. An adequate, protected, pressurized, potable supply of hot water, at least 49 degrees Celsius (120 degrees Fahrenheit), and cold water shall be provided. The water supply shall be from a water system approved by the health officer or the state department. Any hose used for conveying potable water shall be constructed of nontoxic materials, shall be used for no other purpose, and shall be clearly labeled as to its use. The hose shall be stored and used so as to be kept free of contamination. The potable water supply shall be protected with a back flow or back siphonage protection device, as required by applicable plumbing codes.

SEC. 27. Section 27626 of the Health and Safety Code is amended to read:

27626. In each food establishment, there shall be provided clean toilet facilities in good repair for use by employees. The number of toilet facilities required shall be in accordance with local building and plumbing ordinances. Toilet facilities whose construction begins on or after January 1, 1985, and which are provided for use by patrons, shall be so situated that patrons do not pass through food preparation, food storage, or utensil washing areas. Toilet rooms shall be separated from other portions of the food establishment by well-fitting, self-closing doors or by other methods approved by the enforcement officer. Toilet rooms shall not be used for the storage of food, equipment, or supplies. Toilet tissue shall be provided in a permanently installed dispenser at each toilet.

SEC. 27.1. Section 27626.1 is added to the Health and Safety Code, to read:

27626.1. Amusement parks, stadiums, arenas, retail shopping centers, and similar premises, which include food facilities and toilet facilities within their boundaries, shall not be required to provide toilet facilities for employee use within each food establishment, as

specified by Section 27626, if approved toilet facilities are located within 300 feet of each food establishment and are readily available for use by employees. Food establishments subject to this section shall be provided with handwashing facilities for employee use, as required by Section 27627.

SEC. 27.3. Section 27627.3 of the Health and Safety Code is amended to read:

27627.3. Clean toilet facilities, in good repair, shall be provided for patrons, guests, or invitees on property used in connection with, or in, each food establishment with more than 20,000 square feet of floor space.

For the purposes of this section, the gas pump area of a service station which is maintained in conjunction with a food establishment shall not be considered as property used in connection with the food establishment or be considered in determining the square footage of floorspace of the food establishment.

There shall be at least one separate toilet facility for men and one separate toilet facility for women. Toilet rooms shall be separated by well-fitted, self-closing doors that prevent passage of flies, dust, or odors.

Handwashing facilities, in good repair, shall be provided for patrons, guests, or invitees within or adjacent to toilet rooms and shall be equipped with hot and cold running water. Handwashing detergent or soap and sanitary towels or hot-air blowers shall be provided at handwashing facilities in permanently installed dispensing devices. Notwithstanding any other provision of law, other than Section 27627.5, a violation of this section shall be an infraction.

SEC. 27.5. Section 27627.7 of the Health and Safety Code is amended to read:

27627.7. Sections 27627.3 and 27627.5 apply only to food establishments as to which construction is commenced on or after July 1, 1984.

SEC. 28. Section 27631 of the Health and Safety Code is amended to read:

27631. (a) Except in sales areas of retail food establishments and as otherwise provided in subdivision (d), the floor surfaces in all areas in which food is prepared, packaged, or stored, where any utensil is washed, where refuse or garbage is stored, where janitorial facilities are located, and, except with respect to areas relating to guestroom accommodations and the private accommodations of owners and operators in restricted food service transient occupancy establishments, as defined in Section 27535.5, in all toilet and handwashing areas, and in employee change and storage areas shall be smooth and of durable construction and nonabsorbent material which is easily cleaned.

These floor surfaces shall be coved at the juncture of the floor and wall with a 10 millimeter (⅜ inch) minimum radius coving and shall extend up the wall at least 10 centimeters (4 inches) except in areas

where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(b) Upon new construction or extensive remodeling on or after January 1, 1985, floor drains shall be installed as follows:

(1) In floors that are water-flushed for cleaning.

(2) In areas where pressure spray methods for cleaning equipment are used.

Floor surfaces in areas pursuant to this subdivision shall be sloped 1:50 to the floor drains.

(c) Upon new construction or extensive remodeling on or after January 1, 1985, floor sinks, funnel drains, or equivalent devices shall be installed to receive discharges of water or other fluid waste from equipment.

(d) Except for dining and serving areas, the use of sawdust, wood shavings, peanut hulls, or similar materials is prohibited.

(e) This section shall not prohibit the use of approved dust-arresting floor sweeping and cleaning compounds during floor cleaning operations or the use of approved anti-slip floor finishes or materials in areas where necessary for safety reasons.

(f) Food establishments which are in operation on January 1, 1985, and in which sawdust is used as an absorbent in meat holding units may continue this use until the floor is replaced.

SEC. 29. Section 27632 of the Health and Safety Code is amended to read:

27632. The walls and ceilings of all rooms, except for bar areas, rooms where food is stored in unopened containers, and dining areas, shall be of a durable, smooth, nonabsorbent, washable surface. Walls and ceilings of food preparation and utensil washing areas and interior surfaces of walk-in refrigeration units shall also be light-colored. Wall areas adjacent to bar sinks shall be smooth, nonabsorbent, and washable surface. Acoustical paneling may be utilized providing it is installed not less than 1.8 meters (6 feet) above the floor. Any perforations shall not penetrate the entire depth of the panel, shall not be greater than 3 millimeters (⅛ inch) in any dimension, and shall not comprise more than 25 percent of the exposed panel surface. The paneling shall otherwise meet the requirements of this section.

Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed so as to facilitate cleaning.

SEC. 30. Section 27641 of the Health and Safety Code is amended to read:

27641. Notwithstanding the provisions of this chapter, neither the state department nor any city, county, or city and county shall require the enclosure of an open-air barbecue facility if the appropriate enforcement officer determines that the barbecue facility meets all of the following requirements:

(a) The facility is operated on the same premises as, in reasonable proximity to, and in conjunction with, a food establishment,

temporary food facility, or stationary mobile food preparation unit.

(b) All food waste and rubbish containing food waste is handled in accordance with the requirements of Section 27608.

(c) The facility is operated in compliance with the provisions of Articles 6 (commencing with Section 27590) and 7 (commencing with Section 27600), except for Sections 27607, 27610, and 27613.

(d) The multiservice utensils and equipment used in conjunction with the open-air barbecue facility are made of nontoxic materials, are constructed and maintained in a manner so they can be easily cleaned, and are kept clean and in good repair.

(e) Food and beverages served out of doors are dispensed from units approved by the enforcement officer. No other food may be prepared or stored in the out of doors, except for food cooked on the open-air barbecue unit.

(f) (1) Except as otherwise provided in paragraph (2), no live animals, birds, or fowl shall be kept or allowed in an area within 20 feet of any area where food or beverage is prepared, stored, kept, or served.

(2) Paragraph (1) does not prohibit the presence, in any area where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) Those persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(g) If the barbecue facility is a permanent structure, it is equipped with an impervious and easily cleaned floor surface that extends a minimum of five feet from the open-air barbecue facility on all open sides.

(h) The barbecue facility is located in an area reasonably protected from dust, as determined by the enforcement officer.

(i) The barbecue facility is not operated in, or out of, any motor vehicle or in any area or location that may constitute a fire hazard, as determined by the enforcement officer. For the purposes of this section, a motor vehicle does not include a stationary mobile food preparation unit, as defined in Section 27537.5.

(j) Sanitary facilities, including, but not limited to, toilet facilities and handwashing facilities shall be available for use within 200 feet

of the barbecue facility and shall comply with all provisions of this chapter. Sanitary facilities that do not meet the requirements of this chapter shall not be located closer to the barbecue facility than the sanitary facilities required to be provided by this section.

SEC. 30.3. Section 27673 of the Health and Safety Code is amended to read:

27673. (a) The following foods may be sold from vehicles in an unpackaged state, provided the storage, display, and dispensing methods are approved by the enforcement agency:

(1) Popcorn.
(2) Nuts.
(3) Produce.
(4) Pretzels and similar bakery products.
(5) Candy.
(6) Hot dogs.
(7) Snowcones.
(8) Whole fish and whole aquatic invertebrates.

(b) Hot and cold beverages which are not potentially hazardous, as defined in Section 27531, may be sold from approved bulk dispensing units.

(c) Vehicles selling or offering for sale nonprepackaged foods, as specified in subdivision (a), except produce and approved beverages shall be equipped with a food compartment as specified in subdivision (a) of Section 27675. In addition, those vehicles handling nonprepackaged hot dogs, popcorn, or snowcones shall comply with subdivisions (b), (c), (d) and (e) of Section 27675. Those vehicles handling unpackaged whole fish and aquatic invertebrates shall comply with subdivision (e) of Section 27675, for drainage of waste water from display and storage compartments.

SEC. 30.5. Section 27675 of the Health and Safety Code is amended to read:

27675. Vehicles on which nonprepackaged hot dogs, popcorn, or snowcones are sold or offered for sale shall, in addition to the requirements of Section 27672, be constructed and equipped as follows:

(a) The food compartment shall be completely closed. The opening to the food compartment shall be sufficiently large to permit food assembly and service operations and shall be provided with a tightly fitted closure which, when closed, protects interior surfaces from dust, debris, and vermin. All food compartments and food contact surfaces shall be constructed so as to be smooth, easily accessible, and easily cleanable.

(b) A one-compartment metal sink furnished with warm running water which is at least 38 degrees Celsius (101 degrees Fahrenheit) and cold water. The sink shall be of a size suitable for washing hands and utensils.

(c) Handwashing cleanser and single-service towels.

(d) A water supply tank of at least 18 liters (5 gallons) capacity.

(e) A waste water tank of at least 28 liters (7.5 gallons) capacity.

SEC. 30.6. Section 27676 of the Health and Safety Code is amended to read:

27676. Vehicles on which nonprepackaged hot dogs, popcorn, or snowcones are sold or offered for sale that operate exclusively on premises wherein approved toilet, handwashing, and utensil washing facilities are readily available and within 60 meters (200 feet) shall be exempt from the requirements of subdivisions (b) through (e) of Section 27675.

Vehicles subject to this section which were in operation as of July 1, 1986, shall not be required to meet the requirements of this article relating to utensil washing facilities, as long as an approved reserve supply of utensils is maintained on the vehicle.

SEC. 30.7. The heading of Article 12 (commencing with Section 27790) of Chapter 4 of Division 22 of the Health and Safety Code is amended to read:

Article 12. Mobile Food Preparation Units, Stationary Mobile Food Preparation Units, and Commissaries

SEC. 30.8. Section 27790 of the Health and Safety Code is amended to read:

27790. This article governs sanitation requirements for mobile food preparation units, stationary mobile food preparation units, and commissaries as defined in this chapter.

SEC. 30.9. Section 27791 of the Health and Safety Code is amended to read:

27791. (a) All mobile food preparation units, stationary mobile food preparation units. and commissaries shall meet the applicable requirements in Article 6 (commencing with Section 27590), Article 7 (commencing with Section 27600), and Article 8 (commencing with Section 27620), unless specifically exempted from any of these provisions as provided in this article, and shall meet the provisions of Article 10 (commencing with Section 13600) of, and Article 10.1 (commencing with Section T17-13611) of subchapter 2 of Chapter 5 of Part 1 of Title 17 of the California Administrative Code. Mobile food preparation units and stationary mobile food preparation units shall be exempt from the requirements of Sections 27626 and 27628, and subdivision (b) of Section 27634.

(b) Each stationary mobile food preparation unit shall be certified pursuant to Article 10 (commencing with Section 13600) of Subchapter 2 of Chapter 5 of Part 1 of Title 17 of the California Administrative Code before commencing operation each calendar year. The local enforcement agency shall address all applicable construction standards and submit proof of certification to the state department. Construction recertification within a calendar year shall not be required except in either of the following instances:

(1) Where structural modifications are made.

(2) Where otherwise required by the state department.

The state department may issue an annual certificate of

compliance for each certified vehicle, as required by regulation.

SEC. 31. Section 27792 is added to the Health and Safety Code, to read:

27792. All mobile food preparation units shall operate out of a commissary or other facility approved by the enforcement agency. Mobile food preparation units shall report to the commissary at least once each operating day for cleaning and servicing operations, except as otherwise approved by the enforcement officer.

SEC. 32. Section 27804 is added to the Health and Safety Code, to read:

27804. Open-air barbecue facilities may be operated adjacent to temporary food facilities with the approval of the enforcement officer and subject to the requirements of Article 9 (commencing with Section 27640).

SEC. 33. Section 27821 of the Health and Safety Code is amended to read:

27821. (a) Produce stands operated by a producer selling or offering for sale produce or shell eggs, or both, are exempt from the provisions of this chapter, provided the produce stand is operated on premises controlled by the producer.

(b) For purposes of this section, "producer" means a person or entity who produces shell eggs, fruits, nuts, or vegetables by practice of the agricultural arts upon land which the person or entity controls.

(c) All other produce stands shall meet the requirements of Articles 6 (commencing with Section 27590), 7 (commencing with Section 27600), and 8 (commencing with Section 27620), except for the following:

(1) All food shall be stored at least 46 centimeters (18 inches) off the floor, except that food stored in a walk-in refrigeration unit shall be stored at least 13 centimeters (5 inches) off the floor.

(2) Food preparation is prohibited.

(3) Foods, other than trimmed produce and shell eggs, shall not be kept at these food establishments. This shall not apply to retail dairy processing rooms.

(d) A produce stand shall have no more than one side open to the outside air during business hours.

SEC. 34. Section 27831 of the Health and Safety Code is amended to read:

27831. Certified farmers' markets shall meet the provisions of Article 6 (commencing with Section 27590) and, in addition, shall meet all of the following requirements:

(a) All food shall be stored at least 15 centimeters (6 inches) off the floor or ground or under any other conditions which are approved.

(b) Food preparation is prohibited.

(c) Approved toilet and handwashing facilities shall be available within 60 meters (200 feet) of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within

6 meters (20 feet) of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and rubbish shall be stored, and disposed of, in a manner approved by the enforcement officer.

SEC. 35. Article 17 (commencing with Section 27850) is added to Chapter 4 of Division 22 of the Health and Safety Code, to read:

Article 17. Restricted Food Service Transient Occupancy Establishments

27850. This article governs general sanitation requirements for restricted food service transient occupancy establishments, as defined in Section 27535.5.

27851. Except as otherwise set forth in this article, restricted food service transient occupancy establishments shall meet the applicable requirements in Article 6 (commencing with Section 27590), Article 7 (commencing with Section 27600), and Article 8 (commencing with Section 27620).

27852. For purposes of Section 27604, a restricted food service transient occupancy establishment shall not be deemed to be a "private home" solely because the owner or operator thereof resides on the premises or prepares on the premises food for his or her consumption and that of his or her family.

27853. Notwithstanding the provisions of Section 27605, restricted food service transient occupancy establishments shall not be required to post signs in toilet rooms in guestrooms.

27854. Restricted food service transient occupancy establishments shall be exempt from the provisions of Section 27610; provided, however, that no live animal, bird, or fowl shall be kept or allowed in any portion of the premises where food for the registered guests of the establishment is used, stored, served, offered for sale, or given away. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

27855. Restricted food service transient occupancy establishments shall be exempt from the provisions of Section 27614; provided, however, that the enforcement officer shall have the right to disapprove any new or replacement equipment which would create a public health problem.

27856. Restricted food service transient occupancy establishments shall be exempt from the provisions of Section 27628; provided, however, that no person shall store clothing or personal effects in any area used for the storage or preparation of food.

27857. (a) All utensils and equipment shall be scrapped, cleaned, or sanitized as circumstances require.

(b) Restricted food service transient occupancy establishments shall comply with the provisions of subdivisions (b) to (e), inclusive, of Section 27623 or, at the option of the owner or operator of the

establishment, shall utilize a domestic or commercial dishwasher for the purpose of cleaning and sanitizing multiservice kitchen utensils and multiservice consumer utensils; provided, however, that such dishwasher is capable of providing heat to the surface of the utensils of a temperature of at least 165 degrees F. Except as otherwise set forth in this subdivision, restricted food service transient occupancy establishments shall comply with the provisions of Section 27623.

27858. Notwithstanding the provisions of Section 27625, food preparation sinks in restricted food transient occupancy establishments need not have indirect sewer connections.

27859. Restricted food service transient occupancy establishments shall be exempt from the provisions of Section 27629; provided, however, that ventilation shall be provided to remove gases, odors, steam, heat, grease, vapors and smoke from the food establishment. In the event that the enforcement officer determines that such ventilation must be mechanical in nature, such ventilation shall be accomplished by methods approved by the State Department of Health Services.

27860. In restricted food service transient occupancy establishments, only new and replacement walls and ceilings (or their coverings) need comply with Section 27632; provided, however, that all walls and ceilings (and their coverings) must be maintained in a clean and sanitary condition.

27861. Restricted food service transient occupancy establishments shall be exempt from the provisions of Section 27634(b); provided, however, that hot water must be available for janitorial purposes and that waste water from janitorial activities cannot be disposed of in any sink used for washing utensils or for the preparation of food.

27862. Restricted food service transient occupancy establishments shall be exempt from Section 27636. However, no sleeping accommodations shall be allowed in any area where food is stored, prepared, or served.

27863. All food intended for consumption by guests shall be from an approved source. The use of home canned foods and meat and dairy products from unapproved sources is prohibited.

SEC. 36. 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. Moreover, 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 other 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 for the other costs available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 713

An act to amend Sections 241 and 243 of the Penal Code, relating to crimes.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 241 of the Penal Code is amended to read:

241. (a) An assault is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(b) When an assault is committed against the person of a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that such victim is a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, traffic officer, public utility inspector, park ranger, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the assault is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(c) As used in this section:

(1) Peace officer means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Mobile intensive care paramedic" refers to those persons who meet the standards set forth in Section 1481 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) "Lifeguard" means a person who is:

(A) Employed as a lifeguard by the state, a county, city or county, and is designated by local ordinance as a public officer who has a duty and responsibility to enforce local ordinances and misdemeanors through the issuance of citations.

(B) Wearing distinctive clothing which includes written

identification of the person's status as a lifeguard and which clearly identifies the employing organization.

(6) "Traffic officer" means any person employed by a city, county, or city and county, to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(7) "Animal control officer" means any person employed by a city, county, or city and county for purposes of enforcing animal control laws or regulations.

SEC. 2. Section 243 of the Penal Code is amended to read:

243. (a) A battery is punishable by a fine of not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(c) When a battery is committed against a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by imprisonment in the county jail for a period of not more than one year, or by a fine of not more than two thousand dollars ($2,000), or

by imprisonment in the state prison for 16 months, or two or three years.

(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

(e) As used in this section:

(1) "Peace officer" means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Mobile intensive care paramedic" means any person who meets the standards set forth in Section 1481 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(6) "Injury" means any physical injury which requires professional medical treatment.

(7) "Custodial officer" means any person who has the responsibilities and duties described in Section 831 and who is employed by a law enforcement agency of any city or county or who performs those duties as a volunteer.

(8) "Lifeguard" means a person defined in paragraph (5) of subdivision (c) of Section 241.

(9) "Traffic officer" means any person employed by a city, county, or city and county, to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(10) "Animal control officer" means any person employed by a city, county, or city and county for purposes of enforcing animal control laws or regulations.

It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as People v. Corey, 21 Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform as private security guards or patrolmen and to allow the exercise of peace officer powers concurrently with that employment.

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 714

An act to amend Section 1596.793 of the Health and Safety Code, relating to child day care.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1596.793 of the Health and Safety Code is amended 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. Child day care programs conducted by these organizations and the fees charged for that specific purpose are subject to the requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30).

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 715

An act to add Section 6410 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 6410 is added to the Revenue and Taxation Code, to read:

6410. The storage, use, or other consumption in this state of new

or used trailers or semitrailers which involves the moving or operation laden of those trailers or semitrailers in accordance with a one-trip permit issued pursuant to Section 4003.5 of the Vehicle Code is exempted from the use tax.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. 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 716

An act to amend and renumber the heading of Chapter 11 (commencing with Section 8855) of Division 1 of Title 2 of, and to amend Section 8855 of, the Government Code, and to repeal Section 2 of Chapter 1088 of the Statutes of 1981, relating to state government.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. The heading of Chapter 11 (commencing with Section 8855) of Division 1 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 11.5. CALIFORNIA DEBT ADVISORY COMMISSION

SEC. 2. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt Advisory Commission, consisting of nine members, selected as follows:

(1) The Treasurer, or his or her designate.

(2) The Governor or the Director of Finance.

(3) The Controller, or his or her designate.

(4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate

Committee on Rules.

(b) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission. The commission, on or after January 1, 1982, and annually thereafter, shall elect from its members a vice chairperson and a secretary who shall hold office until the next ensuing December 31 and shall continue to serve until their respective successors are elected.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission shall do all of the following:

(1) Assist the Housing Bond Credit Committee and all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide information on state and local debt authorization, sold and outstanding, and serve as a statistical center for all state and local debt issues.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(f) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(g) The issuer of any proposed new debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid. This subdivision shall

also apply to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans.

(h) The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount thereof. Failure to give this notice shall not affect the validity of the sale.

(i) The commission shall publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(j) The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(k) All administrative and clerical assistance required by the commission shall be furnished by the office of the Treasurer.

SEC. 3. Section 2 of Chapter 1088 of the Statutes of 1981 is repealed.

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 717

An act to amend Sections 22101, 22112, 22114, 22800, 23100, 23701, 23702, 23708, 23801, 24603, and 24604 of, and to repeal Sections 23701.5, 23703, 23704, 23705, and 23707 of, the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 22101 of the Education Code is amended to read:

22101. "Accumulated retirement contributions" means the sum of all member contributions and all member contributions paid by the employer pursuant to Sections 23000.1 and 23000.5 with credited interest but does not include accumulated annuity deposit contributions and accumulated tax-sheltered annuity contributions.

SEC. 2. Section 22112 of the Education Code is amended to read:

22112. "Child" or "children" means any of the following:

(a) The unmarried offspring of a member under 18 years of age,

not adopted by a person other than the spouse, and dependent upon the member on the effective date of disability allowance or death.

(b) The unmarried child, under 18 years of age, adopted by the member, and dependent upon the member on the effective date of disability allowance or death.

(c) The unmarried stepchild of the member, under 18 years of age, and dependent upon the member on the effective date of disability allowance or death.

(d) The dependent unmarried child described in subdivision (a), (b) or (c) who is under the age of 22 and who is registered as a full-time student, as defined in Section 22128, on the effective date of disability allowance or death.

A dependent unmarried child who is a full-time student in the month of attaining age 22, shall be deemed not to have attained that age until the first day of the month following the end of the school quarter or semester which was in progress in the month of attainment of age 22.

For those members receiving a disability allowance and who subsequently die, the maximum number of children for family benefits shall be those who were eligible on the effective date of disability allowance.

SEC. 3. Section 22114 of the Education Code is amended to read:

22114. (a) "Compensation" and "salary" mean: (1) remuneration in cash payable by the employer to the member; (2) any member contributions paid by the employer pursuant to Sections 23000.1 and 23000.5; (3) any amount deducted from the member's salary for payment to one other than the member for the purpose of purchasing an annuity contract for the member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 403(b)); (4) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 of Division 5 of Title 2, or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, of the Government Code; (5) any amount deducted from the member's salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 401(k)).

(b) "Compensation" and "salary" do not mean, and shall not include, any of the following:

(1) Job-related expenses.

(2) Money paid to the employee for overtime service on and after July 1, 1956.

(3) Compensatory damages and money paid to the member in excess of regular salary as a compromise settlement of a dispute arising from termination of a member's employment contract.

(4) Lump-sum payments for accumulated sick leave or accumulated vacation leave.

(5) Money paid for summer school employment.

(6) Money paid as a bonus.

(7) Tax-sheltered annuity contributions which do not result in a reduction of the earned contract salary paid to the employee.

(8) Fringe benefits paid for by the employer in lieu of salary.

(9) Money not available for payment of salaries and which is applied by an employer for the purchase of annuity contracts or for other insurance programs, including those which meet the requirements of Section 403(b) of the Internal Revenue Code of 1954.

(10) Money not available for payment of salaries and which is applied by an employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code.

(c) Any moneys paid under paragraphs (1) to (10), inclusive, of subdivision (b), shall not be included as a part of the member's compensation subject to contributions reported to the system.

SEC. 4. Section 22800 of the Education Code is amended to read:

22800. Contributions made by a member and member contributions made by an employer pursuant to Sections 23000.1 and 23000.5 shall be credited by the board to the individual account of the member.

SEC. 5. Section 23100 of the Education Code is amended to read:

23100. Upon the termination of a member's employment by any cause other than death or retirement there shall be paid to the member, pursuant to this part, both of the following:

(a) The accumulated retirement contributions made after June 30, 1935.

(b) The accumulated annuity deposit contributions.

Accumulated contributions include credited interest through the date of payment.

SEC. 6. Section 23701 of the Education Code is amended to read:

23701. If no beneficiary designation is in effect on the date of death, any benefit payable shall be paid to the estate of the member.

Payment pursuant to the board's determination in good faith upon evidence satisfactory to it of the existence, identity or other facts relating to entitlement of persons under this section shall constitute a complete discharge of and release of the system from liability for the benefit.

SEC. 7. Section 23701.5 of the Education Code is repealed.

SEC. 8. Section 23702 of the Education Code is amended to read:

23702. A member or retirant may at any time designate a beneficiary to receive those benefits as may be payable under this part. Any change of beneficiary shall be in writing on a form prescribed by the system, executed by the member, witnessed by two witnesses, neither of whom may be beneficiaries. To be valid the instrument shall be received in the office of the system in Sacramento before the member's death.

The designation of beneficiary, other than a designation under

options 2, 3, 4, and 5, may be revoked at the pleasure of the person making the nomination, and a different beneficiary designated in the same manner herein provided.

SEC. 9. Section 23703 of the Education Code is repealed.

SEC. 10. Section 23704 of the Education Code is repealed.

SEC. 11. Section 23705 of the Education Code is repealed.

SEC. 12. Section 23707 of the Education Code is repealed.

SEC. 13. Section 23708 of the Education Code is amended to read:

23708. Payment to a beneficiary designated in the form on file in the system at the date of death by a warrant drawn prior to any claim under community property rights constitutes full discharge of any and all liability of the board and system by reason of the member's death.

SEC. 14. Section 23801 of the Education Code is amended to read:

23801. Upon receipt of proof of death of a member who has no preretirement option in effect, and who has no eligible survivors for a family allowance, there shall be paid to the beneficiary both of the following:

(a) The accumulated retirement contributions after June 30, 1935.

(b) The accumulated annuity deposit contributions.

Accumulated contributions include credited interest through the date of payment.

SEC. 15. Section 24603 of the Education Code is amended to read:

24603. Payment pursuant to the board's determination in good faith of the existence, identity or other facts relating to entitlement of persons constitutes a complete discharge of and release of the system from liability for the payment so made.

Notwithstanding Sections 5105 and 5125 of the Civil Code relating to community property interests, whenever payment or refund is made by this system to a member, former member, or beneficiary of a member pursuant to this part, the payment shall fully discharge the system from all adverse claims thereto unless, before payment is made, the system has received at its office in Sacramento a written notice of adverse claim.

SEC. 16. Section 24604 of the Education Code is amended to read:

24604. Any retirement allowance payable to a retirant, which has accrued and remains unpaid at the time of his or her death, shall be paid to either of the following:

(a) The beneficiary entitled to payment in accordance with an optional settlement chosen by the member.

(b) The beneficiary entitled to receive the lump-sum death benefit provided upon death of a retirant if the member has not chosen an optional settlement.

SEC. 17. Due to the required administrative services necessary for implementation of this act, 2.0 limited-term Office Assistant I positions are authorized for the State Teachers' Retirement System for the period from January 1, 1987, through December 31, 1987.

SEC. 18. The sum of fifty-four thousand dollars ($54,000) is hereby appropriated from the Teachers' Retirement Fund to the

State Teachers' Retirement System for expenditure during the period of January 1, 1987, through June 30, 1987, for salary and benefits, equipment, and supplies for the positions specified in Section 17 of this act and for changes in forms required by this act.

CHAPTER 718

An act to amend Sections 1352.1, 1361, 1382, and 1386 of, to amend and renumber Sections 1373.4 and 1373.7 of, and to repeal and add Section 1387 of, the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 1352.1 of the Health and Safety Code is amended to read:

1352.1. (a) Except as provided in subdivision (b), no plan shall enter into any new or modified plan contract or publish or distribute, or allow to be published or distributed on its behalf, any disclosure form or evidence of coverage, unless (1) a true copy thereof has first been filed with the commissioner, at least 30 days prior to any such use, or any shorter period as the commissioner by rule or order may allow, and (2) the commissioner by notice has not found the plan contract, disclosure form, or evidence of coverage, wholly or in part, to be untrue, misleading, deceptive, or otherwise not in compliance with this chapter or the rules thereunder, and specified the deficiencies, within at least 30 days or any shorter time as the commissioner by rule or order may allow.

(b) Except as provided in subdivision (c), a licensed plan which has been continuously licensed under this chapter for the preceding 18 months and which has had group contracts in effect at all times during that period may enter a new or modified group contract or may publish or distribute, or allow to be published or distributed on its behalf, any group disclosure form or evidence of coverage without having filed the same for the commissioner's prior approval, if the plan and the materials comply with each of the following conditions:

(1) The contract, disclosure form, or evidence of coverage, or any material provision thereof, has not been previously disapproved by the commissioner by written notice to the plan and the plan reasonably believes that the contract, disclosure form, and evidence of coverage do not violate any requirements of this chapter or the rules thereunder.

(2) The plan files the contract and any related disclosure form and evidence of coverage with the commissioner not later than 10 business days after entering the contract, or within any additional

period as the commissioner by rule or order may provide.

(3) If the person or group entering into the contract with the plan is not an employee welfare benefit plan, as defined in the Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.), the person or group is not organized solely or principally for the purpose of providing health benefits to members of the group.

(c) The commissioner by order may require a plan which has entered any group contract or published or distributed, or allowed to be published or distributed on its behalf, any disclosure form or evidence of coverage in violation of this chapter or the rules thereunder to comply with subdivision (a) prior to entering group contracts, or a specified class of group contracts, and prior to publishing or distributing, or allowing to be published or distributed on its behalf, related disclosure forms and evidences of coverage. An order issued pursuant to this subdivision shall be effective for 12 months from its issuance, and may be renewed by order if the contracts, disclosure forms, or evidences of coverage submitted under this subdivision indicate difficulties of voluntary compliance with the applicable provisions of this chapter and the rules thereunder.

(d) A licensed plan or other person regulated under this chapter may, within 30 days after receipt of any notice or order under this section, file a written request for a hearing with the commissioner.

SEC. 2. Section 1361 of the Health and Safety Code is amended to read:

1361. (a) Except as provided in subdivision (b), no plan shall publish or distribute, or allow to be published or distributed on its behalf, any advertisement not subject to Section 1352.1 unless (1) a true copy thereof has first been filed with the commissioner, at least 30 days prior to any such use, or any shorter period as the commissioner by rule or order may allow, and (2) the commissioner by notice has not found the advertisement, wholly or in part, to be untrue, misleading, deceptive, or otherwise not in compliance with this chapter or the rules thereunder, and specified the deficiencies, within the 30 days or any shorter time as the commissioner by rule or order may allow.

(b) Except as provided in subdivision (c), a licensed plan which has been continuously licensed under this chapter for the preceding 18 months may publish or distribute or allow to be published or distributed on its behalf an advertisement not subject to Section 1352.1 without having filed the same for the commissioner's prior approval, if the plan and the material comply with each of the following conditions:

(1) The advertisement or a material provision thereof has not been previously disapproved by the commissioner by written notice to the plan and the plan reasonably believes that the advertisement does not violate any requirement of this chapter or the rules thereunder.

(2) The plan files a true copy of each new or materially revised advertisement, used by it or by any person acting on behalf of the

plan, with the commissioner not later than 10 business days after publication or distribution of the advertisement or within such additional period as the commissioner may allow by rule or order.

(c) If the commissioner finds that any advertisement of a plan has materially failed to comply with this chapter or the rules thereunder, the commissioner may, by order, require the plan to publish in the same or similar medium, an approved correction or retraction of any untrue, misleading, or deceptive statement contained in the advertising, and may prohibit the plan from publishing or distributing, or allowing to be published or distributed on its behalf the advertisement or any new materially revised advertisement without first having filed a copy thereof with the commissioner, 30 days prior to the publication or distribution thereof, or any shorter period specified in the order. An order issued under this subdivision shall be effective for 12 months from its issuance, and may be renewed by order if the advertisements submitted under this subdivision indicate difficulties of voluntary compliance with the applicable provisions of this chapter and the rules thereunder.

(d) A licensed plan or other person regulated under this chapter may, within 30 days after receipt of any notice or order under this section, file a written request for a hearing with the commissioner.

(e) The commissioner by rule or order may classify plans and advertisements and exempt certain classes, wholly or in part, either unconditionally or upon specified terms and conditions or for specified periods, from the application of subdivisions (a) and (b).

SEC. 3. Section 1373.4 of the Health and Safety Code is amended and renumbered to read:

1373.10. (a) On and after January 1, 1985, every health care service plan, that is not a health maintenance organization or is not a plan that enters exclusively into specialized health care service plan contracts, as defined by subdivision (n) of Section 1345, which provides coverage for hospital, medical, or surgical expenses, shall offer coverage to group contract holders for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under such terms and conditions as may be agreed upon between the health care service plan and the group contract holder.

A health care service plan is not required to offer the coverage provided by this section as part of any contract covering employees of a public entity.

(b) For the purposes of this section, "health maintenance organization" or "HMO" means a public or private organization, organized under the laws of this state, which does all of the following:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage.

(2) Is compensated, except for copayments, for the provision of basic health care services listed in paragraph (1) to enrolled

participants on a predetermined periodic rate basis.

(3) Provides physician services primarily directly through physicians who are either employees or partners of the organization, or through arrangements with individual physicians or one or more groups of physicians, organized on a group practice or individual practice basis.

SEC. 4. Section 1373.7 of the Health and Safety Code is amended and renumbered to read:

1373.11. A health care service plan that offers or provides one or more podiatry services, as defined in Section 2472 of the Business and Professions Code, as a specific podiatric plan benefit shall not refuse to give reasonable consideration to affiliation with podiatrists for the provision of service solely on the basis that they are podiatrists.

SEC. 5. 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.

(c) Reports of all surveys, deficiencies, and correction plans shall be open to public inspection, except that no surveys, deficiencies, or correction plans shall be made public, unless the plan has had an opportunity to review the survey deficiencies and correction plans and file a statement or response within 30 days, to be attached to the report. Deficiencies shall not be made public if they are corrected within 30 days of the date that the plan was notified of the deficiency.

SEC. 6. Section 1386 of the Health and Safety Code is amended to read:

1386. (a) The commissioner may suspend or revoke any license issued under this chapter to a health care service plan or assess civil penalties if the commissioner determines that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action.

(b) The following acts or omissions constitute grounds for disciplinary action by the commissioner:

(1) The plan is operating at variance with the basic organizational documents as filed pursuant to Section 1351 or 1352, or with its published plan, or in any manner contrary to that described in, and reasonably inferred, from the plan as contained in its application for licensure and annual report, or any modification thereof, unless amendments allowing the variation have been submitted to, and approved by, the commissioner.

(2) The plan has issued, or permits others to use, evidence of coverage or uses a schedule of charges for health care services which do not comply with those published in the latest evidence of coverage found unobjectionable by the commissioner.

(3) The health care service plan does not provide basic health care services to its enrollees and subscribers as set forth in the evidence of coverage. This subdivision shall not apply to specialized health care service plan contracts.

(4) The plan is no longer able to meet the standards set forth in Article 5 (commencing with Section 1367).

(5) The continued operation of the plan will constitute a substantial risk to its subscribers and enrollees.

(6) The plan has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter or any rule or regulation adopted by the commissioner pursuant to this chapter.

(7) The plan has engaged in any conduct which constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of the Business and Professions Code.

(8) The plan has permitted, or aided or abetted any violation by an employee or contractor who is a holder of any certificate, license, permit, registration or exemption issued pursuant to the Business and Professions Code, or the Health and Safety Code which would constitute grounds for discipline against the certificate, license, permit, registration, or exemption.

(9) The plan has aided or abetted or permitted the commission of any illegal act.

(10) The engagement of a person as an officer, director, employee, associate, or provider of the plan contrary to the provisions of an order issued by the commissioner pursuant to subdivision (c) of this section or subdivision (d) of Section 1388.

(11) The engagement of a person as a solicitor or supervisor of solicitation contrary to the provisions of an order issued by the commissioner pursuant to Section 1388.

(12) The plan, its management company, or any other affiliate of the plan, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in the plan, management company or affiliate, has been convicted of or pleaded nolo contendere to a crime, or committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially

related to the qualifications, functions or duties of a person engaged in business in accordance with this chapter. The commissioner may revoke or deny a license hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) The commissioner may prohibit any person from serving as an officer, director, employee, associate, or provider of any plan or solicitor firm, or of any management company of any plan, or as a solicitor, if (1) the prohibition is in the public interest and the person has committed or caused, participated in, or had knowledge of a violation of this chapter by a plan, management company, or solicitor firm or if (2) the person was an officer, director, employee, associate, or provider of a plan or of a management company or solicitor firm of any plan whose license has been suspended or revoked pursuant to this section and the person had knowledge of, or participated in, any of the prohibited acts for which the license was suspended or revoked. A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a plan under this section or may constitute a separate proceeding, subject in either case to appropriate notice and opportunity for hearing to the person affected in accordance with subdivision (a) of Section 1397.

SEC. 7. Section 1387 of the Health and Safety Code is repealed.

SEC. 8. Section 1387 is added to the Health and Safety Code, to read:

1387. (a) Any person who violates any provision of this chapter, or who violates any rule or order adopted or issued pursuant to 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 commissioner in any court of competent jurisdiction.

(b) As applied to the civil penalties for acts in violation of this chapter, the remedies provided by this section and by other sections of this chapter are not exclusive, and may be sought and employed in any combination to enforce this chapter.

(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 719

An act to amend Sections 11706, 11731, 11754, and 11761 of, to add Section 11736.5 to, and to repeal Section 139 of, the Water Code, relating to water resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 139 of the Water Code is repealed.

SEC. 1.5. Section 11706 of the Water Code is amended to read:

11706. Any provisions not inconsistent with this part may be contained in the proceedings authorizing the issuance of bonds which limit, restrict, or regulate the holding, deposit, investment, and application of money consisting of the proceeds from the sale of the bonds or the revenues received from the operation of the project, and such provisions shall constitute a contract with the holders of the bonds and be binding upon the department as long as the bonds are outstanding. The proceedings authorizing the issuance of bonds may also contain any provisions not inconsistent with this part which are determined by the department and the Treasurer to be necessary or desirable to improve the marketability of the bonds or lower the interest cost on the bonds to the department.

SEC. 2. Section 11731 of the Water Code is amended to read:

11731. The department and the Treasurer shall determine the interest rate or rates on the bonds. The rate or rates may be fixed or variable and shall not exceed 12 percent per annum, except that the rate on any bond may, on any day, exceed 12 percent per annum if the interest borne by the issue of which the bond is a part from its date of issuance to, and including, that day does not exceed the total interest which would have been borne by the issue if all bonds of the issue had borne interest during that period at the rate of 12 percent per annum.

SEC. 3. Section 11736.5 is added to the Water Code, to read:

11736.5. The department may enter into banking, insurance, remarketing, and other financial arrangements as may be necessary or desirable to provide additional security for the payment of principal and interest on the bonds or to provide the holders of the bonds the right to tender bonds to the department or to another party for purchase at the times, on the notice, and on those other terms as the department may determine. These arrangements may provide for the reimbursement by the department, with interest, of moneys advanced by the provider of additional security, the provider of a tender right, the provider of moneys to fund a tender right, or anyone performing a related function, except that the interest rate on the reimbursement obligation shall not exceed the

rate specified in Section 11731 and the sources of moneys for the reimbursement shall be only the sources available for the payment of the bonds.

SEC. 4. Section 11754 of the Water Code is amended to read:

11754. All bonds authorized for issuance by the department shall be sold by the Treasurer at public sale by bid or at private sale by negotiation, as directed by the department after consultation with the Treasurer. If the bonds are to be sold by a negotiated sale, the Treasurer shall select the underwriter or underwriters after consultation with the department.

SEC. 5. Section 11761 of the Water Code is amended to read:

11761. The proceeds shall be paid out, disbursed, or applied solely for one or more of the following:

(a) The construction of the project.

(b) Surveys, and preparation of plans and specifications.

(c) Payment of all other costs and expenses prior to and during construction.

(d) The acquisition of the necessary water, water rights, rights of way, easements, lands, electric power, power resources and facilities, other property of every kind and description, and any appurtenances to that property necessary therefor.

(e) The payment of interest becoming due and payable on bonds prior to and during the period of actual construction and for the period of one year after the completion of construction.

(f) All costs and expenses during a period of one year after completion of construction only as the need therefor shall arise.

(g) The establishment of a debt service reserve fund.

SEC. 6. The Legislature intends that, by repealing Section 139 of the Water Code, the Department of Water Resources shall be governed by the provisions of Article 5 (commencing with Section 16400) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code relating to revolving funds and advances which are generally applicable to all state agencies.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the state to efficiently finance urgently needed water facilities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 720

An act to add Section 5231.5 to the Corporations Code, relating to liability.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 5231.5 is added to the Corporations Code, to read:

5231.5. Except as provided in Section 5233 or 5237, there is no monetary liability on the part of, and no cause of action for damages shall arise against, any nonpaid director, including any nonpaid director who is also a nonpaid officer, of a nonprofit public benefit corporation based upon any alleged failure to discharge the person's duties as director or officer if the duties are performed in a manner that meets all of the following criteria:

(a) The duties are performed in good faith.

(b) The duties are performed in a manner such director believes to be in the best interests of the corporation

(c) The duties are performed with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

CHAPTER 721

An act to amend and repeal Section 2452 of the Streets and Highways Code, relating to grade separations.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 2452 of the Streets and Highways Code is amended to read:

2452. (a) Prior to July 1 of each year, the Public Utilities Commission shall establish a list, in order of priority, of projects which the commission determines to be most urgently in need of separation or alteration. The priority list shall be determined on the basis of criteria established by the Public Utilities Commission. If a project involves the relocation of railroad tracks or highways and the closure of grade crossings, the Public Utilities Commission shall indicate on the priority list which of the grade crossings eliminated would have been considered urgently in need of a grade separation.

(b) As to projects of otherwise equal priority, the commission shall

give greater priority to grade separation projects for which the amount contributed by a city or county is equal to or greater than 50 percent of the cost of the project.

This section 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. If that date is not deleted or extended, then, on and after July 1, 1991, pursuant to Section 9611 of the Government Code, Section 2452 of the Streets and Highways Code, as set forth in Section 142 of Chapter 545 of the Statutes of 1974, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 722

An act to amend Section 8610.5 of the Government Code, relating to emergencies.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 8610.5 of the Government Code is amended to read:

8610.5. The Office of Emergency Services, in consultation with the State Department of Health Services and affected counties, shall investigate the consequences of a serious nuclear power plant accident for each of the four nuclear power plants in California with a generating capacity of 50 megawatts or more. This study, to be completed within six months of the effective date of this section, shall include the preparation of specific site maps showing the areas likely to be affected by such an accident. These maps shall delineate Emergency Planning Zones, which shall reflect inhalation, ingestion, and other radiation pathways.

A similar study shall be made by the office for any subsequent nuclear power plant with a generating capacity of 50 megawatts or more proposed for certification in California.

The Office of Emergency Services shall revise its Nuclear Power Plant Emergency Response Plan to reflect the information provided in the study. The Office of Emergency Services shall assist local authorities in preparing or upgrading their emergency response plans to reflect its new planning guidelines. The state plan shall be updated within six months after the study has been made. Local plans shall be updated and approved by the Office of Emergency Services in accordance with the following: (1) an initial draft plan shall be submitted to the office within six months after the study has been made, and (2) a final plan shall be completed, reviewed, and approved within 18 months after the effective date of this section.

Neither the state plan nor any local plan shall become effective or be implemented until approved by the Office of Emergency Services of this state or the Federal Emergency Management Agency.

The current State Nuclear Power Plant Emergency Response Plan shall continue in full force and effect unless and until revised pursuant to this section. Local plans shall remain in full force and effect unless and until revised pursuant to this section.

It is the intent of the Legislature that state and local costs related to carrying out the provisions of this section which are not reimbursed by federal funds shall be borne by the utility with existing nuclear power plants having a generating capacity of 50 megawatts or more, and that local agencies shall be reimbursed for their costs incurred in preparing or updating their plans for the affected area surrounding these power plants by the utility operating each power plant. The Public Utilities Commission shall develop and transmit to the Office of Emergency Services an equitable method of assessing the utilities operating the power plants for their reasonable pro rata share of state agency costs. Each local agency involved shall submit a statement of its costs in such manner as the Office of Emergency Services shall require. Upon each utility's notification by the Office of Emergency Services, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, the utility shall pay such amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is hereby created in the General Fund for use by the Controller, upon appropriation by the Legislature, to carry out the provisions of this section. The Controller shall pay from this account the state and local costs relative to carrying out the provisions of this section upon certification thereof by the Office of Emergency Services. Each utility operating a nuclear power plant shall, within one month of the effective date of this section, pay to the Controller for deposit into the Nuclear Planning Assessment Special Account the sum of twenty-five thousand dollars ($25,000) for each nuclear power plant for the purpose of funding initial planning costs. Upon repeal of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto. Beginning January 1, 1983, the total annual reimbursement of state and local costs from the utilities operating the nuclear power plants within the state pursuant to this section shall not exceed the lesser of the actual costs or three hundred thousand dollars ($300,000) annually for state costs to be prorated among utilities in proportion to the allocation of benefit to each plant and the lesser of the actual costs or one hundred thousand dollars ($100,000) per reactor unit annually for local costs. The amounts paid by privately owned utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission. Publicly owned public utilities may include amounts paid under this section in their rates.

This section shall remain in effect only until January 1, 1993, and

as of that date is repealed, unless a later enacted statute which is chaptered on or before January 1, 1993, deletes or extends that date.

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 723

An act to add Section 24045.10 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 24045.10 is added to the Business and Professions Code, to read:

24045.10. (a) The department in its discretion may issue, on a temporary basis, a daily on-sale general license for a vessel of 7,000 tons or more displacement engaged in interstate or foreign commerce, which is located in a county of the third class.

(b) The license shall be issued to the operator of the vessel and shall entitle the licensee to sell only alcoholic beverages on which all applicable excise taxes have been paid only to passengers, bona fide guests of passengers, bona fide guests of the vessel operator, and employees not on duty and only while the vessel is berthed at a dock in port in this state which is on the vessel's regularly scheduled interstate or international cruise itinerary.

(c) The license shall be issued for a period not to exceed two consecutive days. No license shall be issued for use on the same vessel more than 24 times per calendar year.

(d) For the purpose of this section, a "bona fide guest of a passenger" or a "bona fide guest of the operator" means an individual whose presence as a guest on the vessel is in response to a specific invitation by a passenger or the operator.

(e) The fee for the license shall be fifty dollars ($50) per day.

(f) Application for the license may be made by the vessel's agent on behalf of the vessel's operator upon written authorization by the vessel's operator.

(g) All alcoholic beverages dispensed under authority of the license shall have been purchased from a licensed wholesaler or winegrower in this state.

CHAPTER 724

An act to amend Sections 1114, 2101, 2101.5, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2110.3, 2110.5, 2110.7, 2111, 2112, 2113, 2114, 2115, 2116, and 13002 of, to add Sections 2117, 2117.5, 2118, 2118.5, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, and 2127 to, and to repeal Sections 13090, 13091, 13092, 13093, 13094, 13095, 13096, 13097, 13098, 13099, and 13100 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1114 of the Unemployment Insurance Code is amended to read:

1114. Any employer who, without good cause, fails to file within 15 days after service by the director of notice pursuant to Section 1206 of a specific written demand therefor, a report of wages of each of his or her workers required by this division, shall pay in addition to other amounts required, for each unreported wage item a penalty of ten dollars ($10).

SEC. 2. Section 2101 of the Unemployment Insurance Code is amended to read:

2101. (a) It is a violation of this chapter to willfully make a false statement or representation or knowingly fail to disclose a material fact to obtain, increase, reduce, or defeat any benefit or payment, whether for the maker or for any other person, under any of the following statutes administered by the department:

(1) The provisions of this division.

(2) The provisions of any unemployment insurance law of the federal government.

(3) The provisions of any training allowance law of the federal government.

(4) The provisions of any trade readjustment allowance law of the federal government.

(5) The provisions of any other allowance law of the federal government.

(b) Nothing in this section shall be construed to preclude the applicability of Section 470 of the Penal Code to any acts or omissions which violate this section.

SEC. 3. Section 2101.5 of the Unemployment Insurance Code is amended to read:

2101.5. It is a violation of this chapter to willfully make a false statement or representation or knowingly fail to disclose a material fact for the purpose of lowering or avoiding any contribution required of the maker or other person, or to avoid becoming or

remaining subject to this division.

SEC. 4. Section 2102 of the Unemployment Insurance Code is amended to read:

2102. (a) It is a violation of this chapter for any person residing in this state to willfully make a false statement or representation or knowingly fail to disclose a material fact to obtain or increase benefits or payments under the provisions of the unemployment insurance law of any other state.

(b) Nothing in this section shall be construed to preclude the applicability of Section 470 of the Penal Code to any acts or omissions which violate this section.

SEC. 5. Section 2103 of the Unemployment Insurance Code is amended to read:

2103. It is a violation of this chapter for any employing unit or any officer or agent of an employing unit to make a greater deduction from the wages of a worker than the contribution required of such worker under this division, for the purpose of paying any contribution required under this division.

SEC. 6. Section 2104 of the Unemployment Insurance Code is amended to read:

2104. It is a violation of this chapter for any employing unit or any officer or agent of an employing unit to willfully and unlawfully fail to appear, testify, or produce books, papers, and records, required at any hearing under this division.

SEC. 7. Section 2105 of the Unemployment Insurance Code is amended to read:

2105. It is a violation of this chapter for any employing unit or any officer or agent of an employing unit, to willfully and unlawfully fail or neglect to make available required records for the inspection of the director or his authorized representatives at any reasonable time during business hours.

SEC. 8. Section 2106 of the Unemployment Insurance Code is amended to read:

2106. It is a violation of this chapter for any employing unit, or any officer or agent of an employing unit, to willfully and unlawfully fail or neglect to furnish to the director reports required by him when necessary for the enforcement of this division.

SEC. 9. Section 2107 of the Unemployment Insurance Code is amended to read:

2107. It is a violation of this chapter for any employing unit or any officer or agent of an employing unit or any individual to connive or conspire to aid such individual to obtain benefits to which he is not entitled by the willful withholding of information or by the willful failure to report any relevant information.

SEC. 10. Section 2108 of the Unemployment Insurance Code is amended to read:

2108. It is a violation of this chapter for any person to willfully fail or refuse to make any contributions which are due under this division.

SEC. 11. Section 2109 of the Unemployment Insurance Code is amended to read:

2109. The executive officer, general manager, or any other person having charge of the affairs of a corporation or association, who willfully fails to register such corporation or association as an employing unit, or willfully fails to submit contribution returns, earning reports, or other returns and reports required by this division, or by authorized regulations, is in violation of this chapter.

SEC. 12. Section 2110 of the Unemployment Insurance Code is amended to read:

2110. Any employing unit, including any individual member of a partnership employing unit, any officer of a corporate or association employing unit, and the general manager, or any other person having charge of the affairs of a corporate or association employing unit, which knowingly withholds the deductions required by this division from remuneration paid to its workers, and willfully fails or is willfully financially unable to pay such deductions to the department on the date on which they become delinquent is in violation of this chapter.

SEC. 13. Section 2110.3 of the Unemployment Insurance Code is amended to read:

2110.3. Any employing unit, including any individual member of a partnership employing unit, any officer of a corporate or association employing unit, and the general manager, or any other person having charge of the affairs of a corporate or association employing unit, which knowingly undertakes or agrees to pay without deduction from remuneration paid to its workers the amount of any contributions to the Disability Fund required of the workers under this division and which willfully fails or is willfully financially unable to pay the amount to the department on the date on which the contributions become delinquent is in violation of this chapter.

SEC. 14. Section 2110.5 of the Unemployment Insurance Code is amended to read:

2110.5. Any employing unit, including any individual member of a partnership employing unit, any officer of a corporate or association employing unit, and the general manager, or any other person having charge of the affairs of a corporate or association employing unit, which willfully fails to withhold in trust the deductions required by this division from remuneration paid to its workers, except where such employing unit undertakes or agrees to pay without deduction from the wages of its workers the amount of worker contributions required of its workers under this division, is in violation of this chapter.

SEC. 15. Section 2110.7 of the Unemployment Insurance Code is amended to read:

2110.7. Any employing unit, including any individual member of a partnership employing unit, any officer of a corporate or association employing unit, and the general manager, or any other

person having charge of the affairs of a corporate or association employing unit, which knowingly undertakes or agrees to pay without deduction from remuneration paid to its workers the amount of any contributions to the Disability Fund required of such workers under this division and which willfully fails to hold in trust the amount of worker contributions required of such workers under this division is in violation of this chapter.

SEC. 16. Section 2111 of the Unemployment Insurance Code is amended to read:

2111. Except as otherwise provided in Section 1094, and except with respect to information furnished by the department in connection with its participation as a party or as a lien claimant in a judicial or administrative proceeding, information obtained in the course of administration of this division is confidential and shall not be published or open to public inspection in any manner. Any officer or employee of the state (including its political subdivisions), or any former member, officer or employee or other individual, who in the course of his or her employment or duty has or had access to returns, reports, or documents maintained under this division, who violates this section is in violation of this chapter.

SEC. 17. Section 2112 of the Unemployment Insurance Code is amended to read:

2112. Unless otherwise specified in subdivision (b) of Section 2101 or in Section 2114, 2115, or 2116, every person who willfully violates any provision of this division or any authorized regulation promulgated or published in accordance with this division, is in violation of this chapter.

SEC. 18. Section 2113 of the Unemployment Insurance Code is amended to read:

2113. Nothing in this division shall prevent the department from accepting restitution or an acceptable arrangement for restitution, made voluntarily before the department files a criminal complaint under Section 2101 or 2102, for overpayment of benefits from any person, who has not previously claimed any right under this section, who has not been convicted of an offense under Section 2101 or 2102 within three years preceding the service under this section of a written notice of intent to file a criminal complaint and who has willfully made a false statement or representation or knowingly failed to disclose a material fact to obtain or increase any benefit under any provision of this division. The department shall by mail or personal service give the person written notice of intent to file a criminal complaint under Section 2101 or 2102 not less than 10 days prior to the filing of the criminal complaint. The department may accept restitution or an arrangement for restitution and any such acceptance shall be in lieu of any criminal action against the person, except that the department shall not be precluded from filing a criminal action against any person who defaults under an arrangement for restitution which it has accepted. For purposes of this section, no period of time during which an arrangement for

restitution is in effect shall be a part of any limitation of the time for commencing a criminal action. The department shall deposit amounts received from any person under this section in the fund from which the overpayments were made.

SEC. 18.5. Section 2114 of the Unemployment Insurance Code is amended to read:

2114. Any individual who, with the intent to defraud, reports or registers a fictitious employer or fictitious employee, and fictitious wages, to the department in order to obtain benefits or increase any benefit or payment, whether for the maker or for any other person, is in violation of this chapter.

SEC. 19. Section 2115 of the Unemployment Insurance Code is amended to read:

2115. Any employing unit or any officer or agent of an employing unit who, with the intent to defraud, falsely reports the amount of wages earned by an employee or who falsely reports the time period in which wages are earned by an employee for the purpose of obtaining or increasing any benefit amount for that employee, is in violation of this chapter.

SEC. 20. Section 2116 of the Unemployment Insurance Code is amended to read:

2116. Any individual who, with the intent to defraud, falsely certifies the medical condition of any person in order to obtain disability insurance benefits, whether for the maker or for any other person, is in violation of this chapter.

SEC. 21. Section 2117 is added to the Unemployment Insurance Code, to read:

2117. Any person who, with or without intent to evade any requirement of this code or any lawful requirement of the department under this code, fails to file any return or to supply any information required by this code or who, with or without like intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable for a civil penalty of not more than one thousand dollars ($1,000), and is also guilty of a misdemeanor and shall, upon conviction, be fined an amount not to exceed one thousand dollars ($1,000), or be imprisoned for not more than one year, or both the fine and imprisonment, at the discretion of the court.

SEC. 21.5. Section 2117.5 is added to the Unemployment Insurance Code, to read:

2117.5. Any person who, within the time required by this code, willfully fails to file any return or to supply any information with intent to evade any tax imposed by this code, or who, willfully and with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information, is punishable by imprisonment in the county jail not to exceed one year, or in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both the fine and imprisonment, at the discretion of the court.

SEC. 22. Section 2118 is added to the Unemployment Insurance Code, to read:

2118. Any person or employer who, with or without intent to evade, fails to withhold, pursuant to Section 13020, or fails to pay over any tax withheld, is guilty of a misdeameanor and, upon conviction, shall be fined an amount not to exceed one thousand dollars ($1,000), or imprisoned for not more than one year, or both the fine and imprisonment, at the discretion of the court.

SEC. 22.5. Section 2118.5 is added to the Unemployment Insurance Code, to read:

2118.5. Any person required by this code to collect, account for, and pay over any tax or amount required to be withheld who willfully fails to collect or truthfully account for and pay over the tax or amount shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined an amount not more than two thousand dollars ($2,000), or imprisoned in the state prison, or both the fine and imprisonment, at the discretion of the court.

SEC. 23. Section 2119 is added to the Unemployment Insurance Code, to read:

2119. Any person or employer required under Section 13050 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under Section 13050, or regulations prescribed thereunder, is in violation of this chapter.

SEC. 24. Section 2120 is added to the Unemployment Insurance Code, to read:

2120. Any individual required to supply information to his or her employer under Section 13040, 13041, or 13042, who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under Section 13020, is in violation of this chapter.

SEC. 25. Section 2121 is added to the Unemployment Insurance Code, to read:

2121. Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, this code, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document is in violation of this chapter.

SEC. 26. Section 2122 is added to the Unemployment Insurance Code, to read:

2122. Except as provided in Sections 2117, 2117.5, 2118, and 2118.5, a violation of this chapter is punishable by imprisonment in the county jail not to exceed one year, or in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both

the fine and imprisonment, at the discretion of the court.

SEC. 27. Section 2123 is added to the Unemployment Insurance Code, to read:

2123. The certificate of the department to the effect that a return has not been filed or that information has not been supplied as required by Division 6 (commencing with Section 13000) is prima facie evidence that the return has not been filed or that the information has not been supplied.

SEC. 28. Section 2124 is added to the Unemployment Insurance Code, to read:

2124. The place of trial for offenses enumerated in this chapter shall be in the county of residence or principal place of business of the defendant or defendants, except that if the defendant has no residence or principal place of business in this state, the trial shall be held in the County of Sacramento.

SEC. 29. Section 2125 is added to the Unemployment Insurance Code, to read:

2125. Any action or prosecution under this chapter shall be instituted within four years after the discovery of the offense.

SEC. 30. Section 2126 is added to the Unemployment Insurance Code, to read:

2126. Any person or employing unit convicted under this chapter may be charged the costs of investigation and prosecution at the discretion of the court.

SEC. 30.5. Section 2127 is added to the Unemployment Insurance Code, to read:

2127. The prosecutor may, with the consent of the department, compromise any penalty for which he or she may bring an action under this chapter. The penalties provided by this chapter are additional to all other penalties provided in this code and Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code.

SEC. 31. Section 13002 of the Unemployment Insurance Code is amended to read:

13002. The following provisions of this code shall apply to any amount required to be deducted, reported, and paid to the department under this division:

(1) Sections 301, 305, 306, 310, 311, 312, 317, and 318, relating to general administrative powers of the department.

(2) Sections 403 to 413, inclusive, Section 1336, and Chapter 8 (commencing with Section 1951) of Part 1 of Division 1, relating to appeals and hearing procedures.

(3) Sections 1110.6, 1111, 1112, 1113, 1113.1, 1115, and 1116, relating to the making of returns or the payment of reported contributions.

(4) Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of Division 1, relating to assessments.

(5) Article 9 (commencing with Section 1176), except Section 1176, of Chapter 4 of Part 1 of Division 1, relating to refunds and overpayments.

(6) Article 10 (commencing with Section 1206) of Chapter 4 of Part 1 of Division 1, relating to notice.

(7) Article 11 (commencing with Section 1221) of Chapter 4 of Part 1 of Division 1, relating to administrative appellate review.

(8) Article 12 (commencing with Section 1241) of Chapter 4 of Part 1 of Division 1, relating to judicial review.

(9) Chapter 7 (commencing with Section 1701) of Part 1 of Division 1, relating to collections.

(10) Chapter 10 (commencing with Section 2101) of Part 1 of Division 1, relating to violations.

SEC. 32. Section 13090 of the Unemployment Insurance Code is repealed.

SEC. 33. Section 13091 of the Unemployment Insurance Code is repealed.

SEC. 34. Section 13092 of the Unemployment Insurance Code is repealed.

SEC. 35. Section 13093 of the Unemployment Insurance Code is repealed.

SEC. 36. Section 13094 of the Unemployment Insurance Code is repealed.

SEC. 37. Section 13095 of the Unemployment Insurance Code is repealed.

SEC. 38. Section 13096 of the Unemployment Insurance Code is repealed.

SEC. 39. Section 13097 of the Unemployment Insurance Code is repealed.

SEC. 40. Section 13098 of the Unemployment Insurance Code is repealed.

SEC. 41. Section 13099 of the Unemployment Insurance Code is repealed.

SEC. 42. Section 13100 of the Unemployment Insurance Code is repealed.

SEC. 43. 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 725

An act to add Sections 8552, 8554, 8555, and 8559 to the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The fishery for herring roe is important to this state for income and employment.

(b) The herring roe fishery provides a necessary supplemental fishery for many salmon, crab, squid, and gillnet fishermen.

(c) Herring roe, together with sea urchin, is California's most valuable foreign fishery export.

(d) There are more fishermen seeking entry into the herring fishery than there is fishery area or sustainable herring resources available.

(e) In order to ensure that regulations of the commission which prescribe entry into the herring fishery are complied with, strict definitions of partnerships and crew experience need to be established.

(f) Due to the number of fishermen, the harvesting capacity of the fishery, and the small fishery areas involved, the herring fishery requires extensive and effective regulations which are developed in close cooperation and consultation with representatives of the harvesting and purchasing sectors of the herring fishing industry.

(g) Experience in the fishery by operators is necessary to prevent damage to the resource, waste of fish, and loss of fishing gear.

(h) Herring provide a valuable forage fish for salmon, striped bass, and other important commercial and sport fish.

(i) The fishery for herring roe takes place entirely inside of California's internal waters, and it benefits from state expenditures to protect water quality and habitat in San Francisco, Tomales, and Humboldt Bays.

SEC. 2. Section 8552 is added to the Fish and Game Code, to read:

8552. (a) All persons operating a vessel which is taking herring for roe shall hold a herring permit issued by the department pursuant to commission regulations. The permit shall be nontransferable except as authorized in subdivision (c).

(b) No person shall possess more than one herring permit, nor may a permit be issued to more than one person except as provided for in subdivision (c).

(c) Notwithstanding Section 8102, a permit may be issued to two individuals if (1) both are engaged in the herring roe fishery as

determined by the department and (2) there is a partnership constituting equal, 50 percent, ownership in a herring fishery operation, including a vessel or equipment, and that partnership is demonstrated by any two of the following:

(1) A copy of a federal partnership tax return.

(2) A written partnership agreement.

(3) Joint ownership of a fishing vessel used in the herring fishery as demonstrated on federal vessel license documents.

(d) For purposes of this section, a herring permit does not constitute a herring fishing operation. A herring permit may be transferred to one of the partners to be held thereafter in that partner's name only if there has been a death or retirement of the other partner, a divorce, or a dissolution of partnership. That transfer may only occur where there is proof of the partnership having existed for five or more consecutive years.

(e) A permittee may request the addition of another name to his or her permit if all of the requirements of this section are met. If a partnership for which a permit has been issued is divorced or dissolved, the permit shall be transferred to the original named permittee unless the permit was originally issued to both partners, in which case the permit shall be transferred to one of the two parties pursuant to a court order or by mutual agreement of the parties.

SEC. 3. Section 8554 is added to the Fish and Game Code, to read:

8554. The commission, in adopting regulations for the commercial herring fishery, shall provide for the temporary substitution of a permittee to take herring, if the permittee is ill or injured, by a crewmember aboard the vessel operated by the permittee. The commission may require that proof of the illness or injury be substantiated to the satisfaction of the department.

SEC. 4. Section 8555 is added to the Fish and Game Code, to read:

8555. The director shall periodically meet and confer with representatives of the commercial herring roe fishery to review regulations and policies of the commission and the department concerning that fishery and to receive recommendations on the regulation and management of that fishery. In particular, those representatives and their legal counsel may recommend to the department, for recommendation to the commission for adoption by the commission as regulations, requirements for the payment of civil damages that may be imposed in lieu of revoking or suspending a permit issued pursuant to this article or for violations of regulations adopted by the commission pertaining to the herring roe fishery.

SEC. 5. Section 8559 is added to the Fish and Game Code, to read:

8559. The commission, in determining experience requirements for new entrants into the herring fishery after January 1, 1987, shall require that any person seeking a permit to operate a vessel to take herring and claiming crew experience shall demonstrate, to the satisfaction of the department, proof of payment as a crewmember in the herring fishery based on tax records or copies of canceled checks offered and accepted as payment for service on a crew in the

California herring roe fishery.

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 726

An act to amend Sections 39603, 39670, 39705, 39905, 39909, 39910, and 39915 of, and to add Section 39671 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 39603 of the Health and Safety Code is amended to read:

39603. (a) The state board may do both of the following:

(1) Contract for technical advisory services and other services as may be necessary for the performance of its powers and duties.

(2) Appoint advisory groups and committees as it requires. Members of committees or advisory groups shall receive one hundred dollars ($100) per day for each day they attend a meeting of the state board or meet pursuant to a request of the state board, plus actual and necessary travel expenses incurred while performing their duties.

(b) In appointing advisory groups and committees, the state board may appoint a number of persons qualified in various fields and disciplines. Persons appointed shall be kept informed of the issues before the state board and the work pending before the state board. When the state board desires the advice, in connection with a particular problem or problems, of any person so appointed, the chairperson of the state board may select that person to serve as a member of a working group or committee for the purpose of providing the advice. After the working group or committee has given its advice to the state board, it shall cease to function as a working group or committee. The financial remuneration specified in paragraph (2) of subdivision (a) shall be available to persons only during the time they are serving as members of a working group or committee at the request of the state board.

SEC. 2. Section 39670 of the Health and Safety Code is amended to read:

39670. (a) A nine-member Scientific Review Panel on Toxic Air Contaminants shall be appointed to advise the state board and the

Department of Food and Agriculture in their evaluation of the health effects toxicity of substances pursuant to Article 3 (commencing with Section 39660) of this chapter and Article 1.5 (commencing with Section 14021) of Chapter 3 of Division 7 of the Food and Agricultural Code.

(b) The members of the panel shall be highly qualified and professionally active or engaged in the conduct of scientific research, and shall be appointed as follows, subject to Section 39671, for a term of three years:

(1) Five members shall be appointed by the Secretary of Environmental Affairs, one of whom shall be qualified as a pathologist, one of whom shall be qualified as an oncologist, one of whom shall be qualified as an epidemiologist, one of whom shall be qualified as an atmospheric scientist, and one who shall have relevant scientific experience and shall be experienced in the operation of scientific review or advisory bodies.

(2) Two members shall be appointed by the Senate Committee on Rules, one of whom shall be qualified as a biostatistician and one of whom shall be a physician or scientist specializing in occupational medicine.

(3) Two members shall be appointed by the Speaker of the Assembly, one of whom shall be qualified as a toxicologist and one of whom shall be qualified as a biochemist or molecular biologist.

(4) Members of the panel shall be appointed from a pool of nominees submitted to each appointing body by the President of the University of California. The pool shall include, at a minimum, three nominees for each discipline represented on the panel, and shall include only individuals who hold, or have held, academic or equivalent appointments at universities and their affiliates in California.

(c) The Secretary of Environmental Affairs shall appoint a member of the panel to serve as chairperson.

(d) The panel may utilize special consultants or establish ad hoc committees, which may include other scientists, to assist it in performing its functions.

(e) Members of the panel, and any ad hoc committee established by the panel, shall submit annually a financial disclosure statement that includes a listing of income received within the preceding three years, including investments, grants, and consulting fees derived from individuals or businesses which might be affected by regulatory actions undertaken by the state board or districts pursuant to this chapter. The financial disclosure statements submitted pursuant to this subdivision are public information. Members of the panel shall be subject to the disqualification requirements of Section 87100 of the Government Code.

(f) Members of the panel shall receive one hundred dollars ($100) per day for attending panel meetings and meetings of the state board, or upon authorization of the chairperson of the state board while on official business of the panel, and shall be reimbursed for

actual and necessary travel expenses incurred in the performance of their duties.

(g) The state board and the State Department of Health Services, and, in the case of economic poisons, the Department of Food and Agriculture, shall provide sufficient resources for support of the panel, including technical, administrative, and clerical support, which shall include, but not be limited to, office facilities and staff sufficient for the maintenance of files, scheduling of meetings, arrangement of travel accommodations, and preparation of panel findings, as required by subdivision (b) of Section 39661.

SEC. 3. Section 39671 is added to the Health and Safety Code, to read:

39671. (a) The terms of the members of the Scientific Review Panel on Toxic Air Contaminants appointed pursuant to subdivision (b) of Section 39670 shall be staggered so that the terms of three members expire each year. To accomplish this, the terms of six members are extended in the following manner:

(1) The term of one member appointed pursuant to paragraph (1) of subdivision (b) of Section 39670 is extended until January 1, 1988, and the terms of three members appointed pursuant to that paragraph are extended until January 1, 1989, as designated by the Secretary of Environmental Affairs.

(2) The term of one member appointed pursuant to paragraph (2) of subdivision (b) of Section 39670 is extended until January 1, 1988, as designated by the Senate Committee on Rules.

(3) The term of one member appointed pursuant to paragraph (3) of subdivision (b) of Section 39670 is extended until January 1, 1988, as designated by the Speaker of the Assembly.

(4) The terms of the three remaining members shall expire January 1, 1987. Thereafter, each appointment shall be for a term of three years, as provided in subdivision (b) of Section 39670.

SEC. 4. Section 39705 of the Health and Safety Code is amended to read:

39705. (a) The state board shall appoint a screening committee of not to exceed nine persons, the membership of which may be rotated as determined by the state board.

(b) The committee shall consist of physicians, scientists, biologists, chemists, engineers, meteorologists, and other persons who are knowledgeable, technically qualified, and experienced in air pollution problems for which projects are being reviewed. The committee shall review, and give its advice and recommendations with respect to, all air pollution research projects funded by the state, including both those conducted by the state board and those conducted under contract with the state board.

(c) The committee members shall receive one hundred dollars ($100) per day for each day they attend a meeting of the state board or meet to perform their duties under this section. In addition to the compensation, they shall receive their actual and necessary travel expenses incurred while performing such duties.

SEC. 5. Section 39905 of the Health and Safety Code is amended to read:

39905. (a) There shall be appointed a nine-member Scientific Advisory Committee on Acid Deposition to advise and assist the state board in the design and implementation of the comprehensive research and monitoring program required by Section 39906.

(b) The members of the scientific advisory committee shall be recognized experts in scientific and technical fields related to acid deposition and its causes and effects, and shall be appointed as follows:

(1) Three members shall be appointed by the Governor, one of whom shall be from the Lawrence Berkeley Laboratory and one of whom shall be a member of the research screening committee of the state board.

(2) Three members shall be appointed by the Senate Committee on Rules, one of whom shall be from the W.M. Keck Laboratory at the California Institute of Technology and one of whom shall be from the Electric Power Research Institute.

(3) Three members shall be appointed by the Speaker of the Assembly, one of whom shall be from the Statewide Air Pollution Research Center at the University of California, Riverside, and one of whom shall have experience in or knowledge of the petroleum refining industry.

(c) The scientific advisory committee shall review and critically evaluate the research results and review, prior to final action, any reports or recommendations adopted by the state board.

(d) Members of the scientific advisory committee shall receive one hundred dollars ($100) per day for attending meetings of the state board and committee meetings and shall be reimbursed for actual and necessary travel expenses incurred in performance of their duties.

SEC. 6. Section 39909 of the Health and Safety Code is amended to read:

39909. Not later than January 1, 1984, and annually thereafter, the state board, with the advice and participation of the state agency working group and the scientific advisory committee, shall prepare and submit a report to the Governor and the Legislature. The report shall be consolidated into the biennial report on alternate years and a final report shall be prepared and submitted not later than December 31, 1988.

The report shall include a description of activities undertaken pursuant to this chapter; the findings to date of the research and monitoring program, including the current levels, anticipated effects, and future trends of acid deposition in California; and further actions, if any are required, in addition to existing laws, adopted regulations, and ongoing research programs, to control or mitigate acid deposition and its potential adverse effects.

SEC. 7. Section 39910 of the Health and Safety Code is amended to read:

39910. In addition to funds in the Motor Vehicle Account in the State Transportation Fund which may be appropriated by the Legislature to the state board to carry out research and monitoring activities on acid deposition, the state board may require, beginning July 1, 1983, and continuing through the 1987–88 fiscal year, districts to impose additional variance and permit fees on nonvehicular sources within their jurisdiction.

SEC. 8. Section 39915 of the Health and Safety Code is amended to read:

39915. This chapter shall remain in effect only until December 31, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1988, deletes or extends 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 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 727

An act to amend Sections 66451.10 and 66451.19 of, and to add Section 66451.195 to, the Government Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 66451.10 of the Government Code is amended to read:

66451.10. (a) Notwithstanding Section 66424, except as is otherwise provided for in this article, two or more contiguous parcels or units of land which have been created under the provisions of this division, or any prior law regulating the division of land, or a local ordinance enacted pursuant thereto, or which were not subject to those provisions at the time of their creation, shall not be deemed merged by virtue of the fact that the contiguous parcels or units are held by the same owner, and no further proceeding 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 the contiguous parcels or units, or any of them.

(b) This article shall provide the sole and exclusive authority for local agency initiated merger of contiguous parcels. On and after January 1, 1984, parcels may be merged by local agencies only in accordance with the authority and procedures prescribed by this

article. This exclusive authority does not, however, abrogate or limit the authority of a local agency or a subdivider with respect to the following procedures within this division:

(1) Lot line adjustments.

(2) Amendment or correction of a final or parcel map.

(3) Reversions to acreage.

(4) Exclusions.

(5) Tentative, parcel, or final maps which create fewer parcels.

SEC. 2. Section 66451.19 of the Government Code is amended to read:

66451.19. (a) Except as provided in Sections 66451.195, 66451.301, and 66451.302, 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 a 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 the 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 those 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. 3. Section 66451.195 is added to the Government Code, to read:

66451.195. (a) Counties more than 20,000 square miles in size shall have until January 1, 1990, to record a notice of merger for parcels of 4,000 square feet or less prior to the time of merger, which were merged prior to January 1, 1984, and for those parcels no parcel merged prior to January 1, 1984, shall be considered merged unless the notice of merger has been recorded prior to January 1, 1990. Counties recording notices of merger pursuant to this subdivision shall comply with the notice requirements of Section 66451.19.

(b) This section shall not be applicable to any parcels or units which meet the criteria of subdivision (a) but which were transferred, or for which the owner has applied for a building permit, during the period between January 1, 1986, and the effective date of this section.

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 proceed with the merger of contiguous parcels of land in an orderly manner, it is necessary that this act take effect immediately.

CHAPTER 728

An act to add Chapter 4 (commencing with Section 4351) to Division 2 of the Public Utilities Code, relating to gas.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Chapter 4 (commencing with Section 4351) is added to Division 2 of the Public Utilities Code, to read:

CHAPTER 4. GAS DISTRIBUTION SYSTEMS

4351. As used in this chapter, "gas" means natural or manufactured gas, except propane, used for light, heat, or power.

4352. As used in this chapter, "distribution system" means a system of pipes within a mobilehome park operated by a person or corporation, other than a public utility, which is connected to a meter or other measuring device under the control of a privately owned or publicly owned public utility, for purposes of distribution

of a commodity by the operator of a mobilehome park to the tenants of the mobilehome park who are the actual users of the commodity furnished through the meter or device to the operator by the public utility.

4353. As used in this chapter, "department" means the Department of Housing and Community Development.

4354. (a) Every operator of a mobilehome park with a gas distribution system shall prepare and submit annually, together with the annual application for a permit to operate the mobilehome park, a report on the distribution system to the department or the local enforcement agency designated pursuant to Section 18300 of the Health and Safety Code to enforce the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code). The report shall be prepared using United States Department of Transportation Form RSPA F 7100.1-1, as referenced in Section 191.11 of the Pipeline Safety Regulations (49 C.F.R. 191.11). With respect to reports submitted to the department, the department shall immediately transmit a copy of the report to the commission.

(b) Upon receipt of a copy of the report pursuant to subdivision (a), the commission shall examine the report for any indication of a violation of Section 192.453 or 192.723 of Title 49 of the Code of Federal Regulations. The commission shall notify the United States Department of Transportation of any suspected violations and shall transmit a copy of the report with that notification.

4355. (a) Any operator of a mobilehome park who fails to file the report required by Section 4354 is subject to a civil penalty of not more than one thousand dollars ($1,000) for each day that the failure to file the report continues, but not to exceed two hundred thousand dollars ($200,000) for a single violation or related series of violations. The department shall enforce this subdivision.

(b) Subdivision (a) does not apply until January 1, 1988, to any violation involving a gas distribution system which was in existence, or for which construction was commenced on or prior to January 1, 1987.

(c) Nothing in this chapter affects the tort liability of the operator of a gas distribution system.

CHAPTER 729

An act to amend Sections 33328.3 and 33413 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 33328.3 of the Health and Safety Code is amended to read:

33328.3. If the boundaries of an existing project area for which the redevelopment plan contains a provision for the division of taxes as permitted by Section 33670 are changed pursuant to Article 4 (commencing with Section 33330), the redevelopment agency shall notify the county officials by transmitting to them, the legislative or governing bodies of the taxing agencies, and to the State Board of Equalization, the information required by Section 33327 indicating the areas to be added or detached. Within 60 days from the date of filing or a period as otherwise agreed to by the agency and the State Board of Equalization, the county officials shall prepare and submit to the redevelopment agency and the taxing agencies a report containing the information required under Section 33328, with respect to those areas to be added to or detached from the project area.

If a filing does not comply with the requirements of this section, the State Board of Equalization or the official of the taxing agency entitled to receive those documents shall notify the filing agency within 10 days, stating the manner in which the filing of documents does not comply with this section. If no notice is given, it shall be conclusively presumed that the agency has complied with the provisions of this section.

SEC. 2. Section 33413 of the Health and Safety Code is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units at affordable housing cost within the territorial jurisdiction of the agency.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall

be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a) and in the aggregate to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low income, moderate income, and very low income households, respectively, for not less than the period of the land use controls established in the redevelopment plan. If land on which those dwelling units are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in the previous sentence.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. However, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to two replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

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 730

An act to amend Section 2554 of the Streets and Highways Code, and to amend Section 2421.5 of the Vehicle Code, relating to streets and highways.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 2554 of the Streets and Highways Code is amended to read:

2554. The moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance, and operation of an emergency motorist aid system for emergency call boxes on the portions of the California Freeway and Expressway System, and on state highway routes that connect segments of the system, which are located within the county in which the authority is established and over which the Department of the California Highway Patrol has law enforcement responsiblility. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of an emergency motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

An authority may construct and maintain the facilities of an emergency motorist aid system or it may contract with a private person or entity to do so.

SEC. 2. Section 2421.5 of the Vehicle Code is amended to read:

2421.5. When any Service Authority for Freeway Emergencies has imposed additional fees on vehicles pursuant to Section 2553 of the Streets and Highways Code, the department shall answer calls and provide central dispatching services for the system on the portions of the California Freeway and Expressway System, and on state highway routes that connect segments of the system, which are located within the county and over which the Department of the California Highway Patrol has law enforcement responsibility. The department shall determine and authorize the service providers eligible to participate in the system. The service authority shall reimburse the department for all costs incurred under this section.

CHAPTER 731

An act to amend Sections 15081 and 15086 of the Health and Safety Code, relating to seismic safety.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 15081 of the Health and Safety Code is amended to read:

15081. The board shall consist of 17 members appointed by the Director of the Office of Statewide Health Planning and Development and six ex officio members who are as follows: the Director of the Office of Statewide Health Planning and Development, the State Architect, the State Fire Marshal, the State Geologist, the Chief of the Division of Facilities Development and Financing in the Office of Statewide Health Planning and Development, and the chief structural engineer of the Structural Safety Section of the Office of the State Architect in the Department of General Services, or their officially designated representatives. Of the appointive members, two shall be structural engineers, two shall be architects, one shall be an engineering geologist, one shall be a soils engineer, one shall be a seismologist, one shall be a mechanical engineer, one shall be an electrical engineer, one shall be a member of any of the above listed professions, one shall be a hospital administrator, one shall be a local building official, one shall be a general contractor, and four shall be members of the general public.

SEC. 2. Section 15086 of the Health and Safety Code is amended to read:

15086. Board members, qualified by close connection with hospital design and construction and highly knowledgeable in their respective fields with particular reference to seismic safety, shall be appointed from nominees recommended by the governing bodies of the Structural Engineers Association of California; the California Council, American Institute of Architects; the Earthquake Engineering Research Institute; the Association of Engineering Geologists; the Consulting Engineers Association of California; the California Building Officials Association; the Associated General Contractors of California; and the California Hospital Association. Board members shall be residents of California.

CHAPTER 732

An act to amend Sections 21661 and 21664 of, and to add Section 21668 to, the Business and Professions Code, relating to swap meets.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 21664 of the Business and Professions Code is amended to read:

21664. (a) The swap meet operator shall obtain sufficient blank forms from the Department of Justice at a cost not to exceed the actual cost to the department, or shall cause to be printed and be available sufficient forms approved by the department, for the use of vendors attending the swap meet, and shall distribute them to vendors as needed. The vendor shall submit the completed form to the operator who shall note on the vendor's copy that the vendor has submitted the form. The vendor shall submit the form to the swap meet operator prior to the close of the business day on which the item is to be placed on sale. The swap meet operator shall provide this form to the chief of police, if the swap meet occurs within the territorial limits of an incorporated city, or the sheriff, if the swap meet occurs outside a city, within 24 hours, or, before the end of the first working day following the swap meet. The chief of police or sheriff receiving the reports shall forward the original to the California Department of Justice when the California Department of Justice specifically requests the reports of a particular swap meet. After duplication or use, these original reports shall be returned to the chief of police or sheriff who forwarded the reports. The original shall also be available to the State Board of Equalization to permit them to detect possible sales tax evasion. The reports shall not be utilized by a chief of police, a sheriff, the Department of Justice, or any other governmental agency for the purpose of providing a permanent record of property ownership, nor shall the information derived from these reports form the basis for any record other than reports which assist in tracing and recovering of stolen property or assist in detecting sales tax evasion.

(b) Every vendor shall submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 for each swap meet at which he or she is a vendor prior to displaying for sale or exchange any personal property at the swap meet. Items described in reports previously submitted pursuant to paragraph (2) of subdivision (a) of Section 21663 may be omitted from the description on the forms submitted at subsequent swap meets if the vendor furnishes the swap meet operator of each subsequent swap meet with two copies of the report previously submitted, marked to indicate personal property currently being

offered or displayed.

(c) A vendor who regularly offers or displays for sale or exchange any new or used personal property or merchandise shall be required to submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 only once every 60 days. The vendor shall, however, submit a new report at any swap meet at which he is a vendor and offers or displays for sale or exchange any personal property not included by generic classification in the previously submitted report. For purposes of this subdivision, a vendor shall be deemed to regularly offer or display for sale or exchange any items of merchandise if such vendor participates for four or more days in a month at a swap meet conducted at the same location. Any vendor claiming to be a regular seller of new or used merchandise under the provisions of this subdivision shall so indicate on the bimonthly report.

SEC. 1.5. Section 21661 of the Business and Professions Code is amended to read:

21661. As used in this article:

(a) "Swap meet" means any event:

(1) At which two or more persons offer personal property for sale or exchange; and

(2) At which a fee is charged for the privilege of offering or displaying personal property for sale or exchange; or

(3) At which a fee is charged to prospective buyers for admission to the area where personal property is offered or displayed for sale or exchange; or

(4) Regardless of the number of persons offering or displaying personal property or the absence of fees, at which used personal property is offered or displayed for sale or exchange if such event is held more than six times in any 12-month period.

(b) "Swap meet operator" means any person, partnership, organization or corporation which controls, manages, conducts or otherwise administers a swap meet.

(c) "Vendor" means any person, partnership, organization or corporation who exchanges, sells, or offers for sale or exchange any personal property at a swap meet.

(d) "Personal property" means:

(1) All serialized items of merchandise.

(2) All personal property commonly sold at swap meets which statistically is found through crime reports to the Attorney General to constitute a significant class of stolen goods. This property shall include any phonograph record, disk, tape, film, or other article upon which sounds are recorded. A list of such personal property shall be supplied by the Attorney General to all local law enforcement agencies. Such list shall be reviewed periodically by the Attorney General to ensure that it addresses current problems with stolen goods.

SEC. 2. Section 21668 is added to the Business and Professions Code, to read:

21668. A chief of police of a city or the sheriff of an area outside of the city may waive any requirement of this article for swap meet operators and vendors in the city or area outside of the city if the chief of police or sheriff determines it is not necessary or appropriate in the public interest to impose the requirement. If the swap meet is located in both the city and area outside of the city, the chief of police of the city has the authority to grant the waiver authorized 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.

CHAPTER 733

An act relating to housing infrastructure incentive funding, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. (a) The Legislature recognizes that the continued growth of affordable housing, economic development, and environmental protection are statewide public needs vital to balanced growth and the expansion of employment opportunities in California.

(b) The Legislature declares that the development of adequate infrastructure is necessary in order to stimulate the construction of an adequate supply of available and affordable housing.

SEC. 2. The Debt Advisory Commission, in cooperation with representatives from state and local agencies, the housing industry, and other public and private officials, shall evaluate and assess the purpose of the act which is commonly referred to as the Local Agency Housing Infrastructure Incentive Act, contained in Part 6.5 (commencing with Section 52580) of Division 31 of the Health and Safety Code, and prepare and submit a report to the Governor and the Legislature, no later than August 1, 1987, containing findings and recommendations for the effective implementation of that act, including a proposed plan for funding the development of housing infrastructure incentive plans and an operating mechanism to carry out the specified purposes of the act at the state and local level.

SEC. 3. The sum of forty-five thousand dollars ($45,000) is hereby appropriated from the Debt Advisory Commission Fund to the Debt Advisory Commission to be utilized to prepare the report required

by Section 2 of this act.

CHAPTER 734

An act to amend Sections 1417.3 and 1417.5 of the Penal Code, relating to judicial proceedings.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1417.3 of the Penal Code is amended to read:

1417.3. At any time prior to the final determination of the action or proceeding, exhibits offered by the state or defendant shall be returned to the party offering them by order of the court when an exhibit poses a security, storage, safety, or health problem, as recommended by the clerk of the court. 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.

SEC. 2. Section 1417.5 of the Penal Code is amended to read:

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) Exhibits of stolen or embezzled property other than money shall be disposed of pursuant to court order as provided in Section 1417.6.

(2) Exhibits of property other than property which is stolen or embezzled or property which consists of money or currency shall, except as otherwise provided in this paragraph and in paragraph (3), 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) Exhibits of property, other than money, currency, or stolen or embezzled property, that are determined by the court to have no value at public sale shall be destroyed or otherwise disposed of pursuant to court order.

(4) Exhibits of money or currency shall be disposed of pursuant to Section 1420.

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 735

An act to amend Section 23661.2 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 23661.2 of the Business and Professions Code is amended to read:

23661.2. (a) Notwithstanding any other provision of law, any unlicensed adult person may apply to the Department of Alcoholic Beverage Control and be issued a permit to receive a shipment of wine, including vermouth and champagne, from another state of the United States. The shipment shall be made in accordance with rules adopted by the department, but the total shipments permitted in any calendar month to a person shall not be in excess of 2.4 gallons. A common carrier to whom the permit is presented is authorized to make delivery of the shipment to the person named in the permit. Delivery of a shipment pursuant to the permit shall not be deemed to constitute a sale in this state.

(b) Notwithstanding any other provision of law, an individual or licensee in a state which affords California licensees or individuals an equal reciprocal shipping privilege, may ship, for personal use and not for resale, not more than two cases of wine (no more than nine liters each case) per month to any adult resident in this state. Delivery of a shipment pursuant to this subdivision shall not be deemed to constitute a sale in this state.

The shipping container of any wine sent into or out of this state under this section shall be clearly labeled to indicate that the package cannot be delivered to a minor or to an intoxicated person.

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 736

An act to add Section 35401.3 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 35401.3 is added to the Vehicle Code, to read:

35401.3. (a) Notwithstanding subdivisions (a) and (b) of Section 35401, a combination of vehicles designed to transport motor vehicles, which consist of a motortruck and stinger-steered semitrailer, shall be allowed a length of up to 70 feet if the kingpin is at least three feet behind the rear drive axle of the motortruck. This combination shall not be subject to subdivision (a) of Section 35411, but the load upon the rear vehicle of the combination shall not extend more than six feet six inches beyond the allowable length of the vehicle.

(b) A combination of vehicles designed to transport motor vehicles, which consists of a motortruck and stinger-steered semitrailer, shall be allowed a length of up to 75 feet if all of the following conditions are maintained:

(1) The distance from the steering axle to the rear drive axle of the motortruck does not exceed 24 feet.

(2) The kingpin is at least five feet behind the rear drive axle of the motortruck.

(3) The distance from the kingpin to the rear axle of the semitrailer does not exceed 34 feet.

This combination shall not be subject to subdivision (a) of Section 35411, but the load upon the rear vehicle of the combination shall not extend more than six feet six inches beyond the allowable length of the vehicle.

CHAPTER 737

An act to amend Sections 18641, 18642, 18646, 25761, and 25761a of, to amend and renumber Section 25761b of, to add Sections 25762 and 25763 to, to repeal and add Section 18645 of, and to repeal Section 18644 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 18641 of the Revenue and Taxation Code is amended to read:

18641. If the Franchise Tax Board finds that the assessment or the collection of a tax or a deficiency for any year, current or past, will be jeopardized in whole or in part by delay, it may mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy, including interest and penalties and additions thereto. Any assessment issued under this article shall also be an assessment issued pursuant to Section 18583, if an assessment has not already been issued pursuant to Section 18583 with respect to that taxable year for that amount.

SEC. 2. Section 18642 of the Revenue and Taxation Code is amended to read:

18642. In the case of a tax for a current period, if the Franchise Tax Board finds that the assessment or collection of the tax will be jeopardized in whole or in part by delay, the Franchise Tax Board may declare the taxable period of the taxpayer immediately terminated. It shall mail or issue notice of its finding and declaration to the taxpayer, together with a demand for a return and immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to the date of termination if not otherwise properly includible or deductible in respect of the period.

SEC. 3. Section 18644 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 18645 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 18645 is added to the Revenue and Taxation Code, to read:

18645. (a) (1) Within five days after the day on which either a notice and demand for payment is mailed or issued pursuant to Section 18641, or notice and demand for a return and payment is mailed or issued pursuant to Section 18642, the Franchise Tax Board shall mail or issue the taxpayer a written statement of the information upon which the Franchise Tax Board relies in issuing that notice and demand.

(2) Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which the statement is required to be furnished, the taxpayer may petition the Franchise Tax Board to review whether its finding pursuant to Section 18641 or 18642 is reasonable under the circumstances, specifying the grounds on which the petition is based. The filing of a petition for review shall not operate to stay collection. Collection may be stayed only as provided in Section 18643. A petition filed pursuant to this paragraph shall also be considered a protest filed pursuant to Section 18590 against the proposed additional tax.

(3) If a petition for review under paragraph (2) is not made within the 30-day period set forth in that paragraph, the finding of the Franchise Tax Board pursuant to Section 18641 or 18642 is final.

(4) After a petition for review is filed under paragraph (2), the Franchise Tax Board shall determine whether or not the issuance of notice and demand under Section 18641 or 18642 is reasonable under the circumstances. In making this determination, the Franchise Tax Board shall grant the taxpayer or his or her authorized representative an oral hearing if the taxpayer has so requested in his or her petition. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(5) The Franchise Tax Board shall make the determination under paragraph (4) within 90 days of the filing of the petition for review unless the taxpayer requests, in writing, additional time.

(6) In making the determination required by paragraph (4), the Franchise Tax Board shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it relates to whether jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(b) (1) Within 60 days after the earlier of the following days, the taxpayer may appeal the determination to the State Board of Equalization in the manner provided in Section 18646:

(A) The day the Franchise Tax Board notifies the taxpayer of the determination described in paragraph (4) of subdivision (a).

(B) One day after the time period prescribed by paragraph (5) of subdivision (a) for the Franchise Tax Board to make its determination.

(2) If an appeal is not filed before the expiration of the time periods, the Franchise Tax Board's determination is final. Filing of an appeal shall not operate to stay collection. Collection may be stayed only as provided in Section 18643.

(3) Within 60 days after an appeal is filed under paragraph (1), the board shall determine whether the issuance of notice and demand under Section 18641 or 18642 is reasonable under the circumstances. The burden of proof with respect to whether a

jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(4) If the board determines that a jeopardy status does not apply to all or part of the assessment, the board may modify the amount of the assessment to which the jeopardy attaches. If the board does not act within the time period provided in paragraph (3) as modified by paragraph (6), the board will be deemed to have denied the taxpayer's appeal.

(5) In making the determination required by paragraph (3), the board shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it relates to whether jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(6) If either party requests an extension of the 60-day period set forth in paragraph (3) and establishes reasonable grounds why the extension should be granted, the board may grant an extension of not more than 30 additional days.

(c) (1) Within 60 days after the earlier of the following days, either party may bring a civil action against the other in superior court for a judicial determination as to whether or not the issuance of the notice and demand under Section 18641 or 18642 is reasonable under the circumstances:

(A) The day the board notifies the taxpayer of its determination described in paragraph (3), as modified by paragraph (6), of subdivision (b).

(B) If the board fails to make a timely determination, then one day after the time prescribed for the board to make its determination.

(2) If a civil action under this subdivision is not commenced within the 60-day period set forth in paragraph (1), the board's determination is final. The filing of the civil action shall not operate to stay collection. Collection shall be stayed only as provided by Section 18643.

(3) Within 60 days after proper service is made, the superior court shall determine whether the issuance of notice and demand under Section 18641 or 18642 is reasonable under the circumstances. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(4) If the court determines that a jeopardy status does not apply to all or part of the assessment, the court may modify the amount of the assessment to which the jeopardy attaches.

(5) In making the determination required by paragraph (3), the superior court shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it relates to whether jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy

status is upon the taxpayer.

(6) If either party in the action requests an extension of the 60-day period set forth in paragraph (3) of subdivision (c) and establishes reasonable grounds why the extension should be granted, the superior court may grant an extension of not more than 30 additional days.

(7) Actions filed pursuant to this section shall be filed in the Superior Court of the County of Los Angeles, the City and County of San Francisco, the County of San Diego, or the County of Sacramento. Sections 19087 and 19089 shall apply to those actions.

(8) The determination made by a superior court under this section shall be final and conclusive and shall not be reviewed by any other court.

SEC. 6. Section 18646 of the Revenue and Taxation Code is amended to read:

18646. The taxpayer may appeal to the board from the Franchise Tax Board's action on the petition for review. The appeal shall be made in the manner prescribed by Section 18594. The provisions of Article 2 (commencing with Section 18581) of Chapter 18 relating to an appeal from the action of the Franchise Tax Board on a protest against an additional tax proposed to be assessed applies to the appeal.

SEC. 7. Section 25761 of the Revenue and Taxation Code is amended to read:

25761. If the Franchise Tax Board finds that the assessment or collection of a tax or deficiency for any year, current or past, will be jeopardized in whole or in part by delay, it may mail or issue notice of its findings to the taxpayer, or its transferee or transferees, liable for the tax imposed under this part, together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including interest and penalties and additions thereto. Any assessment issued under this article shall also be an assessment issued pursuant to Section 25662, if an assessment has not already been issued pursuant to Section 25662 with respect to that income year for that amount.

In the case of a tax for a current period, if the Franchise Tax Board finds that the assessment or collection of the tax will be jeopardized in whole or in part by delay, the Franchise Tax Board may declare the income period of the taxpayer immediately terminated and shall mail or issue notice of its findings and declaration to the taxpayer, together with a demand for a return and immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to the date of termination if not otherwise properly includable or deductible in respect of such period, and such tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing the return and paying the tax has expired.

SEC. 8. Section 25761a of the Revenue and Taxation Code is amended to read:

25761a. (1) A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once.

(2) The collection of the whole or any amount of a jeopardy assessment may be stayed, at any time before the assessment becomes final, by filing with the Franchise Tax Board: (1) a bond in an amount equal to the amount (together with interest thereon to the date of payment) as to which the stay is desired, conditioned upon the payment of the amount, the collection of which is stayed by the bond, upon notice and demand by the Franchise Tax Board, after the assessment becomes final; or, (2) other security in such amount as the Franchise Tax Board may deem necessary, not exceeding double the amount (together with interest thereon to date of payment) as to which the stay is desired.

(3) Upon the filing of the bond or other security the collection of so much of the amount assessed as is covered by the bond or other security shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond or other security, and if as a result of such waiver any part of the amount covered by the bond or other security is paid, then the bond or other security shall, at the request of the taxpayer, be proportionately reduced. If any portion of the jeopardy assessment is abated, the bond or other security shall, at the request of the taxpayer, be proportionately reduced.

(4) The Franchise Tax Board may, prior to the time the assessment becomes final, stay collection of the whole or any amount of a jeopardy assessment if it finds that jeopardy does not exist.

(5) Where collection of the whole or any amount of a jeopardy assessment has been stayed under this section, the period of limitation on any action to collect shall be tolled during the time of such stay.

SEC. 9. Section 25762 is added to the Revenue and Taxation Code, to read:

25762. (a) (1) Within five days after the day on which either a notice and demand for payment is mailed or issued pursuant to Section 25761, or notice and demand for a return and payment is mailed or issued pursuant to Section 25761, the Franchise Tax Board shall mail or issue the taxpayer a written statement of the information upon which the Franchise Tax Board relies in issuing that notice and demand.

(2) Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which the statement is required to be furnished, the taxpayer may petition the Franchise Tax Board to review whether its finding pursuant to Section 25761 is reasonable under the circumstances, specifying the grounds on which the petition is based. The filing of a petition for review shall not operate to stay collection. Collection may be stayed only as provided in Section 25761a. A petition filed pursuant to this paragraph shall also be considered a protest filed pursuant to Section

25664 against the proposed additional tax.

(3) If a petition for review under paragraph (2) is not made within the 30-day period set forth in that paragraph, the finding of the Franchise Tax Board pursuant to Section 25761 is final.

(4) After a petition for review is filed under paragraph (2), the Franchise Tax Board shall determine whether or not the issuance of notice and demand under Section 25761 is reasonable under the circumstances. In making this determination, the Franchise Tax Board shall grant the taxpayer or its authorized representative an oral hearing if the taxpayer has so requested in its petition. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(5) The Franchise Tax Board shall make the determination under paragraph (4) within 90 days of the filing of the petition for review unless the taxpayer requests, in writing, additional time.

(6) In making the determination required by paragraph (4), the Franchise Tax Board shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it relates to whether jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(b) (1) Within 60 days after the earlier of the following days, the taxpayer may appeal the determination to the State Board of Equalization in the manner provided in Section 25763:

(A) The day the Franchise Tax Board notifies the taxpayer of the determination described in paragraph (4) of subdivision (a).

(B) One day after the time period prescribed by paragraph (5) of subdivision (a) for the Franchise Tax Board to make its determination.

(2) If an appeal is not filed before the expiration of the time periods, the Franchise Tax Board's determination is final. Filing of an appeal shall not operate to stay collection. Collection may be stayed only as provided in Section 25761a.

(3) Within 60 days after an appeal is filed under paragraph (1), the board shall determine whether the issuance of notice and demand under Section 25761 is reasonable under the circumstances. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(4) If the board determines that a jeopardy status does not apply to all or part of the assessment, the board may modify the amount of the assessment to which the jeopardy attaches. If the board does not act within the time period provided in paragraph (3) as modified by paragraph (6), the board will be deemed to have denied the taxpayer's appeal.

(5) In making the determination required by paragraph (3), the board shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it relates to whether

jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(6) If either party requests an extension of the 60-day period set forth in paragraph (3) and establishes reasonable grounds why the extension should be granted, the board may grant an extension of not more than 30 additional days.

(c) (1) Within 60 days after the earlier of the following days, either party may bring a civil action against the other in superior court for a judicial determination as to whether or not the issuance of the notice and demand under Section 25761 is reasonable under the circumstances:

(A) The day the board notifies the taxpayer of its determination described in paragraph (3), as modified by paragraph (6), of subdivision (b).

(B) If the board fails to make a timely determination, then one day after the time prescribed for the board to make its determination.

(2) If a civil action under this subdivision is not commenced within the 60-day period set forth in paragraph (1), the board's determination is final. The filing of the civil action shall not operate to stay collection. Collection shall be stayed only as provided by Section 25761a.

(3) Within 60 days after proper service is made, the superior court shall determine whether the issuance of notice and demand under Section 25761 is reasonable under the circumstances. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(4) If the court determines that a jeopardy status does not apply to all or part of the assessment, the court may modify the amount of the assessment to which the jeopardy attaches.

(5) In making the determination required by paragraph (3), the superior court shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it relates to whether jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(6) If either party in the action requests an extension of the 60-day period set forth in paragraph (3) of subdivision (c) and establishes reasonable grounds why the extension should be granted, the superior court may grant an extension of not more than 30 additional days.

(7) Actions filed pursuant to this section shall be filed in the Superior Court of the County of Los Angeles, the City and County of San Francisco, the County of San Diego, or the County of Sacramento. Section 26104 shall apply to those actions.

(8) The determination made by a superior court under this section shall be final and conclusive and shall not be reviewed by any

other court.

SEC. 10. Section 25763 is added to the Revenue and Taxation Code, to read:

25763. The taxpayer may appeal to the board from the Franchise Tax Board's action on the petition for review, the appeal to be made in the manner prescribed by Section 25667. The provisions of Article 1 (commencing with Section 25661) of Chapter 20 relating to an appeal from the action of the Franchise Tax Board on a protest against an additional tax proposed to be assessed apply to the appeal.

SEC. 11. Section 25761b of the Revenue and Taxation Code is amended and renumbered to read:

25764. In any proceedings brought to enforce payment of taxes made due and payable under this article, the findings of the Franchise Tax Board, whether or not made after notice to the taxpayer, shall be for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A certificate of the Franchise Tax Board of the mailing or issuing the notices specified in this article shall be presumptive evidence that the notices were mailed or issued.

SEC. 12. This act applies to jeopardy assessments issued on or after January 1, 1987.

CHAPTER 738

An act to amend Section 5010 of the Public Resources Code, relating to public resources.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 5010 of the Public Resources Code is amended to read:

5010. (a) The department may collect fees, rents, and other returns for the use of any state park system area, the amounts to be determined by the department. The department may accept a credit card as a method of payment for fees collected through the department's reservation system. Any contract executed by the department with credit card issuers or draft purchasers shall be consistent with Section 6159 of the Government Code. Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the department may impose a surcharge in an amount to cover the cost of providing the reservation service, including reimbursement for any fee or discount charged by the credit card issuer.

(b) All revenues received by the department during each fiscal year shall be paid into the State Treasury to the credit of the State

Parks and Recreation Fund, which is hereby created.

(c) Notwithstanding subdivision (b), all revenues received by the department from the state vehicular recreation area and trail system shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund, as required by Section 38225 of the Vehicle Code.

(d) All revenues received by the department for the entry or launching of boats shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund and shall be used for boating safety, enforcement, operation, and maintenance programs of the department.

(e) On July 1, 1980, all existing balances, including unappropriated balances and encumbered and unencumbered balances, of the following funds and accounts shall be transferred to the State Parks and Recreation Fund:

(1) Park and Recreation Revolving Account (Section 5098, Public Resources Code, as added by Chapter 1222, Statutes of 1972).

(2) The Resources Protection Account (Section 8600, Public Resources Code, as added by Chapter 1052, Statutes of 1969).

(3) Collier Park Preservation Fund (Section 5010, Public Resources Code, as added by Chapter 1502, Statutes of 1974).

(4) San Francisco Maritime State Historic Park Account (Section 2, Chapter 1764, Statutes of 1971).

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107.7, Streets and Highways Code, as added by Chapter 1032, Statutes of 1973).

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000).

(7) Hostel Facilities Use Fees Account (Section 2, Chapter 265, Statutes of 1974).

(8) All funds, other than expended funds, previously appropriated to the department from the Bagley Conservation Fund.

(f) On and after July 1, 1980, all funds, other than those specified in subdivisions (g) and (h), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.

(g) All funds in the State Parks and Recreation Fund which had previously been appropriated and have become encumbered, may be used, without further appropriation, for liquidation of those encumbrances, upon the same terms and conditions as made by those previous appropriations.

(h) The balance of any unencumbered funds in the State Park Highway Account in the Bagley Conservation Fund shall be transferred to the State Parks and Recreation Fund and shall be available for expenditure as provided in subdivisions (b) and (c) of Section 2107.7 of the Streets and Highways Code.

CHAPTER 739

An act to amend Section 25 of Chapter 1440 of the Statutes of 1985, relating to highways, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 25 of Chapter 1440 of the Statutes of 1985 is amended to read:

Sec. 25. Notwithstanding Sections 188 and 188.8 of the Streets and Highways Code, the sum of four million nine hundred fifty thousand dollars ($4,950,000) of the settlement funds received by the state pursuant to Section (g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Department of Transportation for expenditure for the following soundwall projects in the amounts listed:

(a) San Diego Freeway project 868 from Roscoe to 0.4 mile north of Plummer four million dollars ($4,000,000).

(b) Soundwall project in the City of Manteca along State Highway Route 99 four hundred thousand dollars ($400,000).

(c) Construction of soundwalls on State Highway Route 91 on the north side of the freeway for westbound traffic between the westerly Artesia city boundary and a point approximately 450 feet west of Pioneer Boulevard, and on the north side of the freeway for westbound traffic between the easterly Artesia city boundary and Clarkdale Avenue, in the County of Los Angeles, five hundred fifty thousand dollars ($550,000).

CHAPTER 740

An act to amend Section 148.5 of the Penal Code, relating to crimes.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 148.5 of the Penal Code is amended to read:

148.5. (a) Every person who reports to any peace officer listed in Section 830.1 or 830.2, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2

that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Except as provided in subdivisions (a) and (b), every person who reports to any employee who is assigned to accept reports from citizens, either directly or by telephone, and who is employed by a city police department, a county sheriff's department, a district attorney's office, the Department of the California Highway Patrol, the California State Police Division, the University of California Police Department, the California State University Police Departments, or the State Fire Marshal, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the law enforcement agency employee is engaged in the performance of his or her duties as a law enforcement agency employee and (2) the person providing the false information knows or should have known that the person receiving the information is a law enforcement agency employee engaged in the performance of the employee's duties.

(d) This section does not apply to reports made by persons who are required by statute to report known or suspected instances of child abuse, dependent adult abuse, or elder abuse.

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 741

An act to amend Sections 3102, 12804.1, and 12810.5 of, and to add Section 12804.2 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 3102 of the Vehicle Code is amended to read:

3102. Any regulations adopted pursuant to Section 3100 shall not apply to drivers holding a class 1, class 2, or class 3 driver's license on the effective date of the regulations, until renewal of the class 1, class 2, or class 3 driver's license subsequent to that date.

SEC. 2. Section 12804.1 of the Vehicle Code is amended to read:

12804.1. (a) Except as provided in subdivision (h) and Section 12804.2, no person shall operate a motor vehicle which is required to display placards or markings pursuant to Section 27903 or which is hauling hazardous waste, as defined in Sections 25115 and 25117 of the Health and Safety Code, unless the person has in his or her possession a driver's license for the appropriate class of vehicle to be driven and a certificate issued by the department to permit the operation of vehicles requiring placards or markings pursuant to Section 27903 and vehicles hauling hazardous waste.

(b) Applicants for that certificate shall be required to submit a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine and submit to a test of the applicant's knowledge and understanding of the provisions of this code, other federal and state laws relating to the transportation of hazardous materials or hazardous waste, and safe driving practices relating to the transportation of hazardous materials pursuant to Section 27903 and the transportation of hazardous waste as provided in rules or regulations of the State Department of Health Services.

(c) The department may accept a certificate of training, as authorized under subdivision (b) of Section 3100, in lieu of the knowledge test required under subdivision (b) of this section, when the certificate of training is issued by an employer of the applicant.

(d) A certificate shall be valid for the operation of any vehicle class for which the person is licensed which is transporting hazardous materials requiring placards pursuant to Section 27903 or which is transporting hazardous waste, as defined in Sections 25115 and 25117 of the Health and Safety Code, provided that the person has in immediate possession a medical certificate issued within the past two years.

(e) Applicants for a certificate to drive vehicles transporting hazardous materials pursuant to Section 27903 or transporting hazardous waste, as defined in Sections 25115 and 25117 of the Health and Safety Code, shall pay a fee of twelve dollars ($12) to the department.

(f) Renewal of the certificate is subject to Section 12814, as it may apply to a certificate.

(g) Implementation dates for this section may be established by the department by regulation in order to accomplish an orderly certification program.

(h) This section does not apply to any person transporting diesel fuel in an implement of husbandry or a vehicle exempt from registration pursuant to Division 16 (commencing with Section 36000).

SEC. 3. Section 12804.2 is added to the Vehicle Code, to read:

12804.2. (a) Notwithstanding Section 12804.1, a person with at least a class 3 driver's license is exempt from the certificate requirements of Section 12804.1 if all of the following conditions are

met:

(1) The person is employed in an agricultural operation and the load is not being transported for compensation.

(2) The person has completed an agricultural hazardous materials transportation program offered or approved by the Department of the California Highway Patrol. The Department of the California Highway Patrol shall make the program available at no cost, and the program shall contain information specifically applicable to the safe transportation of agricultural chemicals and shall not be less than two hours in length. If the commissioner determines that the program cannot be offered in a particular area of the state because of personnel constraints, a person in that area may instead comply with this requirement by receiving agricultural hazardous materials training, in a program and manner approved by the Department of the California Highway Patrol, from an organization or a person in a supervisory position that has been certified by the Department of the California Highway Patrol.

(3) Upon evidence of successfully completing the program specified in paragraph (2), as certified by the instructor, the Department of the California Highway Patrol shall issue a certificate to the person which shall be valid for four years. A fee of not more than three dollars ($3) shall be paid by the person to the Department of the California Highway Patrol for the initial certificate and any subsequent renewal certificates. The certificate shall be carried by the person when operating an implement of husbandry or a motor vehicle requiring a class 3 driver's license when transporting material required to display placards or markings pursuant to Section 27903 of this code or which is hauling hazardous waste, as defined in Sections 25115 and 25117 of the Health and Safety Code.

(4) The person has, within the vehicle, informational material approved by the Department of the California Highway Patrol, in both English and Spanish, outlining basic safety procedures to be followed in the event of an accident. The Department of the California Highway Patrol shall provide the information required by this subdivision and make it available at no cost to the person.

(5) The person is operating a vehicle which is an implement of husbandry or a motor vehicle requiring a class 3 driver's license and the distance which the vehicle is being operated between the final point of distribution and the ultimate point of application or from part of a farm to another part thereof, or from one farm to another, is not more than 50 miles.

(b) Implementation dates for this section may be established by the Department of Motor Vehicles by regulation in order to accomplish an orderly certification program.

SEC. 4. Section 12810.5 of the Vehicle Code is amended to read:

12810.5. (a) Any person, including persons holding certificates pursuant to Section 2512, 12517, 12519, 12521, 12523, 12804.1, 12804.2, or 12804.3, whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight

or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle. In applying the provisions of this subdivision to a driver, the department shall give due consideration to the amount of use or mileage traveled in the operation of a motor vehicle.

(b) Any class 1 or class 2 licensed driver, except persons holding certificates pursuant to Section 2512, 12517, 12519, 12521, 12523, 12804.1, 12804.2, or 12804.3, whose driving record shows a violation point count of six or more points in 12 months, eight or more points in 24 months, or 10 or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle.

CHAPTER 742

An act to amend and renumber Sections 46604, 46612, 46613, 46614, 46616, 46617.5, 46618, 46619, and 46620 of, to add Section 46601 to, to repeal Sections 46602, 46607, 46609, 46611, and 46615 of, and to repeal and add Sections 46600 and 46603 of, the Education Code, relating to school attendance.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 46600 of the Education Code is repealed.

SEC. 2. Section 46600 is added to the Education Code, to read:

46600. (a) The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the districts. The agreement may provide for the admission to a district other than the district of residence of a pupil who requests a permit to attend a school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission.

The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied.

The supervisor of attendance of the district of residence shall issue an individual permit verifying the district's approval, pursuant to policies of the board and terms of the agreement, for the transfer and for the applicable period of time. A permit shall be valid upon concurring endorsement by the designee of the governing board of the district of proposed attendance. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the district of attendance.

(b) Agreements and permits provided for under this section are not applicable to expelled pupils. Regardless of whether an agreement exists or a permit is issued, any district may admit a pupil

expelled from another district in which the pupil continues to reside.

SEC. 3. Section 46601 is added to the Education Code, to read:

46601. If, within 30 calendar days after the person having legal custody of a pupil has made a request, the governing board of either school district fails to approve the interdistrict attendance, or, in the absence of an agreement between the districts, fails or refuses to enter into an agreement, the district denying the permit, or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education, and shall advise him or her of all of the following:

(a) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board's designee that appeals within the districts have been exhausted. If new evidence or grounds for the request are introduced, the county board may remand the matter for further consideration by the district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(b) The county board of education shall, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the district in which he desires to attend and the applicable period of time. In the event that compliance by the county board within the time requirement for determining whether the pupil should be permitted to attend in the district in which he or she desires to attend is impractical, the county board or the county superintendent of schools, for good cause, may extend the time period for up to an additional five school days. The county shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education. The county board rules may provide for the granting of continuances upon a showing of good cause.

(c) The county supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board in reaching a decision.

(d) If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the county board having jurisdiction over the

district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of the other county which shall provide adequate opportunity for the district under its jurisdiction to be heard on the matter before making a decision. If the two county boards do not then concur, the pupil's appeal shall be denied.

SEC. 4. Section 46602 of the Education Code is repealed.

SEC. 5. Section 46604 of the Education Code is amended and renumbered to read:

46602. If the county board of education determines that the pupil should be permitted to attend in the district in which he or she desires to attend, the pupil shall be admitted to school in the district without delay and the attendance may be counted by the district of attendance for revenue limit and state apportionment purposes.

Written notice of the decision by the county board of education shall be delivered to the pupil and the parent or guardian, or person having custody of him or her, and to the governing boards of the districts.

SEC. 6. Section 46603 of the Education Code is repealed.

SEC. 7. Section 46603 is added to the Education Code, to read:

46603. For a period not to exceed two school months, the governing board of a school district may provisionally admit to the schools of the district a pupil who resides in another district, pending a decision of the two boards, or by the county board of education upon appeal, regarding the interdistrict attendance.

Regardless of whether the decision on interdistrict attendance is allowed, the provisional attendance may be counted by the district of attendance for revenue limit and state apportionment purposes.

SEC. 8. Section 46607 of the Education Code is repealed.

SEC. 9. Section 46609 of the Education Code is repealed.

SEC. 10. Section 46611 of the Education Code is repealed.

SEC. 11. Section 46612 of the Education Code is amended and renumbered to read:

46604. If the governing board of a school district in which pupils reside who are lawfully attending in another district fails or refuses to pay, when due, the amount required to be paid to the district of attendance for the education of those pupils under any provision of this code, the county superintendent of schools having jurisdiction over the district of residence shall draw a requisition against the funds of the district of residence in favor of the district of attendance in payment of that amount and transmit the requisition to the governing board of the district of attendance.

SEC. 12. Section 46613 of the Education Code is amended and renumbered to read:

46605. The governing board of any school district may admit to the schools or classes maintained in the district any pupils who reside in another school district during any of the first three fiscal years of existence for all purposes of the district of residence, whenever an agreement is entered into between the governing boards stipulating

the terms upon which the interdistrict attendance is permitted. Average daily attendance pursuant to this section is not included for purposes of declining enrollment calculations as prescribed by Section 42239.5.

SEC. 13. Section 46614 of the Education Code is amended and renumbered to read:

46606. The average daily attendance for attendance of pupils who reside outside of the regional occupational center or program attendance area and are enrolled in a regional occupational center or program pursuant to Section 52317 shall be credited to the regional occupational center or program that incurs the training costs for purposes of determining state apportionments and the revenue limits.

For purposes of computing the revenue limits for pupils who enroll in a regional occupational center or program outside their district of residence, the regional occupational center or program shall claim its own revenue limit.

The regional occupational center or program is not eligible for state reimbursement for home-to-school transportation allowances for pupils who are enrolled in the regional occupational center or program pursuant to this section.

SEC. 14. Section 46615 of the Education Code is repealed.

SEC. 15. Section 46616 of the Education Code is amended and renumbered to read:

46607. (a) Except as provided in subdivision (b) or (c), the average daily attendance for attendance of pupils from another district shall be credited to the district of attendance for purposes of determining state apportionments and the revenue limit pursuant to Section 42237 or 42238.

(b) For any district that would have a reduction of 25 percent or more in its federal grant pursuant to Public Law 81-874 if the average daily attendance of pupils residing within the district were credited to the district of attendance, then the average daily attendance resulting from an interdistrict attendance agreement shall be credited to the district of residence and the district of residence shall pay a tuition to the district of attendance no later than the next August 31, after the close of the fiscal year as follows:

(1) For attendance in regular day schools and summer schools the tuition per unit of average daily attendance, if any, shall not exceed the actual cost per unit of average daily attendance for the grade level or program less any income, other than tuition, received by the district of attendance on account of such attendance.

(2) The district in which the pupil resides shall reduce its total revenue limit pursuant to Section 42238 by the total excess, if any, of its revenue limit per unit of average daily attendance multiplied by the total interdistrict attendance over the total tuition to be paid to districts of attendance.

The district in which the pupil resides may increase its total revenue limit pursuant to Section 42238 by the total excess, if any, of

the total tuition to be paid to districts of attendance over the district of residence's revenue limit per unit of average daily attendance multiplied by the total interdistrict average daily attendance.

(c) For any consortium of school districts operating an adult education and a regional occupational program serving four or more school districts, the school districts may agree to claim the unit of average daily attendance on the basis of the district of residence and pay such interdistrict tuition to the district of attendance as agreed to by the participating districts.

SEC. 16. Section 46617.5 of the Education Code is amended and renumbered to read:

46608. A regional occupational program or regional occupational center maintained by a school district, or a regional occupational program or regional occupational center maintained by two or more school districts pursuant to a joint powers or cooperative agreement, may admit pupils who reside outside the attendance area of the regional occupational program or regional occupational center by written agreement with the school district in which the pupils reside. If the pupils reside within a school district participating in a regional occupational program or regional occupational center maintained by a county superintendent of schools the agreement shall be approved by the county superintendent. If the pupils reside in a school district participating in a regional occupational program or regional occupational center pursuant to a joint powers or cooperative agreement, the agreement shall be approved by the governing board of the district or districts maintaining the program.

A county superintendent of schools may admit to regional occupational programs or regional occupational centers, pupils who reside in school districts that are not participating in these regional occupational programs or regional occupational centers, by written agreement with the school district in which the pupils reside. If the pupils reside in a school district participating in a regional occupational program or regional occupational center pursuant to a joint powers or cooperative agreement, the agreement shall be approved by the governing board of the district or districts maintaining the program.

A regional occupational center or program established and maintained pursuant to Section 52301 that admits students by agreement pursuant to this section shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by such districts for each unit of average daily attendance generated in the regional occupational center or program.

However, no district shall be required to pay more than the county revenue limit as determined pursuant to Section 52317 in those instances where the county is maintaining the regional occupational center or program, or the actual cost per unit of average daily attendance in those regional occupational centers or programs which are operated pursuant to a joint powers agreement or cooperative

arrangement. The fiscal arrangements shall be specified in the written agreement.

In no case shall any revenue derived from average daily attendance in regional occupational centers and programs be retained by the district of residence.

SEC. 17. Section 46618 of the Education Code is amended and renumbered to read:

46609. The governing board of a unified school district, whose boundaries are coterminous with the boundaries of a county, and which is contiguous to an adjoining state, may provide for the education of all or any number of the high school pupils of the district who reside in the district by the attendance of these pupils at the schools of a school district of an adjoining state. The governing board of the unified school district may enter an agreement with the school district of an adjoining state for the education of these pupils, subject to the terms and conditions agreed upon. The provisions of Sections 2000 to 2011, inclusive, do not apply to pupils educated pursuant to an agreement authorized by this section.

The average daily attendance of pupils educated pursuant to an agreement authorized by this section shall be credited to the district of residence for apportionment purposes. The superintendent of schools of the district, or the principal of the school, in the adjoining state attended by the pupils under such an agreement shall, not later than July 2 of each year, certify, to the county superintendent of schools having jurisdiction over the school district of residence of the pupils, the average daily attendance of the pupils of the district attending the schools of the school district in the adjoining state. Certification shall be made on forms furnished by the Superintendent of Public Instruction. The county superintendent of schools shall report the average daily attendance to the Superintendent of Public Instruction, who shall include the average daily attendance in his report of average daily attendance in all of the duly established schools of the state for the last preceding school year certified by him to the State Controller.

SEC. 18. Section 46619 of the Education Code is amended and renumbered to read:

46610. Notwithstanding any other provision of law, the Fallbrook Union High School District shall enter into an interdistrict attendance agreement with the Capistrano Unified School District to allow any pupil, at the request of his or her parent or guardian, to attend schools of the Capistrano Unified School District when the pupil resides in the San Onofre housing area of the Marine Corps Base, Camp Joseph H. Pendleton. No more than 150 pupils from the Fallbrook Union High School District may attend school in the Capistrano Unified School District pursuant to this interdistrict attendance agreement.

The Fallbrook Union High School District shall be credited with the average daily attendance of these pupils for the purpose of determining state apportionments and revenue limits and for the

purpose of receiving federal grants pursuant to Public Law 81-874.

The Fallbrook Union High School District shall pay tuition to the Capistrano Unified School District for the attendance of these pupils only in the amount of the state apportionments paid to the Fallbrook Union High School District for the attendance of these pupils, plus an amount computed as follows:

(a) Divide the amount of funds paid pursuant to Section 3 of Public Law 81-874 (20 U.S.C. 238) to the Fallbrook Union High School District in the current fiscal year by the average daily attendance of the district in the current fiscal year.

(b) Multiply the amount in subdivision (a) by the average daily attendance, for the year of attendance for secondary school pupils attending the schools of the Capistrano Unified School District pursuant to Section 46610.

SEC. 19. Section 46620 of the Education Code is amended and renumbered to read:

46611. (a) When an interdistrict attendance agreement is entered into pursuant to Section 46610, the Superintendent of Public Instruction shall apportion from Section A of the State School Fund to the Capistrano Unified School District the allowance computed in subdivision (b) for educating secondary school pupils attending pursuant to the agreement during the year the pupils are in attendance in that district reduced by the amounts payable to Capistrano Unified School District by the Fallbrook Union High School District pursuant to Section 46610.

(b) The Superintendent of Public Instruction shall compute an allowance for educating secondary school pupils, as follows:

(1) Compute, for the year of attendance, the statewide average revenue limit per unit of average daily attendance for high school districts with more than 300 units of average daily attendance.

(2) From the amount in paragraph (1), subtract one hundred dollars ($100).

(3) Multiply the amount in paragraph (2) by the average daily attendance, for the year of attendance, for secondary school pupils attending the schools of the Capistrano Unified School District pursuant to Section 46610.

SEC. 20. 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 743

An act to amend Sections 52323 and 52354 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 52323 of the Food and Agricultural Code is amended to read:

52323. The department's cost of carrying out this chapter shall be funded from money which is received by the director pursuant to this chapter. The director shall also pay annually, in arrears, 30 percent of the total assessment fees received pursuant to Section 52354 or sixty-five thousand dollars ($65,000), whichever sum is greater, to counties as a subvention for costs incurred in the enforcement of this chapter. However, in no case shall the annual subvention to the counties exceed one hundred twenty thousand dollars ($120,000). The department's costs of administering this chapter shall be paid before allocating funds to the counties under this section.

This section shall become operative on July 1, 1984, and 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 52354 of the Food and Agricultural Code is amended to read:

52354. Each person required to be registered pursuant to Section 52351 shall pay an assessment annually to the director in an amount not to exceed forty cents ($0.40) per one hundred dollars ($100) gross annual dollar volume sales of agricultural or vegetable seed, or both, in this state for the preceding fiscal year defined in Section 52352, except in the following cases:

(a) No assessment shall be paid by any labeler or any other person for any agricultural or vegetable seed for which the assessment has been previously paid by another labeler or person, except when the identity of the lot has been changed.

(b) No assessment shall be paid on that portion of a person's sales of agricultural or vegetable seed, or both, that is sold in containers of four ounces or less net weight of seed.

(c) No assessment shall be paid on agricultural or vegetable seed, or both, sold and shipped out of this state.

CHAPTER 744

An act to add Section 12113 to the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 12113 is added to the Food and Agricultural Code, to read:

12113. The director may, after a hearing, refuse, revoke, or suspend a pesticide dealer license for violation of the provisions of this division, or Division 7 (commencing with Section 12501), relating to pesticides or the rules and regulations adopted pursuant to those provisions. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.

CHAPTER 745

An act to amend and repeal Sections 3950 and 4700 of, to add Section 12008.5 to, and to add and repeal Chapter 11 (commencing with Section 4900) of Part 3 of Division 4 of, the Fish and Game Code, relating to game.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 3950 of the Fish and Game Code is amended to read:

3950. (a) Game mammals are: deer (genus Odocoileus), elk (genus Cervus), prong-horned antelope (genus Antilocapra), feral pigs and European wild boars (genus Sus), black and brown or cinnamon bears (genus Euarctos), mountain lions (genus Felis), jackrabbits and varying hares (genus Lepus), cottontails, brush rabbits, pigmy rabbits (genus Sylvilagus), and tree squirrels (genus Sciurus and Tamiasciurus).

(b) Nelson bighorn sheep (subspecies Ovis canadensis nelsoni) are game mammals only for the purposes of sport hunting in the area described in subdivision (b) of Section 4902.

This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1993,

pursuant to Section 9611 of the Government Code, Section 3950 of the Fish and Game Code, as added by Section 3 of Chapter 610 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 4700 of the Fish and Game Code is amended to read:

4700. Fully protected mammals or parts thereof may not be taken or possessed at any time and no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected mammal and no such permits or licenses heretofore issued shall have any force or effect for any such purpose; except that the commission may authorize the collecting of such species for necessary scientific research. Legally imported fully protected mammals or parts thereof may be possessed under a permit issued by the department.

The following are fully protected mammals:

(a) Morro Bay kangaroo rat (Dipodomys heermanni morroensis).

(b) Bighorn sheep (Ovis canadensis), except Nelson bighorn sheep (subspecies Ovis canadensis nelsoni) in the area described in subdivision (b) of Section 4902.

(c) Northern elephant seal (Mirounga angustirostris).

(d) Guadalupe fur seal (Arctocephalus townsendi).

(e) Ring-tailed cat (Genus bassariscus).

(f) Pacific right whale (Eubalaena sieboldi).

(g) Salt-marsh harvest mouse (Reithrodontomys raviventris).

(h) Southern sea otter (Enhydra lutris nereis).

(i) Wolverine (Gulo luscus).

This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1993, pursuant to Section 9611 of the Government Code, Section 4700 of the Fish and Game Code, as amended by Section 141 of Chapter 714 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Chapter 11 (commencing with Section 4900) is added to Part 3 of Division 4 of the Fish and Game Code, to read:

CHAPTER 11. BIGHORN SHEEP

4900. The Legislature declares that bighorn sheep are an important wildlife resource of the state to be managed and maintained at sound biological levels. Therefore, it is hereby declared to be the policy of the state to encourage the preservation, restoration, utilization, and management of California's bighorn sheep population. The management shall be in accordance with the policy set forth in Section 1801.

4901. The department shall determine the status and the trend of bighorn sheep populations by management units. A plan shall be

developed for each of the management units. The plan for each management unit shall include all of the following:

(a) Data on the numbers, age, sex ratios, and distribution of bighorn sheep within the management unit.

(b) A survey of range conditions and a report on the competition that may exist as a result of human, livestock, wild burro, or any other mammal encroachment.

(c) An assessment of the need to relocate or reestablish bighorn populations.

(d) A statement on the prevalence of disease or parasites within the population.

(e) Recommendations for achieving the policy objective of Section 4900.

4902. (a) The commission may adopt all regulations necessary to provide for biologically sound management of Nelson bighorn sheep (subspecies Ovis canadensis nelsoni) within each management unit in the area described in subdivision (b).

(b) After the plans developed by the department pursuant to Section 4901 for the management units specified in this subdivision have been submitted, the commission may authorize sport hunting of mature Nelson bighorn rams found in the Marble Mountains (townships T6NR13E, T6NR14E, T7NR13E, San Bernardino Base and Meridian) and the Kelso Peak and Old Dad Mountain area (townships T11NR11E, T11NR12E, T12NR10E, T12NR11E, T12NR12E, T13NR10E, San Bernardino Base and Meridian), San Bernardino County. Prior to authorizing the sport hunting, the commission shall take into account the Nelson bighorn sheep population statewide, including the areas specified in this subdivision.

Notwithstanding Section 219, the commission shall not, however, adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in the management units specified in this subdivision, as determined by the department by an annual count conducted in each management unit.

(c) The fee for a permit to take a Nelson bighorn ram in the area described in subdivision (b) may be determined by the commission, but shall not exceed five hundred dollars ($500). The fee may include a nonrefundable application fee of not more than five dollars ($5).

(d) The commission shall annually direct the department to authorize not more than one of the permits available for issuance that year to take one Nelson bighorn ram in the area described in subdivision (b) for the purpose of raising funds for programs and projects to benefit bighorn sheep. This one permit may be sold at auction or by other method and shall not be subject to the fee limitation prescribed in subdivision (c).

(e) No permit issued pursuant to this section shall be valid unless and until the permittee has successfully completed a prehunt hunter familiarization and orientation and has demonstrated to the

department that he or she is familiar with the requisite equipment for participating in the hunting of bighorn rams, as determined by the commission. The orientation shall be conducted by the department at convenient locations and times preceding each season, as determined by the commission.

4903. Revenue from the fees for permits to take Nelson bighorn rams shall be deposited in the Bighorn Sheep Account, which is hereby created in the Fish and Game Preservation Fund. Notwithstanding Sections 711 and 13004, the money in the Bighorn Sheep Account, upon appropriation by the Legislature, shall be available for expenditure by the department solely for programs and projects to benefit bighorn sheep and for the direct costs incurred in carrying out this chapter. Money in the account shall be used to augment, and not to replace, moneys appropriated from existing funds available to the department for the preservation, restoration, utilization, and management of bighorn sheep.

4904. The department shall annually report the following to the Legislature:

(a) The management units for which plans have been developed pursuant to Section 4901.

(b) A summary of the data from the annual count conducted by the department for the purposes of subdivision (b) of Section 4902.

(c) The number of permits issued in the preceding season, and the number of mature Nelson bighorn rams taken under valid permits in the preceding season.

(d) Any instance known to the department of the unlawful or unpermitted taking of a bighorn sheep in this state and the disposition of any prosecution therefor.

(e) The number of bighorn sheep relocated during the previous year, the area where reintroduced, a statement on the success of the reintroduction, and a brief description of any reintroduction planned for the following year.

4905. This chapter shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 4. Section 12008.5 is added to the Fish and Game Code, to read:

12008.5. Notwithstanding Section 12000, the punishment for taking any bighorn sheep in violation of Chapter 11 (commencing with Section 4900) of Part 3 of Division 4, or any regulation adopted pursuant thereto, is a fine of not more than two thousand dollars ($2,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

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 746

An act to amend Section 1153 of the Government Code, relating to state employees.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1153 of the Government Code is amended to read:

1153. The Controller shall provide for the administration of payroll deductions as set forth in Sections 1151 and 1152, and may establish, by rule or regulation, procedures for that purpose.

In administering payroll deductions the Controller shall:

(a) Make, cancel, or change a deduction at the request of the person or organization authorized to have the deduction. All requests shall be made on forms approved by the Controller.

(b) Obtain a certification from any state agency, employee organization, or business entity requesting a deduction that they have and will maintain an authorization to make the deduction, signed by the individual from whose salary or wages the deduction is to be made.

(c) Provide for an agreement from organizations and business entities receiving deductions or other deduction services to relieve the state, its officers and employees, of any liability that may result from making, canceling, or changing requested deductions. However, no financial institution receiving a payroll deduction pursuant to this section shall be required to reimburse the state for any error in the payroll deduction received by that financial institution after 90 days from the month in which the payroll deduction was deducted from an individual's paycheck.

(d) Determine the cost of performing the requested deduction service and collect that cost from the organization, entity, or individual requesting or authorizing the deduction. Services requested which are incidental, but not necessary, to making the deduction may be performed at the Controller's discretion with any additional cost to be paid by the requester.

(e) Prior to making a deduction for an employee organization or a bona fide association, determine that the organization or association has been recognized, certified, or registered by the appropriate authority.

(f) Decline to make deductions for any individual, organization, or entity if the Controller determines that it is not administratively feasible or practical to make the deduction, or if the Controller determines that the individual, organization, or entity requesting or receiving the deduction has failed to comply with any statute, rule, regulation, or procedure for the administration of deductions.

(g) Make, cancel, or change a deduction not later than the month subsequent to the month in which the request is received. Except as provided in subdivision (c), all deductions, cancellations, or changes shall be effective when made by the Controller.

(h) At the request of a state agency, transfer employee deduction authorization for a state-sponsored benefit program from one provider to another if the benefit and the employee contribution remain substantially the same. Notice of the transfer shall be given by the Controller to all affected employees.

CHAPTER 747

An act to amend Sections 68097.2, 73107, 73110, 73113, 73113.5, 73114, 73116, and 73121 of, and to add Section 73122 to, the Government Code, relating to courts.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 68097.2 of the Government Code is amended to read:

68097.2. 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, any employee of the Department of Forestry who is a forester or fire control member, or any employee of the Department of Justice who is an analyst in a technical field, who is obliged by a subpoena issued pursuant to Section 68097.1 to attend as a witness, shall receive the salary or other compensation to which he is normally entitled from the public entity by which he is employed during the time that he travels to and from the place where the court or other tribunal is located and while he is required to remain at such place pursuant to such subpoena. He shall also receive from the public entity by which he is employed the actual necessary and reasonable traveling expenses incurred by him in complying with such subpoena.

The party at whose request such subpoena is issued shall reimburse the public entity for the full cost to the public entity incurred in paying the officer his or her salary or other compensation and traveling expenses as provided for in this section, for each day that such officer is required to remain in attendance pursuant to such subpoena. The amount of one hundred fifty dollars ($150) shall be deposited with the clerk of the court or with the tribunal prior to the issuance of a subpoena pursuant to this section for each day that such officer is required to remain in attendance pursuant to such subpoena.

If the actual expenses should later prove to be less than the amount deposited, the excess of the amount deposited shall be refunded.

If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid to the public entity by the party at whose request the subpoena is issued.

If a court continues a proceeding on its own motion, no additional deposit may be required prior to the issuance of a subpoena or the making of an order directing such officer to appear on the date to which the proceeding is continued.

SEC. 2. Section 73107 of the Government Code is amended to read:

73107. There shall be one clerk of the San Bernardino County Municipal Court District to be known as the municipal court administrator who shall be appointed by, and serve at the pleasure of, a majority of the judges, from among applicants certified to such judges on the basis of a competitive examination pursuant to personnel rules and regulations of the County of San Bernardino. The municipal court administrator shall receive an annual salary of forty-nine thousand five hundred eighty-seven dollars ($49,587) commencing July 6, 1985, and shall be the appointing authority for those positions listed in Section 73113.

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 judges and who shall receive an annual salary of fifty-five thousand twenty-nine dollars ($55,029) commencing July 6, 1985. The marshal shall be the appointing power for those positions listed in Section 73113 as being appointed by the marshal.

SEC. 4. Section 73113 of the Government Code is amended to read:

73113. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and the marshal and the salary range prescribed in Section 73113.5 which constitutes the compensation for each job classification are as follows:

Appointed by the Municipal Court Administrator

Job classification	Number	Salary Range 7/5/86
Assistant municipal court administrator	1	868
Municipal court division manager II	3	859
Municipal court division manager I	5	855

Data-processing analyst II	1	860
Municipal court division supervisor II	3	851
Municipal court division supervisor I	4	842
Municipal court chief clerk	4	844
Courtroom clerk II	33	841
Clerk IV	10	834
Fiscal clerk II	7	831
Fiscal clerk III	2	836
Clerk III	77	830
Legal procedures clerk I	35	832
Legal procedures clerk II	2	838
Secretary I	1	835
Secretary II	2	838
Staff analyst II	1	854
Account technician I	1	836
Fiscal clerk I	1	824
Legal procedures Clerk III	1	844

Appointed by Marshal

Job classification	Number	Salary Range 3/29/86	Salary Range 7/5/86	Salary Range 4/11/87
Marshal's captain	3	393		593
Marshal's lieutenant	6	392		592
Marshal's sergeant	7	388		588
Deputy marshal	55	383		583
Administrative clerk II	1		843	
Marshal's clerk II	13		831	
Marshal's clerk I	13		826	
Marshal's technician	18		832	
Marshal's radio dispatch clerk	5		828	
Secretary II	1		838	

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 eleven dollars and fifty-six cents ($11.56) commencing March 29, 1986, and twelve dollars and twenty-five cents ($12.25) commencing April 11, 1987, 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. 5. 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 5, 1986, 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, 73122, 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, 1988.

SEC. 6. 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 838 of the salary schedule effective on July 5, 1986, and be otherwise subject to the salary plan provided by Section 73113.5.

SEC. 7. Section 73116 of the Government Code is amended to read:

73116. Trial jurors for each session of the courts of the district shall be selected from persons residing within the divisions within which such sessions are held. Upon adoption of a rule pertaining thereto by the judges, any division may use the same jury panel as that summoned for service in the superior court. When selected from the superior court panel, persons so selected for jury duty in the

municipal court division need not be residents of the division.

SEC. 8. Section 73121 of the Government Code is amended to read:

73121. By majority vote, the judges may appoint a court commissioner who shall meet the qualifications and have the powers and duties specified in Sections 72190, 72190.1, and 72190.2 of this code and Section 259 of the Code of Civil Procedure. Any commissioner so appointed shall also have the power and duties of a traffic referee as provided in Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The salary of the commissioner for all duties performed pursuant to this section shall be equal to 75 percent of the salary of a judge of the municipal court. A commissioner shall be entitled to the same benefits as are or shall be provided to a commissioner of the superior court in the County of San Bernardino.

SEC. 9. Section 73122 is added to the Government Code, to read:

73122. Any traffic trial commissioner appointed pursuant to Section 72450 shall be entitled to the same benefits as a commissioner appointed pursuant to Section 73121.

SEC. 10. 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 748

An act to repeal Section 126 of the Streets and Highways Code, and to add Sections 21367 and 40000.14 to the Vehicle Code, relating to traffic control.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 126 of the Streets and Highways Code is repealed.

SEC. 2. Section 21367 is added to the Vehicle Code, to read:

21367. (a) As provided in Section 125 of the Streets and Highways Code and in Section 21100 of this code, respectively, the duly authorized representative of the Department of Transportation or local authorities, with respect to highways under their respective jurisdictions, including, but not limited to, persons contracting to perform construction, maintenance, or repair of a highway, may, with the approval of the department or local authority, as the case may be, and while engaged in the performance of that work, restrict the use of, and regulate the movement of traffic through or around, the affected area whenever the traffic would endanger the safety of

workers or the work would interfere with or endanger the movement of traffic through the area. Traffic may be regulated by warning signs, lights, appropriate control devices, or by a person or persons controlling and directing the flow of traffic.

(b) It is unlawful to disobey the instructions of a person controlling and directing traffic pursuant to subdivision (a).

(c) It is unlawful to fail to comply with the directions of warning signs, lights, or other control devices provided for the regulation of traffic pursuant to subdivision (a).

SEC. 3. Section 40000.14 is added to the Vehicle Code, to read:

40000.14. A violation of subdivision (b) or (c) of Section 21367 is an infraction, except as follows:

(a) A willful violation is a misdemeanor.

(b) A willful violation committed in a manner exhibiting a wanton disregard for the safety of persons is a misdemeanor punishable by imprisonment in the county jail for not more than one year.

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 749

An act to add Section 11743.1 to the Insurance Code, relating to insurance.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 11743.1 is added to the Insurance Code, to read:

11743.1. An insurer may not change the classifications on a workers' compensation insurance policy if the change in classifications results in an increased premium unless one of the following is applicable:

(a) The insured, its agent, or its broker is notified during the affected policy period of the change in classifications during that policy period.

(b) The insured, its agent, or its broker agrees to the change in classifications.

(c) The insured, its agent, or its broker knew or, in the exercise of reasonable diligence, should have known that the classifications being changed were improper.

(d) The change in classifications was made with respect to a policy

period as a result of a payroll audit or inspection for classification purposes initiated within one year after expiration of that policy period.

(e) The change in classifications was made pursuant to classification assignments published by a rating organization licensed pursuant to Article 3 (commencing with Section 11750) as applicable to the policyholder for the policy period or a prior policy period.

This section shall be inapplicable to a change in classification if the reason for the change is fraud or a material misrepresentation by or with the knowledge of the insured or if the insured fails to reasonably cooperate in a payroll audit or inspection for classification purposes.

CHAPTER 750

An act to amend Sections 2535, 2536, 2539, and 2540 of, to amend and renumber Sections 2537, 2542, 2544, 2545, and 2546 of, to add Sections 2537, 2542, 2545, and 12156.5 to, and to repeal Sections 2538, 2541, and 2543 of, to add and repeal Section 2540.5 of, the Fish and Game Code, relating to guides, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 2535 of the Fish and Game Code is amended to read:

2535. As used in this chapter, "guide" means any person who is engaged in the business of packing or guiding, or who, for compensation, assists another person in taking or attempting to take any bird, mammal, fish, amphibian, or reptile or who, for compensation, assists another person in locating any bird, mammal, fish, amphibian, or reptile to photograph or view. "Guide" also includes any person who, for profit, transports other persons, their equipment, or both to or from a hunting or fishing area.

SEC. 2. Section 2536 of the Fish and Game Code is amended to read:

2536. (a) It is unlawful for any person to engage in the business of guiding or packing, or to act as a guide for any consideration or compensation whatever, without first having secured a guide license from the department.

(b) An employee of a licensee who acts as a guide only in connection with, and within the scope of, his or her employment is exempt from the requirement of subdivision (a) if all of the following conditions are met:

(1) If the employment is subject to and the person is reported to the carrier of the employer's workers' compensation insurance.

(2) If the person is subject and reported to the state and federal taxing authorities for withholding of income tax.

(3) If the person is reported to the department, on forms provided by the department, as an employee of the guide prior to any contact with any person being guided, and a ten dollar ($10) registration fee has been paid.

SEC. 3. Section 2537 of the Fish and Game Code is amended and renumbered to read:

2538. An application for a guide license shall be on a form furnished by the department on request. The application shall show all of the following:

(a) The name, date of birth, physical description, age, address, and telephone number, if any, of the applicant.

(b) The area or areas of the state in which the applicant proposes to operate.

(c) The type of guiding or packing in which the applicant proposes to engage.

(d) The experience which qualifies the applicant for the type of guiding or packing he or she proposes to conduct.

(e) The type and amount of the equipment, vehicles, animals, and other property the applicant proposes to use in his or her operations.

(f) Any other information that the department or the commission may require.

SEC. 4. Section 2537 is added to the Fish and Game Code, to read:

2537. A person operating under a commercial passenger fishing boat license issued pursuant to Section 7920 is not required to obtain a guide license.

SEC. 5. Section 2538 of the Fish and Game Code is repealed.

SEC. 6. Section 2539 of the Fish and Game Code is amended to read:

2539. If the licensee operates with pack or riding animals in any area in which a grazing permit is required, the license is not valid unless the holder thereof has a valid grazing permit for the area. A licensee shall not guide clients on any lands under the jurisdiction of the United States Department of the Interior or Department of Agriculture where permits are required without first obtaining the permit from that federal agency.

SEC. 7. Section 2540 of the Fish and Game Code is amended to read:

2540. The base fee for a guide license, issued to a resident of this state, is forty-five dollars ($45), as adjusted under Section 713, and the base fee for a license issued to a nonresident is one hundred twenty-five dollars ($125), as adjusted under Section 713. A guide license is valid for the license year beginning on February 1 and ending on January 31 of the succeeding year or, if issued after the beginning of the license year, for the remainder of that license year.

SEC. 8. Section 2540.5 is added to the Fish and Game Code, to read:

2540.5. Notwithstanding Section 2540, the fee for a guide license

issued to a resident of this state is twenty-five dollars ($25), and the fee for a guide license issued to a nonresident is one hundred dollars ($100), if prior to June 30, 1987, and at the time of submitting the application for a license, the applicant surrenders to the department a valid California guide license that had been issued to him or her for the 1986–87 license year.

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. 8.5. Section 2541 of the Fish and Game Code is repealed.

SEC. 9. Section 2542 of the Fish and Game Code is amended and renumbered to read:

2541. Each applicant for a guide license shall submit proof of having obtained a surety bond in the amount of not less than five thousand dollars ($5,000) which shall insure faithful performance of the guide and his or her agents or employees in fulfilling their responsibilities to their clients. No guide license shall be issued to any applicant who does not submit proof of having a bond which is valid for the term of the license.

SEC. 10. Section 2542 is added to the Fish and Game Code, to read:

2542. The commission shall adopt regulations governing the conduct and qualifications of guides to ensure the safety and welfare of persons engaging the services of a guide, and may adopt regulations governing the procedures for applications for guide licenses. The qualifications shall include, but not be limited to, knowledge of basic first aid and rescue operations.

SEC. 11. Section 2543 of the Fish and Game Code is repealed.

SEC. 12. Section 2544 of the Fish and Game Code is amended and renumbered to read:

2546. The commission may revoke a guide license or the privilege to guide upon a showing of any of the following:

(a) The licensee has been convicted of a violation of this code or any regulation adopted pursuant thereto.

(b) The licensee has knowingly permitted a client or other member of the party being guided to violate this code or any regulation adopted pursuant thereto and that the licensee had the authority and means to prevent the violation.

(c) The licensee has failed to fulfill his or her responsibilities to a client.

SEC. 13. Section 2545 of the Fish and Game Code is amended and renumbered to read.

2543. The commission may require licensed guides to maintain and submit records of their operations. The records may be examined at any time by representatives of the department. It is unlawful for any licensed guide to fail to maintain or submit any required records or to refuse to allow the examination of the records upon the request of a department representative.

SEC. 14. Section 2545 is added to the Fish and Game Code, to

read:

2545. An applicant denied a guide license by the department may request a hearing before the commission and the commission shall determine whether or not the license shall be issued.

SEC. 15. Section 2546 of the Fish and Game Code is amended and renumbered to read:

2544. The department may refuse to issue a guide license to an applicant upon a showing of any of the following:

(a) The applicant has failed to fulfill his responsibilities to a client.

(b) The applicant has violated this code or any regulation adopted pursuant thereto, or has knowingly permitted a client or another member of a party being guided to violate this code or any regulation adopted pursuant thereto and the applicant had the authority and means to prevent the violation.

SEC. 16. Section 12156.5 is added to the Fish and Game Code, to read:

12156.5. (a) The judge before whom any guide, as defined in Section 2535, is arraigned for a violation of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person, order the revocation of the person's privilege to hunt, fish, or guide for a period not to exceed three years from the date of the conviction.

(b) For purposes of this section, a plea of nolo contendere or no contest or a forfeiture of bail is a conviction.

(c) It shall be unlawful for any person to obtain, or attempt to obtain a guide license, sportfishing license, or hunting license during a period of revocation imposed under this section.

(d) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order revocation upon conviction impairs the right of the department to commence proceedings to order revocation of the guide license pursuant to Section 2546.

SEC. 17. 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 751

An act to add Section 25155.10 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. (a) The Legislature finds and determines all of the following:

(a) There is increasing concern that air emissions from hazardous waste land disposal facilities may present a source of human and environmental exposure to toxic or hazardous chemicals, and may present a public health risk to persons living in the vicinity of the facility.

(b) In order to determine the potential public health risks associated with air emissions from hazardous waste land disposal facilities and to assess the need for mitigation measures that protect public health, this act is necessary to provide for the State Department of Health Services to require the facility operator to conduct air monitoring at and around the facility.

SEC. 2. Section 25155.10 is added to the Health and Safety Code, to read:

25155.10. (a) The owner or operator of every commercial offsite multiuser hazardous waste disposal facility shall develop a proposed monitoring plan, in writing, for the monitoring of the ambient air downwind and upwind from the facility. The plan shall include all of the following:

(1) An identification of the constituents of hazardous wastes accepted in the past and present which will be monitored. These constituents shall be selected on the basis of pertinent factors, which may include degree of toxicity, relative and absolute volume, the potential for the constituent to volatilize or otherwise become airborne, and the method by which the constituent is or was handled, treated, and disposed.

(2) The type, procedures, and location of air sampling equipment and the type and procedures of analytical equipment.

(3) The duration of each sampling period in hours, and the number and time of sampling periods over a 12-month period.

(b) The proposed monitoring plan developed pursuant to subdivision (a) shall be submitted to the department on or before October 1, 1987, and shall be updated as required by the department.

(c) The department, in consultation with the applicable air pollution control district or air quality management district, shall review and approve or require modification of the proposed monitoring plan submitted pursuant to this section. The department shall provide, in writing, a notice of any deficiencies in the plan to

the person who submitted the plan, who shall revise the plan to address the noted deficiencies within 60 days after receiving the department's comments.

(d) If the department demonstrates, pursuant to a public hearing, that a hazardous waste facility which is required to submit a plan pursuant to subdivision (a) is the source of a substance in the ambient air which poses a significant threat to the public health or affects the quality of the environment in such a way that could significantly threaten public health, the department shall, pursuant to Section 25187, require the facility operator to do both of the following:

(1) Develop a corrective action plan and submit the plan to the department for approval or modification, within a schedule specified by the department.

(2) Implement the corrective action plan, as approved by the department, within the period specified by the department.

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 752

An act to amend Sections 5209, 5701, 5702, 5704, 6048, and 6049 of, and to amend the heading of Article 1 (commencing with Section 5701) of Chapter 8 of Part 1 of Division 4 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 5209 of the Food and Agricultural Code is amended to read:

5209. (a) Except as provided in subdivision (b), any violation of this chapter is an infraction punishable by a fine of seventy-five dollars ($75) for the first offense and is a misdemeanor for a second or subsequent offense within three years of a prior conviction of a violation of this chapter.

(b) (1) Any use by any person of a false or invalid certificate for the purpose of certification pursuant to this chapter is a misdemeanor.

(2) For the purpose of this section, "false certificate" means a document, as defined in Section 5201, that has not been issued by a commissioner, deputy commissioner, or inspector.

(3) For the purposes of this section, "invalid certificate" means a document, as defined in Section 5201, that is based upon false information supplied to the commissioner, deputy commissioner, or inspector which is essential to the issuance of the certificate.

SEC. 1.5. The heading of Article 1 (commencing with Section 5701) of Chapter 8 of Part 1 of Division 4 of the Food and Agricultural Code is amended to read:

Article 1. Hold Notices on Infested and Nearby Properties

SEC. 2. Section 5701 of the Food and Agricultural Code is amended to read:

5701. (a) If any pest exists on any premises, the director or the commissioner may hold any plant or other host or possible carrier which is, or may be, capable of disseminating or carrying the pest. The director or the commissioner also may hold the plants, other hosts, or other possible carriers on any premises within five miles of the premises on which the pest was found to exist. The director or commissioner shall notify the owner of the plant or other host or possible carrier, or his or her agent, of this action, and the issuance of any shipping permit or nursery stock certificate with respect to the plant or other host or possible carrier shall be refused and any such permit or certificate which has been previously issued shall be revoked.

(b) The distance from the premises at which a pest is found that the director or commissioner may hold plants, other hosts, or other possible carriers shall be the maximum distance that the director or commissioner determines the pest is likely to travel, but not to exceed five miles.

SEC. 3. Section 5702 of the Food and Agricultural Code is amended to read:

5702. If, in the opinion of the director or commissioner, the plant or other host or possible carrier is not infested or infected with the pest, or has been disinfected or cleaned so as to eradicate or control the pest, the director or commissioner shall in writing release it or issue the shipping permit or nursery stock certificate as the case may be.

SEC. 4. Section 5704 of the Food and Agricultural Code is amended to read:

5704. It is unlawful for any person to move any plant or other host or possible carrier from the premises on which a hold notice has been issued, except under the written permission of the director or commissioner and in accordance with the conditions which are stated in the written permission.

SEC. 5. Section 6048 of the Food and Agricultural Code is amended to read:

6048. (a) The plant hydrilla (Hydrilla verticillata) is a noxious aquatic weed not native to the State of California. The Legislature hereby declares that the further introduction and spread of this

serious aquatic weed pest would be detrimental to the state, causing irreparable damage to the agricultural industry and recreational use of streams, lakes, and waterways and further that the eradication of this aquatic weed pest is essential to the preservation of the environment.

Hydrilla can be introduced into the state in shipments of fish and aquatic plants for wholesale and retail sale within the state. It can become established when aquariums containing hydrilla are dumped into California's streams, lakes, ponds, and waterways. Subsequent spread is rapid, both naturally and artificially.

(b) It is unlawful to produce, propagate, harvest, possess, sell, or distribute hydrilla as such or incidental to the sale of fish, aquatic plants, or other hosts or possible carriers of hydrilla. The director may adopt quarantine or other regulations which prohibit the importation of hydrilla. Any violation of the regulations or of this section is an infraction punishable by a fine of not more than seventy-five dollars ($75) for the first offense and is a misdemeanor for a second or subsequent offense within three years of a prior conviction of a violation of this section or of the regulations. These penalty provisions do not preclude civil action as provided in Article 2 (commencing with Section 5021) of Chapter 1.

(c) The director shall conduct an ongoing survey and detection program for hydrilla. Whenever and wherever hydrilla is discovered, the director shall immediately investigate the feasibility of eradication. If eradication is feasible, the director shall perform the eradication in cooperation with federal, city, county, and other state agencies taking those steps and actions the director deems necessary.

SEC. 6. Section 6049 of the Food and Agricultural Code is amended to read:

6049. The department, with the cooperation of the University of California, the United States Department of Agriculture, or other agencies, may develop and implement biological control methods to eradicate or control the aquatic weed pest hydrilla (Hydrilla verticillata) in any area of the state, and may conduct studies for those purposes. When the development or implementation involves the use of fish, each individual program for development or implementation shall first be approved by the Department of Fish and Game.

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 753

An act to add Section 12512.5 to the Vehicle Code, relating to motor vehicles.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 12512.5 is added to the Vehicle Code, to read:

12512.5. Notwithstanding any other provision of law, no driver's license shall be issued to any person under the age of 18 years authorizing that person to operate any two-wheel motorcycle without satisfactory completion of a motorcyclist rider training program approved by the Commissioner of the California Highway Patrol pursuant to Section 2932.

This section shall become operative on January 1, 1988.

CHAPTER 754

An act to amend Section 823 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 823 of the Unemployment Insurance Code is amended to read:

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

(b) (1) For each fiscal year, except as provided in subdivisions (c) and (d), each school employer shall budget and remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the School Employees Fund in the State Treasury an amount determined by multiplying the contribution rate for the fiscal year by the total wages, including taxable wages as well as wages which would be

taxable except for the limitation on taxable wages provided under Section 930, but excluding, to the extent permitted by federal law, wages paid to any individual to the extent that federal law provides for reimbursement to the State of California for all benefits paid from the Unemployment Fund to the individual based on the wages.

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

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

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

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

(c) If the administrator finds that the ability of the School Employees Fund to meet its estimated obligations promptly when due will become endangered, he or she shall increase the contribution rate otherwise provided by this section to a level estimated to be needed to protect the solvency of the fund, except that the rate shall not be increased to more than three-tenths of 1 percent. If the administrator finds that the School Employees Fund balance is in excess of an adequate reserve to meet its estimated obligations promptly when due, he or she shall, after consultation with the fund's School Advisory Committee, decrease the contribution rate otherwise provided by this section, except that the rate shall not be decreased to less than one-tenth of 1 percent. The administrator shall notify all school employers participating in the fund of any increased or decreased contribution rate under this authority.

CHAPTER 755

An act to amend Section 3600 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 3600 of the Labor Code is amended to read:

3600. (a) Liability for the compensation provided by this division, in lieu of any other liability whatsoever to any person except as otherwise specifically provided in Sections 3602, 3706, and 4558, shall, without regard to negligence, exist against an employer for any injury sustained by his or her employees arising out of and in the course of the employment and for the death of any employee if the injury proximately causes death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and the employee are subject to the compensation provisions of this division.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his or her employment and is acting within the course of his or her employment.

(3) Where the injury is proximately caused by the employment, either with or without negligence.

(4) Where the injury is not caused by the intoxication of the injured employee.

(5) Where the injury is not intentionally self-inflicted.

(6) Where the employee has not willfully and deliberately caused his or her own death.

(7) Where the injury does not arise out of an altercation in which the injured employee is the initial physical aggressor.

(8) Where the injury is not caused by the commission of a felonious act by the injured employee, for which he or she has been convicted.

(9) Where the injury does not arise out of voluntary participation in any off-duty recreational, social, or athletic activity not constituting part of the employee's work-related duties, except where these activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment. The administrative director shall promulgate reasonable rules and regulations requiring employers to post and keep posted in a conspicuous place or places a notice advising employees of the provisions of this subdivision. Failure of the employer to post the notice shall not constitute an expression of intent to waive the provisions of this subdivision.

(b) Where an employee, or his or her dependents, receives the compensation provided by this division and secures a judgment for,

or settlement of, civil damages pursuant to those specific exemptions to the employee's exclusive remedy set forth in subdivision (b) of Section 3602 and Section 4558, the compensation paid under this division shall be credited against the judgment or settlement, and the employer shall be relieved from the obligation to pay further compensation to, or on behalf of, the employee or his or her dependents up to the net amount of the judgment or settlement received by the employee or his or her heirs, or that portion of the judgment as has been satisfied.

CHAPTER 756

An act to add Title 2.5 (commencing with Section 536) to Part 4 of Division 1 of the Civil Code, and to amend Section 591 of the Penal Code, relating to cable television.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Title 2.5 (commencing with Section 536) is added to Part 4 of Division 1 of the Civil Code, to read:

TITLE 2.5. CABLE TELEVISION CORPORATIONS

536. Any person who willfully and maliciously does any injury to any property of a cable television corporation is liable to the corporation for three times the amount of actual damages sustained thereby, to be recovered in any court of competent jurisdiction.

SEC. 2. Section 591 of the Penal Code is amended to read:

591. A person who unlawfully and maliciously takes down, removes, injures, or obstructs any line of telegraph, telephone, or cable television, or any other line used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof, or makes any unauthorized connection with any line, other than a telegraph, telephone, or cable television line, used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, is punishable by imprisonment in the state prison, or by a fine not exceeding five hundred dollars ($500), or imprisonment in the county jail not exceeding one year.

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 757

An act to amend Sections 653.5, 658, and 777 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. This act shall be known and may be cited as the California Juvenile Probation Revocation Procedural Act of 1986.

SEC. 2. The Legislature hereby finds and declares that probation officers supervising juvenile court wards have an essential responsibility to protect the residents of their communities within the state by assisting in the reduction of the risks posed to the public by juvenile offenders under their supervision. The Legislature also finds and declares that these probation officers have a responsibility to the public to bring repeat offenders and probation violators under their supervision to the attention of the courts in a timely and judicious manner for purposes of maintaining accountability. The Legislature further finds that the public desires to live in communities where criminal behavior is controlled, and that the public supports timely state and local level correctional actions in furtherance of that objective, particularly where these efforts are cost-effective and lower the overall rising costs of criminal activity.

It is the intent of the Legislature in enacting this act to enable probation officers supervising juvenile offenders to take advantage of expeditious procedures which are currently available to probation officers supervising adult offenders, and to provide for the development of consistent standards of accountability for wards of the juvenile court similar to those in existence for adult probationers.

SEC. 3. Section 653.5 of the Welfare and Institutions Code is amended to read:

653.5. (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced.

(b) Except as provided in subdivision (c), if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court on the basis that he or she is a person described in Section 602, the probation officer shall cause the affidavit to be taken to the prosecuting attorney.

(c) Notwithstanding the provisions of subdivision (b), the probation officer shall cause the affidavit to be taken within 48 hours to the prosecuting attorney in all of the following cases:

(1) If it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707.

(2) If it appears to the probation officer that the minor is under 16 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 16 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

The provisions of subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

The prosecuting attorney shall within his or her discretionary power institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 and Section 26500 of the Government Code. However, if it appears to the prosecuting attorney that the affidavit was not properly referred, that the offense for which the minor was referred should be charged as a misdemeanor, or that the minor may benefit from a program of informal supervision, he or she shall refer the matter to the probation officer for whatever action the probation officer may deem appropriate.

(d) In all matters where the minor is not in custody and is already a ward of the court or a probationer under Section 602, the prosecuting attorney, within five judicial days of receipt of the affidavit from the probation officer, shall institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code, unless it appears to the prosecuting attorney that the affidavit was not properly referred or that the offense for which the minor was referred requires additional substantiating information, in which case he or she shall immediately notify the probation officer of what further action he or she is taking.

SEC. 4. Section 658 of the Welfare and Institutions Code is amended to read:

658. (a) Except as provided in subdivision (b), upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he shall cause the same to be served upon the minor, if the minor is eight or more years of age, and upon each of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth in said petition and thereafter before the hearing upon all such persons whose residence addresses become known to the clerk. The clerk shall issue a copy of the petition, to the minor's attorney and to the district attorney, if the district attorney has notified the clerk of the court that he wishes to receive such petition, containing the time, date, and place of the hearing.

(b) Upon the filing of a supplemental petition where the minor has been declared a ward of the court or a probationer under Section 602 in the original matter, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause the notice to be served upon the minor, if the minor is eight or more years of age, and upon each of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth in the supplemental petition and thereafter known to the clerk. The clerk shall issue a copy of the supplemental petition to the minor's attorney, and to the district attorney if the probation officer is the petitioner, or, to the probation officer if the district attorney is the petitioner, containing the time, date, and place of the hearing.

SEC. 5. 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 as follows:

(1) By the probation officer where a minor has been declared a ward of the court or a probationer under Section 601 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.

(2) By the probation officer if the minor is a court ward or probationer under Section 602 in the original matter and the supplemental petition alleges a violation of a condition of probation not amounting to a crime. The petition 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. By the prosecuting attorney at the request of the probation officer if a minor has been declared a ward or probationer under Section 602 in the original matter and the petition alleges a violation of a condition of probation amounting to a crime. The petition 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.

(3) Where the probation officer is the petitioner pursuant to paragraph (2), if prior to the attachment of jeopardy at the time of the jurisdictional hearing it appears to the prosecuting attorney that the minor is not a person described by subdivision (a) or that the supplemental petition was not properly charged, the prosecuting attorney may make a motion to dismiss the supplemental petition and may request that the matter be referred to the probation officer for whatever action the prosecuting attorney or probation officer may deem appropriate.

(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.

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.

CHAPTER 758

An act to add Chapter 6.5 (commencing with Section 40725) to Part 3 of Division 26 of, and to repeal Section 40703 of, the Health and Safety Code, and to add Section 13245.5 to the Water Code, relating to administrative procedure.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 40703 of the Health and Safety Code is repealed.

SEC. 2. Chapter 6.5 (commencing with Section 40725) is added to Part 3 of Division 26 of the Health and Safety Code, to read:

CHAPTER 6.5. REGULATIONS OF AIR POLLUTION CONTROL AND AIR QUALITY MANAGEMENT BOARDS

40725. (a) A district board shall not adopt, amend, or repeal any rule or regulation without first holding a public hearing thereon.

(b) Notice of the time and place of a public hearing to adopt, amend, or repeal any rule or regulation shall be given not less than 30 days prior thereto to the state board, which notice shall include a copy of the rule or regulation proposed to be adopted, amended, or repealed, as the case may be, and a summary description of the effect of the proposal, and by publication in the district pursuant to Section 6061 of the Government Code. In addition, in the case of a district which includes portions of more than one county, the notice shall be published in each county not less than 30 days prior to the date of the hearings.

(c) Notice published pursuant to subdivision (b) shall invite written public comment and indicate the name, address, and telephone number of the district officer to whom these comments are to be addressed, and the date by which comments are to be received.

40726. The public hearing held pursuant to Section 40725 shall provide for the submission of statements, arguments, or contentions, either oral, written, or both. A district board may continue or postpone the hearing from time to time, to a time and place as it shall determine. Following consideration of all relevant matter presented, a district board may adopt, amend, or repeal a rule or regulation, unless the board makes changes in the text originally made available to the public that are so substantial as to significantly affect the meaning of the proposed rule or regulation. The board shall not take action on a changed text before its next regular meeting, and shall allow further statements, arguments, and contentions, either written, oral, or both, to be made and considered prior to taking final

action.

40727. (a) Before adopting, amending, or repealing a rule or regulation, the district board shall make findings of necessity, authority, clarity, and consistency as defined in this section, based upon relevant information presented at the hearing.

(b) As used in this section, "necessity" means that a need exists for the regulation, or for its amendment or repeal, as demonstrated by the record of the rulemaking authority.

(c) As used in this section, "authority" means that a provision of law or of a state or federal regulation permits or requires the regional agency to adopt, amend, or repeal the regulation.

(d) As used in this section, "clarity" means that the regulation is written or displayed so that its meaning can be easily understood by the persons directly affected by it.

(e) As used in this section, "consistency" means that the regulation is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

40728. Every district shall maintain a file of each regulation which shall be deemed to be the record for that rulemaking proceeding. The file shall include all of the following:

(a) Copies of any petitions received by the district from interested persons proposing the adoption, amendment, or repeal of the regulation.

(b) Copies of published notices of proposed adoption, amendment, or repeal of the regulation.

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

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

(e) The text of regulations as originally proposed, and the modified text of regulations, if any, that were made available to the public prior to the adoption.

SEC. 3. Section 13245.5 is added to the Water Code, to read:

13245.5. Guidelines adopted by a regional board shall not become effective unless and until approved by the state board.

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.

CHAPTER 759

An act to add Sections 27606 and 27607 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 27606 is added to the Vehicle Code, to read:

27606. (a) No person shall own or operate a motor vehicle which is equipped with a light bar, or facsimile thereof, to resemble a motor vehicle used by a peace officer or traffic officer while on duty within that jurisdiction for the primary purpose of enforcing Division 10 (commencing with Section 20000) or Division 11 (commencing with Section 21000) pursuant to Section 40800.

(b) For purposes of this section the following definitions apply:

(1) A "light bar" means any light or device affixed to or mounted upon the roof of a vehicle and extending the width of the roof, or a substantial portion thereof, which emits amber, red, or blue, or any combination of those lights.

(2) A "facsimile of a light bar" is any device designed or contrived to resemble a light bar regardless of the degree of light emission or lack thereof.

SEC. 2. Section 27607 is added to the Vehicle Code, to read:

27607. (a) Section 27606 does not apply to vehicles owned or used by persons licensed pursuant to Article 3.1 (commencing with Section 7540) or Article 3.2 (commencing with Section 7544) of Chapter 11.5 of, or Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code in the performance of their duties under those provisions.

(b) This section does not authorize those persons described in subdivision (a) to equip a vehicle with a light bar if prohibited by other provisions of existing law or regulation.

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 760

An act to amend Section 25896 of, and to add Sections 25896.1, 25896.2, 25896.3, 25896.4, and 25896.5 to, the Health and Safety Code, relating to toys.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 25896 of the Health and Safety Code is amended to read:

25896. (a) No person shall manufacture, sell, or exchange, have in his or her possession with intent to sell or exchange, or expose or offer for sale or exchange to any retailer, any toy which is contaminated with any toxic substance or which is any of the following:

(1) Is coated with paints and lacquers containing compounds of lead of which the lead content (calculated as Pb) is in excess of that permitted by federal regulations contained in Section 1500.17 of Title 16 of the Code of Federal Regulations adopted pursuant to the Federal Hazardous Substances Act, Chapter 30 (commencing with Section 1261) of Title 15 of the United States Code, or soluble compounds of antimony, arsenic, cadmium, mercury, selenium or barium, introduced as such. Compounds shall be considered soluble if quantities in excess of 0.1 percent are dissolved by 5 percent hydrochloric acid after stirring for 10 minutes at room temperature.

(2) Consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance.

(3) Has been produced, prepared, packed, shipped, or held under unsanitary or other conditions whereby it may have become contaminated with filth or hazardous materials or otherwise rendered injurious to health.

(4) Is stuffed, padded, or lined with materials which are toxic or which would otherwise be hazardous if ingested, inhaled, or contacted.

(5) Is a stuffed, padded, or lined toy which is not securely wrapped or packaged.

(b) The State Department of Health Services and local health officers shall enforce the provisions of this chapter.

(c) Violation of this section is a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000) for each violation or by imprisonment in the county jail for a period not exceeding one year, or both.

SEC. 2. Section 25896.1 is added to the Health and Safety Code, to read:

25896.1. (a) All toys offered for sale or exchange, shall contain a label with the name and place of business of the manufacturer,

distributor, or importer in the United States.

(b) It is unlawful to fail to provide any information required by this section upon the request of the State Department of Health Services.

SEC. 3. Section 25896.2 is added to the Health and Safety Code, to read:

25896.2. (a) Whenever a duly authorized representative of the department or a local health officer finds, or has probable cause to believe, that any toy is or would be in violation of this chapter, he or she shall affix to the toy or a component thereof a tag or other appropriate marking, and shall give notice that the toy is suspected of being in violation of this chapter, that the toy has been embargoed, and that no person shall remove the toy until permission for removal or disposal is given by an authorized agent of the department, the local health officer, or the court.

(b) A local health officer shall notify the department within 48 hours of any action taken by the local health officer pursuant to subdivision (a).

SEC. 4. Section 25896.3 is added to the Health and Safety Code, to read:

25896.3. No person shall knowingly remove, sell, or dispose of a detained or embargoed toy without permission of an authorized agent of the department, the local health officer, or the court. Violation of this section is a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000) for each violation or by imprisonment in the county jail for a period not exceeding one year, or both.

SEC. 5. Section 25896.4 is added to the Health and Safety Code, to read:

25896.4. When an authorized agent of the department or the local health officer finds, or has reasonable cause to believe, that an embargo will be violated, he or she may remove the embargoed toy to a place of safekeeping.

SEC. 6. Section 25896.5 is added to the Health and Safety Code, to read:

25896.5. When a toy is alleged to be in violation of this chapter, the department or the local health officer shall commence proceedings in the superior court, or lower court in whose jurisdiction the toy is located, for condemnation of the article.

SEC. 7. 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 which 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. Moreover, 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 other 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 for the other costs available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 761

An act to add Section 217.6 to the Fish and Game Code, relating to regulations.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 217.6 is added to the Fish and Game Code, to read:

217.6. Commencing with the booklet of sportfishing regulations published in 1987, the booklet shall also contain any human health advisories relating to fish which are formally issued by the State Department of Health Services or summaries of those human health advisories. The summaries shall be prepared in consultation with the State Department of Health Services.

CHAPTER 762

An act to amend Sections 1054.5, 1055, 7149.1, and 7151 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 1054.5 of the Fish and Game Code is amended to read:

1054.5. The department may issue certificates, permits, punch cards, licenses, license stamps, and license tags and shall collect for each certificate, permit, punch card, license, license stamp, or license tag issued the fees prescribed in this code or in regulations adopted pursuant to this code. No commissioner and no officer or employee of the department may issue punch cards, licenses, license stamps, or license tags as a license agent pursuant to Section 1055.

SEC. 2. Section 1055 of the Fish and Game Code is amended to read:

1055. (a) The department may authorize any person, except a

commissioner or an officer or employee of the department, to be a license agent to issue punch cards, licenses, license stamps, and license tags. It may consign punch cards, licenses, license stamps, and license tags to license agents without receiving payment therefor, upon application of the license agent and upon the giving of a bond or assigning a certificate of deposit, payable to the department, as provided in this article. It shall not consign any punch cards, licenses, license stamps, and license tags to any license agent who fails to submit the report required by subdivision (a) of Section 1055.5 within one month and 20 days following the last day of that calendar month or who otherwise fails to fully comply with Section 1055.5.

(b) A license agent authorized under subdivision (a) shall add a handling charge to the fees, which fees are prescribed in this code or in regulations adopted pursuant to this code, for punch cards, licenses, license stamps, and license tags issued by the license agent in an amount, as follows:

(1) Fifty cents ($0.50) for each commercial fishing license or commercial passenger fishing boat license.

(2) Fifty cents ($0.50) for each sportfishing license or for each hunting license.

(3) Fifty cents ($0.50) for each deer tag application or bear tag application.

(4) Fifty cents ($0.50) for each punch card.

(5) Fifty cents ($0.50) for each license upgrade stamp.

(c) No handling charge added under subdivision (b) shall be added for any hunting license stamp, sportfishing license stamp, or special use stamp, except the license upgrade stamp as provided in paragraph (5) of subdivision (b).

(d) The handling charge added under subdivision (b) shall be incorporated into the total amount collected for issuing the punch card, license, license stamp, or license tag, but the handling charge shall not be included when determining license fees in accordance with Section 713. No license agent shall collect from the license applicant any amount which is less than the fee prescribed in this code, or in regulations adopted pursuant to this code, for any punch card, license, license stamp, or license tag issued.

(e) The handling charge required by subdivision (b) is the license agent's only compensation for services. No other additional fee or charge shall be made by the license agent for issuing punch cards, licenses, license stamps, or license tags authorized under this section.

(f) In order to facilitate the prompt remittance of fees and more accurate accounting of licenses, license stamps, and license tags provided for issuance to license agents, the department shall provide them in books containing licenses, license stamps, or license tags that do not exceed the total fees for 20 resident sportfishing licenses. This subdivision does not apply to nonresident licenses and nonresident license tags. This subdivision applies only to license years commencing on or after July 1, 1986.

(g) At any single business location, a license agent shall issue all

items from a single book before commencing to issue licenses, license stamps, or license tags of the same series from another book.

(h) The department, alternatively, may provide for the issuance of punch cards, licenses, license stamps, and license tags to authorized license agents and shall collect, in cash or cashier's check, at the time the documents are provided an amount equal to the fees for all of the punch cards, licenses, license stamps, and license tags provided. Any license agent who pays the fees for punch cards, licenses, license stamps, and license tags provided is exempt from subdivisions (a) and (e) of Section 1055.5, Section 1056, and Section 1059. Punch cards, licenses, license stamps, and license tags provided pursuant to this subdivision and remaining unissued at the end of the license year may be returned to the department, within 60 days of their expiration date, for refund or credit, or a combination thereof.

(i) All unissued and expired punch cards, licenses, license stamps, and license tags shall be returned to the department. Any license agent who does not return them within 20 days following the last day of the license year shall not be provided additional punch cards, licenses, license stamps, or license tags until the unissued and expired punch cards, licenses, license stamps, and license tags have been returned to the department. In addition, any unissued and expired item that is not returned within 60 days following the last day of the license year shall not be eligible for any refund or credit.

SEC. 3. Section 7149.1 of the Fish and Game Code is amended to read:

7149.1. (a) A person holding a valid resident sport ocean fishing license issued under subdivision (b) of Section 7149 may upgrade this license to a resident sportfishing license, as described in subdivision (a) of Section 7149, by obtaining a resident sportfishing license upgrade stamp.

(b) The department shall issue a resident sportfishing license upgrade stamp upon payment of the fee and handling charge for that stamp. The upgrade stamp fee shall be equal to the difference in the fee determined under subdivision (a) of Section 7149 and the fee determined under subdivision (b) of Section 7149. The handling charge for a resident sportfishing license upgrade stamp is the amount determined by the department, but not to exceed fifty cents ($0.50).

(c) A person may apply for a resident sportfishing license upgrade stamp under subdivision (b) only by mail to, or in person at, an office of the department or in person from an authorized license agent.

SEC. 4. Section 7151 of the Fish and Game Code is amended to read:

7151. (a) Upon application to the headquarters office of the department in Sacramento, the following persons, who have not been convicted of any violation of this code, shall be issued, free of any charge or fee, a free sportfishing license, which is valid for the calendar year of issue or, if issued after the beginning of the year, for the remainder thereof and which authorizes the licensee to take any

fish, reptile, or amphibia anywhere in this state for purposes other than profit:

(1) A blind person upon presentation of proof of blindness. "Blind person" means a person with central vision acuity of 20/200 or less in the better eye, with the aid of the best possible correcting glasses, or central visual acuity better than 20/200 if the widest diameter of the remaining visual field is no greater than 20 degrees. Proof of blindness shall be by certification from a qualified licensed optometrist or optharnologist or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) Every resident Indian who, in the discretion of the department, is financially unable to pay the fee required for the license.

(3) Upon certification by the person in charge of a state hospital, a person who is a ward of the state and who is a patient in, and resides in, the state hospital.

(4) Upon certification by the person in charge of the regional center for the developmentally disabled, a developmentally disabled person receiving services from the regional center.

(5) A person who is a resident of the state and who is so severely physically disabled as to be permanently unable to move from place to place without the aid of a wheelchair, walker, or forearm crutches.

(b) Upon application to the headquarters office of the department in Sacramento, the department may issue, free of any charge or fee, a sportfishing permit to fish for a period not to exceed two days to groups of mentally or physically handicapped persons under the care of a certified federal, state, county, city, or private licensed care center. The care center shall provide evidence that it is a legitimate licensed care center. The permit shall be issued to the person in charge of the group and shall be in his or her possession when the group is fishing. The permit shall include the location where the activity will take place, the maximum number of people in the group, and the dates for which the permit is valid.

(c) On January 15 of each year, the department shall determine the number of free sportfishing licenses issued under subdivisions (a) and (b) to blind persons, indigent resident Indians, wards of the state, developmentally disabled persons, and physically disabled persons.

(d) There shall be appropriated from the General Fund a sum equal to two dollars ($2) per free sportfishing license issued under subdivisions (a) and (b), as determined by the department pursuant to subdivision (c). That sum may be appropriated annually in the Budget Act for transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act from the Fish and Game Preservation Fund to the department for the purposes of this part.

CHAPTER 763

An act to amend Sections 8283, 8436, 8780, and 8870 of, to amend and repeal Section 8150.5 of, to add Section 8436.5 to, and to add and repeal Section 8151 of, the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 8150.5 of the Fish and Game Code, as amended by Section 1 of Chapter 638 of the Statutes of 1973, is amended to read:

8150.5. Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.

(a) However, loads or lots of fish may contain 15 percent or less by weight of sardines which are taken incidentally to other fishing operations and which are mixed with the other fish in the load or lot.

(b) Sardines incidentally taken under subdivision (a) or Section 8151 may be possessed and used for any purpose. However, if 250 tons of sardines are incidentally taken and landed during any calendar year, any additional sardines may be taken and possessed for canning, reduction, or live bait purposes only. The department shall announce, in an expeditious manner likely to inform interested persons, of the time at which the 250 tons of sardines have been incidentally taken and landed.

(c) This section does not prohibit the possession and use of sardines imported into this state under a bill of lading identifying the country of origin.

(d) Imported sardines may be used for dead bait under regulations as the commission may prescribe.

(e) Subdivision (a) is operative only when Section 8151 is not operative. Subdivisions (b), (c), and (d) are operative and apply regardless of whether subdivision (a) or Section 8151 is operative.

(f) 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 8150.5 of the Fish and Game Code, as amended by Section 1 of Chapter 638 of the Statutes of 1973, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 8151 is added to the Fish and Game Code, to read:

8151. (a) Notwithstanding Section 8150.5, the tolerance for sardines taken incidentally to other fishing operations and mixed with other fish in a load shall be 25 percent if, using the mackerel

fishery as an indicator, the overall percentage of incidentally taken sardines mixed with jack mackerel and Pacific mackerel during the preceding month exceeded 5 percent. Thereafter, the tolerance shall increase by additional 10-percent increments whenever the overall percentage of incidentally taken sardines during the preceding month exceeded one-third of the previously established tolerance. The overall percentage of incidentally taken sardines shall be determined monthly by dividing the weight of sardines taken incidentally with jack mackerel and Pacific mackerel by the weight of all jack mackerel, Pacific mackerel, and sardines landed by the mackerel fishery.

(b) If the overall percentage of incidentally taken sardines has been less than one-fourth of the tolerance in effect during the preceding three-month period and the tolerance has not been adjusted during this three-month period, the tolerance for incidentally taken sardines shall be decreased by deducting one 10-percent increment from the tolerance.

(c) Under no circumstances shall the tolerance be more than 45 percent or less than 15 percent.

(d) The department shall inform the commission of any change in the status of the tolerance for incidentally taken sardines, and the commission shall immediately direct the department to notify commercial fishermen of the status of the tolerance by broadcasting on VHF Channel 16 between 0800 hours and 1000 hours during the first five business days of each calendar month. It is the responsibility of commercial fishermen to monitor this radio channel during the specified hours or otherwise to be aware of the status of the tolerance for incidentally taken sardines.

(e) The commission shall hold public hearings to consider the implementation of this section and shall report annually to the Legislature on the status of the sardine resource and may also make recommendations to the Legislature regarding this section or its implementation.

(f) 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. 3. Section 8283 of the Fish and Game Code is amended to read:

8283. (a) The director may specify, by public announcement, when crab traps may be set and baited prior to the opening date of the dungeness crab season in Districts 6, 7, 8, and 9, and crab traps may be set and baited in advance of that opening date under the announcement if no other attempt is made to take or possess dungeness crab in those districts.

(b) Except in Districts 6, 7, 8, and 9, crab traps may be set and baited 18 hours in advance of the opening date of the dungeness crab season if no other attempt is made to take or possess dungeness crab.

SEC. 4. Section 8436 of the Fish and Game Code is amended to read:

8436. Except as provided in Section 8436.5, no fish of the family Centrarchidae (Sacramento perch, crappie, black bass, and sunfish) may be sold or purchased, other than fish which are grown pursuant to Division 12 (commencing with Section 15000).

SEC. 5. Section 8436.5 is added to the Fish and Game Code, to read:

8436.5. Notwithstanding Section 8436, the commission shall adopt regulations which authorize the importation and sale of dead fish of the family Centrarchidae if the fish have been lawfully taken outside of California, they have been taken in another state or foreign country that permits their sale, and they are brought into California with a bill of lading or similar accountable documentation specifying the origin of the fish.

SEC. 6. Section 8780 of the Fish and Game Code is amended to read:

8780. As used in this chapter, the term "bait net" means a lampara or round haul type net the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers, and smelt for bait only. Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

No other species of fish may be taken on any boat carrying a bait net in District 19A.

SEC. 7. Section 8870 of the Fish and Game Code is amended to read:

8870. Dip nets may be used subject to the following restrictions:

(a) In Districts 1, 1½, 2, 3, and 4, dip nets may not be baited, and may not measure more than six feet in greatest breadth.

(b) In District 19, hand-held dip nets 30 feet or less in greatest breadth may be used. In that district dip nets may not be used within 750 feet of any pier, wharf, jetty, or breakwater, except to take anchovies, squids, and sardines for bait, and to take smelt.

(c) In District 20, hand-held dip nets 30 feet or less in greatest breadth may be used.

SEC. 8. The Legislature finds and declares that it is in the best interests of California fishermen and the management of the commercial dungeness crab fishery to provide for consistency between California and Oregon management policies relating to the setting of dungeness crab traps at the beginning of the season of northern California and Oregon. Therefore, it is the intent of Section 3 of this act to provide the director with the authority to allow California fishermen to set and bait crab traps prior to the opening date of the northern California dungeness crab season in Districts 6, 7, 8, and 9 which are consistent with corresponding Oregon

regulations.

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:

As the sardine resource continues to be rehabilitated, the increase in sardines could have an unintended effect on impeding the legitimate fishing activities of commercial fishermen, thus imperiling their livelihood. The statutes which were enacted to avoid these necessary hardships on commercial fishermen will expire on July 1, 1986. Also, it is necessary to allow use of feasible equipment in Districts 19 and 20, it is necessary to conform the northern California dungeness crab trapping practices to the competing Oregon fishery in the 1986 fishing season, and it is necessary to permit commerce in imported, dead fresh fish as soon as practicable. It is, therefore, necessary that this act take effect immediately.

CHAPTER 764

An act to amend Sections 11876 and 11877.5 of, to add Sections 11877.6, 11877.7, 11877.8, 11877.9, 11877.10, 11877.11, 11877.12, 11877.13 and 11877.14, to, and to repeal Section 11877.1 of, the Health and Safety Code, relating to methadone programs.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 11876 of the Health and Safety Code is amended to read:

11876. (a) In addition to the duties authorized by other provisions, the department shall have all of the following powers:

(1) Authority to license the establishment of methadone programs in this state, except that the Research Advisory Panel shall have authority to approve methadone research programs. The department shall establish the criteria for the eligibility of patients to be included in the programs, program operation guidelines, such as dosage levels, recordkeeping and reporting, urinalysis requirements, take-home doses of methadone, security against redistribution of the drug and any other regulations which, in its discretion, the department finds are necessary to protect the safety and well-being of the patient and the public and to carry out the provisions of this chapter. A program may admit a patient to methadone maintenance or methadone detoxification treatment seven days after completion of a prior withdrawal treatment episode. The arrest and conviction records and the records of pending charges against any person seeking admission to a methadone

program shall be furnished to methadone program directors upon written request of the methadone program director provided such request is accompanied by a signed release from the person whose records are being requested.

(2) To inspect methadone programs in this state to ensure that programs are operating within promulgated regulations. The department shall have sole responsibility for compliance inspections of all programs in each county. Annual compliance inspections shall consist of an evaluation by onsite review of the operations and records of licensed methadone programs' compliance with applicable state and federal laws and regulations. At the conclusion of each inspection visit, the department shall conduct an exit conference to explain the cited deficiencies to the program staff and to provide recommendations for improved operations. The department shall provide an inspection report to the licensee describing the program deficiencies and a corrective action plan shall be required from the program. A subsequent inspection of the program shall be conducted to determine if the corrective action has been implemented satisfactorily. Inspection of methadone programs shall be based on objective criteria, as provided in regulations adopted by the department. Nothing in this section shall preclude counties from monitoring their contract providers for compliance with contract requirements.

(3) To charge and collect licensure fees. In calculating the licensure fees the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs. Fees shall be used to offset licensure and inspection costs not to exceed actual costs.

(4) To study and evaluate, on an ongoing basis, methadone programs.

(5) To provide advice, consultation, and technical assistance to methadone programs.

(6) In its discretion, to approve local agencies or bodies to assist it in carrying out the provisions of this chapter provided that the department may not delegate responsibility for inspection or any other licensure activity without prior and specific statutory approval. However, the department shall evaluate recommendations made by drug program administrators regarding licensing activity in their respective counties.

(7) The director may grant exceptions to the regulations adopted under this chapter if he or she determines that this action would improve treatment services or achieve greater protection to the health and safety of patients or the general public. No exception may be granted if it is contrary to, or less stringent than, the federal laws and regulations which govern methadone programs.

(b) It is the intent of the Legislature in enacting this section in order to protect the general public, that self-administered dosage shall only be provided when the patient is clearly adhering to the requirements of the program, and where daily attendance at a clinic

would be incompatible with gainful employment, education, and responsible homemaking. The department shall define "satisfactory adherence" and shall ensure that patients not satisfactorily adhering to their programs shall not be provided take-home dosage.

(c) There is established in the State Treasury a Methadone Program Licensing Trust Fund. All licensure fees collected from the providers of methadone service shall be deposited in this fund. Except as otherwise provided in this section, if funds remain in this fund after appropriation by the Legislature and allocation for the costs associated with methadone licensure actions and inspection of methadone programs, a percentage of the excess funds shall be annually rebated to the licensees based on the percentage their licensing fee is of the total amount of fees collected by the department. A reserve equal to 10 percent of the total licensure fees collected during the preceding fiscal year may be held in the trust account to reimburse the department if actual cost for the licensure and inspection exceed fees collected during a fiscal year.

(d) Notwithstanding any provision of this code or regulations to the contrary, the department shall have sole responsibility and authority for determining if a state methadone license shall be granted and for administratively establishing the maximum treatment capacity of any such license. However, the department shall not increase the capacity of a program unless it determines that the licensee is operating in full compliance with applicable laws and regulations.

SEC. 1.5. Section 11877.1 of the Health and Safety Code is repealed.

SEC. 2. Section 11877.5 of the Health and Safety Code is amended to read:

11877.5. Each methadone program in this state, except methadone research programs approved by the Research Advisory Panel, shall be licensed by the department. Each methadone program, other than a program owned and operated by the state, county, city, or city and county, shall, upon application for licensure and for renewal of a license, pay an annual license fee to the department. Annual license renewal date shall be on the yearly anniversary of the most recent license until July 1, 1987. July 1, shall be the annual license renewal date thereafter. The department shall set a fee for licensing which shall be at a level sufficient to cover all administrative costs associated with licensing incurred by the department, but shall not increase at a rate greater than the Consumer Price Index. The fees shall include the department's share of prorata charges for the expenses of state government. The fee may be paid quarterly in arrears as determined by the department. Second and subsequent inspection visits to methadone programs which are operating in noncompliance with the applicable laws and regulations shall be charged a rate of one-half the program's annual license fee or one thousand dollars ($1,000), whichever is less for each visit. Licensing shall be contingent upon determination by the

department that the program is in compliance with applicable laws and regulations and upon payment of the licensing fee. A license shall not be transferable.

As used in this chapter, "license" means a basic permit to operate a methadone treatment program. The license shall be issued exclusively by the department and operated in accordance with a patient capacity that shall be specified, approved, and monitored solely by the department.

Existing methadone treatment programs which are licensed by the department on January 1, 1987, shall be extended until June 30, 1987. License fees shall be charged for this six-month extension period. Thereafter all licenses shall be issued annually from July 1 through June 30.

SEC. 3. Section 11877.6 is added to the Health and Safety Code, to read:

11877.6. The director may deny the application for initial issuance of a license if the applicant, or any partner, officer, director, or 10 percent or greater shareholder:

(a) Fails to meet the qualifications for licensure established by the department pursuant to this article. However, the director may waive any established qualification for licensure of a methadone treatment program if he or she determines that it is reasonably necessary in the interests of the public health and welfare.

(b) Was previously the holder of a license issued under this article, which license was revoked and never reissued, or which license was suspended and not reinstated.

(c) Misrepresented any material fact in the application.

(d) Committed any act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another or substantially injure another, and the act is substantially related to the qualification, functions or duties of, or relating to, a methadone program license.

(e) Was convicted of any crime substantially related to the qualifications, functions or duties of, or relating to, a methadone program license.

(f) The director, in considering whether to deny licensure under subdivision (d) or (e), shall determine whether the applicant is rehabilitated after considering all of the following criteria:

(1) The nature and severity of the act or crime.

(2) The time that has elapsed since the commission of the act or crime.

(3) The commission by the applicant of other acts or crimes constituting grounds for denial of the license under this section.

(4) The extent to which the applicant has complied with terms of restitution, probation, parole, or any other sanction or order lawfully imposed against the applicant.

(5) Other evidence of rehabilitation submitted by the applicant.

SEC. 4. Section 11877.7 is added to the Health and Safety Code, to read:

11877.7. The director may suspend or revoke any license issued under the provisions of this article, or deny an application to renew a license or to modify the terms and conditions of a license, upon any of the following grounds and in the manner provided in this article:

(a) Violation by the licensee of any provision of this article or regulations adopted under this article which relate to the health and safety of the patients or the general public.

(b) Violation by the licensee of any laws or regulations of the United States Food and Drug Administration or the United States Department of Justice, Drug Enforcement Administration which are applicable to methadone programs.

(c) Repeated violation by the licensee of any of the provisions of this article or regulations adopted under this article.

(d) Aiding, abetting, or permitting the violation of, or any repeated violation of, any of the provisions set forth in subdivision (a), (b), or (c).

(e) Conduct in the operation of a methadone program which is inimical to the health, welfare, or safety of either an individual in, or receiving services from the program or the people of the State of California.

(f) The conviction of the licensee, or any partner, officer, director, or 10 percent or greater shareholder, at any time during licensure, of a crime substantially related to the qualifications, functions or duties of, or relating to, a methadone program licensee.

(g) The commission by the licensee, or any partner, officer, director, or 10 percent or greater shareholder, at any time during licensure, of any act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another, or substantially to injure another and which act is substantially related to the qualifications, functions or duties of, or relating to, a methadone program licensee.

(h) Diversion of methadone. A program's failure to maintain a methadone reconciliation system which accounts for all incoming and outgoing methadone as required by departmental or federal regulations, shall create a rebuttable presumption that methadone is being diverted.

(i) Misrepresentation of any material fact in obtaining the methadone program license.

(j) Failure to comply with a department order to cease admitting patients or to cease providing patients with take-home dosages of methadone.

(k) Failure to pay any civil penalty assessed pursuant to paragraph (3) of subdivision (a) of Section 11877.14 where the penalty has become final, unless payment arrangements acceptable to the department have been made.

SEC. 5. Section 11877.8 is added to the Health and Safety Code, to read:

11877.8. (a) The department may cease review of an application for a license if:

(1) An application for a license indicates, or the department determines during the application inspection process, that the applicant was issued a license under this article and the prior license was revoked within the preceding two years. The department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(2) An application for a license indicates, or the department determines during the application inspection process, that the applicant was denied a license under this article within the preceding year. The department shall cease any further review of the application until one year has elapsed from the date of the denial.

(b) The department may cease review of an application for license renewal if either of the following occur:

(1) The applicant has not paid the required license fee.

(2) The county in which the licensee is located certifies to the department's satisfaction that there is no need for the methadone program because of a substantial decline in medically qualified methadone patients in the licensee's catchment area, or clearly demonstrates that other applicants for licensure can provide more efficient, cost-effective and sufficient methadone services in the catchment area, or that the license should not be renewed due to one of the grounds which are enumerated in Section 11877.7.

(c) Upon cessation of review, the license shall be permitted to expire by its own terms. However, if the licensee subsequently submits the items, the absence of which led to the cessation of review, the department may reinstate the license.

(d) Cessation of review shall not constitute a denial of the application for purposes of Sections 11877.6 and 11877.7.

SEC. 6. Section 11877.9 is added to the Health and Safety Code, to read:

11877.9. A methadone program license shall automatically terminate if the United States Food and Drug Administration withdraws or revokes its approval of the program, or if the United States Department of Justice, Drug Enforcement Administration, revokes the program's registration.

SEC. 7. Section 11877.10 is added to the Health and Safety Code, to read:

11877.10. Except as provided in Section 11877.14, proceedings for the suspension, revocation, or denial of a license or cessation of review of a renewal license under this article, except where there has been a failure to pay required fees, 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 department shall have all the powers granted thereby. In the event of conflict between this article and the Administrative Procedure Act, the Administrative Procedure Act shall prevail.

SEC. 8. Section 11877.11 is added to the Health and Safety Code, to read:

11877.11. (a) 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 the 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 ground provided by law.

(b) 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 upon any ground provided by law.

SEC. 9. Section 11877.12 is added to the Health and Safety Code, to read:

11877.12. For purposes of this article, 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 the provisions of 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 article, the record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

SEC. 10. Section 11877.13 is added to the Health and Safety Code, to read:

11877.13. The director may bring an action to enjoin the violation of Section 11877.5, or the violation of a departmental order issued pursuant to Section 11877.14, in the superior court in and for the county in which the violation occurred. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The rebuttable presumption set forth in subdivision (h) of Section 11877.7 shall be applicable. If the court finds the allegations to be true, it shall issue its order enjoining the methadone program from continuance of the violation.

SEC. 11. Section 11877.14 is added to the Health and Safety Code, to read:

11877.14. (a) (1) The director may, in addition to any other remedy, issue an order that prohibits a methadone program from admitting patients or from providing patients with take-home dosages of methadone when the director determines pursuant to the

compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11876, that a program has done any of the following:

(A) Failed to provide adequate security measures over its methadone supply as agreed in the program's approved protocol.

(B) Failed to maintain a methadone reconciliation system which accounts for all incoming and outgoing methadone.

(C) Diverted methadone.

(D) Repeatedly violated one or more departmental or federal regulations governing methadone treatment programs, which violations may subject or may have subjected a patient to a health- or life-endangering situation.

(E) Repeatedly violated one or more departmental or federal regulations governing the provisions of take-home medication.

(2) (A) The order becomes effective when the department serves the program with a copy of the order. The order shall state the deficiencies forming the basis for the order and shall state the corrective action required for the department to vacate the order. The department shall vacate the order when the program submits a corrective action plan that reasonably addresses the deficiency or substantially conforms to the required action set out in the order.

(B) The department shall notify the program that the corrective action is accepted or rejected within 10 working days after receipt of the plan. If the department rejects the corrective action plan, it shall detail its reason in writing. The department order is vacated when the department accepts a corrective action plan or fails to reject a plan within 10 working days after receipt of the plan.

(3) In addition to any other remedies, a failure of the program to comply with the order of the department under this subdivision shall give rise to a civil penalty of five hundred dollars ($500) a day for each day that the order is violated.

(4) All civil penalties collected by the department under paragraph (3) shall be deposited in the Methadone Program Licensing Trust Fund and be used to offset the department's costs associated with collecting the civil penalties, or associated with any civil, administrative, or criminal action against the program when appropriated for this purpose.

(b) (1) The director may, in addition to any other remedy, issue an order temporarily suspending a methadone program license prior to any administrative hearing for the reasons stated in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) when the department determines pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11876, that the action is necessary to protect patients of the program from any substantial threat to their health or safety, or to protect the health or safety of the people of the State of California. Prior to issuing the order the director shall assure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license

or amend any other license in his or her effort to assure that patient care is not impacted adversely by the suspension order.

(2) The director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the licensee 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 20 days, exclusive of weekends, after receipt of the 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 20 days after the original hearing has been completed. Failure to cease operating after the department issues an order temporarily suspending the license shall constitute an additional ground for license revocation and shall constitute a violation of Section 11877.6.

(3) Failure of the licensee to cease operating after the director issues a temporary suspension order under paragraph (1) shall constitute an additional ground for license revocation.

(c) A program may, at any time after it is served with an order, petition the superior court to review the department's issuance of an order or rejection of a corrective action plan.

CHAPTER 765

An act to add Section 365.5 to the Penal Code, relating to physically disabled persons.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 365.5 is added to the Penal Code, to read:

365.5. (a) Any blind person, deaf person, or physically disabled person who is a passenger on any common carrier, airplane, motor vehicle, railway train, motorbus, streetcar, boat, or any other public conveyance or mode of transportation operating within this state, shall be entitled to have with him or her a specially trained guide dog, signal dog, or service dog.

(b) No blind person, deaf person, or physically disabled person and his or her specially trained guide dog, signal dog, or service dog shall be denied admittance to hotels, restaurants, lodging places, places of public accommodation, amusement, or resort or other places to which the general public is invited within this state because of that guide dog, signal dog, or service dog.

(c) Any person, firm, association, or corporation, or the agent of

any person, firm, association, or corporation, who prevents a blind person, deaf person, or physically disabled person from exercising the rights specified in this section is guilty of an infraction, punishable by a fine not exceeding two hundred fifty dollars ($250).

(d) As used in this section, "guide dog" means any guide dog or seeing-eye dog which was trained by a person licensed under Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(e) As used in this section, "signal dog" means any dog trained to alert a deaf person, or a person whose hearing is impaired, to intruders or sounds.

(f) As used in this section "service dog" means any dog individually trained to do work or perform tasks to meet the requirements of a physically disabled person, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(g) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

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 8302, 8304, and 8321 of the Commercial Code, and to amend Sections 163, 174, 183, 313, 407, 409, 411, 412, 416, 417, 418, 422, 423, 509, 705, 1302, 1303, 1305, 2115, 2201, 2251, 5342, 5515, 7515, 9414, 12465, and 25117 of, and to add Sections 109.5, 156.1, 171.1, 191.1, and 12446 to, the Corporations Code, relating to corporations.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 8302 of the Commercial Code is amended to read:

8302. (1) A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim as to whom any of the following apply:

(a) Who takes delivery of a certificated security in bearer form or in registered form, issued or endorsed to him or her or in blank.

(b) To whom the transfer, pledge, or release of an uncertificated security is registered on the books of the issuer.

(c) To whom a security is transferred under the provisions of

paragraph (c), (d), (i), or (g) of subdivision (1) of Section 8313.

(2) "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(3) A bona fide purchaser in addition to acquiring the rights of a purchaser (Section 8301) also acquires his or her interest in the security free of any adverse claim.

(4) Notwithstanding subdivision (1) of Section 8301, the transferee of a particular security who has been a party to any fraud or illegality affecting the security, or who as a prior owner of that security had notice of an adverse claim, cannot improve his or her position by taking from a bona fide purchaser.

SEC. 2. Section 8304 of the Commercial Code is amended to read:

8304. (1) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) of a certificated security is charged with notice of adverse claims if:

(a) The security, whether in bearer or registered form, has been endorsed "for collection" or "for surrender" or for some other purpose not involving transfer.

(b) The security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge, or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under subdivision (7) of Section 8403 at the time of registration and which are noted in the initial transaction statement sent to the purchaser or, if his or her interest is transferred to him or her other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

(3) The fact that the purchaser (including a broker for the seller or buyer) of a certificated or uncertificated security has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute constructive notice of adverse claims. However, if the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

SEC. 3. Section 8321 of the Commercial Code is amended to read:

8321. (1) A security interest in a security is enforceable and can attach only if both:

(a) The security, if certificated, is in the possession of the secured party pursuant to agreement, or, as to any other certificated security and any uncertificated security, the debtor has signed a security agreement which contains a description of the collateral (Section 9110).

(b) The security is transferred to the secured party or a person designated by him or her pursuant to a provision of subdivision (1) of Section 8313.

(2) A security interest so transferred pursuant to agreement by a transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred solely under paragraph (i) of subdivision (1) of Section 8313 becomes unperfected after 21 days unless, within that time, the requirements for transfer under any other provision of subdivision (1) of Section 8313 are satisfied. A security interest is perfected by possession of a certificated security from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this division. The security interest may be otherwise perfected as provided in this division before or after the period of possession by the secured party.

(3) A security interest in a security is subject to the provisions of Division 9 (commencing with Section 9101), except that no filing is required to perfect the security interest.

The secured party has the rights and duties provided under Section 9207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in his or her possession.

(4) Unless otherwise agreed, a security interest in a security (and the proceeds thereof) is terminated by transfer from the secured party to the debtor or a person designated by him or her pursuant to a provision of subdivision (1) of Section 8313. If a security is thus transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after 21 days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by him or her pursuant to a provision of subdivision (1) of Section 8313.

(5) Any action otherwise required by this division is not necessary to perfect a security interest in a security issued by the federal government or any agency or instrumentality thereof if a federal statute or regulation provides a method for perfection of the security interest different from those specified in this division. A security interest in such a security that is perfected in accordance with such a federal statute or regulation is a perfected security interest. To the extent applicable federal law does not provide to the contrary, a security interest in such a security that has been granted pursuant to agreement by a transferor who has rights in the security to a transferee who has given value but as to which the transferee has not taken an action required for perfection by an applicable federal statute or regulation is a perfected security interest, but such a security interest becomes unperfected after 21 days unless, within

that time, the federally required action is taken or the requirements for perfection under this division (other than paragraph (i) of subdivision (1) of Section 8313) are satisfied.

SEC. 4. Section 109.5 is added to the Corporations Code, to read:

109.5. (a) Provisions of the articles described in paragraph (3) of subdivision (e) of Section 202 and subdivision (a) and (b) of Section 204 may be made dependent upon facts ascertainable outside the articles, if the manner in which those facts shall operate upon those provisions is clearly and expressly set forth in the articles. Similarly, any of the terms of an agreement of merger pursuant to Section 1101 may be made dependent upon facts ascertainable outside that agreement, if the manner in which those facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger.

(b) Notwithstanding subdivision (a), when any provisions or terms of articles or an agreement of merger are made dependent upon facts ascertainable outside the filed instrument through a reference to an agreement or similar document, the corporation filing that instrument shall (1) maintain at its principal executive office a copy of any such agreement or document and all amendments and (2) provide to its shareholders, in the case of articles, or to shareholders of any constituent corporation, in the case of an agreement of merger, a copy of them upon written request and without charge.

(c) If the reference to an agreement or contract is a reference to an agreement or contract to which the corporation is a party (a "referenced agreement" in this section), any amendment or revision of the referenced agreement requires shareholder approval, in addition to approvals otherwise required, in the following instances and no other:

(1) If the amendment or revision of the referenced agreement would result in a material change in the rights, preferences, privileges or restrictions of a class or series of shares, the amendment or revision of the referenced agreement is required to be approved by the outstanding shares (Section 152) of that class or series.

(2) If the amendment or revision of the referenced agreement would result in a material change in the rights or liabilities of any class or series of shares with respect to the subject matter of paragraph (1), (2), (3), (5), or (9) of subdivision (a) of Section 204, the amendment or revision of the referenced agreement is required to be approved by the outstanding shares (Section 152) of that class or series.

(3) If the amendment or revision of the referenced agreement would result in a material change in the restrictions on transfer or hypothecation of any class or series of shares, the amendment or revision of the referenced agreement is required to be approved by the outstanding shares (Section 152) of that class or series.

(4) If the amendment or revision of the referenced agreement would result in a change of any of the principal terms of an

agreement of merger, the amendment or revision of the referenced agreement is required to be approved in the same manner as required by Section 1104 for a change in the principal terms of an agreement of merger.

SEC. 5. Section 156.1 is added to the Corporations Code, to read:

156.1. "Certificated security" means a share (Section 184), or an obligation of the issuer, described in paragraph (a) of subdivision (1) of Section 8102 of the Commercial Code.

SEC. 6. Section 163 of the Corporations Code is amended to read:

163. "Corporation subject to the Banking Law" (Division 1 (commencing with Section 99) of the Financial Code) means:

(a) Any corporation which, with the approval of the Superintendent of Banks, is incorporated for the purpose of engaging in, or which is authorized by the Superintendent of Banks to engage in, the commercial banking business.

(b) Any corporation (other than a corporation described in subdivision (c)) which, with the approval of the Superintendent of Banks, is incorporated for the purpose of engaging in, or which is authorized by the Superintendent of Banks to engage in, the trust business.

(c) Any corporation which is authorized by the Superintendent of Banks and the Commissioner of Insurance to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business; or

(d) Any corporation which, with the approval of the Superintendent of Banks, is incorporated for the purpose of engaging in, or which is authorized by the Superintendent of Banks to engage in, business under Article 1 (commencing with Section 3500), Chapter 19, Division 1 of the Financial Code.

SEC. 7. Section 171.1 is added to the Corporations Code, to read:

171.1. "Initial transaction statement" means an initial transaction statement as defined in subdivision (4) of Section 8408 of the Commercial Code, and "written statements," when used in connection with uncertificated securities, means the written statements referred to in subdivisions (6) and (7) of Section 8408 of the Commercial Code.

SEC. 8. Section 174 of the Corporations Code is amended to read:

174. "On the certificate" means that a statement appears on the face of a share certificate or on the reverse thereof with a reference thereto on the face or, in the case of an uncertificated security, that the applicable provisions of subdivision (b) of Section 8103, paragraph (b) or (c) of subdivision (1) of Section 8202, subdivision (b) of Section 8204, subdivision (2) of Section 8304, or Section 8408 of the Commercial Code have been complied with.

SEC. 9. Section 183 of the Corporations Code is amended to read:

183. "Series" of shares means those shares within a class which have the same rights, preferences, privileges and restrictions but which differ in one or more rights, preferences, privileges or restrictions from other shares within the same class. Certificated

securities and uncertificated securities do not constitute different series if the only difference is certificated and uncertificated status.

SEC. 10. Section 191.1 is added to the Corporations Code, to read:

191.1. "Uncertificated security" means a share (Section 184), or an obligation of the issuer, described in paragraph (b) of subdivision (1) of Section 8102 of the Commercial Code.

SEC. 11. Section 313 of the Corporations Code is amended to read:

313. Subject to the provisions of subdivision (a) of Section 208, any note, mortgage, evidence of indebtedness, contract, share certificate, initial transaction statement or written statement, conveyance, or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by the chairman of the board, the president or any vice president and the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

SEC. 12. Section 407 of the Corporations Code is amended to read:

407. A corporation may, but is not required to, issue fractions of a share originally or upon transfer. If it does not issue fractions of a share, it shall in connection with any original issuance of shares (a) arrange for the disposition of fractional interests by those entitled thereto, (b) pay in cash the fair value of fractions of a share as of the time when those entitled to receive such fractions are determined or (c) issue scrip or warrants in registered form, as certificated securities or uncertificated securities, or bearer form as certificated securities, which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip or warrants aggregating a full share; provided, however, that, if the fraction of a share which any person would otherwise be entitled to receive in a merger or reorganization is less than one-half of 1 percent of the total shares such person is entitled to receive, a merger or reorganization agreement may provide that fractions of a share will be disregarded or that shares issuable in the merger will be rounded off to the nearest whole share; and provided, further, that a corporation may not pay cash for fractional shares if such action would result in the cancellation of more than 10 percent of the outstanding shares of any class. A determination by the board of the fair value of fractions of a share shall be conclusive in the absence of fraud. A certificate for a fractional share shall, but scrip or warrants shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon and to participate in any of the assets of the corporation in the event of liquidation. The board may cause scrip or warrants to be issued subject to the condition that they shall become void if not exchanged for full shares before a specified

date or that the shares for which scrip or warrants are exchangeable may be sold by the corporation and the proceeds thereof distributed to the holder of the scrip or warrants or any other condition which the board may impose.

SEC. 13. Section 409 of the Corporations Code is amended to read:

409. (a) Shares may be issued:

(1) For such consideration as is determined from time to time by the board, or by the shareholders if the articles so provide, consisting of any or all of the following: money paid; labor done; services actually rendered to the corporation or for its benefit or in its formation or reorganization; debts or securities canceled; and tangible or intangible property actually received either by the issuing corporation or by a wholly owned subsidiary; but neither promissory notes of the purchaser (unless adequately secured by collateral other than the shares acquired or unless permitted by Section 408) nor future services shall constitute payment or part payment for shares of the corporation; or

(2) As a share dividend or upon a stock split, reverse stock split, reclassification of outstanding shares into shares of another class, conversion of outstanding shares into shares of another class, exchange of outstanding shares for shares of another class or other change affecting outstanding shares.

(b) Except as provided in subdivision (d), shares issued as provided in this section or Section 408 shall be declared and taken to be fully paid stock and not liable to any further call nor shall the holder thereof be liable for any further payments under the provisions of this division. In the absence of fraud in the transaction, the judgment of the directors as to the value of the consideration for shares shall be conclusive.

(c) If the articles reserve to the shareholders the right to determine the consideration for the issue of any shares, such determination shall be made by approval of the outstanding shares (Section 152).

(d) A corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. On the certificate issued to represent any such partly paid shares or, for uncertificated securities, on the initial transaction statement for such partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

(e) The board shall state by resolution its determination of the fair value to the corporation in monetary terms of any consideration other than money for which shares are issued. This subdivision does not affect the accounting treatment of any transaction, which shall be in conformity with generally accepted accounting principles.

SEC. 14. Section 411 of the Corporations Code is amended to read:

411. A transferee of shares for which the full agreed consideration has not been paid to the issuing corporation, who acquired them in good faith, without knowledge that they were not paid in full or to the extent stated on the certificate representing them or, in the case of uncertificated securities, on the applicable initial transaction statement, is liable only for the amount shown by the certificate or statement to be unpaid on the shares represented thereby, until the transferee transfers the shares to one who becomes liable therefor; provided that the transferor shall remain personally liable if so provided on the certificate or statement or agreed upon in writing. The liability of any holder of such shares who derives title through such a transferee and who is not a party to any fraud affecting the issue of the shares is the same as that of the transferee through whom title is derived.

SEC. 15. Section 412 of the Corporations Code is amended to read:

412. Every transferee of partly paid shares who acquired them under a certificate or initial transaction statement showing the fact of part payment, and every transferee of such shares (other than a transferee who derives title through a holder in good faith without knowledge and who is not a party to any fraud affecting the issue of such shares) who acquired them with actual knowledge that the full agreed consideration had not been paid to the extent stated on the certificate or initial transaction statement, is personally liable to the corporation for installments of the amount unpaid becoming due until the shares are transferred to one who becomes liable therefor; provided that the transferor shall remain personally liable if so provided on the certificate, initial transaction statement, or written statement, or agreed upon in writing.

SEC. 16. Section 416 of the Corporations Code is amended to read:

416. (a) Every holder of shares in a corporation shall be entitled to have a certificate signed in the name of the corporation by the chairman or vice chairman of the board or the president or a vice president and by the chief financial officer or an assistant treasurer or the secretary or any assistant secretary, certifying the number of shares and the class or series of shares owned by the shareholder. Any or all of the signatures on the certificate may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were an officer, transfer agent or registrar at the date of issue.

(b) Notwithstanding subdivision (a), a corporation may adopt a system of issuance, recordation and transfer of its shares by electronic or other means not involving any issuance of certificates, including provisions for notice to purchasers in substitution for the required

statements on certificates under Sections 417, 418, and 1302, and as may be required by the commissioner in administering the Corporate Securities Law of 1968, which system (1) has been approved by the United States Securities and Exchange Commission, (2) is authorized in any statute of the United States, or (3) is in accordance with Division 8 (commencing with Section 8101) of the Commercial Code. Any system so adopted shall not become effective as to issued and outstanding certificated securities until the certificates therefor have been surrendered to the corporation.

SEC. 17. Section 417 of the Corporations Code is amended to read:

417. If the shares of the corporation are classified or if any class of shares has two or more series, there shall appear on the certificate or, in the case of uncertificated securities, the initial transaction statement and written statements, one of the following:

(a) A statement of the rights, preferences, privileges and restrictions granted to or imposed upon each class or series of shares authorized to be issued and upon the holders thereof.

(b) A summary of such rights, preferences, privileges and restrictions with reference to the provisions of the articles and any certificates of determination establishing the same.

(c) A statement setting forth the office or agency of the corporation from which shareholders may obtain, upon request and without charge, a copy of the statement referred to in subdivision (a).

SEC. 18. Section 418 of the Corporations Code is amended to read:

418. (a) There shall also appear on the certificate, the initial transaction statement, and written statements (unless stated or summarized under subdivision (a) or (b) of Section 417) the statements required by all of the following clauses to the extent applicable:

(1) The fact that the shares are subject to restrictions upon transfer.

(2) If the shares are assessable or are not fully paid, a statement that they are assessable or the statements required by subdivision (d) of Section 409 if they are not fully paid.

(3) The fact that the shares are subject to a voting agreement under subdivision (a) of Section 706 or an irrevocable proxy under subdivision (e) of Section 705 or restrictions upon voting rights contractually imposed by the corporation.

(4) The fact that the shares are redeemable.

(5) The fact that the shares are convertible and the period for conversion.

Any such statement or reference thereto (Section 174) on the face of the certificate, the initial transaction statement, and written statements required by paragraph (1) or (2) shall be conspicuous.

(b) Unless stated on the certificate, the initial transaction statement, and written statements as required by subdivision (a), no

restriction upon transfer, no right of redemption and no voting agreement under subdivision (a) of Section 706, no irrevocable proxy under subdivision (e) of Section 705, and no voting restriction imposed by the corporation shall be enforceable against a transferee of the shares without actual knowledge of such restriction, right, agreement or proxy. With regard only to liability to assessment or for the unpaid portion of the subscription price, unless stated on the certificate as required by subdivision (a), that liability shall not be enforceable against a transferee of the shares. For the purpose of this subdivision, "transferee" includes a purchaser from the corporation.

(c) All certificates representing shares of a close corporation shall contain in addition to any other statements required by this section, the following conspicuous legend on the face thereof: "This corporation is a close corporation. The number of holders of record of its shares of all classes cannot exceed _____ [a number not in excess of 35]. Any attempted voluntary inter vivos transfer which would violate this requirement is void. Refer to the articles, bylaws and any agreements on file with the secretary of the corporation for further restrictions."

(d) Any attempted voluntary inter vivos transfer of the shares of a close corporation which would result in the number of holders of record of its shares exceeding the maximum number specified in its articles is void if the certificate contains the legend required by subdivision (c).

SEC. 19. Section 422 of the Corporations Code is amended to read:

422. (a) When the articles are amended in any way affecting the statements contained in the certificates for outstanding shares, or it becomes desirable for any reason, in the discretion of the board, to cancel any outstanding certificate for shares and issue a new certificate therefor conforming to the rights of the holder, the board may order any holders of outstanding certificates for shares to surrender and exchange them for new certificates within a reasonable time to be fixed by the board.

(b) The order may provide that a holder of any certificates so ordered to be surrendered is not entitled to vote or to receive dividends or exercise any of the other rights of shareholders until the holder has complied with the order, but such order operates to suspend such rights only after notice and until compliance. The duty of surrender of any outstanding certificates may also be enforced by civil action.

(c) When the articles are amended in any way affecting the statements contained in the initial transaction statement or other written statements for outstanding uncertificated securities, or it becomes desirable for any reason, in the discretion of the board, to amend, revise, or supersede outstanding initial transaction statements or written statements, the board may order the issuance and delivery to holders of record of amended, revised, or superseding initial transaction statements or written statements.

SEC. 20. Section 423 of the Corporations Code is amended to read:

423. (a) Shares are not assessable except as provided in this section or as otherwise provided by a statute other than this division. If the articles expresssly confer such authority upon the corporation or the board, and subject to any limitations therein contained, the board may in its discretion levy and collect assessments upon all shares of any or all classes made subject to assessment by the articles. This authority is in addition to the right of the corporation to recover the unpaid subscription price of shares or the remainder of the consideration to be paid therefor.

(b) Every levy of an assessment shall: specify the amount thereof and to whom and where it is payable; fix, or if proceedings or filings with any governmental or other agency for any qualification, permit, registration or exemption therefrom are required as a condition precedent to the levy or payment of an assessment provide for the establishment of, a date on which the assessment is payable; fix a date, not less than 30 nor more than 60 days from the date on which the assessment is payable, on which such assessment becomes delinquent if not paid; and fix a date, not less than 15 nor more than 60 days from the date on which the unpaid assessment becomes delinquent, for the sale of delinquent shares. The levy also shall fix the hour and place of sale, which place shall be in the county where the corporation is required to keep a copy of its bylaws pursuant to Section 213, or if there is no such county, in Sacramento.

(c) On or before the date an assessment is payable, the secretary of the corporation shall give notice thereof in substantially the following form:

(Name of corporation in full. Location of principal executive office.)

Notice is hereby given that the board of directors on (date) has levied an assessment of (amount) per share upon the (name or designation of class or series of shares) of the corporation payable (to whom and where). Any shares upon which this assessment remains unpaid on (date fixed) will be delinquent. Unless payment is made prior to delinquency, the said shares, or as many of them as may be necessary, will be sold at (particular place) on (date) at (hour) of such date, to pay the delinquent assessment, together with a penalty of 5 percent of the amount of the assessment on such shares, or be forfeited to the corporation. (Name of secretary with location of office.)

(d) The notice shall be served personally upon each holder of record of shares assessed; provided, however, that in lieu of personal service the notice may be mailed to each such shareholder addressed to the last address of the shareholder appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice, or if no such address appears or is given, at the place where the principal executive office of the corporation is located, and published once in some newspaper of general

circulation in the county in which the principal executive office of the corporation is located. If there is no such newspaper in such county, the publication shall be made in some newspaper of general circulation in an adjoining county.

(e) The assessment is a lien upon the shares assessed from the time of personal service or the publication of the notice of assessment, unless the articles provide for such lien from the time of the levy. Unless otherwise provided by law, a transfer of the shares on the books of the corporation after the lien of an assessment has attached is a waiver of the lien unless a conspicuous legend is placed on the face of any certificate issued upon such transfer or, in the case of uncertificated securities, on the initial transaction statement, setting forth the information contained in the notice required by subdivision (c). Such legend shall be removed if the assessment on the shares evidenced by the certificate is paid or if the shares are sold to pay the assessment or forfeited for nonpayment.

(f) The date of sale of delinquent shares fixed in any levy of an assessment may be extended from time to time for not more than 30 days at a time by order of the board entered on the records of the corporation, or when the sale is restrained by order of a court. Notice of such extension shall be given by announcement by the secretary, or other person authorized to conduct the sale, made at the time and place of sale last theretofore fixed.

If a date of sale of delinquent shares is extended for more than five days the corporation shall cause a notice to be mailed to the shareholder or shareholders whose shares are to be the subject of such sale setting forth the date and time to which the date of sale has been extended.

(g) If payment is made after delinquency and before the sale, the shareholder shall pay a penalty of 5 percent of the amount of the assessment on the shares in addition to the assessment.

(h) At the place and time appointed in the notice of levy any officer or an agent of the corporation, shall, unless otherwise ordered by the board, sell or cause to be sold to the highest bidder for cash as many shares of each delinquent holder of the assessed shares as may be necessary to pay the assessment and charges thereon according to the notice.

The person offering at the sale to pay the assessment and penalty for the smallest number of shares is the highest bidder. The shares purchased shall be transferred to the highest bidder on the share register of the corporation on the payment of the assessment and penalty and a new certificate or initial transaction statement therefor issued to such highest bidder.

A corporation is not required to accept an offer for a fraction of a share.

(i) If no bidder offers to pay the amount due on the shares, together with the penalty of 5 percent thereof, the shares shall be forfeited to the corporation in satisfaction of the assessment and penalty thereon.

(j) After a sale or forfeiture of shares for nonpayment of an assessment, the holder or owner of delinquent shares shall, if they are certificated securities, surrender the certificate for such shares to the corporation for cancellation or, if they are uncertificated securities, have no further rights with respect to such shares. This duty may be enforced by order or decree of court and such holder or owner shall be liable for damages to the corporation for failure to surrender the certificate for cancellation upon demand without good cause or excuse.

Any certificate not so surrendered forthwith becomes null and void and ceases to be evidence of the right or title of the holder or any transferee to the shares purporting to be represented thereby, and neither the corporation nor the purchaser of such shares incurs any liability thereon to any such transferee.

The purchaser of any shares, at a sale for delinquent assessments thereon, whenever made, is entitled to the issue of a new certificate representing the shares so purchased.

(k) The certificate of the secretary or assistant secretary of the corporation is prima facie evidence of the time and place of sale and any postponement thereof, of the quantity and particular description of the shares sold, to whom, for what price, and of the fact of payment of the purchase money. The certificate shall be filed in the office of the corporation, and copies of the certificate, certified by the secretary or an assistant secretary of the corporation, are prima facie evidence of the facts therein stated.

(*l*) An assessment is not invalidated by a failure to publish the notice of assessment, nor by the nonperformance of any act required in order to enforce the payment of the assessment; but in case of any substantial error or omission in the course of proceedings for collection of an assessment on any shares, all previous proceedings, except the levy of the assessment, are void as to such shares, and shall be taken anew.

(m) No action shall be maintained to recover shares sold for delinquent assessments, upon the ground of irregularity in the assessment, irregularity or defect of the notice of sale, or defect or irregularity in the sale, unless the party seeking to maintain the action first pays or tenders to the corporation, or the party holding the shares sold, the sum for which the shares were sold, together with all subsequent assessments which may have been paid thereon and interest on such sums from the time they were paid. No such action shall be maintained unless it is commenced by the filing of a complaint and the issuing of a summons thereon within six months after the sale was made.

(n) The only remedy for the collection of an assessment on fully paid shares is sale or forfeiture of the shares unless (1) remedy by action is expressly authorized in the original articles or by an amendment of the articles adopted before August 21, 1933, or by an amendment adopted on or after August 21, 1933, by unanimous consent of the shareholders, and (2) unless a statement of such

remedy appears on the face of any share certificate issued on or after August 21, 1933.

SEC. 21. Section 509 of the Corporations Code is amended to read:

509. (a) A corporation may redeem any or all shares which are redeemable at its option by (1) giving notice of redemption, and (2) payment or deposit of the redemption price of the shares as provided in its articles or deposit of the redemption price pursuant to subdivision (d).

(b) Subject to any provisions in the articles with respect to the notice required for redemption of shares, the corporation may give notice of the redemption of any or all shares subject to redemption by causing a notice of redemption to be published in a newspaper of general circulation in the county in which the principal executive office of the corporation is located at least once a week for two successive weeks, in each instance on any day of the week, commencing not earlier than 60 nor later than 20 days before the date fixed for redemption. The notice of redemption shall set forth all of the following:

(1) The class or series of shares or part of any class or series of shares to be redeemed.

(2) The date fixed for redemption.

(3) The redemption price.

(4) If the shares are certificated securities, the place at which the shareholders may obtain payment of the redemption price upon surrender of their share certificates.

(c) If the corporation gives notice of redemption pursuant to subdivision (b), it shall also mail a copy of the notice of redemption to each holder of record of shares to be redeemed as of the date of mailing or record date fixed in accordance with Section 701, addressed to the holder at the address of such holder appearing on the books of the corporation or given by the holder to the corporation for the purpose of notice, or if no such address appears or is given at the place where the principal executive office of the corporation is located, not earlier than 60 nor later than 20 days before the date fixed for redemption. Failure to comply with this subdivision does not invalidate the redemption of the shares.

(d) If, on or prior to any date fixed for redemption of redeemable shares, the corporation deposits with any bank or trust company in this state as a trust fund a sum sufficient to redeem, on the date fixed for redemption thereof, the shares called for redemption, with irrevocable instructions and authority to the bank or trust company to publish the notice of redemption thereof (or to complete such publication if theretofore commenced) and to pay, on and after the date fixed for redemption or prior thereto, the redemption price of the shares to their respective holders upon the surrender of their share certificates, then from and after the date of the deposit (although prior to the date fixed for redemption) the shares so called shall be redeemed and dividends on those shares shall cease to accrue

after the date fixed for redemption. The deposit shall constitute full payment of the shares to their holders and from and after the date of the deposit the shares shall no longer be outstanding and the holders thereof shall cease to be shareholders with respect to such shares and shall have no rights with respect thereto except the right to receive from the bank or trust company payment of the redemption price of the shares without interest, upon surrender of their certificates therefor, and any right to convert the shares which may exist and then continue for any period fixed by its terms.

SEC. 22. Section 705 of the Corporations Code is amended to read:

705. (a) Every person entitled to vote shares may authorize another person or persons to act by proxy with respect to such shares. Any proxy purporting to be executed in accordance with the provisions of this division 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. 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 unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.

(d) Except when other provision shall have been made by written agreement between the parties, the recordholder of shares which such person holds as pledgee or otherwise as security or which belong to another shall issue to the pledgor or to the owner of such shares, upon demand therefor and payment of necessary expenses thereof, a proxy to vote or take other action thereon.

(e) A proxy which states that it is irrevocable is irrevocable for the period specified therein (notwithstanding subdivision (c)) when it is held by any of the following or a nominee of any of the following:

(1) A pledgee.

(2) A person who has purchased or agreed to purchase or holds an option to purchase the shares or a person who has sold a portion of such person's shares in the corporation to the maker of the proxy.

(3) A creditor or creditors of the corporation or the shareholder who extended or continued credit to the corporation or the shareholder in consideration of the proxy if the proxy states that it was given in consideration of such extension or continuation of credit and the name of the person extending or continuing credit.

(4) A person who has contracted to perform services as an

employee of the corporation, if a 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 contracted for.

(5) A person designated by or under an agreement under Section 706.

(6) A beneficiary of a trust with respect to shares held by the trust.

Notwithstanding the period of irrevocability specified, the proxy becomes revocable when the pledge is redeemed, the option or agreement to purchase is terminated or the seller no longer owns any shares of the corporation or dies, the debt of the corporation or the shareholder is paid, the period of employment provided for in the contract of employment has terminated, the agreement under Section 706 has terminated, or the person ceases to be a beneficiary of the trust. In addition to the foregoing clauses (1) through (5), a proxy 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.

(f) A proxy may be revoked, notwithstanding a provision making it irrevocable, by a transferee of shares without knowledge of the existence of the provision unless the existence of the proxy and its irrevocability appears, in the case of certificated securities, on the certificate representing such shares, or in the case of uncertificated securities, on the initial transaction statement and written statements.

SEC. 23. Section 1302 of the Corporations Code is amended to read:

1302. Within 30 days after the date on which notice of the approval by the outstanding shares or the notice pursuant to subdivision (i) of Section 1110 was mailed to the shareholder, the shareholder shall submit to the corporation at its principal office or at the office of any transfer agent thereof, (a) if the shares are certificated securities, the shareholder's certificates representing any shares which the shareholder demands that the corporation purchase, to be stamped or endorsed with a statement that the shares are dissenting shares or to be exchanged for certificates of appropriate denomination so stamped or endorsed or (b) if the shares are uncertificated securities, written notice of the number of shares which the shareholder demands that the corporation purchase. Upon subsequent transfers of the dissenting shares on the books of the corporation, the new certificates, initial transaction statement, and other written statements issued therefor shall bear a like statement, together with the name of the original dissenting holder of the shares.

SEC. 24. Section 1303 of the Corporations Code is amended to read:

1303. (a) If the corporation and the shareholder agree that the shares are dissenting shares and agree upon the price of the shares,

the dissenting shareholder is entitled to the agreed price with interest thereon at the legal rate on judgments from the date of the agreement. Any agreements fixing the fair market value of any dissenting shares as between the corporation and the holders thereof shall be filed with the secretary of the corporation.

(b) Subject to the provisions of Section 1306, payment of the fair market value of dissenting shares shall be made within 30 days after the amount thereof has been agreed or within 30 days after any statutory or contractual conditions to the reorganization are satisfied, whichever is later, and in the case of certificated securities, subject to surrender of the certificates therefor, unless provided otherwise by agreement.

SEC. 25. Section 1305 of the Corporations Code is amended to read:

1305. (a) If the court appoints an appraiser or appraisers, they shall proceed forthwith to determine the fair market value per share. Within the time fixed by the court, the appraisers, or a majority of them, shall make and file a report in the office of the clerk of the court. Thereupon, on the motion of any party, the report shall be submitted to the court and considered on such evidence as the court considers relevant. If the court finds the report reasonable, the court may confirm it.

(b) If a majority of the appraisers appointed fail to make and file a report within 10 days from the date of their appointment or within such further time as may be allowed by the court or the report is not confirmed by the court, the court shall determine the fair market value of the dissenting shares.

(c) Subject to the provisions of Section 1306, judgment shall be rendered against the corporation for payment of an amount equal to the fair market value of each dissenting share multiplied by the number of dissenting shares which any dissenting shareholder who is a party, or who has intervened, is entitled to require the corporation to purchase, with interest thereon at the legal rate from the date on which judgment was entered.

(d) Any such judgment shall be payable forthwith with respect to uncertificated securities and, with respect to certificated securities, only upon the endorsement and delivery to the corporation of the certificates for the shares described in the judgment. Any party may appeal from the judgment.

(e) The costs of the action, including reasonable compensation to the appraisers to be fixed by the court, shall be assessed or apportioned as the court considers equitable, but, if the appraisal exceeds the price offered by the corporation, the corporation shall pay the costs (including in the discretion of the court attorneys' fees, fees of expert witnesses and interest at the legal rate on judgments from the date of compliance with Sections 1300, 1301 and 1302 if the value awarded by the court for the shares is more than 125 percent of the price offered by the corporation under subdivision (a) of Section 1301).

SEC. 26. Section 2115 of the Corporations Code is amended to read:

2115. (a) A foreign corporation (other than a foreign association or foreign nonprofit corporation but including a foreign parent corporation even though it does not itself transact intrastate business) is subject to this section if the average of the property factor, the payroll factor and the sales factor (as defined in Sections 25129, 25132 and 25134 of the Revenue and Taxation Code) with respect to it is more than 50 percent during its latest full income year and if more than one-half of its outstanding voting securities are held of record by persons having addresses in this state. The property factor, payroll factor and sales factor shall be those used in computing the portion of its income allocable to this state in its franchise tax return or, with respect to corporations the allocation of whose income is governed by special formulas or which are not required to file separate or any tax returns, which would have been so used if they were governed by such three-factor formula. The determination of these factors with respect to any parent corporation shall be made on a consolidated basis, including in a unitary computation (after elimination of intercompany transactions) the property, payroll and sales of the parent and all of its subsidiaries in which it owns directly or indirectly more than 50 percent of the outstanding shares entitled to vote for the election of directors, but deducting a percentage of such property, payroll and sales of any subsidiary equal to the percentage minority ownership, if any, in such subsidiary. For the purpose of this subdivision, any securities held to the knowledge of the issuer in the names of broker-dealers or nominees for broker-dealers, including clearing corporations, shall not be considered outstanding. However, if the foreign corporation requests all broker-dealers in whose name or for whom securities are held to certify, with respect to all beneficial owners for whom securities are held, the number of shares held for those beneficial owners having addresses (as shown on the records of the broker-dealer) in this state and outside of this state, then all shares so certified shall be considered outstanding and held of record by persons having addresses either in this state or outside of this state as so certified, provided that the certification so provided shall be retained with the record of shareholders and made available for inspection and copying in the same manner as is provided in Section 1600 with respect to that record.

(b) The following chapters and sections of this division shall apply to a foreign corporation subject to this section (to the exclusion of the law of the jurisdiction in which it is incorporated):

Chapter 1 (general provisions and definitions), to the extent applicable to the following provisions;

Section 301 (annual election of directors);

Section 303 (removal of directors without cause);

Section 304 (removal of directors by court proceedings);

Section 305, subdivision (c) (filing of director vacancies where less

than a majority in office elected by shareholders);

Section 309 (directors' standard of care);

Section 316 (excluding paragraph (3) of subdivision (a) and paragraph (3) of subdivision (f)) (liability of directors for unlawful distributions);

Section 317 (indemnification of directors, officers and others);

Sections 500 to 505, inclusive (limitations on corporate distributions in cash or property);

Section 506 (liability of shareholder who receives unlawful distribution);

Section 600, subdivisions (b) and (c) (requirement for annual shareholders' meeting and remedy if same not timely held);

Section 708, subdivisions (a), (b) and (c) (shareholder's right to cumulate votes at any election of directors);

Section 1001, subdivision (d) (limitations on sale of assets);

Section 1101 (provisions following subdivision (e)) (limitations on mergers);

Chapter 12 (commencing with Section 1200) (reorganizations);

Chapter 13 (commencing with Section 1300) (dissenters' rights);

Sections 1500 and 1501 (records and reports);

Section 1508 (action by Attorney General);

Chapter 16 (commencing with Section 1600) (rights of inspection).

(c) Subdivision (a) shall become applicable to any foreign corporation only upon the first day of the first income year of the corporation commencing on or after the 30th day after the filing by it of the report pursuant to Section 2108 showing that the tests referred to in subdivision (a) have been met or on or after the entry of a final order by a court of competent jurisdiction declaring that such tests have been met.

(d) Subdivision (a) shall cease to be applicable at the end of any income year during which a report pursuant to Section 2108 shall have been filed showing that at least one of the tests referred to in subdivision (a) is not met or a final order shall have been entered by a court of competent jurisdiction declaring that one of such tests is not met, provided that such filing or order shall be ineffective if a contrary report or order shall be made or entered before the end of such income year.

(e) This section does not apply to any corporation (1) with outstanding securities listed on the New York Stock Exchange or the American Stock Exchange, or (2) with outstanding securities designated as qualified for trading as a national market security on the National Association of Securities Dealers Automatic Quotation System (or any successor national market system) if such corporation has at least 800 holders of its equity securities as of the record date of its most recent annual meeting of shareholders, or (3) if all of its voting shares (other than directors' qualifying shares) are owned directly or indirectly by a corporation or corporations not subject to this section. For purposes of determining the number of holders of

a corporation's equity securities under clause (2) of this subdivision, there shall be included, in addition to the number of recordholders reflected on the corporation's stock records, the number of holders of such equity securities held in the name of any broker-dealer or nominee for a broker-dealer, including a clearing corporation, which furnishes the corporation with a certification as to the number of holders for whom such equity securities are held by the broker-dealer (or nominee), provided that the corporation retains any such certification with the record of shareholders and makes it available for inspection and copying in the same manner as is provided in Section 1600 with respect to that record.

SEC. 27. Section 2201 of the Corporations Code is amended to read:

2201. Any officer of a corporation charged with the duty of entering a transfer of shares upon the books of the corporation and issuing a share certificate or, with respect to uncertificated securities, an initial transaction statement or written statements, who unreasonably neglects, fails or refuses to perform such duty after written request by any person entitled thereto is subject to a penalty of one hundred dollars ($100) and the further penalty of ten dollars ($10) for each day that such default continues, beginning five days after receipt of the request, up to a maximum of five hundred dollars ($500). The penalty shall be paid to each person aggrieved. It may be enforced by action and shall be in addition to all other remedies.

Every director or other officer unreasonably causing such neglect, failure or refusal to make such entries upon the books of the corporation or to issue a certificate or, with respect to uncertificated securities, an initial transaction statement or written statements, for shares to a person entitled thereto is subject to a like penalty.

SEC. 28. Section 2251 of the Corporations Code is amended to read:

2251. Any promoter, director or officer of a corporation who knowingly and willfully issues or consents to the issuance of certificates for certificated securities, or initial transaction statements or written statements for uncertificated securities, in violation of this division with intent to defraud present or future shareholders, subscribers, purchasers of shares or creditors is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one year or both.

SEC. 29. Section 5342 of the Corporations Code is amended to read:

5342. (a) An amendment of the articles or bylaws which would terminate all memberships or any class of memberships shall meet the requirements of this part and this section.

(b) Before such an amendment is adopted the corporation shall give written notice to members not less than 45 nor more than 90 days prior to any vote by the members on the amendment. The written notice shall describe the effect of the amendment on the

corporation and the members. However, written notice need not be given at least 45 days prior to any vote by the members on the amendment if all members entitled to vote receive a written notice prior to the vote setting forth the information described in the preceding sentence and sign a written waiver of 45 days notice.

(c) Any such amendment shall be approved by the members (Section 5034).

(d) The articles or bylaws may impose additional requirements regarding termination of all memberships or any class of memberships.

(e) Upon request of a member the corporation shall provide at its option the rights set forth in either paragraph (1) or (2) of subdivision (a) of Section 6330 as soon as reasonably possible to allow the member to communicate with other members regarding the proposed amendment.

(f) Any such amendment shall terminate the rights members have pursuant to this part as members (Section 5056).

(g) The provisions of Section 5341 shall not apply to termination of all memberships or any class of memberships pursuant to an amendment of the articles or bylaws.

SEC. 30. Section 5515 of the Corporations Code is amended to read:

5515. (a) If for any reason it is impractical or unduly difficult for any corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate, member or the Attorney General, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates, or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation

to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this part.

SEC. 31. Section 7515 of the Corporations Code is amended to read:

7515. (a) If for any reason it is impractical or unduly difficult for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate or member, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with

every requirement imposed by the articles, bylaws, and this part.

SEC. 32. Section 9414 of the Corporations Code is amended to read:

9414. (a) If for any reason it is impractical or unduly difficult for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate, or member, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this part.

SEC. 33. Section 12446 is added to the Corporations Code, to read:

12446. (a) Subject to the provisions of subdivision (b), the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure shall not apply to any proprietary interest in a consumer cooperative corporation. Any proprietary interest that would otherwise escheat to the state pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure shall instead become the

property of the corporation.

(b) Notwithstanding the provisions of subdivision (a), no proprietary interest shall become the property of the corporation under this section unless the following requirements are satisfied:

(1) The articles or bylaws shall specifically provide for the transfer of ownership of the otherwise escheated proprietary interests to the corporation.

(2) At least 60 days prior notice of the proposed transfer of the proprietary interest to the corporation is given to the affected member by first-class or second-class mail to the last address of the member shown on the corporation's records, and by publication in a newspaper of general circulation in the county in which the corporation has its principal office. Notice given in the foregoing manner shall be deemed actual notice.

(3) No proprietary interest shall become the property of the corporation under this section if written notice objecting thereto is received by the corporation from the affected member prior to the date of the proposed transfer.

(c) For purposes of this section, a "proprietary interest" shall mean and include any membership, membership certificate, membership share, or share certificate of any class representing a proprietary interest in, and issued by, the corporation together with all accrued and unpaid dividends and patronage distributions relating thereto.

SEC. 34. Section 12465 of the Corporations Code is amended to read:

12465. (a) If for any reason it is impractical or unduly difficult for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate or member, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section

shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. However, an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and this part.

SEC. 35. Section 25117 of the Corporations Code is amended to read:

25117. (a) An evidence of indebtedness, and the purchasers thereof, shall be exempt from the usury provisions of Section 1 of Article XV of the California Constitution if (1) the evidence of indebtedness is rated or provisionally rated by Standard & Poor's Corporation as AAA, AA, A, BBB, or investment grade commercial paper, or by Moody's Investors Service, Inc. as Aaa, Aa, A, Baa, or investment grade commercial paper, including any such ratings with "+" or "–" designation or other variations that occur within these ratings, or has a rating or a provisional rating by another nationally recognized rating agency or system, which rating and agency or system have been certified by rule or order of the commissioner, or (2) the issuer thereof either (A) has any security listed or approved for listing upon notice of issuance on a national securities exchange certified by the commissioner, pursuant to subdivision (o) of Section 25100, or (B) meets each of the following requirements:

(i) The issuer is a corporation which is subject to Section 13 of the Securities Exchange Act of 1934.

(ii) The issuer had total shareholders' equity of at least one million dollars ($1,000,000) at the end of its most recent fiscal year, and had consolidated net income, after all charges, including taxes and extraordinary losses, and excluding extraordinary gains, of at least five hundred thousand dollars ($500,000) for three of its last four fiscal years, including its most recent fiscal year. The determination of total shareholders' equity and net income shall be determined in conformity with generally accepted accounting principles applicable to that fiscal year or years, on a consolidated basis.

(b) This section creates and authorizes a class of persons pursuant to Section 1 of Article XV of the California Constitution.

SEC. 36. The provisions of Section 12446 of the Corporations Code, as added by this act, shall apply to all proprietary interests which as of the effective date hereof have not yet been paid or delivered to the State Controller pursuant to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of

the Code of Civil Procedure.

SEC. 37. 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 767

An act to amend Section 226.6 of the Civil Code, to amend Section 17211 of the Revenue and Taxation Code, and to amend Sections 16115.5, 16116, 16118, 16119, 16120, and 16122 of, and to repeal Chapter 2.5 (commencing with Section 16155) of Part 4 of Division 9 of, the Welfare and Institutions Code, relating to adoption.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 226.6 of the Civil Code is amended to read:

226.6. (a) In those cases in which neither the State Department of Social Services nor an agency licensed by the State Department of Social Services is a party to or joins in the petition for adoption it shall be the duty of the State Department of Social Services or the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, to investigate the proposed adoption and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition. In those cases in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption the report shall be filed immediately. The court may allow such additional time for the filing of the reports as in its discretion it may see fit, after at least five days' notice to the petitioner or petitioners and opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

(b) In those cases in which the State Department of Social Services or an agency licensed by the State Department of Social Services is a party to or joins in the petition for adoption, it shall be the duty of the State Department of Social Services or the agency, whichever is a party to or joins in the petition, to submit a full report of the facts of the case to the court. The State Department of Social Services may also submit a report in those cases in which an agency licensed by the department to place children in homes for adoption

is a party or joins in the petition for adoption.

SEC. 2. Section 17211 of the Revenue and Taxation Code is amended to read:

17211. (a) The maximum deduction for adoption expenses shall not exceed five hundred dollars ($500) in a separate return of a married person or one thousand dollars ($1,000) in any other return.

(b) A deduction shall be allowed for the "qualified adoption expenses," as defined by Section 222 of the Internal Revenue Code, of a child, other than a special needs child, which exceed 3 percent of adjusted gross income, subject to the maximum limitation in subdivision (a).

SEC. 3. Section 16115.5 of the Welfare and Institutions Code is amended to read:

16115.5. It is the intent of the Legislature in enacting this chapter to benefit special needs children residing in foster homes by providing the stability and security of permanent homes, and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of special needs children.

SEC. 4. Section 16116 of the Welfare and Institutions Code is amended to read:

16116. For purposes of this chapter, a special needs child means a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical or emotional handicaps or age of three years or more. The provisions of this chapter apply only to special needs children.

SEC. 5. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or any licensed adoption agency pursuant to this chapter. The department shall adopt such regulations as are necessary to carry out the provisions of this chapter.

(b) The department shall keep such records as are necessary to evaluate the programs' effectiveness in encouraging and promoting the adoption of special needs children.

(c) The department or licensed adoption agency which has custody of the child, shall have responsibility for certifying that the child meets special needs criteria and for determining the amount of financial assistance needed by the child and the adopting family.

(d) The county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Section 16120 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to Families with Dependent Children program if the child

were not adopted. The county of responsibility for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family.

(e) The department shall actively seek and make maximum use of federal funds which may be available for the purposes of this chapter. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

SEC. 6. Section 16119 of the Welfare and Institutions Code is amended to read:

16119. The department and all adoption agencies shall disseminate information to prospective adoptive families, especially those families of lower income levels and those belonging to disadvantaged groups, as to the availability of adoptable special needs children and of the existence of aid to adoptive families under this chapter.

The county responsible for providing foster care for a child shall provide financial aid to the adoptive family in an amount determined pursuant to Section 16120.

SEC. 7. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. Adoption Assistance Program benefits shall be paid only on behalf of special needs children for whom the following conditions are met:

(a) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.

(b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.

(c) The adoptive family is responsibile for the child pursuant to the terms of an adoption assistance agreement and an interlocutory decree or a final decree of adoption.

(d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 226 of the Civil Code.

SEC. 8. Section 16122 of the Welfare and Institutions Code is amended to read:

16122. From any funds appropriated therefor, the state shall reimburse private adoption agencies licensed pursuant to Chapter 3

(commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of aid to adoption programs for special needs children, less the amount of fees received by such agencies from adoptive parents. Those agencies shall be reimbursed for the placement of special needs children in an amount not to exceed two thousand dollars ($2,000) per placement. Nothing in this section shall be construed to authorize reimbursement to private agencies for intercountry adoption services.

SEC. 9. Chapter 2.5 (commencing with Section 16155) of Part 4 of Division 9 of the Welfare and Institutions Code is repealed.

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.

CHAPTER 768

An act to amend Section 12030 of the Penal Code, relating to firearms.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 12030 of the Penal Code is amended to read:

12030. (a) The officer having custody of any firearms which may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, including, but not limited to, the California National Guard military museum and resource center, may, upon the authority of the legislative body of the city, city and county, or county by which he or she is employed and the approval of the Adjutant General, deliver the firearms to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government in lieu of destruction as required by this chapter. The officer delivering the firearms shall take a receipt for them containing a complete description thereof and shall keep the receipt on file in his or her office as a public record.

(b) Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency, or upon approval of a court, may

release them to any other law enforcement agency for use in carrying out the official duties of that agency, or may turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office, or district attorney's office any weapons which may be useful in carrying out the official duties of their respective agencies.

(c) Any firearm, or part of any firearm, which, rather than being destroyed, is used for official purposes pursuant to this section shall be destroyed by the agency using the weapon when it is no longer needed by the agency for use in carrying out its official duties. In the case of firearms or weaponry donated to the California National Guard military museum and resource center, they may be disposed of pursuant to Section 179 of the Military and Veterans Code.

(d) Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the firearms, obtain an order from the superior court directing the release of the firearms to the sheriff. The sheriff shall enter such weapons into the Automated Firearms System (AFS) with a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the academy receiving the weapon entered into the AFS miscellaneous field. The sheriff shall then release the firearms to the basic training academy certified by the Commission on Peace Officer Standards and Training, so that the firearms may be used for instructional purposes in the certified courses. As used in this section, the term "firearms" shall not include destructive devices, as defined in Section 12301. All firearms released to an academy shall be under the care, custody, and control of the particular academy.

Any firearms, or part of any firearms, which is not destroyed, and is used for the purposes authorized by this section, shall be returned to the law enforcement agency which had original custody of the firearms when it is no longer needed by the basic training academy, or when the basic training academy is no longer certified by the commission.

(e) Any law enforcement agency that retains custody of any firearm pursuant to this section or that destroys a firearm pursuant to Section 12028 shall notify the Department of Justice of the retention or destruction. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number.

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 769

An act to amend Section 972 of the Evidence Code, to amend Section 368 of the Penal Code, and to amend Sections 15600, 15601, 15610, 15620, 15630, 15631, 15632, 15633, 15633.5, 15634, 15635, 15640, and the heading of Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of, to add Section 15650 to, to repeal Sections 15602 and 15621 of, and to repeal Chapter 4.5 (commencing with Section 9380) of Division 8.5 of, the Welfare and Institutions Code, relating to the abuse of adults, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 972 of the Evidence Code is amended to read:

972. A married person does not have a privilege under this article in:

(a) A proceeding brought by or on behalf of one spouse against the other spouse.

(b) A proceeding to commit or otherwise place his or her spouse or his or her spouse's property, or both, under the control of another because of the spouse's alleged mental or physical condition.

(c) A proceeding brought by or on behalf of a spouse to establish his or her competence.

(d) A proceeding under the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(e) A criminal proceeding in which one spouse is charged with:

(1) A crime against the person or property of the other spouse or of a child, parent, relative, or cohabitant of either, whether committed before or during marriage.

(2) A crime against the person or property of a third person committed in the course of committing a crime against the person or property of the other spouse, whether committed before or during marriage.

(3) Bigamy.

(4) A crime defined by Section 270 or 270a of the Penal Code.

(f) A proceeding resulting from a criminal act which occurred prior to legal marriage of the spouses to each other regarding knowledge acquired prior to such marriage if prior to the legal marriage the witness spouse was aware that his or her spouse had been arrested for or had been formally charged with the crime or crimes about which the spouse is called to testify.

SEC. 1.2. Section 368 of the Penal Code is amended to read:

368. (a) Any person who, under circumstances or conditions

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

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

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

(d) As used in this section, "elder" means any person who is 65 years of age or older.

(e) As used in this section, "dependent adult" means any person who is 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. "Dependent adult" includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

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

SEC. 1.3. Chapter 4.5 (commencing with Section 9380) of Division 8.5 of the Welfare and Institutions Code is repealed.

SEC. 2. The heading of Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code

is amended to read:

CHAPTER 11. ABUSE OF THE ELDERLY AND DEPENDENT ADULTS

SEC. 3. Section 15600 of the Welfare and Institutions Code is amended to read:

15600. (a) The Legislature recognizes that elders and 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) The Legislature recognizes that 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) The Legislature further recognizes that 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) The Legislature further declares that 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 adult protective services agencies, long-term care ombudsman coordinators, and local law enforcement agencies shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 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. 4. Section 15601 of the Welfare and Institutions Code is amended to read:

15601. The purposes of this act are to:

(a) Encourage health care providers, social service workers, and community members in general to report suspected cases of abuse of elders and dependent adults.

(b) Collect information on the numbers of abuse victims, circumstances surrounding the act of abuse, and other data which will aid the state in establishing adequate services to aid all victims of abuse in a timely, compassionate manner.

(c) Provide for protection under the law for all those persons who report suspected cases of abuse, provided that the report is not made with malicious intent.

SEC. 5. Section 15602 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 15610 of the Welfare and Institutions Code is amended to read:

15610. As used in this chapter:

(a) "Elder" means any person residing in this state, 65 years of age or older.

(b) (1) "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.

(2) "Dependent adult" includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(c) "Physical abuse" 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.

(d) (1) "Neglect" means the negligent failure of any person

having the care or custody of an elder or 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, clothing, or shelter.

(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 an elder or 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, an elder or 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 an elder or a dependent adult" means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, 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, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff, of any of the following public or private facilities when the facilities provide care for elders or dependent adults:

(1) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(2) Clinics.

(3) Home health agencies

(4) Adult day health care centers.

(5) Secondary schools which serve 18- to 22-year-old dependent adults and postsecondary educational institutions which serve dependent adults or elders.

(6) Sheltered workshops.

(7) Camps.

(8) Community care facilities, as defined by Section 1502 of the Health and Safety Code and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(9) Respite care facilities.

(10) Foster homes.

(11) Regional centers for persons with developmental disabilities.

(12) State Department of Social Services and State Department of Health Services licensing divisions.

(13) County welfare departments.

(14) Offices of patients' rights advocates.

(15) Office of the long-term care ombudsman.

(16) Offices of public conservators and public guardians.

(17) Any other protective or public assistance agency which provides health services or social services to elders or dependent adults.

(i) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker, 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 an elder or a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats elders or dependent adults.

(j) "Adult protective services agency" means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

(k) "Adult protective services" means those preventive and remedial activities performed on behalf of elders and 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.

(m) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect, or abandonment.

(n) "Long-term care ombudsman" means the State Long-Term Care Ombudsman, long-term care ombudsmen of the Department of Aging, and persons acting in the capacity of ombudsman coordinators 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, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

SEC. 7. Section 15620 of the Welfare and Institutions Code, as amended by Chapter 25 of the Statutes of 1986, is amended to read:

15620. The State Department of Social Services, in consultation with the State Department of Developmental Services, the Department of Aging, the Department of Justice, and county adult protective services agencies shall design the report form for elder and dependent adult abuse. The county adult protective services agencies shall submit reports to the department on elder and dependent adult abuse monthly.

SEC. 8. Section 15621 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) Any elder or 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 observed an incident that reasonably appears to be physical abuse, has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury, clearly indicates that physical abuse has occurred, or is told by an elder or dependent adult that he or she has experienced behavior

constituting physical abuse, shall report the known or suspected instance of physical abuse either to the long-term care ombudsman coordinator or to a local law enforcement agency when the physical abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the physical abuse is alleged to have occurred anywhere else, 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 elder or dependent adult abuse have been inflicted upon an elder or 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 either to a long-term care ombudsman coordinator or to a local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the abuse is alleged to have occurred anywhere else.

(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 an elder or 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, ensure confidentiality, 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 elder and dependent adult abuse, every known or suspected instance of physical abuse of an elder or dependent adult. A county adult protective services agency 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.

Only a written report, sent within 36 hours, shall be required in the case of types of elder and dependent adult abuse other than physical abuse.

If an adult protective services agency receives a report of abuse alleged to have occurred in a long-term care facility, that adult protective services agency shall immediately inform the person making the report that he or she must make it to the long-term care ombudsman coordinator or to a local law enforcement agency. The adult protective services agency shall not accept the reports.

(f) A law enforcement agency shall immediately or as soon as practically possible report by telephone to the long-term care ombudsman coordinator when the abuse is alleged to have occurred in a long-term care facility or to the county adult protective services agency when it is alleged to have occurred anywhere else, and to the agency given responsibility for the investigation of cases of elder and dependent adult abuse every known or suspected instance of abuse of an elder or 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.

(g) A long-term care ombudsman coordinator may report the instance of abuse to the county adult protective services agency or to the local law enforcement agency for assistance in the investigation of the abuse if the victim gives his or her consent.

(h) When a county adult protective services agency, a long-term care ombudsman coordinator, or a local law enforcement agency receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, that county adult protective services agency, long-term care ombudsman coordinator, or local law enforcement agency shall report the incident to the licensing agency by telephone as soon as possible.

(i) Each long-term care ombudsman coordinator shall report to the county adult protective services agency monthly on the reports it receives pursuant to this chapter. The reports shall be on forms adopted by the department. The information reported shall include, but shall not be limited to, the number of incidents of abuse, the number of persons abused, the type of abuse, and the actions taken on such reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

(j) Each county adult protective services agency shall report to the State Department of Social Services monthly on the reports received pursuant to this chapter. The reports shall be made on forms adopted by the department. The information reported shall include, but shall not be limited to, the number of incidents of abuse, the number of persons abused, the type of abuse sustained, and the actions taken on the reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

The county's report to the department shall include reports it receives from the long-term care ombudsman coordinator pursuant to subdivision (i).

SEC. 10. Section 15631 of the Welfare and Institutions Code is

amended to read:

15631. (a) Any other person who knows, or reasonably suspects, that an elder or a dependent adult has been the victim of abuse may report that abuse either to a long-term care ombudsman coordinator or to a local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the abuse is alleged to have occurred anywhere else.

(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. 11. Section 15632 of the Welfare and Institutions Code is amended 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 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. The signed statements shall be retained by the employer.

(b) Agencies or facilities that employ persons required to make reports pursuant to Section 15630, who were employed prior to January 1, 1986, shall inform those persons of their responsibility to make reports by delivering to them a copy of the statement specified in subdivision (c).

(c) The statement shall be in the following form:

California state law REQUIRES care custodians, health practitioners, and employees of adult protective services agencies and local law enforcement agencies to report physical abuse of elders and dependent adults.

Those professionals must report physical abuse under the following circumstances:

(1) When the reporter has observed an incident that reasonably appears to be physical abuse.

(2) When the reporter has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury, clearly indicates that physical abuse has occurred.

(3) When the reporter is told by an elder or a dependent adult that he or she has experienced behavior constituting physical abuse.

The report must be made immediately, or as soon as possible, by telephone to either the long-term care ombudsman coordinator or to a local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the abuse is alleged to have occurred anywhere else, and must

be followed by a written report within 36 hours. The report must include:

(1) The name of the person making the report.

(2) The name, age, and present location of the elder or dependent adult.

(3) The names and addresses of family members or other persons responsible for the elder or dependent adult's care, if known.

(4) The nature and extent of the person's condition.

(5) Any information that led the reporter to suspect that abuse has occurred.

(6) The date of the incident.

State law also PERMITS the reporting of other types of abuse of elders and dependent adults, such as neglect, intimidation, fiduciary abuse, abandonment, or other treatment that results in physical harm, pain, or mental suffering. These reports may be made when the reporter has actual knowledge or reasonably suspects that abuse has occurred.

The law provides that care custodians, health practitioners, or employees of adult protective services agencies or local law enforcement agencies shall not incur either civil or criminal liability for any report they are required or permitted to make under this law.

However, failure to report physical abuse of an elder or dependent adult is a misdemeanor, punishable by not more than six months in the county jail or by a fine of not more than one thousand dollars ($1,000), or by both fine and imprisonment.

Reports made under this law are confidential and may be disclosed only to the agencies specified. Violation of the confidentiality provisions is also a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than five hundred dollars ($500), or by both fine and imprisonment.

The following is the exact text of portions of the elder and dependment adult abuse reporting law which pertain to the responsibilities of professionals who are required to report abuse of elders and dependent adults:

CONDITIONS UNDER WHICH REPORTING OF PHYSICAL ABUSE IS REQUIRED:

Welfare and Institutions Code Section 15630 (a): Any elder or 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 observed an incident that reasonably appears to be physical abuse, has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury clearly indicates that physical abuse has occurred, or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, shall report the known or suspected instance of physical abuse either to the

long-term care ombudsman coordinator or to a local law enforcement agency when the physical abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the physical abuse is alleged to have occurred anywhere else, immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within 36 hours.

CONDITIONS UNDER WHICH REPORTING OF ABUSE IS PERMITTED:

Welfare and Institutions Code Section 15630 (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 abuse have been inflicted upon an elder or 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 either to a long-term care ombudsman coordinator or to a local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the abuse is alleged to have occurred anywhere else.

PROFESSIONALS WHO ARE REQUIRED TO REPORT PHYSICAL ABUSE OF ELDERS AND DEPENDENT ADULTS:

(a) Care custodians, as defined by Welfare and Institutions Code Section 15610 (h):

"Care custodian" means an administrator or an employee, except persons who do not work directly with elders or dependent adults as part of their offical duties, including members of support staff and maintenance staff, of any of the following public or private facilities:

(1) Twenty-four hour health facilities, as defined in Section 1250, 1250.2, or 1250.3 of the Health and Safety Code.

(2) Clinics.

(3) Home health agencies.

(4) Adult day health care centers.

(5) Secondary schools which serve 18- to 22-year-old dependent adults and postsecondary educational institutions which serve dependent adults or elders.

(6) Sheltered workshops.

(7) Camps.

(8) Community care facilities, as defined in Section 1502 of the Health and Safety Code and residential care facilities for the elderly, as defined by Section 1569.2 of the Health and Safety Code.

(9) Respite care facilities.

(10) Foster homes.

(11) Regional centers for persons with developmental disabilities.

(12) State Department of Social Services and State Department of

Health Services licensing divisions.

(13) County welfare departments.

(14) Offices of patients' rights advocates.

(15) Office of the long-term care ombudsman.

(16) Offices of public conservators and public guardians.

(17) Any other protective or public assistance agency which provides medical services or social services to elders or dependent adults.

(b) Health practitioners, as defined by Welfare and Institutions Code Section 15610 (i):

"Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker, 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, a state or county public health employee who treats an elder or a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines, or treats elder or dependent adults.

(c) Employees of adult protective services agencies, as defined by Welfare and Institutions Code Section 15610 (j):

"Adult protective services agency" means a county welfare department except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

(d) Employees of local law enforcement agencies, as defined by Welfare and Institutions Code Section 15610 (q):

"Local law enforcement agency" means a city police or county sheriff's department, or a county probation department except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

DEFINITION OF "ELDER":

Welfare and Institutions Code Section 15610 (a): "Elder" means any person residing in this state, 65 years of age or older.

DEFINITION OF "DEPENDENT ADULT":

Welfare and Institutions Code Section 15610 (b): "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.

For purposes of this chapter, "dependent adult" includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility as defined by Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

DEFINITION OF "ABUSE OF AN ELDER OR A DEPENDENT ADULT":

Welfare and Institutions Code Section 15610 (g): "Abuse of an elder or a dependent adult" means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods and services which are necessary to avoid physical harm or mental suffering.

DEFINITION OF "PHYSICAL ABUSE":

Welfare and Institutions Code Section 15610 (c): "Physical abuse" means all of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined by Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, which means any of the following:

(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 described 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) The cost of printing, distribution, and filing of these statements shall be borne by the employer.

(e) On and after January 1, 1987, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 15630, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (c) to the person at the same time as it transmits the document

indicating licensure or certification to the person.

(f) As an alternative to the procedure required by subdivision (e), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1987.

(g) The retention of statements required by subdivision (a), and the delivery of statements required by subdivision (b) shall be the full extent of the employer's duty pursuant to this section. The failure of any employee or other person associated with the employer to report physical abuse of elders or dependent adults or otherwise meet the requirements of this chapter shall be the sole responsibility of that person. The employer or facility shall incur no civil or other liability for the failure of such persons to comply with the requirements of this chapter.

SEC. 12. Section 15633 of the Welfare and Institutions Code is amended to read:

15633. (a) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other person responsible for the elder or dependent adult's care, if known, the nature and extent of the elder or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or 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 and the long-term care ombudsman coordinators.

(c) Information relevant to the incident of elder or 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 elder or 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, long-term care ombudsman coordinators, licensing agencies, or local law enforcement agencies, or to counsel representing an adult protective services agency, long-term care ombudsman coordinator, licensing agency, 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. 13. Section 15633.5 of the Welfare and Institutions Code is amended to read:

15633.5. (a) The reports made pursuant to Sections 15630 and 15631 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 elder or 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 elder and 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 elder or 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. 14. Section 15634 of the Welfare and Institutions Code is amended 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 elder or 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 elder or 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 elder or 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 elder

or 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 elder or 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 elder or 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. 15. Section 15635 of the Welfare and Institutions Code is amended to read:

15635. (a) Investigation of reports of known or suspected instances of abuse are the responsibility of the county adult protective services agency and the local law enforcement agency having jurisdiction over the case unless another public agency is given responsibility for investigation in that jurisdiction, except that the investigation of reports of abuse alleged to have occurred in a long-term care facility is the responsibility of the long-term care ombudsman coordinator and the local law enforcement agency.

(b) Each county adult protective services 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.

SEC. 16. Section 15640 of the Welfare and Institutions Code is amended 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, the Department of Aging, and the Department of Justice, shall establish minimum guidelines for determining when an investigation of an allegation of abuse of an elder or a dependent adult 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 Department of Aging, 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 impact of these guidelines on local law enforcement agencies.

SEC. 17. Section 15650 is added to the Welfare and Institutions Code, to read:

15650. (a) An elder or dependent adult abuse victim may refuse or withdraw consent at any time to an investigation or the provision of protective services by an adult protective services agency or long-term care ombudsman coordinator. The adult protective services agency shall act only with the consent of the victim unless a violation of the Penal Code has been alleged. The long-term ombudsman shall act only with the consent of the victim and disclose confidential information only after consent to disclose is given by the victim or pursuant to court order.

(b) If the elder or dependent adult 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. 18. 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. 19. Notwithstanding any other provision of law, no person or entity shall incur any civil or criminal liability for any act or omission in connection with the requirements of this chapter prior to 60 days after the effective date of this act.

SEC. 20. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 reduce unnecessary duplication of effort on the part of agencies in the implementation of provisions affected by this act, it is necessary that this act go into effect immediately.

CHAPTER 770

An act to add Article 8.1 (commencing with Section 421) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, and to add Section 5654 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Article 8.1 (commencing with Section 421) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 8.1. Child and Adolescent Resource Program

421. (a) The Legislature finds that recent responsibilities for assessing and treating the mental disorders of children and adolescents have been required of county mental health programs creating an unmet need for personnel in the field of mental health who have expertise in preventing, diagnosing, and treating the mental and emotional disorders of children.

(b) Recent attention to child abuse cases has increased the awareness of the special needs of children who are victims of abuse and of those who are then called to the courtroom as witnesses. Mental health personnel with special training are also needed for these children.

421.1. It is the purpose of the Legislature, in enacting this part, to encourage the Regents of the University of California to augment the academic child and adolescent programs at the medical schools of the University of California. The programs shall include, but not be limited to, one or more of the following elements:

(a) Clinical or postgraduate educational programs in child and adolescent psychiatry to instruct and train students in recognizing and treating children with mental and emotional problems, both organic and functional.

(b) Provision of continuing education for specialists in the care and treatment of children and adolescents with mental and emotional problems.

(c) Research into the causes, prevention, and treatment of mental disorders of children.

421.3. By February 1, 1987, the Regents of the University of California are requested to submit to the Legislature a report on their assessment of the need for, and relative priority of, increased university programs for training specialists in the care and treatment of children and adolescents with mental and emotional problems in this state. It is requested that the report include, but not be limited to, all of the following.

(a) A description of the university's programs for the training of specialists in the care and treatment of children and adolescents with mental and emotional problems.

(b) A determination of the need for and relative priority of increased university training and research in this field.

(c) The estimated costs of programs to train additional specialists.

SEC. 2. Section 5654 is added to the Welfare and Institutions Code, to read:

5654. In order to serve the increasing needs of children and adolescents with mental and emotional problems, county mental health programs may use funds allocated under the Short-Doyle Act for the purposes of consultation and training.

CHAPTER 771

An act to amend Sections 1280a and 1280b of, and to add Section 1280.1 to, the Penal Code, relating to bail.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 1280a of the Penal Code is amended to read:

1280a. All affidavits for the justification of bail shall set forth the amount of the bail undertaking, a notice that the affidavit shall constitute a lien upon the real property described in the affidavit immediately upon the recordation of the affidavit with the county recorder pursuant to Section 1280b of the Penal Code, and the legal description and assessor's parcel numbers of the real estate owned by the bail, which is scheduled as showing that they each possess the qualifications provided in the preceding sections, the affidavit shall

also show all encumbrances upon the real estate known to affiants and shall show the number of bonds, if any, on which each bail has qualified, within one year before the date of the affidavit, together with the amount of each such bond, the date on which, the county in which, and the name of the principal for whom each bond was executed.

The affidavit shall also state the amount of each bail's liability on bonds executed in previous years and not exonerated at the date of the execution of the affidavit and be signed and acknowledged by the owner of the real property.

SEC. 2. Section 1280b of the Penal Code is amended to read:

1280b. It shall be the duty of the judge or magistrate to file with the county clerk, within 24 hours after presentation to him or her, all affidavits for the justification of bail, by delivering or mailing them to the county clerk. Certified copies of the affidavits for justification of bail involving equity in real property may upon the written order of the judge or magistrate be recorded with the county recorder.

SEC. 3. Section 1280.1 is added to the Penal Code, to read:

1280.1. (a) From the time of recording an affidavit for the justification of bail, the affidavit shall constitute an attachment lien governed by Sections 488.500, 488.510 and 489.310 of the Code of Civil Procedure in the amount of the bail undertaking, until exonerated, released, or otherwise discharged. Any release of the undertaking shall be effected by an order of the court, filed with the county clerk, with a certified copy of the order recorded in the office of the county recorder.

If the bail is forfeited and summary judgment is entered, pursuant to Sections 1305 and 1306, the lien shall have the force and effect of a judgment lien, by recordation of an abstract of judgment, which, may be enforced and satisfied pursuant to Section 1306 as well as through the applicable execution process set forth in Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

CHAPTER 772

An act to add Section 11509 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 11509 is added to the Health and Safety Code, to read:

11509. (a) A portion, not to exceed 5 percent, of the proceeds subject to distribution pursuant to paragraph (2) of subdivision (b)

of Section 11489 and which are derived by a county from seizures and forfeitures made pursuant to Article 8 (commencing with Section 11470) which have occurred as a result of information provided to law enforcement agencies by nonprofit organizations established for the purposes of aiding those seizures and forfeitures, may be allocated to eligible organizations for the purpose of funding the operations of those organizations.

The eligibility criteria and amount of funds to be allocated under this section shall be determined by each county pursuant to county ordinance.

(b) Notwithstanding any other provision of law, subdivision (a) shall become operative in a county only if the board of supervisors adopts the provisions of that subdivision by ordinance.

CHAPTER 773

An act to amend, repeal, and add Sections 2550, 2552, 2553, 2555.1, 2565, and 2566 of, to add Sections 2554 and 2566.1 to, to add Article 1.5 (commencing with Section 2559.1) to Chapter 5.5 of Division 2 of, and to amend and repeal Sections 2553.7 and 2555.2 of, the Business and Professions Code, relating to dispensing opticians, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 2550 of the Business and Professions Code is amended to read:

2550. Individuals and firms filling prescriptions of physicians and surgeons licensed by the Division of Licensing of the Board of Medical Quality Assurance or optometrists licensed by the State Board of Optometry for prescription lenses and kindred products, and, as incidental to the filling of such prescriptions, doing any or all of the following acts, either singly or in combination with others, taking facial measurements, fitting and adjusting such lenses and fitting and adjusting spectacle frames, shall be known as dispensing opticians and shall not engage in such business unless registered with the Division of Allied Health Professions of the Board of Medical Quality Assurance.

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 2550 is added to the Business and Professions Code, to read:

2550. Individuals and firms engaged in the business of filling prescriptions of physicians and surgeons licensed by the Division of

Licensing of the Board of Medical Quality Assurance or optometrists licensed by the State Board of Optometry for prescription lenses and kindred products, and, as incidental to the filling of those prescriptions, doing any or all of the following acts, either singly or in combination with others, taking facial measurements, fitting and adjusting those lenses and fitting and adjusting spectacle frames, shall be known as dispensing opticians and shall not engage in that business unless registered with the Division of Allied Health Professions of the Board of Medical Quality Assurance.

This section shall become operative on January 1, 1988.

SEC. 3. Section 2552 of the Business and Professions Code is amended to read:

2552. Each application, to enable the division to determine if applicant is entitled to be registered under this chapter, shall be verified under oath by the person or persons required to sign the application and shall contain the matters referred to in subdivision (a) hereof and be accompanied by the affidavits referred to in subdivision (b):

(a) The name, address and time, place and extent of the previous experience of the person or persons who will manage applicant's dispensing operations. The person or persons who will manage applicant's dispensing operations shall have at least five full years of actual experience in fitting and adjusting any prescription lens or lenses. The division shall have authority to provide that in lieu of not more than three years of the five years required of actual experience in fitting and adjusting lenses referred to in this section, such person may substitute graduation from a two-year college program duly approved by the division in a course of studies in the technique of applied optical dispensing.

(b) The sworn affidavits, in a form prescribed by the board, of three physicians and surgeons who specialize in the treatment of eyes and who are duly licensed by the Board of Medical Quality Assurance or by the medical licensing authority in any other state, stating and certifying according to the personal knowledge of each physician and surgeon signing the same, that each person referred to in subdivision (a) has the required experience and that each such person is fully competent and qualified to accurately fill prescriptions for such prescription lens or lenses and to fit and adjust such lenses. In lieu of one or two of such affidavits of physicians and surgeons, the applicant may substitute a like number of sworn affidavits, in a form prescribed by the division, (1) of a person who was or is lawfully engaged in fitting and adjusting prescription lenses and who was or is the former or present employer of such person referred to in subdivision (a) or (2) of any officer, managing agent or manager of dispensing operations of such an employer, stating and certifying according to the personal knowledge of the affiant that such person referred to in subdivision (a) possesses the foregoing experience and qualifications.

Applicant shall furnish such additional information or proof, oral

or written, with respect to the competency and qualifications of applicant and each of the foregoing persons which the board may request, including information and proof relating to provisions of Division 1.5 (commencing with Section 475).

In its discretion, the division may require applicant's proposed manager of dispensing operations to appear before a representative of the board to testify under oath and supply additional information as to his or her experience and qualifications. The proposed manager shall appear at a place designated by the board that is not more than 150 miles from the address for which registration has been applied.

The division in considering any application for a renewal of a certificate may in its discretion require from applicant the same information and proof with respect to any or all of the foregoing matters.

The division shall promptly notify any applicant if, as of the 30th day following the submission of an application under this chapter, the application and supporting documentation, including affidavits, are not substantially complete and in proper form. Such notification shall be in writing, shall state specifically what documents or other information are to be supplied by the applicant to the board, and shall be sent to the applicant by certified or registered mail. Within 30 days of the applicant's submission of the requested documents or information to the board, the board shall notify the applicant by certified or registered mail if the board requires additional documents or information.

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. Section 2552 is added to the Business and Professions Code, to read:

2552. Each application shall be verified under oath by the person required to sign the application and shall designate the name, address, and business telephone number of the applicant's employee who will be responsible for handling customer inquiries and complaints with respect to the business address for which registration is applied.

The applicant shall furnish such additional information or proof, oral or written, which the division may request, including information and proof relating to the provisions of Division 1.5 (commencing with Section 475).

The division shall promptly notify any applicant if, as of the 30th day following the submission of an application under this chapter, the application and supporting documentation are not substantially complete and in proper form. The notification shall be in writing, shall state specifically what documents or other information are to be supplied by the applicant to the board, and shall be sent to the applicant by certified or registered mail. Within 30 days of the applicant's submission of the requested documents or information to the board, the board shall notify the applicant by certified or

registered mail if the board requires additional documents or information.

This section shall become operative on January 1, 1988.

SEC. 5. Section 2553 of the Business and Professions Code is amended to read:

2553. If the board, after investigation, approves such application and finds the applicant to be competent and qualified to engage in the business of dispensing optician it shall register such applicant and issue to the applicant a certificate of dispensing optician. If the board does not so determine it shall deny the application. A separate certificate of registration shall be required for each address where the business is to be conducted. Such certificate authorizes the applicant, its agents and employees acting therefor without further license, to engage in the business defined in Section 2550, except that if the applicant also desires to dispense contact lenses the applicant shall also comply with the requirements of Article 2 (commencing with Section 2560). Such certificate of registered dispensing optician shall be at all times displayed in a conspicuous place at the place of business licensed. Such certificate shall not be transferable, but on application to the division there may be registered a change of address of such certificate.

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. 6. Section 2553 is added to the Business and Professions Code, to read:

2553. If the board, after investigation, approves the application, it shall register the applicant and issue to the applicant a certificate of dispensing optician. A separate certificate of registration shall be required for each address where the business is to be conducted.

A certificate authorizes the applicant, its agents and employees acting therefor to engage in the business defined in Section 2550 provided that the fitting and adjusting of spectacle lenses is performed in compliance with Article 1.5 (commencing with Section 2559.1) and the fitting and adjusting of contact lenses is performed in compliance with Article 2 (commencing with Section 2560).

Each certificate shall be at all times displayed in a conspicuous place at the certified place of business. The certificate shall not be transferable, but on application to the division there may be registered a change of address of the certificate.

This section shall become operative on January 1, 1988.

SEC. 7. Section 2553.7 of the Business and Professions Code is amended to read:

2553.7. During the time an individual or firm is authorized to engage in business at an address for which a separate certificate is issued pursuant to Section 2553, the person in charge of and managing the dispensing operations at that address must possess all of the qualifications specified in Section 2552 and must not be in charge of or manage dispensing operations at any other address. At

all times, the manager shall actively and as his or her principal occupation be in charge of and manage dispensing operations at that address, allowing for usual and customary periods of absence such as for illness and vacation.

A certificate of registration issued for a particular address shall automatically expire 90 days after the time the dispensing operations at that address cease for any reason to be under the charge of and managed by the person so designated in the registrant's previously filed application or renewal application, unless within 90 days from the date of such cessation the registrant submits and the board approves a new application form containing all of the information specified in Section 2552 including the affidavits referred to in subdivision (b) of Section 2552. A certificate of registration shall automatically expire, however, without a 90-day delay in the event the manager designated at that address is transferred to serve as manager at another registered address operated by the registrant, unless prior to such transfer a new manager has been designated by the registrant, approved by the board, and actively in charge of dispensing operations at that address, as herein provided.

Whenever a manager ceases to be an active manager at any address because of death, termination of employment, transfer of employment or any other reason, registrant and the manager, within five days thereafter, shall give written notice to the division thereof, stating the reason for such cessation.

No earlier than January 1 and no later than January 31 of each odd-numbered year, each registrant shall file with the division the name of the person who at the time of filing has charge of and manages the registrant's dispensing operations at each address for which a separate certificate has previously been issued by the division.

In addition to any other remedies or penalties provided by law, the division may, in accordance with Section 2555, suspend, revoke, or refuse to renew the certificate of any individual or firm who has violated any provision of this section.

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. 8. Section 2554 is added to the Business and Professions Code, to read:

2554. Each registrant shall conspicuously and prominently display at each registered location the name of the registrant's employee who is currently designated to handle customer inquiries and complaints and the telephone number where he or she may be reached during business hours.

This section shall become operative on January 1, 1988.

SEC. 9. Section 2555.1 of the Business and Professions Code is amended to read:

2555.1. In the discretion of the Division of Allied Health Professions of the Board of Medical Quality Assurance a certificate

issued hereunder may be suspended or revoked if an individual certificate holder or the persons referred to in Section 2552 who will have charge of or manage the holder's general dispensing operations, or persons having any proprietary interest who will engage in dispensing operations, have been convicted of a crime substantially related to the qualifications, functions and duties of a dispensing optician. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a dispensing optician is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

The proceeding under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

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 prior to January 1, 1988, deletes or extends that date.

SEC. 10. Section 2555.1 is added to the Business and Professions Code, to read:

2555.1. In the discretion of the Division of Allied Health Professions, a certificate issued hereunder may be suspended or revoked if an individual certificate holder or persons having any proprietary interest who will engage in dispensing operations, have been convicted of a crime substantially related to the qualifications, functions and duties of a dispensing optician. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a dispensing optician is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the

verdict of guilty, or dismissing the accusation, information or indictment.

The proceeding under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

This section shall become operative on January 1, 1988.

SEC. 11. Section 2555.2 of the Business and Professions Code is amended to read:

2555.2. Whenever the division imposes disciplinary action against a registrant pursuant to Section 2555, it may also in its decision order the manager who was acting as the registrant's qualified manager at the time of the acts or omissions which resulted in disciplinary action being taken against the registrant, to suspend or terminate or carry on subject to terms and conditions, his or her practice as a qualified manager for any registrant under this chapter.

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. 12. Article 1.5 (commencing with Section 2559.1) is added to Chapter 5.5 of Division 2 of the Business and Professions Code, to read:

Article 1.5. Spectacle Lens Dispensing

2559.1. On and after January 1, 1988, no individual may fit and adjust spectacle lenses unless the registration requirement of Section 2550 is complied with, and unless (1) the individual is a duly registered spectacle lens dispenser as provided in Section 2559.2 or (2) the individual performs the fitting and adjusting under the direct responsibility and supervision of a duly registered spectacle lens dispenser whose certificate of registration is then conspicuously and prominently displayed on the premises. A supervising registered dispenser shall be on the registered premises when an unregistered technician fits and adjusts spectacle lenses, allowing for usual and customary absences including illness and vacation.

2559.2. (a) An individual shall apply for registration as a registered spectacle lens dispenser on forms prescribed by the division. The division shall register an individual as a registered spectacle lens dispenser upon satisfactory proof that the individual has passed the registry examination of the American Board of Opticianry or any successor agency to that board. In the event the division should determine, after hearing, that the registry examination is not appropriate to determine entry level competence as a spectacle lens dispenser or is not designed to measure specific job performance requirements, the division may thereafter prescribe or administer a written examination that meets those specifications. Any examination prescribed or administered by the division shall be given at least twice each year on dates publicly

announced at least 90 days before the examination dates. The division is authorized to contract for administration of an examination.

(b) The division may deny registration where there are grounds for denial under the provisions of Division 1.5 (commencing with Section 475).

(c) The division shall issue a certificate to each qualified individual stating that the individual is a registered spectacle lens dispenser.

(d) Any individual who had been approved as a manager of dispensing operations of a registered dispensing optician under the provisions of Section 2552 as it existed before January 1, 1987, and who had not been subject to any disciplinary action under the provisions of Section 2555.2 shall be exempt from the examination requirement set forth in this section and shall be issued a certificate as a registered spectacle lens dispenser, provided an application for that certificate is filed with the division on or before December 31, 1989.

(e) A registered spectacle lens dispenser is authorized to fit and adjust spectacle lenses at any place of business holding a certificate of registration under Section 2553 provided that the certificate of the registered spectacle lens dispenser is displayed in a conspicuous place at the place of business where he or she is fitting and adjusting.

2559.3. A certificate issued to a registered spectacle lens dispenser may, in the discretion of the division, be suspended or revoked for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder. A certificate may also be suspended or revoked if the individual certificate holder has been convicted of a felony as provided in Section 2555.1.

Any proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the division shall have all the powers granted therein.

2559.4. This article shall not apply to a technician fitting spectacle lenses in the office of a physician and surgeon or optometrist pursuant to Section 2544 if the technician is acting under the direct responsibility and supervision of the physician and surgeon or optometrist who engages in the practice of fitting spectacle lenses for his or her patients.

2559.5. This article shall become operative on January 1, 1988.

SEC. 13. Section 2565 of the Business and Professions Code is amended to read:

2565. The amount of fees prescribed in connection with the registration of dispensing opticians is as follows:

(a) The application fee is fifty dollars ($50), thirty-five dollars ($35) of which may be refunded upon refusal or denial of a certificate.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(c) The renewal fee shall be fixed by the Division of Allied Health Professions at not more than one hundred fifty dollars ($150) and not less than one hundred dollars ($100).

(d) The delinquency fee is fifteen dollars ($15).

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. 14. Section 2565 is added to the Business and Professions Code, to read:

2565. The amount of fees prescribed in connection with the registration of dispensing opticians shall be as set forth in this section unless a lower fee is fixed by the division:

(a) The initial license fee is one hundred dollars ($100), 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 current fee.

(b) The renewal fee is one hundred dollars ($100).

(c) The delinquency fee is twenty-five dollars ($25).

(d) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

This section shall become operative on January 1, 1988.

SEC. 15. Section 2566 of the Business and Professions Code is amended to read:

2566. The amount of fees prescribed in connection with certificates for contact lens dispensers is as follows:

(a) The fee for application to qualify as a registered contact lens dispenser shall be set by the Division of Allied Health Professions in an amount not to exceed one hundred dollars ($100), except that if the certificate is to expire less than one year after its issuance, then the initial fee shall be an amount equal to 75 percent of the application fee fixed by the division.

(b) The biennial fee for the renewal of certificates shall be fixed by the division in an amount not to exceed one hundred dollars ($100).

(c) The delinquency fee is fifteen dollars ($15).

(d) The Division of Allied Health Professions may by regulation provide for a refund of a portion of the application fee to applicants who do not meet the requirements for registration.

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. 16. Section 2566 is added to the Business and Professions Code, to read:

2566. The amount of fees prescribed in connection with

certificates for contact lens dispensers, unless a lower fee is fixed by the division, is as follows:

(a) The application fee for a registered contact lens dispenser shall be one hundred dollars ($100), except that if the certificate is to expire less than one year after its issuance, then the initial fee shall be an amount equal to 75 percent of the application fee fixed by the division.

(b) The biennial fee for the renewal of certificates shall be fixed by the division in an amount not to exceed one hundred dollars ($100).

(c) The delinquency fee is twenty-five dollars ($25).

(d) The division may by regulation provide for a refund of a portion of the application fee to applicants who do not meet the requirements for registration.

(e) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

This section shall become operative on January 1, 1988.

SEC. 17. Section 2566.1 is added to the Business and Professions Code, to read:

2566.1. The amount of fees prescribed in connection with certificates for spectacle lens dispensers shall be as set forth in this section unless a lower fee is fixed by the division:

(a) The application fee is fifty dollars ($50).

(b) The initial registration fee is fifty dollars ($50), except that if the registration will expire less than one year after its issuance, the initial registration fee is an amount equal to 50 percent of the initial fee then in effect.

(c) The renewal fee shall be one hundred dollars ($100).

(d) The delinquency fee is twenty-five dollars ($25).

(e) The fee for replacement of a lost, stolen or destroyed certificate is twenty-five dollars ($25).

This section shall become operative on January 1, 1988.

SEC. 18. 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 774

An act to amend Sections 977.2 and 1347 of the Penal Code, relating to trials.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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, Shasta, or Stanislaus 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. Section 1347 of the Penal Code is amended to read:

1347. (a) It is the intent of the Legislature in enacting this section to provide the court with discretion to employ unusual court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant against the need to protect a child witness and to preserve the integrity of the court's truthfinding function. This discretion is intended to be used selectively when the facts and circumstances in the individual case present compelling evidence of the need to use these unusual procedures.

(b) Notwithstanding any other provision of law, the court in any criminal proceeding, upon written notice of the prosecutor made at least three days prior to the date of the preliminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court's own motion, may order that the testimony of a minor 10 years of age or younger at the time of the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant, and attorneys, and communicated to the courtroom by means of two-way closed-circuit television, if the court makes all of the following findings:

(1) The minor's testimony will involve a recitation of the facts of an alleged sexual offense committed on or with the minor.

(2) The impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, is shown by

clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit television is used.

(A) Threats of serious bodily injury to be inflicted on the minor or a family member, of incarceration or deportation of the minor or a family member, or of removal of the minor from the family or dissolution of the family, in order to prevent or dissuade the minor from attending or giving testimony at any trial or court proceeding or to prevent the minor from reporting the alleged sexual offense or from assisting in criminal prosecution.

(B) Use of a firearm or any other deadly weapon during the commission of the crime.

(C) Infliction of great bodily injury upon the victim during the commission of the crime.

(D) Conduct on the part of the defendant or defense counsel during the hearing or trial which causes the minor to be unable to continue his or her testimony.

In making the determination required by this section, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor's refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary in order to obtain the minor's testimony.

(3) The equipment available for use of two-way closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants, and attorneys.

(c) (1) The hearing on a motion brought pursuant to this section shall be conducted out of the presence of the jury.

(2) Notwithstanding Section 804 of the Evidence Code or any other provision of law, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing; nor shall the court deny the motion on the ground that the minor has not testified.

(3) In determining whether the impact on an individual child of one or more of the four factors enumerated in paragraph (2) of subdivision (b) is so substantial that the minor is unavailable as a witness unless closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the questioning of the minor and shall not permit the prosecutor or defense counsel to examine the minor. The prosecutor and defense counsel shall be permitted to submit proposed questions to the court prior to the session in chambers. Defense counsel shall be afforded a reasonable opportunity to consult with the defendant or defendants prior to the conclusion of the session in chambers.

(d) When the court orders the testimony of a minor to be taken

in another place outside of the courtroom, the court shall do all of the following:

(1) Make a brief statement on the record, outside of the presence of the jury, of the reasons in support of its order. While the statement need not include traditional findings of fact, the reasons shall be set forth with sufficient specificity to permit meaningful review and to demonstrate that discretion was exercised in a careful, reasonable, and equitable manner.

(2) Instruct the members of the jury that they are to draw no inferences from the use of two-way closed-circuit television as a means of facilitating the testimony of the minor.

(3) Instruct respective counsel, outside of the presence of the jury, that they are to make no comment during the course of the trial on the use of two-way closed-circuit television procedures.

(4) Instruct the support witness, outside of the presence of the jury, that he or she is not to coach, cue, or in any way influence or attempt to influence the testimony of the minor.

(5) Order that a complete record of the examination of the minor, including the images and voices of all persons who in any way participate in the examination, be made and preserved on video tape in addition to being stenographically recorded. The video tape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and his or her attorney during ordinary business hours. The video tape shall be destroyed after five years have elapsed from the date of entry of judgment. If an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been ordered. Any video tape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the witness. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(e) When the court orders the testimony of a minor to be taken in another place outside the courtroom, only the minor, a support person designated pursuant to Section 868.5 of the Penal Code, a nonuniformed bailiff, and, after consultation with the prosecution and the defense, a representative appointed by the court, shall be physically present for the testimony. A video tape shall record the image of the minor and his or her testimony, and a separate video tape shall record the image of the support person.

(f) When the court orders the testimony of a minor to be taken in another place outside the courtroom, the minor shall be brought into the judge's chambers prior to the taking of his or her testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the child and to allow the attorneys an opportunity to establish rapport with the child to facilitate later questioning by closed-circuit television. No participant shall discuss the defendant or any of the facts of the case with the minor during

this meeting.

(g) When the court orders the testimony of a minor to be taken in another place outside the courtroom, nothing in this section shall prohibit the court from ordering the minor to be brought into the courtroom for a limited purpose including the identification of the defendant or defendants as the court deems necessary.

(h) The examination shall be under oath, and the defendant's image shall be transmitted live to the witness via two-way contemporaneous closed-circuit television.

(i) Nothing in this section shall affect the disqualification of witnesses pursuant to Section 701 of the Evidence Code.

(j) The Judicial Council shall submit a report to the Legislature on or before January 1, 1988, summarizing the experience of courts which have used contemporaneous closed-circuit television pursuant to this section.

(k) The cost of examination by two-way contemporaneous closed-circuit television ordered pursuant to this section shall be borne by the court out of its existing budget.

SEC. 3. 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 775

An act to amend Section 14133.1 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 14133.1 of the Welfare and Institutions Code is amended to read:

14133.1. (a) The director shall determine which of the utilization controls in Section 14133 shall be applied to any specific service or group of services which are subject to utilization controls. Each utilization control shall be reasonably related to the purpose for which it is imposed.

(b) Except as provided in Sections 14103.6 and 14133.15, neither prior authorization nor the limitation specified in subdivision (d) of Section 14133 shall be required for the first two services per month which are included among the services listed in subdivision (a) of Section 14132, or for the first two drug prescriptions purchased

during any one month, provided that the prescription drugs are included in the Medi-Cal Drug Formulary and the prescription otherwise conforms to applicable formulary requirements.

(c) The director shall, after a determination of cost benefit, modify or eliminate the requirement of prior authorization as a control for treatment, supplies, or equipment which costs less than one hundred dollars ($100), except for prescribed drugs, provided that the requirement of prior authorization for treatment, supplies, or equipment may be reinstituted upon a finding by the department that the elimination of the requirement has resulted in unnecessary utilization, and upon notice to the Joint Legislative Budget Committee 30 days prior to the reinstitution of the requirement of prior authorization. Modification of the utilization controls may include establishing prior authorization review thresholds at levels other than one hundred dollars ($100) if indicated by the cost-benefit analysis.

CHAPTER 776

An act to amend Section 4866 of the Business and Professions Code, relating to veterinarians.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 4866 of the Business and Professions Code is amended to read:

4866. (a) The board shall establish criteria for the acceptance, denial, or termination of veterinarians and animal health technicians in a diversion program. Only those veterinarians and animal health technicians who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a program.

(b) The board shall establish criteria for the selection of administrative physicians who shall examine veterinarians and animal health technicians requesting diversion under a program. Any reports made under this article by the administrative physician shall constitute an exception to Sections 994 and 995 of the Evidence Code.

(c) The diversion program may accept no more than 100 participants who are licensees of the board.

(d) The board shall evaluate the effectiveness and necessity of the diversion program and report its findings to the Senate Committee on Business and Professions and the Assembly Committee on Agriculture on or before March 1, 1989.

CHAPTER 777

An act to add Sections 11100.1 and 11100.5 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 11100.1 is added to the Welfare and Institutions Code, to read:

11100.1. (a) For purposes of the In-Home Supportive Services program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3, "good cause," as defined in Section 11100, shall include, but is not limited to, the following:

(1) Outpatient medical treatment necessary to maintain the recipient's health where the medical treatment is not available in California.

(2) Short-term schooling or training necessary for the recipient to obtain self-sufficiency where training which would achieve that objective is not available or accessible in California.

(3) Court-issued subpoena or summons.

(b) The director shall promulgate regulations for the application of this section.

SEC. 2. Section 11100.5 is added to the Welfare and Institutions Code, to read:

11100.5. Notwithstanding Section 11100.1, or any other provision of law, in-home supportive services provided pursuant to Article 7 (commencing with Section 12300) of Chapter 3 shall be suspended for any recipient who leaves the state and remains absent from the state for a period which exceeds six months. In-home supportive services shall not be resumed until the recipient, upon returning to the state, requests a reassessment of need from the county welfare department, and the reassessment has been completed.

CHAPTER 778

An act to amend Section 44558.1 of, to amend and renumber Sections 44558.2 and 44558.3 of, and to add Section 44558.2 to, the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 44558.1 of the Health and Safety Code is amended to read:

44558.1. A project for which financial assistance may be provided pursuant to this article shall meet all of the following requirements:

(a) The project shall be located in California.

(b) The project shall be used to acquire, construct, or install equipment to recycle, reduce at the source, or treat hazardous wastes by removing liquids or reducing the toxicity of the hazardous waste, thereby reducing the need to dispose of the hazardous waste into or onto the land, including land farms, deep injection wells, surface impoundments, and landfills. The project shall not utilize surface impoundments of hazardous waste for the purpose of evaporation.

(c) The project shall comply with any other requirements which the authority, in consultation with the State Department of Health Services, the State Water Resources Control Board, the State Air Resources Board, and any other appropriate state agency, may determine.

(d) The State Department of Health Services, and other state agencies as appropriate, shall inspect the project when construction is completed and operation has begun, and at suitable intervals thereafter, to ensure that the project appropriately recycles or treats hazardous waste. Inspection reports shall be submitted to the authority.

SEC. 2. Section 44558.2 of the Health and Safety Code is amended and renumbered to read:

44558.3. A participating party receiving a loan or other form of financial assistance pursuant to this article shall provide the authority with an annual report, in the form prescribed by the authority, describing the performance of the project.

SEC. 3. Section 44558.2 is added to the Health and Safety Code, to read:

44558.2. The financial assistance which may be provided pursuant to this article shall include the costs of engineering studies to produce conceptual designs for the project's construction and implementation if the project is to be acquired, constructed, or installed by a small business.

SEC. 4. Section 44558.3 of the Health and Safety Code is amended and renumbered to read:

44558.4. (a) The Hazardous Waste Reduction Incentive Account is hereby created in the General Fund.

The funds deposited in that account shall be available, upon appropriation by the Legislature in the annual Budget Act, for carrying out the purposes of this article.

(b) Notwithstanding Section 16475 of the Government Code, any interest earned or increment which accrues in the Hazardous Waste Reduction Incentive Account shall be credited to that account and shall not be transferred to the Surplus Money Investment Fund.

CHAPTER 779

An act to add Section 17142 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 17142 is added to the Revenue and Taxation Code, to read:

17142. (a) Gross income does not include compensation and allowances received for active duty service as a member below the grade of commissioned officer in the California National Guard or State Military Reserve for any month during any part of which that member did either of the following:

(1) Served pursuant to a declaration of emergency by the Governor in accordance with Section 143 or 146 of the Military and Veterans Code.

(2) (A) Was hospitalized as a result of wounds, disease, or injury incurred while serving under the declaration of emergency specified in paragraph (1).

(B) This paragraph shall not apply for any month beginning more than two years after the date of termination of the emergency specified in paragraph (1).

(b) Subdivision (a) shall apply to commissioned officers of the California National Guard and State Military Reserve, except that the exclusion from gross income of compensation and allowances shall not exceed five hundred dollars ($500) per month.

(c) For purposes of this section:

(1) "Commissioned officer" does not include a commissioned warrant officer.

(2) Service is performed only if performed on or after the date the declaration of emergency specified in paragraph (1) of subdivision (a) is declared by the Governor and on or before the date of termination of that emergency, as designated by the Governor.

(3) "Compensation and allowances" does not include pension and retirement pay.

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 780

An act to amend Sections 26 and 27 of, and to add Section 1813 to, the Streets and Highways Code, relating to city streets.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 26 of the Streets and Highways Code is amended to read:

26. As used in the general provisions and in Divisions 1 (commencing with Section 50), 2 (commencing with Section 900), and 2.5 (commencing with Section 1800), unless the context or a specific provision otherwise requires, "acquire," or any of its variants, when used with reference to real property or any interest therein, includes, but is not limited to, both of the following:

(a) Taking by condemnation, purchase, or lease.

(b) Receiving by donation or dedication.

SEC. 2. Section 27 of the Streets and Highways Code is amended to read:

27. As used in the general provisions and in Divisions 1 (commencing with Section 50), 2 (commencing with Section 900), and 2.5 (commencing with Section 1800), "maintenance" includes any of the following:

(a) The preservation and keeping of rights-of-way, and each type of roadway, structure, safety convenience or device, planting, illumination equipment, and other facility, in the safe and usable condition to which it has been improved or constructed, but does not include reconstruction or other improvement.

(b) Operation of special safety conveniences and devices, and illuminating equipment.

(c) The special or emergency maintenance or repair necessitated by accidents or by storms or other weather conditions, slides, settlements, or other unusual or unexpected damage to a roadway, structure, or facility.

The degree and type of maintenance for each highway, or portion thereof, shall be determined in the discretion of the authorities charged with the maintenance thereof, taking into consideration traffic requirements and moneys available therefor.

SEC. 3. Section 1813 is added to the Streets and Highways Code, to read:

1813. (a) The provisions of Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 for the construction or maintenance of county roads may be utilized within any city for the construction and maintenance of city streets. For the purpose of construction or maintenance of city streets under this section, all references in that Article 3 to counties and their officers and to county funds, taxes, and

service charges shall be deemed to be references to cities, city officers, and city funds, taxes, and service charges.

(b) The legislative body of any city may consent to the inclusion within a permanent road division formed by a county of streets within the corporate limits of the city, and the board of supervisors of the county in which the city is located shall then have jurisdiction over all proceedings taken or to be taken under that Article 3 in the same manner and to the same extent as if the city streets were county roads.

(c) This section is an alternative to any other provision of law that provides for the construction or maintenance of city streets.

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.

CHAPTER 781

An act to add Article 5.3 (commencing with Section 769) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Article 5.3 (commencing with Section 769) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 5.3. Agents and Brokers

769. (a) After a written agency contract has been in effect for at least one year, it shall not be terminated or amended by an insurer, except by mutual agreement, unless 120 days advance written notice has been given by the insurer to the agent.

(b) The advance notice required by this section does not apply if the agent has done any of the following:

(1) Exceeded his or her binding authority under the agency contract.

(2) Violated the written underwriting rules or regulations of the insurer, a copy of which has been provided to the agent, which misleads the insurer concerning the nature or extent of a risk.

(3) Failed to comply with the fiduciary requirements set forth in Section 1733, 1734, 1734.5, or 1735.

(4) Failed, either within 10 days after written notice upon failure to remit funds within the time limits set forth in the agency contract

or within 30 days after written demand where the agency contract does not set forth such time limits, to remit funds due and owing to the insurer.

(5) Had his or her agency license suspended or revoked by the commissioner.

(6) Engaged in fraudulent acts affecting his or her relationship with the insurer or its insureds.

(c) When an agent's authority to represent an insurer is terminated as provided by this section, the rights, duties, and obligations set forth in the terminated agency contract of the agent having property rights in renewals shall continue solely with respect to policies then in force or renewed as provided by this section until those policies are canceled in accordance with law, placed by the agent with another insurer, or have expired. The agent's authority during the period following notice of termination of his or her agency contract shall be governed by the written agency contract between the agent and the insurer, except that, after the receipt of the notice of termination, the agent shall not bind new risks on behalf of the insurer, renew policies except as permitted by this section, or otherwise increase the obligation of the insurer, without the express approval of the insurer or in accordance with the terms of an existing policy.

(d) If a terminated agent is unable, after making a good faith effort, to place existing policies with another insurer, the insurer then insuring the risk shall, at the agent's request, renew any insurance contract written by the agent for the insurer for one policy term or a period of one year, whichever is shorter. The renewal shall be at the insurer's premium rates in effect on the date of renewal and at prevailing commission rates for that class or line of business in effect on the date of renewal for agents whose contracts are not terminated.

(e) Notwithstanding any other provision of this section, no insurer shall be required to renew any policy of insurance pursuant to the provisions of this section if any of the following apply:

(1) The agent is no longer the agent of record with respect to the policy.

(2) The agent has died or has become unable to conduct his or her business affairs.

(3) The agent has failed, either within 10 days after written demand upon failure to remit funds within the time limits set forth in the agency contract or within 30 days after written demand where the agency contract does not set forth such time limits, to remit funds due and owing to the insurer.

(4) The agent has failed to follow the written instructions of the insurer, a copy of which has been provided to the agent, generally applicable to the renewal of policies.

(5) The commissioner has determined that the renewal of the policy would threaten the solvency of the insurer.

(6) The insurer suffers the withdrawal of reinsurance covering all

or part of the risk and this withdrawal of reinsurance is likely to threaten, in the opinion of the commissioner, the financial integrity or solvency of the insurer.

(7) The insurer has withdrawn from the State of California in accordance with Sections 1070 to 1076, inclusive.

(8) There has been a material change in the risk to be insured under the policy.

(f) This section shall not apply to a life insurer, an agent of a life insurer, an agent who is the employee of an insurer, or to an agent who, by contractual agreement either represents only one insurer or group of affiliated insurers or who is required by contract to submit risks to a specified insurer or group of affiliated insurers prior to submitting them to other insurers.

(g) This section shall apply to written agency contracts becoming effective on or after the effective date of this section.

CHAPTER 782

An act to add Article 4.5 (commencing with Section 12591) to Chapter 1 of Division 7 of the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Article 4.5 (commencing with Section 12591) is added to Chapter 1 of Division 7 of the Food and Agricultural Code, to read:

Article 4.5. Commercial Laboratories

12591. The director may accredit a commercial laboratory to test produce or environmental samples, including air, water, soil, and plant or animal tissue for regulatory pesticide residue purposes if the director finds all of the following conditions:

(a) That the department laboratories cannot handle required testing in a timely manner or that the use of a commercial laboratory is more cost-effective to the department or a segment of agriculture.

(b) That the laboratory agrees to and participates in a quality control oversight program as specified by the director.

(c) That the laboratory's control and analytical protocols meet criteria established by the director.

(d) That, as part of the quality control oversight program, the director may conduct unannounced onsite inspections of the laboratory during normal business hours.

12592. The director may charge a fee for accreditation and

quality control oversight in an amount sufficient to cover the reasonable costs of carrying out these programs.

12593. The director may refuse to accredit, or may suspend any accreditation, if the applicant or the accredited laboratory, as the case may be, does any of the following:

(a) Does not meet, or no longer meets, the requirements stated in Section 12591.

(b) Fails to perform in accordance with the performance standards set forth in the quality control oversight program.

12594. Analysis data developed by an accredited laboratory shall be subject to confirmation by a laboratory of the department prior to an official regulatory action of the director.

12595. In the event of a dispute of the findings of a chemical analysis between or among two or more accredited laboratories or between an accredited laboratory and a laboratory of the department, an appeal analysis may be requested by letter, telegram, or other writing to the director. The sample to be analyzed in the appeal analysis shall be submitted to the headquarters laboratory of the department at Sacramento. The cost of the appeal analysis, including any sampling or shipping required, shall be at the expense of the requesting party. The findings from the appeal analysis are binding on all parties.

CHAPTER 783

An act to amend Sections 353.5 and 385 of the Code of Civil Procedure, to amend Section 18102 of the Health and Safety Code, to amend Sections 20, 584.2, 584.3, 584.5, 584.6, 605, 704.2, 707, 718.6, 771.3, 851.5, 854, 910, 1080, 1191, 1200.5, and 1469 of, to add Chapter 6 (commencing with Section 6600) to Part 3 of Division 6 of, to add Division 8 (commencing with Section 13000) and Division 10 (commencing with Section 20100) to, to repeal and add Section 1406 of, and to repeal Chapter 10 (commencing with Section 630) and Article 4a (commencing with Section 970) of Chapter 15 of Division 3 of, the Probate Code, and to amend Sections 5910 and 9916 of the Vehicle Code, relating to decedents' estates.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 353.5 of the Code of Civil Procedure is amended to read:

353.5. If a person against whom an action may be brought dies before the expiration of the statute of limitations for the commencement of the action and the cause of action survives, an action against the surviving spouse of the person which is brought

pursuant to Chapter 3 (commencing with Section 13550) of Part 2 of Division 8 of the Probate Code may be commenced within four months after the death of the person or before the expiration of the statute of limitations which would have been applicable to the cause of action against the person if the person had not died, whichever occurs later.

SEC. 1.5. Section 385 of the Code of Civil Procedure is amended to read:

385. (a) An action or proceeding does not abate by the death, or any disability of a party, or by the transfer of any interest therein, if the cause of action survives or continues. In case of the death or any disability of a party, the court, on motion, may allow the action or proceeding to be continued by or against his or her representative or successor in interest. In case of any other transfer of interest, the action or proceeding may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action or proceeding.

(b) In the case of an action for injury to, for the death of, a person caused by the wrongful act or neglect of the defendant, and the defendant dies after the commencement of the action, the action may be continued, against the decedent as the original party defendant without the appointment of a representative or successor in interest, if the decedent had liability insurance applicable to the cause of action, the amount of damages sought in the action does not exceed the maximum amount of such insurance, or recovery of excess thereof is waived, and the estate of the decedent otherwise qualifies for summary probate proceedings pursuant to Part 1 (commencing with Section 13000) of Division 8 of the Probate Code. No action may be continued under this subdivision unless the insurer has been served with the complaint filed in the action. For good cause, the court, upon motion of an interested person or upon its own motion, may order the appointment of a personal representative and his substitution as the defendant.

SEC. 2. 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, truck camper, or floating home registered under this part, without the decedent leaving other property necessitating probate, and irrespective of the value of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, the following person or persons may secure a transfer of registration of the title or interest of the decedent:

(1) The sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 of the Probate Code, unless the manufactured home, mobilehome, commercial coach, truck camper, or floating home is, by will, otherwise bequeathed.

(2) The sole beneficiary or all of the beneficiaries who succeeded

to the manufactured home, mobilehome, commercial coach, truck camper, or floating home under the will of the decedent, where the manufactured home, mobilehome, commercial coach, truck camper, or floating home 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, truck camper, or floating home either (i) as the sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 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, truck camper, or floating home 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) If the department is presented with the documents specified in paragraphs (1) and (2) of subdivision (b), no liability shall be incurred by the department or any officer or employee of the department by reason of the transfer of registration of the manufactured home, mobilehome, commercial coach, truck camper, or floating home pursuant to this section. The department or officer or employee of the department may rely in good faith on the statements in the certificate specified in paragraph (2) of subdivision (b) and has no duty to inquire into the truth of any statement in the certificate. The person who secures the transfer of the manufactured home, mobilehome, commercial coach, truck camper, or floating home pursuant to this section is subject to the provisions of Sections 13109 to 13113, inclusive, of the Probate Code to the same extent as a person to whom transfer of property is made under Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code.

SEC. 3. Section 20 of the Probate Code is amended to read:

20. Unless the provision or context otherwise requires, the words

and phrases defined in this part govern the construction of Division 1 (commencing with Section 1), Division 2 (commencing with Section 100), Division 6 (commencing with Section 6100), Division 8 (commencing with Section 13000), Division 9 (commencing with Section 15000), and Division 10 (commencing with Section 20100).

SEC. 4. Section 584.2 of the Probate Code is amended to read:

584.2. If an asset of an estate consists of any option right which is nontransferable save only by testate or intestate succession from the decedent, the executor or administrator may exercise such option and may use any funds or property in the estate in the acquisition of the property covered by such option if it would be in the best interests of the estate and those interested therein and if that exercise would add value to the estate, upon obtaining an order of the court. The petition for such an order shall be filed with the clerk who shall set the same for hearing by the court. Notice of the hearing shall be given for the period and in the manner required by Section 1200.5, but the court may order the notice to be given for a shorter period, or dispensed with.

SEC. 5. Section 584.3 of the Probate Code is amended to read:

584.3. An executor or administrator may, with approval of the court which ordered appointment of that executor or administrator, grant an option to purchase real property of the estate for a period within or beyond the administration of the estate.

(a) To obtain the court's approval, the executor or administrator shall file a verified petition with the clerk describing the subject real property, stating the terms and conditions of the proposed option, and showing the advantage to the estate in giving the option.

(b) The purchase price of the real property subject to the option must be at least 90 percent of the appraised value of the real property, and the appraisal shall have been made by the referee within 90 days prior to the date of filing the petition.

(c) The clerk shall set the petition for hearing by the court and give notice thereof in the manner provided in Section 1200. The executor or administrator shall also cause notice of the hearing to be mailed, postage prepaid, to all heirs, devisees, and legatees of the decedent who are known to the executor or administrator at least 10 days before the hearing, addressed to them, at their respective post office addresses as set forth therein.

(d) Upon the hearing, the court, upon proof that due notice of the hearing has been given, shall proceed to hear the petition and any objection thereto that may have been filed or presented, and examine into the advantage to the estate in granting the option. If it appears to the court that good reason exists and that it will be to the advantage of the estate for the option to be granted, and it does not appear that a higher offer of a sum exceeding the purchase price of the real property subject to the option, or a better offer with respect to terms of the option, may be obtained, the court shall make an order approving the granting of the option and directing that the executor or administrator give the option, prescribing the terms and

conditions thereof. A higher offer with respect to the purchase price shall be subject to the provisions of Section 785 governing increased bids in sales of real property, and a better offer with respect to the terms of the option shall be one deemed to be materially more advantageous to the estate. A higher offer made either for cash or upon a credit, whether on the same or different credit terms, or a better offer, shall be considered only if the personal representative informs the court in person or by counsel that the offer is acceptable prior to the court's making its order approving the granting of the option.

(e) Where the option granted pursuant to subdivision (d) extends beyond the administration of the estate, the decree of final distribution shall provide that the real property subject to the option be distributed to the distributees subject to the terms and conditions of the option. Further, any option, whether within or beyond the administration of the estate, granted pursuant to subdivision (d) shall be subject to the provisions of Chapter 4 (commencing with Section 884.010) of Title 5 of Part 2 of Division 2 of the Civil Code.

SEC. 6. Section 584.5 of the Probate Code is amended to read:

584.5. When the time for filing or presenting claims has expired and all uncontested claims have been paid or are sufficiently secured by mortgage, or otherwise, but the estate is not in a condition to be finally closed and distributed, the court may authorize a personal representative to invest and reinvest any surplus moneys in his hands in any manner provided by the will. If the personal representative believes it advisable to make these investments, the personal representative shall file a verified petition showing the general condition of the estate and the types of investments which the personal representative proposes to make. The clerk shall set the petition for hearing by the court. The personal representative shall cause notice of the hearing and a copy of the petition to be mailed to all known legatees and devisees of property which is proposed to be invested, at their last known addresses, as provided in Section 1200.5, whether or not they have requested special notice or given notice of appearance. Where the property which is proposed to be invested is left by the will to a trustee, notice of the hearing and a copy of the petition shall be mailed to the trustee and to all persons in being who will or may participate in the corpus or income of the trust, at their last known addresses, as provided in Section 1200.5, whether or not they have requested special notice or given notice of appearance.

SEC. 7. Section 584.6 of the Probate Code is amended to read:

584.6. At the time appointed, the court shall hear the petition if no objection thereto has been filed by any interested party, and if the court is satisfied that there is no substantial reason why some or all of the investment powers given by the will should not be exercised, it shall make an order authorizing the personal representative to invest and reinvest such portion of the proceeds of sales or any other surplus moneys of the estate as the court shall deem advisable in such

types of investments as the personal representative has proposed and which are authorized by the will. The order may be for a limited period or until the administration of the estate is completed, and may be renewed, modified, or terminated at any time, upon the petition of any person interested. Notice of the hearing on the petition shall be given for the period and in the manner required by Section 1200.5.

SEC. 8. Section 605 of the Probate Code is amended to read:

605. (a) The appraisement shall be made by the executor or administrator and a probate referee as follows:

(1) The executor or administrator shall appraise at fair market value moneys, currency, cash items, bank accounts and amounts on deposit with any financial institution, and the proceeds of life and accident insurance policies and retirement plans payable upon death in lump-sum amounts, excepting therefrom such items whose fair market value is, in the opinion of the executor or administrator, an amount different from the ostensible value or specified amount.

As used in this subdivision, "financial institution" means a bank, trust company, federal savings and loan association, savings institution chartered and supervised as a savings and loan or similar institution under federal or state law, federal credit union or credit union chartered and supervised under state law.

(2) All assets other than those appraised by the executor or administrator pursuant to paragraph (1) shall be appraised by a probate referee appointed by the court or judge, except with respect to those cases in which the court waives, for good cause, the appointment of a probate referee.

(3) If an executor or administrator seeks a waiver of the appointment of a probate referee pursuant to paragraph (2), the executor or administrator, at the time of filing the inventory and appraisement pursuant to Section 600, shall file an appraisal of the fair market value of all assets of the estate and a statement which sets forth the good cause which justifies the waiver. The clerk shall set a hearing on the waiver not sooner than 15 days after the filing. A copy of the inventory and appraisement, the statement, and notice of the date of the hearing shall be served on and in the same manner as on, all persons who are entitled to notice pursuant to Section 926.

(b) The executor or administrator shall furnish to the referee such information concerning the assets appraised by him or to be appraised by the referee as the referee shall require.

(c) The executor or administrator or his attorney shall not be entitled to receive compensation for extraordinary services by reason of appraising any asset pursuant to this section.

(d) In a small estate set-aside proceeding under Chapter 6 (commencing with Section 6600) of Part 3 of Division 6, an inventory and appraisement of the decedent's estate is required as provided in Section 6608.

(e) No inventory and appraisement of the decedent's estate is required where it is disposed of without administration under Division 8 (commencing with Section 13000) except to the extent an

inventory and appraisement is required under or pursuant to Section 13103, subdivision (b) of Section 13152, subdivision (c) of Section 13200, or Section 13658.

SEC. 9. Chapter 10 (commencing with Section 630) of Division 3 of the Probate Code is repealed.

SEC. 9.5. Section 704.2 of the Probate Code is amended to read:

704.2. A claim may be filed by the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse for the payment of the debts of the deceased spouse described in Chapter 3 (commencing with Section 13550) of Part 2 of Division 8. The claim shall be filed prior to the filing of a petition for final distribution. It shall set forth the reason why the debts are not barred by Section 13552 and a statement whether the debts remain unpaid or have been paid by the surviving spouse. If the surviving spouse is personally liable for the debts, the claim shall also include an inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property as of the date of death of the deceased spouse. The statement may identify any property which is exempt from enforcement of a money judgment.

SEC. 10. Section 707 of the Probate Code is amended to read:

707. (a) Except as provided in subdivision (b) or in Section 707.5 or 720, all claims arising upon contract, whether they are due, not due, or contingent, and all claims for funeral expenses and all claims for damages for injuries to, or death of, a person or injury to property and all claims against the executor or administrator of any testator or intestate who in his or her lifetime has wasted, destroyed, taken, or carried away or converted to his or her own use, the property of another person or committed any trespass on the real property of another person, shall be filed or presented within the time limited in the notice or as extended by the provisions of Section 709. Any claim not so filed or presented is barred forever, unless it is made to appear by the affidavit of the claimant to the satisfaction of the court that (1) the claimant had not received notice, by reason of being out of the state, or (2) the claimant had in good faith filed a claim in another proceeding for the same decedent which has not been consolidated with the present proceeding, and in which letters had not been issued. In either event the claim may be filed or presented at any time within one year after the expiration of the prescribed period and before petition for final distribution has been filed. However, neither the filing or presentation of the claim nor its later establishment, in whole or in part, shall make property distributed pursuant to court order or any payments properly made before filing or presentation of the claim subject to the claim. The clerk shall enter in the register every claim filed, giving the name of the claimant, the amount and character of the claim, the rate of interest, if any, and the date of filing.

(b) The filing and presentation of a claim is not required as a

prerequisite to commencing an action against the decedent for damages for injury to, or for the death of, a person caused by the wrongful act or neglect of the decedent or to recover upon a judgment obtained in the action if (1) the decedent had liability insurance applicable to the cause of action, (2) the amount of damages sought in the action does not exceed the maximum amount of that insurance, or recovery in excess thereof is waived, and (3) the estate of the decedent otherwise qualifies for summary probate proceedings pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8. If the amount of damages sought in the action exceeds the maximum amount of the insurance, filing and presentation of a claim is required only with respect to the amount sought in excess of the maximum amount of the insurance. The defendant in the action may be designated as "Estate of (name of decedent), Deceased". No action shall be maintained under this subdivision unless the insurer has been served with a copy of the complaint.

SEC. 11. Section 718.6 of the Probate Code is amended to read:

718.6. If it appears to be to the advantage of the estate for the executor or administrator to accept a deed of property which is subject to a mortgage or deed of trust, in lieu of foreclosure of the mortgage or sale under the deed of trust, the court may authorize, upon such terms and conditions as may be imposed by the court, the acceptance of that deed, conveying the property to the heirs or devisees of the decedent, subject to administration, upon the petition of the executor or administrator or of any person interested in the estate. Notice of the hearing on the petition shall be given for the period and in the manner required by Section 1200.5.

SEC. 12. Section 771.3 of the Probate Code is amended to read:

771.3. If a person dies, having sold but not delivered securities or commodities not owned by that person, the executor or administrator may purchase securities or commodities required to perform the incomplete contract of sale, upon obtaining an order of the court. A petition for such an order shall be filed with the clerk, who shall set the petition for hearing by the court. Notice of the hearing on the petition shall be given for the period and in the manner required by 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 purchase, and when the maximum purchase price is fixed or when the securities or commodities are to be purchased upon an established stock, bond, or commodity exchange, no notice need be given.

SEC. 13. Section 851.5 of the Probate Code is amended to read:

851.5. If a person dies in possession of, or holding title to, real or personal property which, or some interest in which, is claimed to belong to another, or dies having a claim to real or personal property, title to or possession of which is held by another, the executor, administrator, or any claimant may file with the clerk of the court a verified petition setting forth the facts upon which the claim is

predicated. Thereupon the clerk shall set the petition for hearing by the court. The petitioner shall cause notice of the hearing and a copy of the petition to be mailed to the executor or administrator (if not the petitioner) and all known heirs, legatees, and devisees at their last known addresses, as provided in Section 1200.5, whether or not they have requested special notice or given notice of appearance. The petitioner shall also cause notice of the hearing and a copy of the petition to be served in accordance with Title 5 (commencing with Section 410.10) of Part 2 of the Code of Civil Procedure on any other person who may have an interest in the property which is the subject of the petition, at least 30 days prior to the date set for the hearing. Any interested person may request time for filing a response to the petition, for discovery proceedings, or for other preparation for the hearing and the court shall grant a continuance for a reasonable time for any of these purposes. Notice of pendency of the proceeding may be filed pursuant to Section 409 of the Code of Civil Procedure. Any person having or claiming title to or an interest in the property which is the subject of the petition, at or prior to the hearing, may object to the hearing on the petition if the petition is filed in a court which is not the proper court under any other provision of law for the trial of a civil action seeking the same relief and, if such an objection is established, the court shall not grant the petition. If a civil action is pending in respect to the subject matter of a claim filed pursuant to this section and jurisdiction has been obtained in the court where the civil action is pending prior to the filing of the claim, the court shall abate the petition until the conclusion of the civil action.

SEC. 14. Section 854 of the Probate Code is amended to read:

854. (a) When an option to purchase real or personal property is given in a will, the optionee has the right to exercise the option at any time within the time limits provided by the will. For the purposes of this section, if a time limitation in the will is measured from the death of the testator, that time shall be extended by the period between the testator's death and the issuance of letters testamentary or letters of administration with the will annexed or by six months, whichever is the shorter period.

(b) When an option to purchase real or personal property is given in a will admitted to probate, the optionee or the personal representative may petition the court, within any time limits provided in the will, for an order requiring that the property be transferred or conveyed to the optionee upon compliance with the terms and conditions stated in the will. The clerk shall set the petition for hearing by the court. Notice of the hearing on the petition shall be given for the period and in the manner required by Section 1200.5. The order shall not be made unless the court finds that the rights of creditors will not be impaired or requires a bond in an amount and with a surety as the court shall direct or approve.

(c) Subject to subdivision (d), if the option given in the will is exercisable under the terms of the will after the time that the estate

would otherwise be closed, the property subject to the option shall be distributed subject to the option.

(d) If the will does not provide a time limit for exercise of the option, the time limit is one year from the death of the decedent.

SEC. 15. Section 910 of the Probate Code is amended to read:

910. Attorneys for executors and administrators shall be allowed out of the estate, as fees for conducting the ordinary probate proceedings, the same amounts as are allowed by the previous article as commissions to executors and administrators; and such further amount as the court may deem just and reasonable for extraordinary services.

SEC. 16. Article 4a (commencing with Section 970) of Chapter 15 of Division 3 of the Probate Code is repealed.

SEC. 17. Section 1080 of the Probate Code is amended to read:

1080. Anytime after the commencement of the time for filing or presenting claims and prior to the time a petition for final distribution has been filed, the executor or administrator, or any person claiming to be an heir of the decedent or entitled to distribution of the estate or any part thereof, may file a petition setting forth his or her claim or reason and praying that the court determine the persons who are entitled to distribution of the estate. The clerk shall set the petition for hearing by the court. Notice of the hearing shall be given for the period and in the manner required by Section 1200.5. At least 10 days before the date set for the hearing on the petition by the court, the petitioner also shall cause notice of the hearing thereof to be mailed to all legatees and devisees and to all known heirs of the decedent addressed to them at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon these persons. Any person may appear and file a written statement setting forth the person's interest in the estate. No other pleadings are necessary and the allegations of each claimant shall be deemed to be denied by each of the other claimants to the extent that they conflict with any claim of the latter.

Whenever any estate involves or may involve a charitable trust, other than a charitable trust with a designated trustee who may lawfully accept the trust, or involves or may involve a bequest or devise for a charitable purpose without an identified legatee, devisee, or beneficiary thereof, or involves or may involve an escheat to the State of California, the Attorney General shall be deemed to be a person entitled to distribution within the meaning of this section and shall be entitled to file the petition referred to in this section and shall be given written notice of the hearing in the same manner as legatees and devisees.

SEC. 18. Section 1191 of the Probate Code is amended to read:

1191. The clerk shall set the petition for hearing by the court. Notice of the hearing shall be given for the period and in the manner required by Section 1200.5.

SEC. 19. Section 1200.5 of the Probate Code is amended to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale, a petition to grant an option to purchase real property, or a petition to authorize a transfer or conveyance to a person given an option to purchase property of the decedent by a will admitted to probate.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money.

(11) An account of an executor or administrator or trustee.

(12) A petition for partial or ratable or preliminary or final distribution.

(13) A petition for the delivery of the estate of a nonresident.

(14) A petition for determination of heirship or interests in an estate.

(15) A petition of a trustee for instructions.

(16) A petition for the appointment of a trustee.

(17) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(18) A report of status of administration.

(19) A petition for family allowance.

(20) An objection to the appraisement made by the executor, administrator, or probate referee.

(21) A petition under Section 709 for leave to file a claim against the estate after the expiration of the prescribed period.

(22) Any other proceeding under this code in which (A) notice is required to be given for the period and in the manner provided by this section or (B) notice is required and no other time or method is prescribed by law or by court or judge.

(b) At least 10 days before the time set for the hearing of the petition or account, the petitioner or person filing the account shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any

coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) The notice required by this section shall be in addition to the notice, if any, required to be given in the manner specified in Section 1200.

SEC. 19.5. Section 1200.5 of the Probate Code is amended to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale, a petition to grant an option to purchase real property, or a petition to authorize a transfer or conveyance to a person given an option to purchase property of the decedent by a will admitted to probate.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money.

(11) An account of an executor or administrator.

(12) A petition for partial or ratable or preliminary or final

distribution.

(13) A petition for the delivery of the estate of a nonresident.

(14) A petition for determination of heirship or interests in an estate.

(15) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(16) A report of status of administration.

(17) A petition for family allowance.

(18) An objection to the appraisement made by the executor, administrator, or probate referee.

(19) A petition under Section 709 for leave to file a claim against the estate after the expiration of the prescribed period.

(20) Any other proceeding under this code in which (A) notice is required to be given for the period and in the manner provided by this section or (B) notice is required and no other time or method is prescribed by law or by court or judge.

(b) At least 10 days before the time set for the hearing of the petition or account, the petitioner or person filing the account shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) This section does not apply to proceedings under Division 9 (commencing with Section 15000).

(f) The notice required by this section shall be in addition to the notice, if any, required to be given in the manner specified in Section 1200.

SEC. 20. Section 1406 of the Probate Code is repealed.

SEC. 21. Section 1406 is added to the Probate Code, to read:

1406. (a) "Account in an insured savings and loan association" means a savings account or mutual capital certificate of either of the following:

(1) A federal association.

(2) A savings association doing business in this state which is an "insured institution," as defined in Title IV of the National Housing Act (12 U.S.C. Sec. 1724 et seq.).

(b) As used in this section:

(1) "Federal association" has the same meaning as defined in subdivision (b) of 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 subdivision (a) of Section 5102 of the Financial Code.

SEC. 22. Section 1469 of the Probate Code is amended to read:

1469. When a provision of this division applies the provisions of this code applicable to executors or administrators to proceedings under this division, a reference to Section 1200 or Section 1200.5 in the provisions applicable to executors or administrators shall be deemed to be a reference to this chapter.

SEC. 23. Chapter 6 (commencing with Section 6600) is added to Part 3 of Division 6 of the Probate Code, to read:

CHAPTER 6. SMALL ESTATE SET-ASIDE

6600. (a) Subject to subdivision (b), for the purposes of this chapter, "decedent's estate" means all the decedent's personal property, wherever located, and all the decedent's real property located in this state.

(b) For the purposes of this chapter:

(1) Any property or interest or lien thereon which, at the time of the decedent's death, was held by the decedent as a joint tenant, or in which the decedent had a life or other interest terminable upon the decedent's death, shall be excluded in determining the estate of the decedent or its value.

(2) A multiple-party account to which the decedent was a party at the time of the decedent's death shall be excluded in determining the estate of the decedent or its value, whether or not all or a portion of the sums on deposit are community property, to the extent that the sums on deposit belong after the death of the decedent to a survivng party, P.O.D. payee, or beneficiary. As used in this paragraph, the terms "multiple-party account," "party," "P.O.D. payee," and "beneficiary" have the same meaning as given those terms by Section 5101.

6601. As used in this chapter, "minor child" means a child of the decedent who was under the age of 18 at the time of the decedent's death and who survived the decedent.

6602. A petition may be filed under this chapter requesting an order setting aside the decedent's estate to the decedent's surviving spouse and minor children, or one or more of them, as provided in this chapter, if the net value of the decedent's estate, over and above all liens and encumbrances at the date of death and over and above the value of any probate homestead interest set apart out of the decedent's estate under Section 6520, does not exceed twenty thousand dollars ($20,000).

6603. The petition shall be filed in the superior court of a county in which the estate of the decedent may be administered.

6604. (a) The petition shall allege that this chapter applies and request that an order be made setting aside the estate of the decedent as provided in this chapter.

(b) The petition shall include the following:

(1) If proceedings for administration of the estate are not pending, the facts necessary to determine the county in which the estate of the decedent may be administered.

(2) The names, ages, residences, and relation to the decedent of the heirs and devisees of the decedent, so far as known to the petitioner.

(3) A specific description and estimate of the value of the decedent's estate and a list of all liens and encumbrances at the date of death.

(4) A specific description and estimate of the value of any of the decedent's real property located outside this state that passed to the surviving spouse and minor children of the decedent, or any one or more of them, under the will of the decedent or by intestate succession.

(5) A specific description and estimate of the value of any of the decedent's property described in subdivision (b) of Section 6600 that passed to the surviving spouse and minor children of the decedent, or any one or more of them, upon the death of the decedent.

(6) A designation of any property as to which a probate homestead is set apart out of the decedent's estate under Section 6520.

(7) A statement of any unpaid liabilities for expenses of the last illness, funeral charges, and expenses of administration.

(8) The requested disposition of the estate of the decedent under this chapter and the considerations that justify the requested disposition.

6605. (a) If proceedings for the administration of the estate of the decedent are pending, a petition under this chapter shall be filed in those proceedings without the payment of an additional fee.

(b) If proceedings for the administration of the estate of the decedent have not yet been commenced, a petition under this chapter may be filed concurrently with a petition for the probate of the decedent's will or for administration of the estate of the decedent, or, if no petition for probate or for administration is being filed, a petition under this chapter may be filed independently.

(c) A petition may be filed under this chapter at any time prior to the entry of the order of final distribution of the estate.

6606. (a) A petition may be filed under this chapter by any of the following:

(1) The person named in the will of the decedent as executor.

(2) The surviving spouse of the decedent.

(3) The guardian of a minor child of the decedent.

(4) A child of the decedent who was a minor at the time the decedent died.

(5) The personal representative of the decedent if a personal representative has been appointed for the decedent's estate.

(b) The guardian of a minor child of the decedent may file the petition without authorization or approval of the court in which the guardianship proceeding is pending.

6607. (a) Where proceedings for the administration of the estate of the decedent are not pending when the petition is filed under this chapter and the petition under this chapter is not joined with a petition for the probate of the decedent's will or for administration of the estate of the decedent, the petitioner shall give notice of the hearing by mail not less than 10 days before the hearing to each heir and devisee of the decedent, and to each person named as executor who is not petitioning, if known to the petitioner. A copy of the petition shall be sent with this notice of hearing to the surviving spouse, each child, and each devisee who is not petitioning.

(b) If the petition under this chapter is filed with a petition for the probate of the decedent's will, notice of the hearing on the petition under this chapter shall be given to the persons and in the manner prescribed by Sections 327 and 328 and shall be included in the notice of hearing required by those sections. If the petition filed under this chapter is filed with a petition for administration of the estate of the deceased spouse, notice of the hearing on the petition shall be given to the persons and in the manner prescribed by Section 441 and shall be included in the notice required by that section.

(c) If proceedings for the administration of the estate of the decedent are pending when the petition is filed under this chapter and the hearing of the petition for probate of the will or administration of the estate of the decedent is set for a day more than 10 days after the filing of the petition filed under this chapter, the petition under this chapter shall be set for hearing at the same time as the petition for probate of the will or for administration of the estate, and notice of hearing on the petition filed under this chapter shall be given by the petitioner as provided in Section 1200.5. If the hearing of the petition for probate of the will or for administration of the estate is not set for hearing for a day more than 10 days after the filing of the petition under this chapter, (1) the petition filed under this chapter shall be set for hearing at least 10 days after the date on which it is filed, (2) notice of the hearing on the petition filed under this chapter shall be given by the petitioner as provided in Section 1200.5, and (3) if the petition for probate of the will or for

administration of the estate has not already been heard, that petition shall be continued until that date and heard at the same time unless the court otherwise orders.

6608. If a petition is filed under this chapter, the personal representative, or the petitioner if no personal representative has been appointed, shall file with the clerk of the court, prior to the hearing of the petition, an inventory and appraisement in the form set forth in Section 600. The appraisement shall be made as set forth in Chapter 9 (commencing with Section 600) of Division 3. The personal representative or the petitioner, as the case may be, may appraise the assets which a personal representative could appraise under paragraph (1) of subdivision (a) of Section 605.

6609. (a) If the court determines that the net value of the decedent's estate, over and above all liens and encumbrances at the date of death of the decedent and over and above the value of any probate homestead interest set apart out of the decedent's estate under Section 6520, does not exceed twenty thousand dollars ($20,000) as of the date of the decedent's death, the court shall make an order under this section unless the court determines that making an order under this section would be inequitable under the circumstances of the particular case.

(b) In determining whether to make an order under this section, the court shall consider the needs of the surviving spouse and minor children, the liens and encumbrances on the property of the decedent's estate, the claims of creditors, the needs of the heirs or devisees of the decedent, the intent of the decedent with respect to the property in the estate and the estate plan of the decedent as expressed in inter vivos and testamentary transfers or by other means, and any other relevant considerations. If the surviving spouse has remarried at the time the petition is heard, it shall be presumed that the needs of the surviving spouse do not justify the setting aside of the small estate, or any portion thereof, to the surviving spouse. This presumption is a presumption affecting the burden of proof.

(c) Subject to subdivision (d), if the court makes an order under this section, the court shall assign the whole of the decedent's estate, subject to all liens and encumbrances on property in the estate at the date of the decedent's death, to the surviving spouse and the minor children of the decedent, or any one or more of them.

(d) If there are any liabilities for expenses of the last illness, funeral charges, and expenses of administration that are unpaid at the time the court makes an order under this section, the court shall make such orders as are necessary so that those unpaid liabilities are paid.

(e) Title to property in the decedent's estate vests absolutely in the surviving spouse, minor children, or any or all of them, as provided in the order, subject to all liens and encumbrances on property in the estate at the date of the decedent's death, and there shall be no further proceedings in the administration of the decedent's estate unless additional property in the decedent's estate

is discovered.

6610. Upon becoming final, an order under Section 6609 shall be conclusive on all persons, whether or not they are then in being.

6611. (a) Subject to the limitations and conditions specified in this section, the person or persons in whom title vested pursuant to Section 6609 are personally liable for the unsecured debts of the decedent.

(b) The personal liability of a person under this section shall not exceed the fair market value at the date of the decedent's death of the property title to which vested in that person pursuant to Section 6609, less the total of all of the following:

(1) The amount of any liens and encumbrances on that property.

(2) The value of any probate homestead interest set apart under Section 6520 out of that property.

(3) The value of any other property set aside under Section 6510 out of that property.

(c) The personal liability under this section ceases one year after the date the court makes its order under Section 6609, except with respect to an action or proceeding then pending in court.

(d) In any action or proceeding based upon an unsecured debt of the decedent, the surviving spouse of the decedent, the child or children of the decedent, or the guardian of the minor child or children of the decedent, may assert any defense, cross-complaint, or setoff which would have been available to the decedent if the decedent had not died.

(e) If proceedings are commenced in this state for the administration of the estate of the decedent and the time for filing or presenting claims has commenced, any action upon the personal liability of a person under this section is barred to the same extent as provided for claims under Article 1 (commencing with Section 700) of Chapter 12 of Division 3, except as to the following:

(1) Creditors who commence judicial proceedings for the enforcement of the debt and serve the person liable under this section with the complaint therein prior to the expiration of the time for filing or presenting claims.

(2) Creditors who have or who secure an acknowledgment in writing of the person liable under this section that that person is liable for the debts.

(3) Creditors who file a timely claim in the proceedings for the administration of the estate of the decedent.

6612. If a petition filed under this chapter is filed with a petition for the probate of the decedent's will or for administration of the estate of the decedent and the court determines not to make an order under Section 6609, the court shall act on the petition for probate of the decedent's will or for administration of the estate of the decedent in the same manner as if no petition had been filed under this chapter, and the estate shall then be administered in the same manner as if no petition had been filed under this chapter.

6613. The attorney's fee for services performed in connection

with the filing of a petition and the obtaining of a court order under this chapter shall be determined by private agreement between the attorney and the client and is not subject to approval by the court. If there is no agreement between the attorney and the client concerning the attorney's fee for services performed in connection with the filing of a petition and obtaining of a court order under this chapter and there is a dispute concerning the reasonableness of the attorney's fee for those services, a petition may be filed with the court in the same proceeding requesting that the court determine the reasonableness of the attorney's fee for those services. If there is an agreement between the attorney and the client concerning the attorney's fee for services performed in connection with the filing of a petition and obtaining a court order under this chapter and there is a dispute concerning the meaning of the agreement, a petition may be filed with the court in the same proceeding requesting that the court determine the dispute.

6614. Sections 6600 to 6613, inclusive, apply only if the decedent died on or after July 1, 1987. If the decedent dies before July 1, 1987, the case shall continue to be governed by the law applicable to the case prior to July 1, 1987.

6615. On and after July 1, 1987, a reference in any statute of this state or in a written instrument, including a will or trust, to a provision of former Sections 640 to 647.5, inclusive, shall be deemed to be a reference to the comparable provisions of this chapter.

SEC. 24. Division 8 (commencing with Section 13000) is added to the Probate Code, to read:

DIVISION 8. DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

PART 1. COLLECTION OR TRANSFER OF SMALL ESTATE WITHOUT ADMINISTRATION

CHAPTER 1. DEFINITIONS

13000. Unless the provision or context otherwise requires, the words and phrases defined in this chapter govern the construction of this part.

13002. "Holder of the decedent's property" or "holder" means, with respect to any particular item of property of the decedent, the person owing money to the decedent, having custody of tangible personal property of the decedent, or acting as registrar or transfer agent of the evidences of a debt, obligation, interest, right, security, or chose in action belonging to the decedent.

13004. "Particular item of property" means, respectively, particular personal property of the decedent which is sought to be collected, received, or transferred by the successor of the decedent under Chapter 3 (commencing with Section 13100), or particular real property of the decedent for which the successor of the

decedent seeks a court order determining succession under Chapter 4 (commencing with Section 13150) or with respect to which the successor of the decedent files an affidavit of succession under Chapter 5 (commencing with Section 13200). Subject to this section, "particular item of property" includes all interests specified in Section 62.

13006. "Successor of the decedent" means:

(a) If the decedent died leaving a will, the sole beneficiary or all of the beneficiaries who succeeded to a particular item of property of the decedent under the decedent's will. For the purposes of this part, the trustee of a trust created during the decedent's lifetime is a beneficiary under the decedent's will if the trust succeeds to the particular item of property under the decedent's will.

(b) If the decedent died without a will, the sole person or all of the persons who succeeded to the particular item of property of the decedent under Sections 6401 and 6402.

CHAPTER 2. GENERAL PROVISIONS

13050. (a) For the purposes of this part:

(1) Any property or interest or lien thereon which, at the time of the decedent's death, was held by the decedent as a joint tenant, or in which the decedent had a life or other interest terminable upon the decedent's death, or which was held by the decedent and passed to the decedent's surviving spouse pursuant to Section 13500, shall be excluded in determining the property or estate of the decedent or its value.

(2) A multiple-party account to which the decedent was a party at the time of the decedent's death shall be excluded in determining the property or estate of the decedent or its value, whether or not all or a portion of the sums on deposit are community property, to the extent that the sums on deposit belong after the death of the decedent to a surviving party, P.O.D. payee, or beneficiary. As used in this paragraph, the terms "multiple-party account," "party," "P.O.D. payee," and "beneficiary" have the same meaning as given those terms by Section 5101.

(b) For the purposes of this part, all of the following property shall be excluded in determining the property or estate of the decedent or its value:

(1) 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.

(2) Any vessel numbered under Division 3.5 (commencing with Section 9840) of the Vehicle Code.

(3) Any manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.

(c) For the purposes of this part, the value of the following

property shall be excluded in determining the value of the decedent's property in this state:

(1) Any amounts due to the decedent for services in the armed forces of the United States.

(2) The amount, not exceeding five thousand dollars ($5,000), of salary or other compensation, including compensation for unused vacation, owing to the decedent for personal services from any employment.

13051. For the purposes of this part:

(a) A guardian or conservator of the estate of a person entitled to any of the decedent's property may act on behalf of the person without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

(b) A trustee of a trust created during the decedent's lifetime may act on behalf of the trust.

(c) If the decedent's will nominates a custodian to receive a devise to a beneficiary under the Uniform Gifts to Minors Act or the Uniform Transfer to Minors Act of any state and the nomination has not been revoked, the custodian may act on behalf of the beneficiary until such time as the custodianship terminates.

13052. In making an inventory and appraisement for the purposes of this part, the probate referee shall use the date of the decedent's death as the date of valuation of the property.

13053. (a) Except as provided in subdivision (b), this part applies whether the decedent died before, on, or after July 1, 1987.

(b) This part does not apply and the law in effect at the time of payment, delivery, or transfer shall apply if the payment, delivery, or transfer is made pursuant to former Probate Code Sections 630 to 632, inclusive, prior to July 1, 1987.

13054. On and after July 1, 1987, a reference in any statute of this state or in a written instrument, including a will or trust, to a provision of former Sections 630 to 632, inclusive, shall be deemed to be a reference to the comparable provisions of Chapter 3 (commencing with Section 13100).

CHAPTER 3. AFFIDAVIT PROCEDURE FOR COLLECTION OR TRANSFER OF PERSONAL PROPERTY

13100. Excluding the property described in Section 13050, if the gross value of the decedent's real and personal property in this state does not exceed sixty thousand dollars ($60,000) and if 40 days have elapsed since the death of the decedent, the successor of the decedent may, without procuring letters of administration or awaiting probate of the will, do any of the following with respect to one or more particular items of property:

(a) Collect any particular item of property that is money due the decedent.

(b) Receive any particular item of property that is tangible personal property of the decedent.

(c) Have any particular item of property that is evidence of a debt, obligation, interest, right, security, or chose in action belonging to the decedent transferred, whether or not secured by a lien on real property.

13101. (a) To collect money, receive tangible personal property, or have evidences transferred under this chapter, an affidavit or a declaration under penalty of perjury under the laws of this state shall be furnished to the holder of the decedent's property stating all of the following:

(1) The decedent's name.

(2) The date and place of the decedent's death.

(3) "At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration."

(4) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."

(5) "The gross value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed sixty thousand dollars ($60,000)."

(6) A description of the property of the decedent that is to be paid, transferred, or delivered to the affiant or declarant.

(7) The name of the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the described property.

(8) Either of the following, as appropriate:

(A) "The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property."

(B) "The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property."

(9) "No other person has a right to the interest of the decedent in the described property."

(10) "The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant."

(11) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) A certified copy of the decedent's death certificate shall be attached to the affidavit or declaration.

13102. (a) If the decedent had evidence of ownership of the property described in the affidavit or declaration and the holder of

the property would have had the right to require presentation of the evidence of ownership before the duty of the holder to pay, deliver, or transfer the property to the decedent would have arisen, the evidence of ownership, if available, shall be presented with the affidavit or declaration to the holder of the decedent's property.

(b) If the evidence of ownership is not presented to the holder pursuant to subdivision (a), the holder may require, as a condition for the payment, delivery, or transfer of the property, that the person presenting the affidavit or declaration provide the holder with a bond or undertaking in a reasonable amount determined by the holder to be sufficient to indemnify the holder against all liability, claims, demands, loss, damages, costs, and expenses that the holder may incur or suffer by reason of the payment, delivery, or transfer of the property. Nothing in this subdivision precludes the holder and the person presenting the affidavit or declaration from dispensing with the requirement that a bond or undertaking be provided and instead entering into an agreement satisfactory to the holder concerning the duty of the person presenting the affidavit or declaration to indemnify the holder.

13103. If the estate of the decedent includes any real property, the affidavit or declaration shall be accompanied by an inventory and appraisement of the real property. The form, content, and manner of making the inventory and appraisement of the real property shall be as set forth in Chapter 9 (commencing with Section 600) of Division 3. The inventory and appraisement shall be made by a probate referee selected by the affiant or declarant from those probate referees appointed by the Controller under Section 1305 to appraise property in the county where the real property is located.

13104. (a) Reasonable proof of the identity of each person executing the affidavit or declaration shall be provided to the holder of the decedent's property.

(b) Reasonable proof of identity is provided for the purposes of this section if both of the following requirements are satisfied:

(1) The person executing the affidavit or declaration is personally known to the holder.

(2) The person executes the affidavit or declaration in the presence of the holder.

(c) If the affidavit or declaration is executed in the presence of the holder, a written statement under penalty of perjury by a person personally known to the holder affirming the identity of the person executing the affidavit or declaration is reasonable proof of identity for the purposes of this section.

(d) If the affidavit or declaration is executed in the presence of the holder, the holder may reasonably rely on any of the following as reasonable proof of identity for the purposes of this section:

(1) An identification card or driver's license issued by the Department of Motor Vehicles of this state that is current or was issued during the preceding five years.

(2) A passport issued by the Department of State of the United

States that is current or was issued during the preceding five years.

(3) Any of the following documents if the document is current or was issued during the preceding five years and contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number:

(A) A passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service.

(B) A driver's license issued by a state other than California.

(C) An identification card issued by a state other than California.

(D) An identification card issued by any branch of the armed forces of the United States.

(e) For the purposes of this section, a notary public's certificate of acknowledgment identifying the person executing the affidavit or declaration is reasonable proof of identity of the person executing the affidavit or declaration.

(f) Unless the affidavit or declaration contains a notary public's certificate of acknowledgment of the identity of the person, the holder shall note on the affidavit or declaration either that the person executing the affidavit or declaration is personally known or a description of the identification provided by the person executing the affidavit or declaration.

13105. (a) If the requirements of Sections 13100 to 13104, inclusive, are satisfied:

(1) The person or persons executing the affidavit or declaration as successor of the decedent are entitled to have the property described in the affidavit or declaration paid, delivered, or transferred to them.

(2) A transfer agent of a security described in the affidavit or declaration shall change the registered ownership on the books of the corporation from the decedent to the person or persons executing the affidavit or declaration as successor of the decedent.

(b) If the holder of the decedent's property refuses to pay, deliver, or transfer any personal property or evidence thereof to the successor of the decedent within a reasonable time, the successor may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property. If an action is brought against the holder under this section, the court shall award attorney's fees to the person or persons bringing the action if the court finds that the holder of the decedent's property acted unreasonably in refusing to pay, deliver, or transfer the property to them as required by subdivision (a).

13106. (a) If the requirements of Sections 13100 to 13104, inclusive, are satisfied, receipt by the holder of the decedent's property of the affidavit or declaration constitutes sufficient acquittance for the payment of money, delivery of property, or changing registered ownership of property pursuant to this chapter and discharges the holder from any further liability with respect to the money or property. The holder may rely in good faith on the

statements in the affidavit or declaration and has no duty to inquire into the truth of any statement in the affidavit or declaration.

(b) If the requirements of Sections 13100 to 13104, inclusive, are satisfied, the holder of the decedent's property is not liable for any taxes due to this state by reason of paying money, delivering property, or changing registered ownership of property pursuant to this chapter.

13107. When the money or property claimed in an affidavit or declaration presented under this chapter is that of a deceased heir or devisee of a deceased person whose estate is being administered in this state, the personal representative of the person whose estate is being administered shall present the affidavit or declaration to the court in which the estate is being administered. The court shall direct the personal representative to pay the money or deliver the property to the person or persons identified by the affidavit or declaration as the successor of the decedent to the extent that the decree of distribution determines that the deceased heir or devisee was entitled to the money or property under the will or the laws of succession.

13108. (a) The procedure provided by this chapter may be used only if no proceeding for the administration of the decedent's estate is pending or has been conducted in this state.

(b) Payment, delivery, or transfer of a decedent's property pursuant to this chapter does not preclude later proceedings for administration of the decedent's estate.

13109. A person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is personally liable, to the extent provided in Section 13112, for the unsecured debts of the decedent. Any such debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In any action based upon the debt, the person may assert any defenses, cross-complaints, or setoffs that would have been available to the decedent if the decedent had not died.

13110. (a) Except as provided in subdivision (b), each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is personally liable to the extent provided in Section 13112 to any person having a superior right by testate or intestate succession from the decedent.

(b) In addition to any other liability the person has under this section and Sections 13109, 13111, and 13112, any person who fraudulently secures the payment, delivery, or transfer of the decedent's property under this chapter is liable to the person having such a superior right for three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value of the property paid, delivered, or transferred to the person liable under this subdivision, valued as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter to the holder of the

decedent's property, excluding any liens and encumbrances on that property at that time.

(c) An action to impose liability under this section is forever barred three years after the affidavit or declaration is presented under this chapter to the holder of the decedent's property, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

13111. (a) Subject to subdivisions (b), (c), (d), and (e), if proceedings for the administration of the decedent's estate are commenced, each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is liable for:

(1) The restitution of the property to the estate if the person still has the property, together with the net income the person received from the property.

(2) The restitution to the estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from that property and (B) interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, valued as of the time of the disposition of the property, of the property paid, delivered, or transferred to the person under this chapter, excluding any liens and encumbrances on the property at that time.

(b) Subject to subdivision (c) and subject to any additional liability the person has under Sections 13109 to 13112, inclusive, if the person fraudulently secured the payment, delivery, or transfer of the decedent's property under this chapter, the person is liable under this section for restitution to the decedent's estate of three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, valued as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter, of the property paid, delivered, or transferred to the person under this chapter, excluding the amount of any liens and encumbrances on the property at that time.

(c) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13109 or 13110.

(d) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. In an action to enforce the liability under this section, the court's judgment may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(e) An action to enforce the liability under this section is forever barred three years after presentation of the affidavit or declaration under this chapter to the holder of the decedent's property, or three

years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

13112. (a) A person to whom payment, delivery, or transfer of the decedent's property has been made under this chapter is not liable under Section 13109 or 13110 if proceedings for the administration of the decedent's estate are commenced and the person satisfies the requirements of Section 13111.

(b) Except as provided in subdivision (b) of Section 13110, the aggregate of the personal liability of a person under Sections 13109 and 13110 shall not exceed the fair market value, valued as of the time the affidavit or declaration is presented under this chapter, of the property paid, delivered, or transferred to the person under this chapter, less the amount of any liens and encumbrances on that property at that time, together with the net income the person received from the property and, if the property has been disposed of, interest on the fair market value of the property accruing from the date of disposition at the rate payable on a money judgment.

For the purpose of this subdivision, "fair market value of the property" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 13111.

13113. The remedies available under Sections 13109 to 13112, inclusive, are in addition to any remedies available by reason of any fraud or intentional wrongdoing.

13114. 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 pursuant to this chapter 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.

13115. The procedure provided in this chapter may not be used to obtain possession or the transfer of real property.

CHAPTER 4. COURT ORDER DETERMINING SUCCESSION TO REAL PROPERTY

13150. The procedure provided by this chapter may be used only if no proceeding is being or has been conducted in this state for administration of the decedent's estate.

13151. Exclusive of the property described in Section 13050, if a decedent dies leaving real property in this state and the gross value of the decedent's real and personal property in this state does not exceed sixty thousand dollars ($60,000) and 40 days have elapsed since the death of the decedent, the successor of the decedent to an interest in a particular item of property that is real property, without procuring letters of administration or awaiting the probate of the will, may file a petition in the superior court of the county in which the estate of the decedent may be administered requesting a court order determining that the petitioner has succeeded to that real

property and that administration of the decedent's estate is unnecessary.

13152. (a) The petition shall be verified by each petitioner, shall contain a request that the court make an order under this chapter determining that the particular item of property described in the petition is property passing to the petitioner and that no administration of the decedent's estate is necessary, and shall state all of the following:

(1) The facts necessary to determine that the petition is filed in the proper county.

(2) The gross value of the decedent's real and personal property in California, excluding the property described in Section 13050, as shown by the inventory and appraisement attached to the petition, does not exceed sixty thousand dollars ($60,000).

(3) A legal description of the particular item of property in this state which the petitioner alleges is property of the decedent passing to the petitioner and the interest of the decedent therein.

(4) The facts upon which the petitioner bases the allegation that the described real property is property passing to the petitioner.

(5) A statement that no proceeding is being or has been conducted in this state for administration of the decedent's estate.

(6) Whether estate proceedings for the decedent have been commenced in any other jurisdiction and, if so, where those proceedings are pending or were conducted.

(7) The names, addresses, relationships, and ages of the heirs and devisees of the decedent, the names and addresses of all persons named as executors of the will of the decedent and, if the personal representative is the trustee of a trust that is a devisee under the will of the decedent, the names and addresses of all persons interested in the trust, as determined in cases of future interests pursuant to subdivision (1), (2), or (3) of Section 1215.1, so far as known to any petitioner.

(b) There shall be attached to the petition an inventory and appraisement in the form set forth in Section 600 of the decedent's real and personal property in this state, excluding the property described in Section 13050. The appraisement shall be made as set forth in Chapter 9 (commencing with Section 600) of Division 3. The petitioner may appraise the assets which a personal representative could appraise under paragraph (1) of subdivision (a) of Section 605.

(c) If the petitioner bases his or her claim to the described particular item of property upon the will of the decedent, a copy of the will shall be attached to the petition.

If Assembly Bill No. 2652 of the 1985–86 Regular Session is enacted and adds a Section 15804 to this code, this section shall not become operative.

13152. (a) The petition shall be verified by each petitioner, shall contain a request that the court make an order under this chapter determining that the particular item of property described in the petition is property passing to the petitioner and that no

administration of the decedent's estate is necessary, and shall state all of the following:

(1) The facts necessary to determine that the petition is filed in the proper county.

(2) The gross value of the decedent's real and personal property in California, excluding the property described in Section 13050, as shown by the inventory and appraisement attached to the petition, does not exceed sixty thousand dollars ($60,000).

(3) A description of the particular item of property in this state which the petitioner alleges is property of the decedent passing to the petitioner.

(4) The facts upon which the petitioner bases the allegation that the described real property is property passing to the petitioner.

(5) A statement that no proceeding is being or has been conducted in this state for administration of the decedent's estate.

(6) Whether estate proceedings for the decedent have been commenced in any other jurisdiction and, if so, where those proceedings are pending or were conducted.

(7) The names, addresses, relationships, and ages of the heirs and devisees of the decedent, the names and addresses of all persons named as executors of the will of the decedent, and, if the personal representative is the trustee of a trust that is a devisee under the will of the decedent, the names and addresses of all persons interested in the trust, as determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 15804, so far as known to any petitioner.

(b) There shall be attached to the petition an inventory and appraisement in the form set forth in Section 600 of the decedent's real and personal property in this state, excluding the property described in Section 13050. The appraisement shall be made as set forth in Chapter 9 (commencing with Section 600) of Division 3. The petitioner may appraise the assets which a personal representative could appraise under paragraph (1) of subdivision (a) of Section 605.

(c) If the petitioner bases his or her claim to the described particular item of property upon the will of the decedent, a copy of the will shall be attached to the petition.

This section shall only become operative if Assembly Bill No. 2652 of the 1985–86 Regular Session is enacted and adds a Section 15804 to this code, in which case this section shall become operative on July 1, 1987.

13153. The clerk shall set the petition for hearing. Not less than 10 days before the hearing on the petition notice of the hearing shall be personally served upon or mailed, postage prepaid, to each of the persons named in the petition pursuant to Section 13152, addressed to each person at the person's residence or mailing address as set forth in the petition, or if neither of these addresses are known to any petitioner, the county seat of the county where the proceedings are pending.

13154. (a) If the court makes the determinations required under

subdivision (b), the court shall issue an order determining (1) that real property, to be described in the order, of the decedent is property passing to the petitioners and the specific property interest of each petitioner in the described property and (2) that no administration of the decedent's estate is necessary.

(b) The court may make an order under this section only if the court makes all of the following determinations:

(1) The gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, does not exceed sixty thousand dollars ($60,000).

(2) Not less than 40 days have elapsed since the death of the decedent.

(3) No proceeding is being or has been conducted in this state for administration of the decedent's estate.

(4) The real property described in the order is property of the decedent passing to the petitioner.

(c) If the petition has attached an inventory and appraisement that satisfies the requirements of subdivision (b) of Section 13152, the determination required by paragraph (1) of subdivision (b) of this section shall be made on the basis of the verified petition and the attached inventory and appraisement, unless evidence is offered by a person opposing the petition that the gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, exceeds sixty thousand dollars ($60,000).

13155. Upon becoming final, an order under this chapter determining that real property is property passing to the petitioner is conclusive on all persons, whether or not they are in being.

13156. (a) Subject to subdivisions (b) and (c), the petitioner who receives the decedent's property pursuant to an order under this chapter is personally liable for the unsecured debts of the decedent.

(b) The personal liability of any petitioner shall not exceed the fair market value at the date of the decedent's death of the property received by that petitioner pursuant to an order under this chapter, less the amount of any liens and encumbrances on the property.

(c) In any action or proceeding based upon an unsecured debt of the decedent, the petitioner may assert any defense, cross-complaint, or setoff which would have been available to the decedent if the decedent had not died.

13157. The attorney's fee for services performed in connection with the filing of a petition and obtaining a court order under this chapter shall be determined by private agreement between the attorney and the client and is not subject to approval by the court. If there is no agreement between the attorney and the client concerning the attorney's fee for services performed in connection with the filing of a petition and obtaining of a court order under this chapter and there is a dispute concerning the reasonableness of the attorney's fee for those services, a petition may be filed with the court in the same proceeding requesting that the court determine

the reasonableness of the attorney's fee for those services. If there is an agreement between the attorney and the client concerning the attorney's fee for services performed in connection with the filing of a petition and obtaining a court order under this chapter and there is a dispute concerning the meaning of the agreement, a petition may be filed with the court in the same proceeding requesting that the court determine the dispute.

CHAPTER 5. AFFIDAVIT PROCEDURE FOR REAL PROPERTY OF SMALL VALUE

13200. (a) No sooner than six months from the death of a decedent, a person or persons claiming as successor of the decedent to a particular item of property that is real property may file in the superior court in the county in which the decedent was domiciled at the time of death, or if the decedent was not domiciled in this state at the time of death, then in any county in which real property of the decedent is located, an affidavit in the form prescribed by the Judicial Council pursuant to Section 13209 stating all of the following:

(1) The name of the decedent.

(2) The date and place of the decedent's death.

(3) A legal description of the real property and the interest of the decedent therein.

(4) "The gross value of all real property in the decedent's estate located in California, as shown by the inventory and appraisement attached to this affidavit, excluding the real property described in Section 13050 of the California Probate Code, does not exceed ten thousand dollars ($10,000)."

(5) "At least six months have elapsed since the death of the decedent as shown in a certified copy of decedent's death certificate attached to this affidavit."

(6) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."

(7) "Funeral expenses, expenses of last illness, and all unsecured debts of the decedent have been paid."

(8) "The affiant is the successor of the decedent (as defined in Section 13006 of the Probate Code) and to the decedent's interest in the described property, and no other person has a superior right to the interest of the decedent in the described property."

(9) "The affiant declares under penalty of perjury under the law of the State of California that the foregoing is true and correct."

(b) For each person executing the affidavit, the affidavit shall contain a notary public's certificate of acknowledgment identifying the person.

(c) There shall be attached to the affidavit an inventory and appraisement of the decedent's real property in this state, excluding the real property described in Section 13050. The form, content, and manner of making the inventory and appraisement of the real property shall be as set forth in Chapter 9 (commencing with Section

600) of Division 3. The inventory and appraisement shall be made by a probate referee selected by the affiant from those probate referees appointed by the Controller under Section 1305 to appraise property in the county where the real property is located.

(d) If the person or persons executing the affidavit claim under the decedent's will, a copy of the will shall be attached to the affidavit.

(e) A certified copy of the decedent's death certificate shall be attached to the affidavit.

13201. Notwithstanding any other provision of law, the total fee for the filing of an affidavit under Section 13200 and the issuance of one certified copy of the affidavit under Section 13202 is thirty-five dollars ($35).

13202. Upon receipt of the affidavit and the required fee, the court clerk, upon determining that the affidavit is complete and has the required attachments, shall file the affidavit and attachments and shall issue a certified copy of the affidavit without the attachments. The certified copy shall be recorded in the office of the county recorder of the county where the real property is located. The county recorder shall index the certified copy in the index of grantors and grantees. The decedent shall be indexed as the grantor and each person designated as a successor to the property in the certified copy shall be indexed as a grantee.

13203. (a) A good faith purchaser or lessee of real property for value from, or a good faith lender to, a person designated as a successor of the decedent to a particular item of property in a certified copy of an affidavit issued under Section 13202 and recorded in the county in which the real property is located has the same rights and protections as the purchaser, lessee, or lender would have if each person designated as a successor in the recorded certified copy of the affidavit had been named as a distributee of the real property in a decree of distribution that had become final.

(b) The issuance and recording of a certified copy of an affidavit under this chapter does not preclude later proceedings for administration of the decedent's estate.

13204. Each person who is designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 is personally liable to the extent provided in Section 13207 for the unsecured debts of the decedent. Any such debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In any action based upon the debt, the person may assert any defense, cross-complaint, or setoff that would have been available to the decedent if the decedent had not died.

13205. (a) Except as provided in subdivision (b), each person who is designated as a successor of the decedent in a certified copy of any affidavit issued under Section 13202 is personally liable to the extent provided in Section 13207 to any person having a superior right by testate or intestate succession from the decedent.

(b) In addition to any other liability the person has under this section and Sections 13204, 13206, and 13207, if the person fraudulently executed or filed the affidavit under this chapter, the person is liable to the person having a superior right for three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, valued as of the time the certified copy of the affidavit was issued under Section 13202, of the property the person liable took under the certified copy of the affidavit to which the other person has a superior right, excluding any liens and encumbrances on the property at that time.

(c) An action to impose liability under this section is forever barred five years after the certified copy of the affidavit is issued under Section 13202. This five-year period allowed for commencing the action is tolled during the minority of the person having the superior right, but is not tolled for any other reason.

13206. (a) Subject to subdivisions (b), (c), (d), and (e), if proceedings for the administration of the decedent's estate are commenced, each person who is designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 is liable for:

(1) The restitution to the decedent's estate of the property the person took under the certified copy of the affidavit if the person still has the property, together with the net income the person received from the property.

(2) The restitution to the decedent's estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from the property prior to disposing of it and (B) interest from the date of disposition at the rate payable on a money judgment on the fair market value of the property. For purposes of this paragraph, the "fair market value of the property" is the fair market value, valued as of the time of the disposition of the property, of the property the person took under the certified copy of the affidavit, excluding the amount of any liens and encumbrances on the property at the time the certified copy of the affidavit was issued.

(b) Subject to subdivision (d), if the person fraudulently executed or filed the affidavit under this chapter, the person is liable under this section for restitution to the decedent's estate of three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, valued as of the time the certified copy of the affidavit was issued, of the property the person took under the certified copy of the affidavit, excluding the amount of any liens and encumbrances on the property at that time.

(c) Subject to subdivision (d), if proceedings for the administration of the decedent's estate are commenced and a person designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 made a significant improvement

to the property taken by the person under the certified copy of the affidavit in the good faith belief that the person was the successor of the decedent to that property, the person is liable for whichever of the following the decedent's estate elects:

(1) The restitution of the property, as improved, to the estate of the decedent upon the condition that the estate reimburse the person making restitution for (A) the amount by which the improvement increases the fair market value of the property restored, valued as of the time of restitution, and (B) the amount paid by the person for principal and interest on any liens or encumbrances that were on the property at the time the certified copy of the affidavit was issued.

(2) The restoration to the decedent's estate of the fair market value of the property, valued as of the time of the issuance of the certified copy of the affidavit under Section 13202, excluding the amount of any liens and encumbrances on the property at that time, together with interest on the net amount at the rate payable on a money judgment running from the date of the issuance of the certified copy of the affidavit.

(d) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13204 or 13205.

(e) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. In an action to enforce the liability under this section, the court's judgment may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(f) An action to enforce the liability under this section is forever barred three years after the certified copy of the affidavit is issued under Section 13202, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

13207. (a) A person designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 is not liable under Section 13204 or 13205 if proceedings for the administration of the decedent's estate are commenced and the person satisfies the requirements of Section 13206.

(b) Except as provided in subdivision (b) of Section 13205, the aggregate of the personal liability of a person under Sections 13204 and 13205 shall not exceed the fair market value at the time of the issuance of the certified copy of the affidavit under Section 13202 of the decedent's property received by that person under this chapter, less the amount of any liens and encumbrances on the property at that time, together with the net income the person received from the property and, if the property has been disposed of, interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purpose of this subdivision, "fair market value of the property" has the same

meaning as defined in paragraph (2) of subdivision (a) of Section 13206.

13208. The remedies available under Sections 13204 to 13207, inclusive, are in addition to any remedies available by reason of any fraud or intentional wrongdoing.

13209. The Judicial Council shall prescribe the form of affidavit to be used under this chapter. Any form so prescribed by the Judicial Council is deemed to comply with this chapter.

PART 2. PASSAGE OF PROPERTY TO SURVIVING SPOUSE WITHOUT ADMINISTRATION

CHAPTER 1. GENERAL PROVISIONS

13500. Except as provided in this chapter, when a husband or wife dies intestate leaving property that passes to the surviving spouse under Section 6401, or dies testate and by his or her will devises all or a part of his or her property to the surviving spouse, the property passes to the survivor subject to the provisions of Chapter 2 (commencing with Section 13540) and Chapter 3 (commencing with Section 13550), and no administration is necessary.

13501. Except as provided in Chapter 6 (commencing with Section 6600) of Division 3 and in Part 1 (commencing with Section 13000) of this division, the following property of the decedent is subject to administration under Division 3 (commencing with Section 300):

(a) Property passing to someone other than the surviving spouse under the decedent's will or by intestate succession.

(b) Property disposed of in trust under the decedent's will.

(c) Property in which the decedent's will limits the surviving spouse to a qualified ownership. For the purpose of this subdivision, a devise to the surviving spouse that is conditioned on the spouse surviving the decedent by a specified period of time is not a "qualified ownership" interest if the specified period of time has expired.

13502. (a) Upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse, all or a portion of the following property may be administered under Division 3 (commencing with Section 300):

(1) The one-half of the community property that belongs to the decedent under Section 100, the one-half of the quasi-community property that belongs to the decedent under Section 101, and the separate property of the decedent.

(2) The one-half of the community property that belongs to the surviving spouse under Section 100 and the one-half of the quasi-community property that belongs to the surviving spouse under Section 101.

(b) The election shall be made by a writing specifically

evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse within four months after the issuance of letters testamentary or of administration, or within such further time as the court may allow upon a showing of good cause, and before entry of an order under Section 13656.

13503. (a) The surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file an election and agreement to have all or part of the one-half of the community property that belongs to the surviving spouse under Section 100 and the one-half of the quasi-community property that belongs to the surviving spouse under Section 101 transferred by the surviving spouse or the surviving spouse's personal representative, guardian, or conservator to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee.

(b) The election and agreement shall be filed in the proceedings for the administration of the estate of the deceased spouse and before the entry of the decree of final distribution in the proceedings.

13504. Notwithstanding the provisions of this part, community property held in a revocable trust described in Section 5113.5 of the Civil Code is governed by the provisions, if any, in the trust for disposition in the event of death.

13505. This part applies whether the deceased spouse died before, on, or after July 1, 1987.

13506. On and after July 1, 1987, a reference in any statute of this state or in a written instrument, including a will or trust, to a provision of former Sections 202 to 206, inclusive, of the Probate Code (as repealed by Chapter 527 of the Statutes of 1984) or former Sections 649.1 to 649.5, inclusive, or Sections 650 to 658, inclusive, of the Probate Code (as repealed by the act enacting this section) shall be deemed to be a reference to the comparable provision of this part.

CHAPTER 2. RIGHT OF SURVIVING SPOUSE TO DISPOSE OF REAL PROPERTY

13540. (a) Except as provided in Section 13541, after 40 days from the death of a spouse, the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse has full power to sell, lease, mortgage, or otherwise deal with and dispose of the community or quasi-community real property, and the right, title, and interest of any grantee, purchaser, encumbrancer, or lessee shall be free of rights of devisees or creditors of the deceased spouse to the same extent as if the property had been owned as the separate property of the surviving spouse.

(b) Nothing in this section affects or limits the liability of the surviving spouse under Sections 13550 to 13553, inclusive.

13541. (a) Section 13540 does not apply if, within 40 days from the death of the spouse, a notice that satisfies the requirements of this section is recorded in the office of the county recorder of the county in which the property is situated.

(b) The notice shall contain all of the following:

(1) A description of the property in which an interest is claimed.

(2) A statement that an interest in the property is claimed by a named person under the will of the deceased spouse.

(3) The name or names of the owner or owners of the record title to the property.

(c) There shall be endorsed on the notice instructions that it shall be indexed by the recorder in the name or names of the owner or owners of record title to the property, as grantor or grantors, and in the name of the person claiming an interest in the property, as grantee.

13542. The repeal of former Section 649.2 by the act enacting this section does not affect any sale, lease, mortgage, or other transaction or disposition of real property made prior to July 1, 1987, to which that section applied, and such a sale, lease, mortgage, or other transaction or disposition shall continue to be governed by the provisions of former Section 649.2 notwithstanding the repeal of that section.

CHAPTER 3. LIABILITY FOR DEBTS OF DECEASED SPOUSE

13550. Except as provided in Sections 951.1, 13552, 13553, and 13554, upon the death of a married person, the surviving spouse is personally liable for the debts of the deceased spouse chargeable against the property described in Section 13551 to the extent provided in Section 13551.

13551. The liability imposed by Section 13550 shall not exceed the fair market value at the date of the decedent's death, less the amount of any liens and encumbrances, of the total of the following:

(a) The portion of the one-half of the community and quasi-community property belonging to the surviving spouse under Sections 100 and 101 that is not exempt from enforcement of a money judgment and is not administered in the estate of the deceased spouse.

(b) The portion of the one-half of the community and quasi-community property belonging to the decedent under Sections 100 and 101 that passes to the surviving spouse without administration.

(c) The separate property of the decedent that passes to the surviving spouse without administration.

13552. If proceedings are commenced in this state for the administration of the estate of the deceased spouse and the time for filing or presenting claims has commenced, any action upon the liability of the surviving spouse pursuant to Section 13550 is barred to the same extent as provided for claims under Article 1

(commencing with Section 700) of Chapter 12 of Division 3, except as to the following:

(a) Creditors who commence judicial proceedings for the enforcement of the debt and serve the surviving spouse with the complaint therein prior to the expiration of the time for filing or presenting claims.

(b) Creditors who have or who secure the surviving spouse's acknowledgment in writing of the liability of the surviving spouse for the debts.

(c) Creditors who file a timely claim in the proceedings for the administration of the estate of the deceased spouse.

13553. The surviving spouse is not liable under this chapter if all the property described in paragraphs (1) and (2) of subdivision (a) of Section 13502 is administered under Division 3 (commencing with Section 300).

13554. (a) Except as otherwise provided in this chapter, any debt described in Section 13550 may be enforced against the surviving spouse in the same manner as it could have been enforced against the deceased spouse if the deceased spouse had not died.

(b) In any action based upon the debt, the surviving spouse may assert any defense, cross-complaint, or setoff which would have been available to the deceased spouse if the deceased spouse had not died.

CHAPTER 4. COLLECTION BY AFFIDAVIT OF COMPENSATION OWED TO DECEASED SPOUSE

13600. (a) At any time after a husband or wife dies, the surviving spouse or the guardian or conservator of the estate of the surviving spouse may, without procuring letters of administration or awaiting probate of the will, collect salary or other compensation owed by an employer for personal services of the deceased spouse, including compensation for unused vacation, not in excess of five thousand dollars ($5,000) net.

(b) Not more than five thousand dollars ($5,000) net in the aggregate may be collected by or for the surviving spouse under this chapter from all of the employers of the decedent.

(c) For the purposes of this chapter, a guardian or conservator of the estate of the surviving spouse may act on behalf of the surviving spouse without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

13601. (a) To collect salary or other compensation under this chapter, an affidavit or a declaration under penalty of perjury under the laws of this state shall be furnished to the employer of the deceased spouse stating all of the following:

(1) The name of the decedent.

(2) The date and place of the decedent's death.

(3) Either of the following, as appropriate:

(A) "The affiant or declarant is the surviving spouse of the decedent."

(B) "The affiant or declarant is the guardian or conservator of the estate of the surviving spouse of the decedent."

(4) "The surviving spouse of the decedent is entitled to the earnings of the decedent under the decedent's will or by intestate succession and no one else has a superior right to the earnings."

(5) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."

(6) "Sections 13600 to 13605, inclusive, of the California Probate Code require that the earnings of the decedent, including compensation for unused vacation, not in excess of five thousand dollars ($5,000) net, be paid promptly to the affiant or declarant."

(7) "Neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has a pending request to collect compensation owed by another employer for personal services of the decedent under Sections 13600 to 13605, inclusive, of the California Probate Code."

(8) "Neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has collected any compensation owed by an employer for personal services of the decedent under Sections 13600 to 13605, inclusive, of the California Probate Code except the sum of _____ dollars ($_____) which was collected from _____."

(9) "The affiant or declarant requests that he or she be paid the salary or other compensation owed by you for personal services of the decedent, including compensation for unused vacation, not to exceed five thousand dollars ($5,000) net, less the amount of _____ dollars ($_____) which was previously collected."

(10) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(c) Reasonable proof of the identity of the surviving spouse shall be provided to the employer. If a guardian or conservator is acting for the surviving spouse, reasonable proof of the identity of the guardian or conservator shall also be provided to the employer. Proof of identity that is sufficient under Section 13104 is sufficient proof of identity for the purposes of this subdivision.

(d) If a person presenting the affidavit or declaration is a person claiming to be the guardian or conservator of the estate of the surviving spouse, the employer shall be provided with reasonable proof, satisfactory to the employer, of the appointment of the person to act as guardian or conservator of the estate of the surviving spouse.

13602. If the requirements of Section 13600 are satisfied, the employer to whom the affidavit or declaration is presented shall promptly pay the earnings of the decedent, including compensation for unused vacation, not in excess of five thousand dollars ($5,000) net, to the person presenting the affidavit or declaration.

13603. If the requirements of Section 13601 are satisfied, receipt by the employer of the affidavit or declaration constitutes sufficient acquittance for the compensation paid pursuant to this chapter and discharges the employer from any further liability with respect to the

compensation paid. The employer may rely in good faith on the statements in the affidavit or declaration and has no duty to inquire into the truth of any statement in the affidavit or declaration.

13604. (a) If the employer refuses to pay as required by this chapter, the surviving spouse may recover the amount the surviving spouse is entitled to receive under this chapter in an action brought for that purpose against the employer.

(b) If an action is brought against the employer under this section, the court shall award attorney's fees to the surviving spouse if the court finds that the employer acted unreasonably in refusing to pay as required by this chapter.

13605. Nothing in this chapter limits the rights of the heirs or devisees of the deceased spouse. Payment of a decedent's compensation pursuant to this chapter does not preclude later proceedings for administration of the decedent's estate.

Any person to whom payment is made under this chapter is answerable and accountable therefor to the personal representative of the decedent's estate and is liable for the amount of the payment to any other person having a superior right to the payment received. In addition to any other liability the person has under this section, a person who fraudulently secures a payment under this chapter is liable to a person having a superior right to the payment for three times the amount of the payment.

13606. The procedure provided in this chapter is in addition to, and not in lieu of, any other method of collecting compensation owed to a decedent.

CHAPTER 5. DETERMINATION OR CONFIRMATION OF PROPERTY PASSING OR BELONGING TO SURVIVING SPOUSE

13650. (a) A surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file a petition in the superior court of the county in which the estate of the deceased spouse may be administered requesting an order that administration of all or part of the estate is not necessary for the reason that all or part of the estate is property passing to the surviving spouse. The petition may also request an order confirming the ownership of the surviving spouse of property belonging to the surviving spouse under Section 100 or 101.

(b) To the extent of the election, this section does not apply to property that the petitioner has elected, as provided in Section 13502, to have administered under Division 3 (commencing with Section 300).

(c) A guardian or conservator may file a petition under this section without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

13651. (a) A petition filed pursuant to Section 13650 shall be verified, shall allege that administration of all or a part of the estate of the deceased spouse is not necessary for the reason that all or a part

of the estate is property passing to the surviving spouse, and shall set forth all of the following information:

(1) If proceedings for the administration of the estate are not pending, the facts necessary to determine the county in which the estate of the deceased spouse may be administered.

(2) A description of the property of the deceased spouse which the petitioner alleges is property passing to the surviving spouse, including the trade or business name of any property passing to the surviving spouse that consists of an unincorporated business or an interest in an unincorporated business which the deceased spouse was operating or managing at the time of death.

(3) The facts upon which the petitioner bases the allegation that all or a part of the estate of the deceased spouse is property passing to the surviving spouse.

(4) A description of any interest in the community property or quasi-community property, or both, which the petitioner requests the court to confirm to the surviving spouse as belonging to the surviving spouse pursuant to Section 100 or 101.

(5) The names, ages, and addresses of the heirs and devisees of the deceased spouse, the names and addresses of all persons named as executors of the will of the deceased spouse, and the names and addresses of all persons appointed as personal representatives of the deceased spouse, which are known to the petitioner.

(b) If the petitioner bases the allegation that all or part of the estate of the deceased spouse is property passing to the surviving spouse upon the will of the deceased spouse, a copy of the will shall be attached to the petition.

13652. If proceedings for the administration of the estate of the deceased spouse are pending, a petition under this chapter shall be filed in those proceedings without the payment of an additional fee.

13653. If proceedings for the administration of the estate of the deceased spouse are not pending, a petition under this chapter may, but need not, be filed with a verified petition for probate of the will of the deceased spouse or for administration of the estate of the deceased spouse.

13654. The filing of a petition under this chapter does not preclude the court from admitting the will of the deceased spouse to probate or appointing a personal representative of the estate of the deceased spouse upon the petition of any person legally entitled, including any petition for probate of the will or for administration of the estate which is filed with a petition filed under this chapter.

13655. (a) If a petition filed under this chapter is filed with a petition for probate of the deceased spouse's will, notice of the hearing on the petition shall be given in the manner prescribed by Sections 327 and 328 and shall be included in the notice required by those sections. If the petition filed under this chapter is filed with a petition for administration of the estate of the deceased spouse, notice of the hearing on the petition shall be given in the manner prescribed by Section 441 and shall be included in the notice

required by that section.

(b) If proceedings for the administration of the estate of the deceased spouse are pending at the time a petition is filed under this chapter or, if the proceedings are not pending and if the petition filed under this chapter is not filed with a petition for probate of the deceased spouse's will or for administration of the estate of the deceased spouse, the clerk shall set the petition for hearing. At least 10 days before the hearing, notice of the hearing on the petition filed under this chapter shall be personally served upon the following persons by the petitioner or mailed, postage prepaid, by the petitioner to the following persons, addressed to the addresses given in their request for special notice or notice of appearance, the addresses of their offices or places of residence, or, if neither of these addresses is known to the petitioner, the county seat of the county in which the proceedings are pending:

(1) Any personal representative who is not the petitioner.

(2) All devisees and known heirs of the deceased spouse and, if the personal representative is the trustee of a trust that is a devisee under the will of the decedent, all persons interested in the trust, as determined in cases of future interests pursuant to subdivision (1), (2), or (3) of Section 1215.1.

(3) All persons or their attorneys who have requested special notice pursuant to Section 1202.

(4) All persons or their attorneys who have given notice of appearance.

(c) The notice specified in subdivision (b) shall also be mailed as provided in subdivision (b) to the Attorney General, addressed to the office of the Attorney General at Sacramento, California, if the petitioner bases the allegation that all or part of the estate of the deceased spouse is property passing to the surviving spouse upon the will of the deceased spouse and the will involves or may involve either of the following:

(1) A testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state.

(2) A devise for a charitable purpose without an identified devisee or beneficiary.

If Assembly Bill No. 2652 of the 1985–86 Regular Session is enacted and adds a Section 15804 to this code, this section shall not become operative.

13655. (a) If a petition filed under this chapter is filed with a petition for probate of the deceased spouse's will, notice of the hearing on the petition shall be given in the manner prescribed by Sections 327 and 328 and shall be included in the notice required by those sections. If the petition filed under this chapter is filed with a petition for administration of the estate of the deceased spouse, notice of the hearing on the petition shall be given in the manner prescribed by Section 441 and shall be included in the notice required by that section.

(b) If proceedings for the administration of the estate of the deceased spouse are pending at the time a petition is filed under this chapter or, if the proceedings are not pending and if the petition filed under this chapter is not filed with a petition for probate of the deceased spouse's will or for administration of the estate of the deceased spouse, the clerk shall set the petition for hearing. At least 10 days before the hearing, notice of the hearing on the petition filed under this chapter shall be personally served upon the following persons by the petitioner or mailed, postage prepaid, by the petitioner to the following persons, addressed to the addresses given in their request for special notice or notice of appearance, the addresses of their offices or places of residence, or, if neither of these addresses is known to the petitioner, the county seat of the county in which the proceedings are pending:

(1) Any personal representative who is not the petitioner.

(2) All devisees and known heirs of the deceased spouse and, if the personal representative is the trustee of a trust that is a devisee under the will of the decedent, all persons interested in the trust, as determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 15804.

(3) All persons or their attorneys who have requested special notice pursuant to Section 1202.

(4) All persons or their attorneys who have given notice of appearance.

(c) The notice specified in subdivision (b) shall also be mailed as provided in subdivision (b) to the Attorney General, addressed to the office of the Attorney General at Sacramento, California, if the petitioner bases the allegation that all or part of the estate of the deceased spouse is property passing to the surviving spouse upon the will of the deceased spouse and the will involves or may involve either of the following:

(1) A testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state.

(2) A devise for a charitable purpose without an identified devisee or beneficiary.

This section shall only become operative if Assembly Bill No. 2652 of the 1985–86 Regular Session is enacted and adds a Section 15804 to this code, in which case this section shall become operative on July 1, 1987.

13656. (a) If the court finds that all of the estate of the deceased spouse is property passing to the surviving spouse, the court shall issue an order describing the property, determining that the property is property passing to the surviving spouse, and determining that no administration is necessary. The court may issue any further orders which may be necessary to cause delivery of the property or its proceeds to the surviving spouse.

(b) If the court finds that all or part of the estate of the deceased spouse is not property passing to the surviving spouse, the court shall

issue an order (1) describing any property which is not property passing to the surviving spouse, determining that that property does not pass to the surviving spouse and determining that that property is subject to administration under Division 3 (commencing with Section 300) and (2) describing the property, if any, which is property passing to the surviving spouse, determining that that property passes to the surviving spouse, and determining that no administration of that property is necessary. If the court determines that property passes to the surviving spouse, the court may issue any further orders which may be necessary to cause delivery of that property or its proceeds to the surviving spouse.

(c) If the petition filed under this chapter includes a description of the interest of the surviving spouse in the community or quasi-community property, or both, which belongs to the surviving spouse pursuant to Section 100 or 101 and the court finds that the interest belongs to the surviving spouse, the court shall issue an order describing the property and confirming the ownership of the surviving spouse and may issue any further orders which may be necessary to cause ownership of the property to be confirmed in the surviving spouse.

13657. Upon becoming final, an order under Section 13656 (1) determining that property is property passing to the surviving spouse or (2) confirming the ownership of the surviving spouse of property belonging to the surviving spouse under Section 100 or 101 shall be conclusive on all persons, whether or not they are in being.

13658. If the court determines that all or a part of the property passing to the surviving spouse consists of an unincorporated business or an interest in an unincorporated business which the deceased spouse was operating or managing at the time of death, the court shall require the surviving spouse to file a list of all of the known creditors of the business and the amounts owing to each of them. The court may issue any order necessary to protect the interests of the creditors of the business, including, but not limited to, the filing of (1) an undertaking and (2) an inventory and appraisement in the form set forth in Section 600 and made as set forth in Chapter 9 (commencing with Section 600) of Division 3.

13659. Except as provided in Section 13658, no inventory and appraisement of the estate of the deceased spouse shall be required in a proceeding under this chapter. However, within three months after the filing of a petition under this chapter, or within such further time as the court or judge for reasonable cause may allow, the petitioner may file with the clerk of the court an inventory and appraisement in the form set forth in Section 600. The appraisement shall be made as set forth in Chapter 9 (commencing with Section 600) of Division 3. The petitioner may appraise the assets which a personal representative could appraise under Section 605.

13660. The attorney's fee for services performed in connection with the filing of a petition and obtaining of a court order under this chapter shall be determined by private agreement between the

attorney and the client and is not subject to approval by the court. If there is no agreement between the attorney and the client concerning the attorney's fee for services performed in connection with the filing of a petition and obtaining of a court order under this chapter and there is a dispute concerning the reasonableness of the attorney's fee for those services, a petition may be filed with the court in the same proceeding requesting that the court determine the reasonableness of the attorney's fee for those services. If there is an agreement between the attorney and the client concerning the attorney's fee for services performed in connection with the filing of a petition and obtaining a court order under this chapter and there is a dispute concerning the meaning of the agreement, a petition may be filed with the court in the same proceeding requesting that the court determine the dispute.

SEC. 25. Division 10 (commencing with Section 20100) is added to the Probate Code, to read:

DIVISION 10. PRORATION OF TAXES

CHAPTER 1. PRORATION OF ESTATE TAXES

Article 1. General Provisions

20100. Except where the context otherwise requires, the following definitions shall govern the construction of this chapter:

(a) "Estate tax" means a tax imposed by any federal or California estate tax law, now existing or hereafter enacted, and includes interest and penalties on any deficiency.

(b) "Person interested in the estate" means any person, including a personal representative, entitled to receive, or who has received, from a decedent while alive or by reason of the death of the decedent any property or interest therein.

(c) "Personal representative" includes a guardian, conservator, trustee, or other person charged with the responsibility of paying the estate tax.

(d) "Property" means property included in the gross estate for federal estate tax purposes.

(e) "Value" means fair market value as determined for federal estate tax purposes.

20101. (a) This chapter applies to persons interested in the estate of a decedent who dies on or after January 1, 1987.

(b) Notwithstanding the repeal of former Article 4a (commencing with Section 970) of Chapter 15 of Division 3 of the Probate Code by the act enacting this chapter, the provisions of that former article remain applicable where the decedent died before January 1, 1987. No inference as to the applicable law in effect before January 1, 1987, shall be drawn from the enactment of this chapter.

Article 2. Proration

20110. (a) Except as provided in subdivision (b), any estate tax shall be equitably prorated among the persons interested in the estate in the manner prescribed in this article.

(b) This section does not apply:

(1) To the extent the decedent in a written inter vivos or testamentary instrument disposing of property specifically directs that the property be applied to the satisfaction of an estate tax or that an estate tax be prorated to the property in the manner provided in the instrument. As used in this paragraph, an "instrument disposing of property" includes an instrument that creates an interest in property or an amendment to an instrument that disposes of property or creates an interest in property.

(2) Where federal law directs otherwise. If federal law directs the manner of proration of the federal estate tax, the California estate tax shall be prorated in the same manner.

20111. The proration required by this article shall be made in the proportion that the value of the property received by each person interested in the estate bears to the total value of all property received by all persons interested in the estate, subject to the provisions of this article.

20112. (a) In making a proration of the federal estate tax, allowances shall be made for credits allowed for state or foreign death taxes in determining the federal tax payable and for exemptions and deductions allowed for the purpose of determining the taxable estate.

(b) In making a proration of the California estate tax, allowances shall be made for (1) credits (other than the credit for state death taxes paid) allowed by the federal estate tax law and attributable to property located in this state, and (2) exemptions and deductions allowed by the federal estate tax law for the purpose of determining the taxable estate attributable to property located in this state.

(c) In making a proration of an estate tax, interest on extension of taxes and interest and penalties on any deficiency shall be charged to equitably reflect the benefits and burdens of the extension or deficiency and of any tax deductions associated with the interest and penalties.

20113. If a trust is created, or other provision made whereby a person is given an interest in the income of, an estate for years or for life in, or other temporary interest in, any property, the estate tax on both the temporary interest and on the remainder thereafter shall be charged against and paid out of the corpus of the property without apportionment between remainders and temporary estates.

20114. (a) As used in this section, "qualified real property" means qualified real property as defined in Section 2032A of the federal Internal Revenue Code (26 U.S.C. Sec. 2032A).

(b) If an election is made pursuant to Section 2032A of the federal Internal Revenue Code (26 U.S.C. Sec. 2032A), the proration shall be

based upon the amount of federal estate tax that would be payable but for the election. The amount of the reduction in federal estate tax resulting from an election pursuant to Section 2032A of the federal Internal Revenue Code (26 U.S.C. Sec. 2032A) shall reduce the tax that is otherwise attributable to the qualified real property that is the subject of the election. If the tax that is otherwise attributable to the qualified real property is reduced to zero pursuant to this subdivision, any excess amount of reduction shall reduce the tax otherwise payable with respect to the other property, this amount to be equitably prorated in accordance with Section 20111.

(c) If additional federal estate tax is imposed under subsection (c) of Section 2032A of the federal Internal Revenue Code (26 U.S.C. Sec. 2032A) by reason of early disposition or cessation of qualified use, the additional tax shall be a charge against the portion of the qualified real property to which the additional tax is attributable, and shall be equitably prorated among the persons interested in that portion of the qualified real property in proportion to their interests.

20115. Where the payment of any portion of the federal estate tax is extended under the provisions of the federal estate tax law, the amount of extended tax shall be a charge against the persons who receive the specific property that gives rise to the extension.

20116. (a) If all property does not come into the possession of the personal representative, the personal representative is entitled, and has the duty, to recover from the persons interested in the estate the proportionate amount of the estate tax with which the persons are chargeable under this chapter.

(b) If the personal representative cannot collect from any person interested in the estate the amount of an estate tax apportioned to the person, the amount not recoverable shall be equitably prorated among the other persons interested in the estate who are subject to proration.

20117. (a) If a person is charged with or required to pay an estate tax greater than the amount prorated to that person because another person does not pay the amount of estate tax prorated to the other person, the person charged with or required to pay the greater amount has a right of reimbursement against the other person.

(b) The right of reimbursement may be enforced through the personal representative in the discretion of the personal representative, or may be enforced directly by the person charged with or required to pay the greater amount, and for the purpose of direct enforcement the person is subrogated to the position of the personal representative.

(c) The personal representative or person who has a right of reimbursement may commence a proceeding to have a court determine the right of reimbursement. The provisions of Article 3 (commencing with Section 20120) shall govern the proceeding, with changes necessary to make the provisions appropriate for application to the proceeding, and the court order determining the right of

reimbursement is an enforceable judgment.

Article 3. Judicial Proceedings

20120. (a) The personal representative or any person interested in the estate may commence a proceeding to have a court determine the proration pursuant to this chapter.

(b) A proceeding under this article shall be commenced in the court in which the estate of the decedent was administered or, if no administration proceedings have been commmenced, in the superior court of any county in which the estate of the decedent may be administered.

(c) If proceedings for the administration of the decedent's estate are pending, a proceeding under this article shall be combined with the administration proceedings. If a proceeding is commenced at any time before final distribution, there shall be no additional filing fee.

20121. A proceeding under this article shall be commenced by filing a verified petition that sets forth all of the following information:

(a) The jurisdictional facts.

(b) Other facts necessary for the court to determine the proration of estate taxes.

20122. Not less than 30 days before the hearing, the petitioner shall do both of the following:

(a) Cause notice of the hearing and a copy of the petition to be mailed to the personal representative and to each person interested in the estate against whom prorated amounts may be charged pursuant to paragraph (1) of subdivision (a) of Section 20123.

(b) Cause a summons and a copy of the petition to be served on each person interested in the estate who may be directed to make payment of prorated amounts pursuant to paragraph (2) of subdivision (a) of Section 20123. The summons shall be in the form and shall be served in the manner prescribed in Title 5 (commencing with Section 410.10) of Part 2 of the Code of Civil Procedure.

20123. (a) The court, upon making a determination as provided in this article, shall make an order:

(1) Directing the personal representative to charge the prorated amounts against the persons against whom an estate tax has been prorated insofar as the personal representative is in possession of any property or interests of the persons against whom the charge may be made.

(2) Summarily directing all other persons against whom an estate tax has been prorated to make payment of the prorated amounts to the personal representative.

(b) An appeal may be taken from an order made or from the refusal to make an order under this section.

(c) A court order made under this section is a judgment that may be enforced against the persons against whom an estate tax has been prorated.

20124. Upon petition by the personal representative or any person interested in the estate, the court shall modify an order made pursuant to this article whenever it appears that the amount of estate tax as actually determined is different from the amount of estate tax on which the court based the order.

20125. (a) A personal representative acting or resident in another state may commence an action in this state to recover from a person interested in the estate, who either is resident in this state or owns property in this state, the amount of the federal estate tax, or an estate tax or death duty payable to another state, apportioned to the person.

(b) The action shall be commenced in the superior court of any county in which administration of the estate of the decedent would be proper or, if none, in which any defendant resides.

(c) For purposes of the action the apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

CHAPTER 2. PRORATION OF TAXES ON GENERATION-SKIPPING TRANSFER

Article 1. General Provisions

20200. Except where the context otherwise requires, the following definitions shall govern the construction of this chapter:

(a) "Generation-skipping transfer tax" means a tax imposed by any federal or California generation-skipping transfer tax law, now existing or hereafter enacted, and includes interest and penalties on any deficiency.

(b) "Property" means property on which a generation-skipping transfer tax is imposed.

(c) "Transferee" means any person who receives, who is deemed to receive, or who is the beneficiary of, any property.

(d) "Trustee" means any person who is a trustee within the meaning of the federal generation-skipping transfer tax law, or who is otherwise required to pay a generation-skipping transfer tax.

(e) "Value" means fair market value as determined for generation-skipping transfer tax purposes.

20201. (a) This chapter applies to transferees of property of a decedent who dies on or after January 1, 1987.

(b) No inference as to the applicable law in effect before January 1, 1987, shall be drawn from the enactment of this chapter.

Article 2. Proration

20210. (a) Except as provided in subdivision (b), any generation-skipping transfer tax shall be equitably prorated among the transferees in the manner prescribed in this article.

(b) This section does not apply:

(1) To the extent the transferor in a written instrument transferring property specifically directs that the property be applied to the satisfaction of a generation-skipping transfer tax or that a generation-skipping transfer tax be prorated to the property in the manner provided in the instrument.

(2) Where federal law directs otherwise. If federal law directs the manner of proration of the federal generation-skipping transfer tax, the California generation-skipping transfer tax shall be prorated in the same manner.

20211. The proration required by this article shall be made in the proportion that the value of the property received by each transferee bears to the total value of all property received by all transferees, subject to the provisions of this article.

20212. In making a proration required by this article:

(a) Allowances shall be made for credits, exemptions, and deductions allowed for the purpose of determining the tax payable.

(b) Interest and penalties on any deficiency shall be charged to equitably reflect the benefits and burdens of the deficiency and of any tax deductions associated with the interest and penalties.

20213. If a trust is created or other provision made whereby a transferee is given an interest in income, or an estate for years or for life, or another temporary interest in property, the tax on both the temporary interest and other interests in the property shall be charged against, and paid out of, the corpus of the property without apportionment between the temporary and other interests.

20214. (a) If all property does not come into the possession of the trustee, the trustee is entitled, and has the duty, to recover from the transferees, the proportionate amount of the tax with which the transferees are chargeable under this chapter.

(b) If the trustee cannot collect from any transferee the amount of tax apportioned to the transferee, the amount not recoverable shall be equitably prorated among the other transferees who are subject to proration.

20215. (a) If a person is charged with, or required to pay, a generation-skipping transfer tax greater than the amount prorated to that person because another person does not pay the amount of generation-skipping transfer tax prorated to the other person, the person charged with or required to pay the greater amount has a right of reimbursement against the other person.

(b) The right of reimbursement may be enforced through the trustee in the discretion of the trustee, or may be enforced directly by the person charged with, or required to pay, the greater amount and, for the purpose of direct enforcement, the person is subrogated to the position of the trustee.

(c) The trustee or person who has a right of reimbursement may commence a proceeding to have a court determine the right of reimbursement. The provisions of Article 3 (commencing with Section 20220) shall govern the proceeding, with changes necessary to make the provisions appropriate for application to the proceeding,

and the court order determining the right of reimbursement is an enforceable judgment.

Article 3. Judicial Proceedings

20220. (a) The trustee or any transferee may commence a proceeding to have a court determine the proration pursuant to this chapter.

(b) A proceeding under this article shall be commenced in the court in which the estate of the decedent was administered or, if no administration proceedings have been commenced, in the superior court of any county in which the estate of the decedent may be administered.

(c) If proceedings for the administration of the decedent's estate are pending, a proceeding under this article shall be combined with the administration proceedings. If a proceeding is commenced at any time before final distribution, there shall be no additional filing fee.

20221. A proceeding under this article shall be commenced by filing a verified petition that sets forth all of the following information:

(a) The jurisdictional facts.

(b) Other facts necessary for the court to determine the proration of the generation-skipping transfer tax.

20222. Not less than 30 days before the hearing the petitioner shall do both of the following:

(a) Cause notice of the hearing and a copy of the petition to be mailed to the trustee and each transferee against whom prorated amounts may be charged pursuant to paragraph (1) of subdivision (a) of Section 20223.

(b) Cause a summons and a copy of the petition to be served on each transferee who may be directed to make payment of prorated amounts pursuant to paragraph (2) of subdivision (a) of Section 20223. The summons shall be in the form and shall be served in the manner prescribed in Title 5 (commencing with Section 410.10) of Part 2 of the Code of Civil Procedure.

20223. (a) The court, upon making a determination as provided in this article, shall make an order:

(1) Directing the trustee to charge the prorated amounts against the transferees against whom the generation-skipping transfer tax has been prorated insofar as the trustee is in possession of any property or interests of the transferees against whom the charge may be made.

(2) Summarily directing all other transferees against whom the generation-skipping transfer tax has been prorated to make payment of the prorated amounts to the trustee.

(b) An appeal may be taken from an order made or from the refusal to make an order under this section.

(c) A court order made under this section is a judgment that may be enforced against the persons against whom a generation-skipping

transfer tax has been prorated.

20224. Upon petition by the trustee or any transferee, the court shall modify an order made pursuant to this article whenever it appears that the amount of generation-skipping transfer tax as actually determined is different from the amount of tax on which the court based the order.

20225. (a) A trustee acting or resident in another state may commence an action in this state to recover from a transferee, who either is resident in this state or owns property in this state, the amount of the federal generation-skipping transfer tax, or a generation-skipping transfer tax payable to another state, apportioned to the person.

(b) The action shall be commenced in the superior court of any county in which administration of the estate of the decedent would be proper or, if none, in which any defendant resides.

(c) For purposes of the action an apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

SEC. 26. Section 5910 of the Vehicle Code is amended 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 or persons may secure transfer of registration of the title or interest of the decedent:

(1) The sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 of the Probate Code unless the vehicle is, by will, otherwise bequeathed.

(2) The sole beneficiary or all of the beneficiaries who succeeded to 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 sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 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) If the department is presented with the documents specified in paragraphs (1) and (2) of subdivision (b), no liability shall be incurred by the department or any officer or employee of the department by reason of the transfer of registration of the vehicle pursuant to this section. The department or officer or employee of the department may rely in good faith on the statements in the certificate specified in paragraph (2) of subdivision (b) and has no duty to inquire into the truth of any statement in the certificate. The person who secures the transfer of the vehicle pursuant to this section is subject to the provisions of Sections 13109 to 13113, inclusive, of the Probate Code to the same extent as a person to whom transfer of property is made under Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code.

(d) The department may prescribe a combined form for use under this section and Section 9916.

SEC. 27. Section 9916 of the Vehicle Code is amended 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 sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 of the Probate Code unless the vessel is, by will, otherwise bequeathed.

(2) The sole beneficiary or all of the beneficiaries who succeeded to 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 sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 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.

(c) If the department is presented with the documents specified in paragraphs (1) and (2) of subdivision (b), no liability shall be incurred by the department or any officer or employee of the department by reason of the transfer of registration of the vessel pursuant to this section. The department or officer or employee of the department may rely in good faith on the statements in the certificate specified in paragraph (2) of subdivision (b) and has no duty to inquire into the truth of any statement in the certificate. The person who secures the transfer of the vessel pursuant to this section is subject to the provisions of Section 13109 to 13113, inclusive, of the Probate Code to the same extent as a person to whom transfer of property is made under Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code.

SEC. 28. Section 8 of this act, amending Section 605 of the Probate Code, shall not become operative if AB 2896 is enacted, AB 2896 amends Section 605 of the Probate Code, and AB 2896 becomes effective on or before January 1, 1987.

SEC. 29. Section 19.5 of this bill incorporates amendments to Section 1200.5 of the Probate Code proposed by both this bill and AB 2652. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 1200.5 of the Probate Code, and (3) this bill is enacted after AB 2652, in which case Section 19 of this bill shall not become operative.

SEC. 30. (a) Except as otherwise provided in this section, this act shall become operative on July 1, 1987.

(b) On and after January 1, 1987, the Judicial Council may adopt any necessary forms under this act so that the forms may be used when this act becomes operative.

(c) On and after January 1, 1987, the courts may adopt any rules necessary under this act so that the rules will be effective when this act becomes operative.

(d) Division 10 (commencing with Section 20100) of the Probate Code, as added by Section 25 of this act, shall become operative January 1, 1987.

CHAPTER 784

An act to amend Sections 53601 and 53635 of the Government Code, relating to funds of local agencies.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 53601 of the Government Code as amended by Section 1 of Chapter 1526 of the Statutes of 1985, 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 any portion of the money which it deems wise or expedient in:

(a) Bonds issued by the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 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 the 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. The term of repurchase agreements shall be for one year or less. The term

"securities," for purpose of repurchase under this subdivision, means 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.

(k) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(m) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease, installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease, installment sale, or other agreement, or, to

the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

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. 1.5. Section 53601 of the Government Code, as amended by Section 1 of Chapter 1526 of the Statutes of 1985, 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 any portion of the money which it deems wise or expedient in:

(a) Bonds issued by the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 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 the 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. The transfer of

underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, means 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.

(k) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(m) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of

bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease, installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease, installment sale, or other agreement, or, to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

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. 2. Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 1526 of the Statutes of 1985, 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 any portion of the money which it deems wise or expedient in:

(a) Bonds issued by the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 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 the 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. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, means 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) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (*l*), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease, installment sale or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds,

indebtedness, or lease installment sale, or other agreement, or, to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

SEC. 2.5. Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 1526 of the Statutes of 1985, 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 any portion of the money which it deems wise or expedient in:

(a) Bonds issued by the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 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 the 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase

under this subdivision, means 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) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (*l*), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

SEC. 3. Section 53635 of the Government Code, as amended by Section 2 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 savings association or federal association or a state or federal credit union 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 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certificates of deposit.

(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 the 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. The term of

repurchase agreements shall be for one year or less. The term "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.

(k) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (*l*), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 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. 3.5. Section 53635 of the Government Code, as amended by Section 2 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 savings association or federal association or a state or federal credit union 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 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certificates of deposit.

(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 the 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, means 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.

(k) Medium-term corporate notes of a maximum of five years' maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (*l*), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 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. 4. Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 savings association or federal association or a state or federal credit union 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 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certificates of deposit.

(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 the 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. The term of repurchase agreements shall be for one year or less. The term "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) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

SEC. 4.5. Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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, 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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 savings association or federal association or a state or federal credit union 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 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certificates of deposit.

(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 the 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "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) Medium-term corporate notes of a maximum of five years, maturity issued by corporations operating within the United States. Securites eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

SEC. 5. Sections 1.5 and 2.5 of this bill incorporate amendments to Section 53601 of the Government Code proposed by both this bill and SB 2115. Sections 3.5 and 4.5 of this bill incorporate amendments to Section 53635 of the Government Code proposed by both this bill and SB 2115. Those sections shall only become operative if (1) both

bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Sections 53601 and 53635 of the Government Code, and (3) this bill is enacted after SB 2115, in which case Section 53601 of the Government Code and Section 53635 of the Government Code, as amended by SB 2115 shall remain operative only until the operative date of this bill, at which time Sections 1.5, 2.5, 3.5, and 4.5 of this bill shall become operative and Sections 1, 2, 3, and 4 shall not become operative.

CHAPTER 785

An act to amend Section 1717 of, and to add Article 2.5 (commencing with Section 2373) to Chapter 2 of Title 9 of Part 4 of Division 3 of, the Civil Code, relating to civil law.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1717 of the Civil Code is amended to read:

1717. (a) In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce the provisions of that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the prevailing party, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

Where a contract provides for attorney's fees, as set forth above, such provision shall be construed as applying to the entire contract, unless each party was represented by counsel in the negotiation and execution of the contract, and the fact of that representation is specified in the contract.

Reasonable attorney's fees shall be fixed by the court, upon notice and motion by a party, and shall be an element of the costs of suit.

Attorney's fees provided for by this section shall not be subject to waiver by the parties to any contract which is entered into after the effective date of this section. Any provision in any such contract which provides for a waiver of attorney's fees is void.

(b) (1) The court, upon notice and motion by a party, shall determine who is the prevailing party, whether or not the suit proceeds to final judgment. Except as provided in paragraph (2), the prevailing party shall be the party who is entitled to recover costs of suit.

(2) Where an action has been voluntarily dismissed or dismissed pursuant to a settlement of the case, there shall be no prevailing party for purposes of this section.

Where the defendant alleges in his or her answer that he or she tendered to the plaintiff the full amount to which he or she was entitled, and thereupon deposits in court for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be a prevailing party within the meaning of this section.

Where a deposit has been made pursuant to this section, the court shall, on the application of any party to the action, order the deposit to be invested in an insured, interest-bearing account. Interest on the amount shall be allocated to the parties in the same proportion as the original funds are allocated.

SEC. 2. Article 2.5 (commencing with Section 2373) is added to Chapter 2 of Title 9 of Part 4 of Division 3 of the Civil Code, to read:

Article 2.5. Agency Relationships in Residential Real Property Transactions

2373. As used in this article, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of this title in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.

(b) "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee.

The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.

(c) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.

(d) "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.

(e) "Listing agreement" means a contract between an owner of

real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer.

(f) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation.

(g) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent.

(h) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.

(i) "Offer to purchase" means a written contract executed by a buyer acting through a selling agent which becomes the contract for the sale of the real property upon acceptance by the seller.

(j) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property which constitutes or is improved with one to four dwelling units, any leasehold in this type of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.

(k) "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.

(*l*) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration.

(m) "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor.

(n) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

(o) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2374. Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2375, and, except as provided in subdivision (c), shall obtain a signed acknowledgment of receipt from that seller or buyer, except as provided in this section or Section 2374.5, as

follows:

(a) The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement.

(b) The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a).

(c) Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgment of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgment of receipt is required.

(d) The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

2374.5. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2374, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2375. The disclosure form required by Section 2374 shall have this article, excluding this section, printed on the back and on the front of the disclosure form the following shall appear:

DISCLOSURE REGARDING
REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller:

(a) A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party which does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party which does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Seller or the Buyer.

(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect their own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real

estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Article 2.5 (commencing with Section 2373) of Chapter 2 of Title 9 of Part 4 of Division 3 of Civil Code set forth on the reverse hereof. Read it carefully.

Agent	Buyer/Seller (date) (Signature)
Associate Licensee (date) (Signature)	Buyer/Seller (date) (Signature)

2375.5. (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller and this relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively.

(b) As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller and this relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller.

(c) The confirmation required by subdivisions (a) and (b) shall be in the following form:

_____ is the agent of (check
(Name of Listing Agent)
one):
[ ] the seller exclusively; or
[ ] both the buyer and seller.

_____ is the agent of (check
(Name of Selling Agent if not
the same as the Listing Agent)

one):
[ ] the buyer exclusively; or
[ ] the seller exclusively; or
[ ] both the buyer and seller.

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2374.

2376. No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2377. The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2378. Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2374 and Section 2375.5 are complied with.

2379. A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer.

This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2380. Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2381. A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

2382. Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

SEC. 3. The Legislature finds that it is desirable to, and that by enactment of Section 2 of this act that it intends to, do the following:

(a) Further the education of consumers on the existence of various types of agency relationships which may occur in residential

real property transactions covered by this act.

(b) Require disclosure to the parties by the agent or agents of the various types of agency relationships which may occur in residential real property transactions covered by this act in a manner which explains in simple, comprehensible, and nontechnical terms, the elements of these relationships.

(c) Afford protection to consumers involved in residential real property transactions covered by this act by requiring the disclosure set forth in this act.

(d) Require uniformity of this disclosure as a means of clarifying consumer understanding of these terms, usages, and relationships.

(e) Make clear that associate real estate licensees act as agents of brokers under whom they are licensed and who, in turn, are agents of buyers, sellers, or buyers and sellers in residential real property transactions covered by this act. However, by this enactment, the Legislature does not intend to diminish any liability to buyers and sellers which may exist for tortious conduct in connection with these real property transactions.

(f) Provide an explicit basis for maintaining the confidentiality of price information provided by the consumer to a dual agent in a residential real property transaction covered by this act and an explicit method for modifying that confidentiality, while at the same time retaining without change the existing law with respect to confidentiality of other information.

(g) Delay the requirements of this act until January 1, 1988, in order to provide sufficient time to familiarize consumers and agents with the provisions of this act.

Section 2 of this act shall not be construed to create any new legal duty prior to January 1, 1988.

SEC. 4. The provisions of Sections 2 and 3 of this act shall become operative on January 1, 1988.

CHAPTER 786

An act to add and repeal Article 8.5 (commencing with Section 69660) of Chapter 2 of Part 42 of the Education Code, relating to education.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Article 8.5 (commencing with Section 69660) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 8.5. Transfer Student Assistance Task Force

69660. The Legislature finds and declares all of the following:

(a) That low-income persons and some ethnic minorities, including Hispanic/Latinos, Blacks, Native American Indians, and Filipinos, graduate from California's public universities at rates more than 50 percent lower than their graduation rates from California's public high schools.

(b) That 80 percent of low-income persons and ethnic minorities who attend public postsecondary institutions first attend a community college.

(c) That transfer from a community college to a campus of the California State University or the University of California sometimes necessitates a change of residence and that the commensurate moving expense for a financially needy student can constitute a prohibitive economic burden.

(d) That, therefore, the graduation rates of low-income persons and some ethnic minorities from California public universities could be improved by a preenrollment advance of financial aid from existing federal, state, and institutional sources for moving expenses to financially needy students who transfer to the California State University or the University of California and are required to change residence in order to enroll and attend classes.

69661. For purposes of this article:

(a) "Task force" means the Transfer Student Assistance Task Force convened pursuant to Section 69662.

(b) "Moving expenses" means the costs of relocation, including, but not limited to:

(1) Advance rent and security and cleaning deposits.

(2) Charges for initiating new telephone and utilities services.

(3) Cost of transporting the student and his or her personal property to a new residence.

69662. There is hereby established the Transfer Student Assistance Task Force which shall be convened by the Student Aid Commission. The task force shall study the feasibility of increasing public university enrollment and attendance by financially needy community college transfer students by extending to them preenrollment advances of financial aid for moving expenses from existing federal, state, and institutional sources. The task force shall comprise one representative each from the California Community Colleges, the California State University, the University of California, and the California Postsecondary Education Commission. During its term of existence the task force shall hold at least two meetings, including its first and last, in Sacramento.

69563. (a) On or before July 1, 1987, the task force shall develop a preliminary report of a detailed plan for preenrollment advances of financial aid from existing federal, state, and institutional resources to low-income community college students who transfer to a University of California or California State University campus, who

must relocate to do so, who have been admitted to the receiving campus, and who have been declared eligible for financial aid at that campus. The plan shall include safeguards against an excessive default rate, the duplication of advances by more than one campus to the same student, and advances to students for whom relocation is unnecessary. If the task force finds that the need for this plan is insufficient to warrant the effort, or that this plan is impossible to formulate, or impractical to implement, it shall report a detailed explanation of that finding.

The task force may also identify other economic barriers to college transfer by low-income community college students and recommend, in detail, any fiscal or nonfiscal proposals it deems appropriate to overcome these barriers.

(b) On or before July 1, 1987, the preliminary report described in subdivision (a) shall be distributed, for their comments and suggestions, to the following:

(1) The Governor.

(2) The Speaker of the Assembly.

(3) The Senate Committee on Rules.

(4) The education policy committees of the Senate and the Assembly.

(5) The Department of Finance.

(6) The director of the Extended Opoportunity Programs and Services, the Educational Opportunity Program, Student Affirmative Action programs, and financial aid offices on each campus of the University of California, California State University, and the California Community Colleges.

(7) At least one full-time student on each campus who is also a recipient of financial aid and an officer of an officially recognized student organization composed primarily of recipients of financial aid.

69664. On or before January 1, 1988, a final report, that includes all of the information described in subdivision (a) of Section 69663, shall be prepared and distributed by the task force to all those who received the preliminary report, pursuant to subdivision (b) of Section 69663, and to each member of the Senate and the Assembly.

69665. This article shall remain in effect only until 30 days after the distribution of the task force's final report, pursuant to Section 69664.

69666. No provision of this article shall apply to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

SEC. 2. All costs of administering Article 8.5 (commencing with Section 69660), Chapter 2 of Part 42 of the Education Code shall be borne equally from their existing funds by the entities represented by the members of the task force.

CHAPTER 787

An act to amend the heading of Article 2 (commencing with Section 5080.30) of Chapter 1.2 of Division 5 of, and to add Section 5080.36 to, the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. The heading of Article 2 (commencing with Section 5080.30) of Chapter 1.2 of Division 5 of the Public Resources Code is amended to read:

Article 2. Operating Agreements with Other Agencies and Organizations

SEC. 2. Section 5080.36 is added to the Public Resources Code, to read:

5080.36. (a) Notwithstanding any provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, and control of El Presidio de Santa Barbara State Historic Park. The agreement shall include, but is not limited to, the following:

(1) The district superintendent for the department shall provide liasion with the department, the nonprofit organization, and the public.

(2) The nonprofit organization shall annually submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request. The report shall include a full accounting of all revenues and expenditures for El Presidio de Santa Barbara State Historic Park.

(3) All revenues received from El Presidio de Santa Barbara State Historic Park shall be expended only for the care, maintenance, operation, administration, improvement, or development of the unit.

(b) The district superintendent for the department shall, following submittal of the annual report under subdivision (a), hold a public meeting for discussion of the report and any operating policies or procedures. Any recommendation resulting from the annual public meeting shall be submitted by the district superintendent to the director for review and approval.

(c) The general plan for El Presidio de Santa Barbara State Historic Park shall, in addition to the requirements set forth in Section 5002.2, specifically evaluate and define the manner in which the unit is proposed to be operated. The general plan shall be

reviewed by the State Park and Recreation Commission for a determination that the unit will be operated in a manner that generally meets the standards followed by the department in its operation of similar units, that enhances the general public use and enjoyment of, and recreational and educational experiences at, the unit, and that provides for the satisfactory management of park resources.

(d) Whenever the department intends to enter into an operating agreement with respect to El Presidio de Santa Barbara State Historic Park, the department shall notify each Member of the Legislature in whose district the unit is located of that intention.

CHAPTER 788

An act to amend Sections 2626.1 and 2626.2 of the Unemployment Insurance Code, relating to unemployment compensation disability benefits.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 2626.1 of the Unemployment Insurance Code is amended to read:

2626.1. (a) An individual who is a resident in an alcoholic recovery home pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not in excess of 30 days in any disability benefit period while receiving resident services, if an authorized representative of the alcoholic recovery home certifies that the individual is a resident participating in an alcoholic recovery program which has been certified by the State Department of Alcohol and Drug Programs. The individual shall be eligible for disability benefits for an additional period not in excess of 30 days if the referring physician certifies to the need of the individual for continuing resident services.

(b) The department shall reimburse the State Department of Alcohol and Drug Programs from the Disability Fund, in a reasonable amount as determined by the department, for the expense of reviewing any alcoholic recovery program, as required by the department in the administration of subdivision (a) which is not funded in the county alcohol program plan provided for in Article 3 (commencing with Section 11810) or Article 4 (commencing with Section 11830) of Part 2 of Division 10.5 of the Health and Safety Code.

(c) Outside the State of California, an individual who is a resident in an alcohol recovery home pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not

in excess of 30 days in any disability benefit period while receiving resident services, if an authorized representative of the alcoholic recovery home certifies that the individual is a resident participating in an alcoholic recovery program, licensed by or satisfying a program review by the state in which the facility is located. The individual shall be eligible for disability benefits for an additional period not in excess of 30 days if the referring physician certifies to the need of the individual for continuing resident services.

SEC. 2. Section 2626.2 of the Unemployment Insurance Code is amended to read:

2626.2. (a) An individual who is a resident in a drug-free residential facility pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not in excess of 45 days in any disability benefit period while receiving resident services, if an authorized representative of the drug-free residential facility certifies that the individual is a resident participating in a drug-free residential facility which has satisfied a program review by the State Department of Alcohol and Drug Programs. The individual shall be eligible for disability benefits for an additional period not in excess of 30 days if the referring physician certifies to the need of the individual for continuing resident services.

(b) The department shall reimburse the State Department of Alcohol and Drug Programs from the Disability Fund, in a reasonable amount as determined by the department, for the expense of reviewing any drug-free residential facility, as required by the department in the administration of subdivision (a), which is not funded under the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or in conformance with Chapter 4 (commencing with Section 11980) of Part 3 of Division 10.5 of the Health and Safety Code.

(c) Outside the State of California, an individual who is a resident in a drug-free residential facility pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not in excess of 45 days in any disability benefit period while receiving resident services, if an authorized representative of the drug-free residential facility certifies that the individual is a resident participating in a drug-free residential program, licensed by or satisfying a program review by the state in which the facility is located. The individual shall be eligible for disability benefits for an additional period, but not in excess of 30 days, if the referring physician certifies to the need of the individual for continuing resident services.

CHAPTER 789

An act to amend Sections 66436, 66452.6, 66457, 66458, and 66463.5 of, and to add Section 66474.9 to, the Government Code, relating to the Subdivision Map Act.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 66436 of the Government Code is amended to read:

66436. (a) A certificate, signed and acknowledged by all parties having any record title interest in the subdivided real property, consenting to the preparation and recordation of the final map is required, except in the following circumstances:

(1) A lien for state, county, municipal, or local taxes or special assessments, a trust interest under bond indentures, or mechanics' liens do not constitute a record title interest in land for the purpose of this chapter or any local ordinance.

(2) The signature of either the holder of beneficial interests under trust deeds or the trustee under the trust deeds, but not both, may be omitted. The signature of either shall constitute a full and complete subordination of the lien of the deed of trust to the map and any interest created by the map.

(3) Signatures of parties owning the following types of interests may be omitted if their names and the nature of their respective interests are stated on the final map:

(A) (i) Rights-of-way, easements or other interests which cannot ripen into a fee, except those owned by a public entity, public utility, or subsidiary of a public utility for conveyance to the public utility for rights-of-way. If, however, the legislative body or advisory agency determines that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement, the signature of the public entity or public utility may be omitted. Where that determination is made, the subdivider shall send, by certified mail, a sketch of the proposed final map, together with a copy of this section, to any public entity or public utility which has previously acquired a right-of-way or easement.

(ii) If the public entity or utility objects to either recording the final map without its signature or the determination of the legislative body or advisory agency that the division and development of the property will not unreasonably interfere with the full and complete exercise of its right-of-way or easement, it shall so notify the subdivider and the legislative body or advisory agency within 30 days after receipt of the materials from the subdivider.

(iii) If the public entity or utility objects to recording the final map without its signature, the public entity or utility so objecting may affix its signature to the final map within 30 days of filing its objection with the legislative body or advisory agency.

(iv) If the public entity or utility either does not file an objection with the legislative body or advisory agency or fails to affix its signature within 30 days of filing its objection to recording the map without its signature, the local agency may record the final map without the signature.

(v) If the public entity or utility files an objection to the determination of the legislative body or advisory agency that the division and development of the property will not unreasonably interfere with the exercise of its right-of-way or easement, the legislative body or advisory agency shall set the matter for public hearing to be held not less than 10 nor more than 30 days of receipt of the objection. At the hearing, the public entity or public utility shall present evidence in support of its position that the division and development of the property will unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement.

(vi) If the legislative body or advisory agency finds, following the hearing, that the development and division will in fact unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, it shall set forth those conditions whereby the unreasonable interference will be eliminated and upon compliance with those conditions by the subdivider, the final map may be recorded with or without the signature of the objector. If the legislative body or advisory agency finds that the development and division will in fact not unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, the final map may be recorded without the signature of the objector, notwithstanding the objections.

(vii) Failure of the public entity or public utility to file an objection pursuant to this section shall in no way affect its rights under a right-of-way or easement.

(B) Rights-of-way, easements, or reversions, which by reason of changed conditions, long disuse, or laches appear to be no longer of practical use or value and signatures are impossible or impractical to obtain. A statement of the circumstances preventing the procurement of the signatures shall also be stated on the map.

(C) Interests in, or rights to, minerals, including but not limited to, oil, gas, or other hydrocarbon substances.

(4) Real property originally patented by the United States or by the State of California, which original patent reserved interest to either or both of those entities, may be included in the final map without the consent of the United States or the State of California to the map or to dedications made by it.

(b) No monetary liability shall be incurred by, and no cause of action shall arise against, a local agency, a party, the subdivider, the

subdivider's agent, or the engineer or land surveyor who prepared the map, on account of the omission of any signature, which omission is authorized by this section.

(c) A notary acknowledgment shall be deemed complete for recording without the official seal of the notary, so long as the name of the notary, the county of the notary's principal place of business, and the notary's commission expiration date are typed or printed below the notary's signature in the acknowledgment.

SEC. 2. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after 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, 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. However, the length of the moratorium shall 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 without first processing a new tentative map. Once a timely filing is made, 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. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(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. Prior to the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an 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. At 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. 3. Section 66457 of the Government Code is amended to read:

66457. (a) A final map or parcel map conforming to the approved or conditionally approved tentative map, if any, may be filed with the legislative body for approval after all required certificates on the map have been signed and, where necessary, acknowledged.

(b) If the subdivision lies entirely within the territory of a city, the map shall be filed with the city. If the subdivision lies entirely within unincorporated territory, the map shall be filed with the county. If the subdivision lies partially within two or more territories, the map shall be filed with each, and each shall act thereon as provided in this chapter.

SEC. 4. Section 66458 of the Government Code is amended to read:

66458. (a) The legislative body shall, at the meeting at which it receives the map or, at its next regular meeting after the meeting at which it receives the map, approve the map if it conforms to all the requirements of this chapter and any local subdivision ordinance applicable at the time of approval or conditional approval of the tentative map and any rulings made thereunder. If the map does not conform, the legislative body shall disapprove the map.

(b) If the legislative body does not approve or disapprove the map within the prescribed time, or any authorized extension thereof, and the map conforms to all requirements and rulings, it shall be deemed approved, and the clerk of the legislative body shall certify its approval thereon.

(c) The meeting at which the legislative body receives the map shall be the date on which the clerk of the legislative body receives the map.

SEC. 5. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map. Once a timely filing is made, 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. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(c) 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. Prior to the expiration of an approved or conditionally approved tentative map, upon the application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) (1) 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. However, the length of the moratorium shall not exceed five years.

(2) 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.

(e) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (c), 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.

(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 parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (g) and (h) of Section 66452.6 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (g) and (h) of Section 66452.6 shall be determined from the recordation of the parcel map instead of the final map.

SEC. 6. Section 66474.9 is added to the Government Code, to read:

66474.9. (a) Except as provided in subdivision (b), a local agency may not require, as a condition for a tentative, parcel, or final map application or approval, that the subdivider or an agent of the subdivider, defend, indemnify, or hold harmless the local agency or its agents, officers, and employees from any claim, action, or proceeding against the local agency as a result of the action or inaction of the local agency, advisory agency, appeal board, or legislative body in reviewing, approving, or denying the map.

(b) (1) A local agency may require, as a condition for a tentative, parcel, or final map application or approval, that the subdivider defend, indemnify, and hold harmless the local agency or its agents, officers, and employees from any claim, action, or proceeding against the local agency or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the local agency, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

(2) Any condition imposed pursuant to this subdivision shall include the requirement that the local agency promptly notify the subdivider of any claim, action, or proceeding and that the local agency cooperate fully in the defense. If the local agency fails to promptly notify the subdivider of any claim, action, or proceeding, or if the local agency fails to cooperate fully in the defense, the subdivider shall not thereafter be responsible to defend, indemnify, or hold harmless the local agency.

(c) Nothing contained in this section prohibits the local agency from participating in the defense of any claim, action, or proceeding, if both of the following occur:

(1) The agency bears its own attorney's fees and costs.

(2) The agency defends the action in good faith.

(d) The subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the subdivider.

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 790

An act to add Section 247.5 to the Penal Code, relating to crime.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 247.5 is added to the Penal Code, to read:

247.5. Any person who willfully and maliciously discharges a laser at an aircraft, whether in motion or in flight, while occupied, is guilty of a violation of this section, which shall be punishable as either a misdemeanor by imprisonment in the county jail for not more than one year or by a fine of one thousand dollars ($1,000), or a felony by imprisonment in the state prison for 16 months, two years, or three years, or by a fine of two thousand dollars ($2,000). This section does not apply to the conduct of laser development activity by or on behalf of the United States Armed Forces.

As used in this section, "aircraft" means any contrivance intended for and capable of transporting persons through the airspace.

As used in this section, "laser" means a device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum, and when discharged exceeds one milliwatt continuous wave.

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 791

An act to amend Section 1190 of, and to add Section 1195 to, the Harbors and Navigation Code, relating to pilots, and making an appropriation therefor.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 28.95 mills ($0.02895) per high gross registered ton.

(2) A minimum charge for bar pilotage shall be six hundred dollars ($600) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage which passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Southern Pacific Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Southern Pacific Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate specified in paragraph (1) of subdivision (a) shall be increased by 0.5 mills ($0.0005) per high gross registered ton for each pilot licensed pursuant to Section 1141.

(d) The rate specified in paragraph (1) of subdivision (a) shall be decreased by 0.5 mills ($0.0005) per high gross registered ton for each net reduction in the number of pilots licensed under this division prior to the pilotage rate adjustment specified in subdivision (f).

(e) The rate established in paragraph (1) of subdivision (a) and in subdivisions (c) and (d) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(f) (1) The board shall complete a manpower study to determine the number of pilots to be licensed pursuant to this division. The board shall, in accordance with that determination, after public

hearings, establish the number of pilots.

(2) If the number of pilots established by the board exceeds the number of pilots then licensed, the board shall appoint that number of new pilots necessary to meet its established number. The rate charged pursuant to subdivisions (a), (c), and (d) shall be determined by the board as a single mill rate, and the mill rate so determined shall be increased by 0.8 mills ($0.0008) for each new pilot appointed by the board, not to exceed the number of new pilots established by the board pursuant to paragraph (1).

(3) If the number of pilots then licensed exceeds the number of pilots established by the board, the board shall not license any new pilots until the number of licensed pilots is less than the established number. When the number of licensed pilots becomes equal to the number established by the board pursuant to paragraph (1), the rate charged pursuant to subdivisions (a), (c), and (d) shall be determined by the board as a single mill rate. For each pilot who retires, dies, or is otherwise no longer licensed, the rate shall be decreased by 0.8 mills ($0.0008) until the number of licensed pilots established by the board pursuant to paragraph (1) is reached.

(4) After the number of licensed pilots equals the number of pilots established by the board in accordance with paragraph (2) or (3), and the mill rate has been adjusted as provided in those paragraphs, paragraphs (2) and (3) of this subdivision and subdivisions (c) and (d) shall cease to have any force or effect. The single mill rate established pursuant to this subdivision shall thereafter be the pilotage mill rate for purposes of paragraph (1) of subdivision (a).

SEC. 2. Section 1195 is added to the Harbors and Navigation Code, to read:

1195. (a) In addition to other fees for pilotage, there shall be a surcharge for each movement of a vessel using pilot services of two dollars and fifty cents ($2.50) for each pilot trainee who is enrolled in the pilot training program established by the board.

(b) The moneys charged and collected each month from the pilot trainee surcharge shall be paid to the board. The moneys shall be used only to fund the pilot training program in the manner established by the board.

(c) By action of the board, the board may adjust the amount specified in subdivision (a) in order to efficiently administer the pilot training program.

CHAPTER 792

An act to add Chapter 3.7 (commencing with Section 13828) to Title 6 of Part 4 of the Penal Code, relating to crimes.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Chapter 3.7 (commencing with Section 13828) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 3.7. JUDICIAL TRAINING PROGRAMS FOR CHILD SEXUAL ABUSE CASES

13828. The Legislature hereby finds and declares that there is a need to develop and provide training programs regarding the handling of judicial proceedings involving the victims of child sexual abuse. It is the intent of the Legislature in enacting this chapter to provide training programs which will ensure that children who are the victims of sexual abuse shall be treated with special consideration during all proceedings related to allegations of child sexual abuse, including all trials and administrative hearings.

13828.1. From funds appropriated for those purposes, the Judicial Council shall establish and maintain an ongoing program to provide training for the judicial branch of government relating to the handling of child sexual abuse cases.

13828.2. On or before January 1, 1988, the Secretary of the Judicial Council shall submit a report to the Legislature regarding training programs on the handling of child sexual abuse cases funded and provided in the 1986–87 fiscal year in order to enable the Legislature to evaluate the costs and potential benefits of these programs.

SEC. 2. It is the intent of the Legislature that funding necessary for the implementation of training programs under Chapter 3.7 (commencing with Section 13828) of Title 6 of Part 4 of the Penal Code shall be included in the Budget Act for each fiscal year.

CHAPTER 793

An act to amend Section 1222 of, and to add Sections 606.5 and 1127.5 to, the Unemployment Insurance Code, relating to unemployment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 606.5 is added to the Unemployment Insurance Code, to read:

606.5. (a) Whether an individual or entity is the employer of specific employees shall be determined under common law rules applicable in determining the employer-employee relationship, except as provided in subdivisions (b) and (c).

(b) As used in this section, a "temporary services employer" and a "leasing employer" is an employing unit that contracts with clients or customers to supply workers to perform services for the client or customer and performs all of the following functions:

(1) Negotiates with clients or customers for such matters as time, place, type of work, working conditions, quality, and price of the services.

(2) Determines assignments or reassignments of workers, even though workers retain the right to refuse specific assignments.

(3) Retains the authority to assign or reassign a worker to other clients or customers when a worker is determined unacceptable by a specific client or customer.

(4) Assigns or reassigns the worker to perform services for a client or customer.

(5) Sets the rate of pay of the worker, whether or not through negotiation.

(6) Pays the worker from its own account or accounts.

(7) Retains the right to hire and terminate workers.

(c) If an individual or entity contracts to supply an employee to perform services for a customer or client, and is a leasing employer or a temporary services employer, the individual or entity is the employer of the employee who performs the services. If an individual or entity contracts to supply an employee to perform services for a client or customer and is not a leasing employer or a temporary services employer, the client or customer is the employer of the employee who performs the services. An individual or entity that contracts to supply an employee to perform services for a customer or client and pays wages to the employee for the services, but is not a leasing employer or a temporary services employer, pays the wages as the agent of the employer.

(d) In circumstances which are in essence the loan of an

employee from one employer to another employer wherein direction and control of the manner and means of performing the services changes to the employer to whom the employee is loaned, the loaning employer shall continue to be the employer of the employee if the loaning employer continues to pay remuneration to the employee, whether or not reimbursed by the other employer. If the employer to whom the employee is loaned pays remuneration to the employee for the services performed, that employer shall be considered the employer for the purposes of any remuneration paid to the employee by the employer, regardless of whether the loaning employer also pays remuneration to the employee.

SEC. 2. Section 1127.5 is added to the Unemployment Insurance Code, to read:

1127.5. (a) If the director determines that an individual or entity that is reporting employee wages pursuant to Section 1088 or other applicable sections is not the correct employer of the employees whose wages are reported, the director shall determine the correct employer and, subject to this section, shall apply the provisions of this code to the correct employer.

(b) Upon a determination made under subdivision (a), the director shall give notice of the determination pursuant to Section 1206 to both of the following:

(1) To the individual or entity reporting employee wages of the determination that the individual or entity is not the correct employer of the reported employees.

(2) To the individual or entity determined to be the correct employer of those reported employees.

The notice shall contain a statement of the facts and circumstances upon which the determination was based. An individual or entity so noticed shall have the right to petition for review of the determination within 30 days of the notice, as provided in Section 1222.

(c) During the pendency of a petition for review pursuant to subdivision (b), the individual or entity responsible for reporting employee wages pursuant to Section 1088 or other applicable sections shall be determined as follows:

(1) When an individual or entity that has reported employee wages appeals a director's determination that it is not the correct employer of the employees whose wages were reported, that individual or entity shall continue to so report employee wages, provided the employees in question are still on its payroll, until a decision on its appeal is final, whether or not the individual or entity determined to be the correct employer by the director appeals that determination.

(2) When the individual or entity determined by the director to be the correct employer appeals that determination, but the individual or entity determined not to be the correct employer does not appeal the director's determination, then the individual or entity determined to be the correct employer by the director shall report

employee wages from the date it received notification pursuant to subdivision (b), and, provided the employees in question are still on its payroll, shall continue to do so at least until a decision on its appeal is final.

(d) When a director's determination that an individual or entity is the correct employer of employees whose wages have been reported by another individual becomes final:

(1) The individual or entity so determined to be the correct employer may be assessed for any underpayment of employer contributions pursuant to Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of Division 1. No assessment shall be issued for any period prior to the effective date of this section based on which individual or entity is the correct employer, unless the correct employer committed fraud in violation of this part.

(2) The individual or entity which had reported employee wages prior to the finality of the director's determination of the correct employer of the employees whose wages were so reported may file a claim for refund for any overpayment of employer contributions pursuant to Section 1178. No claim for refund may be filed for any period prior to the effective date of this section based on which individual or entity is the correct employer unless the department has issued an assessment based on fraud pursuant to paragraph (1).

SEC. 3. Section 1222 of the Unemployment Insurance Code is amended to read:

1222. Within 30 days of service of any notice of assessment or denial of claim for refund or credit under Sections 803, 821, 844, or 991, or of any notice under Sections 704.1, 1035, 1055, 1127.5, 1131, 1142, 1180, 1184, 1733, and 1735, any employing unit or other person given the notice, or any employing unit affected by a granting or denial of a transfer of reserve account, may file a petition for review or reassessment with an administrative law judge. The administrative law judge may for good cause grant an additional 30 days for the filing of a petition. If a petition for reassessment is not filed within the 30-day period, or within the additional period granted by the administrative law judge, an assessment is final at the expiration of the period. If a petition for review of a termination of elective coverage under Section 704.1 is not filed within the 30-day period, or within the additional period granted by the administrative law judge, the termination is final at the expiration of the period. If the director fails to serve notice of his or her action within 60 days after a claim for refund or credit is filed, the person or employing unit may consider the claim denied and file a petition with an administrative law judge.

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 make essential changes to unemployment compensation benefit provisions, and so facilitate the orderly

administration of the unemployment compensation system as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 794

An act to amend Sections 1033.5, 1063, 1070, 3774, 5374, and 5378 of, and to add Section 3542 to, the Public Utilities Code, relating to carriers.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1033.5 of the Public Utilities Code is amended to read:

1033.5. (a) The commission may, at any time for good cause, suspend an operating right acquired by virtue of operations conducted on July 29, 1927, or a certificate of public convenience and necessity and, upon notice to the holder and opportunity to be heard, revoke, alter, or amend the operating right or certificate.

(b) As an alternative to the suspension, revocation, alteration, or amendment of an operating right or certificate, the commission may impose upon the holder a fine not to exceed five thousand dollars ($5,000). 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 Public Utilities Commission Transportation Reimbursement Account in the General Fund.

(c) For purposes of this section, "good cause" includes, but is not limited to, a consistent failure of the holder of the operating right or certificate to maintain vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety, as shown by the records of the commission, the Department of Motor Vehicles, the Department of the California Highway Patrol, or the passenger stage corporation.

SEC. 2. Section 1063 of the Public Utilities Code, as amended by Chapter 339 of the Statutes of 1986, is amended to read:

1063. (a) 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 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.

For purposes of this section, "public convenience and necessity," as it affects applications for new, or extensions of existing, cement carrier certificates, means that the applicant has met the criteria for a cement contract carrier permit in Section 3623.

(b) Any right, privilege, franchise, or permit held, owned, or obtained by any common carrier may be sold, leased, assigned, transferred, inherited, or otherwise encumbered as other property, only upon authorization of the transaction by the commission. Any transaction not made in accordance with the terms of the authorization is void. The commission shall not authorize the sale, lease, assignment, or transfer of a certificate unless the purchaser, lessor, assignee, or transferee meets the residence requirements of this section.

(c) No certificate shall be issued pursuant to subdivision (a) unless it has been shown that the applicant meets one of the following residence requirements:

(1) 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.

(2) 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.

(3) 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.

(d) No certificate shall be issued unless the applicant certifies on a form acceptable to the commission that the applicant will maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code.

SEC. 3. Section 1070 of the Public Utilities Code is amended to read:

1070. (a) The commission may, at any time, for a good cause, suspend, and upon notice to the holder of a certificate, and upon opportunity to be heard, revoke, alter, or amend, that certificate.

(b) As an alternative to the suspension, revocation, alteration, or amendment of a certificate pursuant to subdivision (a), the commission may impose upon the holder of the certificate a fine of not exceeding five thousand dollars ($5,000) for a first offense and not exceeding ten thousand dollars ($10,000) for any second or succeeding offense. The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

(c) For purposes of this section, "good cause" includes, but is not limited to, a consistent failure of the holder of the certificate to

maintain vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety, as shown by the records of the commission, the Department of the California Highway Patrol, or the common carrier.

SEC. 4. Section 3542 is added to the Public Utilities Code, to read:

3542. The commission shall not issue a highway carrier permit pursuant to this chapter unless the applicant certifies on a form acceptable to the commission that the applicant will maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety.

SEC. 5. 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.

(g) The consistent failure of the highway carrier to maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety, as shown by the records of the commission, the Department of the California Highway Patrol, or the highway carrier.

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. 6. Section 5374 of the Public Utilities Code is amended to read:

5374. Before an annual permit or certificate is issued, the commission shall require the applicant to establish reasonable fitness and financial responsibility to initiate and conduct the proposed transportation services. The commission shall not issue an annual

permit or certificate pursuant to this chapter unless the applicant certifies on a form acceptable to the commission that the applicant will maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety.

SEC. 7. Section 5378 of the Public Utilities Code is amended to read:

5378. (a) The commission may cancel, revoke, or suspend any operating permit or certificate issued pursuant to this chapter upon any of the following grounds:

(1) The violation of any of the provisions of this chapter, or of any operating permit or certificate issued thereunder.

(2) The violation of any order, decision, rule, regulation, direction, demand, or requirement established by the commission pursuant to this chapter.

(3) The conviction of the charter-party carrier of passengers of any misdemeanor under this chapter.

(4) The rendition of a judgment against the charter-party carrier of passengers for any penalty imposed under this chapter.

(5) The failure of a charter-party carrier of passengers to pay any fee imposed upon the carrier within the time required by law.

(6) On request of the holder of the permit or certificate.

(7) Failure of a permit or certificate holder to operate and perform reasonable service. That failure may include repeated violations of the Vehicle Code or of regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety, by employees of the permitholder or certificate holder, that support an inference of unsafe operation or willful neglect of the public safety by the permitholder or certificate holder.

(8) Consistent failure of the charter-party carrier of passengers to maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety, as shown by the records of the commission, the Department of Motor Vehicles, the Department of the California Highway Patrol, or the carrier.

(b) The commission may levy a civil penalty of up to five thousand dollars ($5,000) upon the holder of an operating permit or certificate issued pursuant to this chapter, for any of the grounds specifed in subdivision (a), as an alternative to canceling, revoking or suspending the permit or certificate. The commission may also levy interest upon the civil penalty, which shall be calculated as of the date on which the civil penalty is unpaid and delinquent. The commission shall deposit at least monthly all civil penalties and interest collected pursuant to this section into the General Fund.

SEC. 8. It is the intent of the Legislature, in enacting this act, that the Department of the California Highway Patrol assist in its enforcement by filing complaints to suspend or revoke permits or

certificates with the Public Utilities Commission for violations of this act, and that the commission expeditiously process complaints filed by the department. The Legislature hereby ratifies and confirms the existing responsibility of the department as the primary agency responsible for enforcement of motor vehicle safety laws and regulations.

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 795

An act to add Section 12306.5 to the Welfare and Institutions Code, relating to in-home supportive services.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 12306.5 is added to the Welfare and Institutions Code, to read:

12306.5. (a) Any public or private agency, including a contractor under Section 12302.1, who maintains a list or registry of prospective in-home supportive services providers shall require proof of identification from a prospective provider. This identification shall be provided prior to placing the prospective provider on a list or registry or supplying a name from the list or registry to an applicant for, or recipient of, in-home supportive services.

(b) For purposes of this section, proof of identification includes, but is not limited to, a positive photograph identification from a government source.

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 796

An act to amend Sections 22005 and 24005 of the Financial Code, relating to loans.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 22005 of the Financial Code is amended to read:

22005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 22458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for a charge or credit card which entitles a cardholder to participate in an open end credit program, which fees are to cover administrative costs and are imposed upon the issuance of the charge or credit card and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 22465 and 22465.5.

(g) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to Section 22404.

SEC. 2. Section 24005 of the Financial Code is amended to read:

24005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 24458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for a charge or credit card which entitles a cardholder to participate in an open end credit program, which fees are to cover administrative costs and are imposed upon the issuance of the charge or credit card and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 24465 and 24465.5.

(g) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to Section 24404.

CHAPTER 797

An act to add Section 14529.7 to the Government Code, relating to transportation.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 14529.7 is added to the Government Code, to read:

14529.7. A local jurisdiction may, with the concurrence of the

appropriate transportation planning agency, the commission, and the department, advance a project included in the state transportation improvement program to an earlier fiscal year through the use of its own funds. A project advanced in this manner shall be deliverable by the state, or by the local jurisdiction pursuant to agreement, in the earlier year proposed by the local jurisdiction.

If a project is advanced pursuant to this section, the state transportation improvement program shall be revised at the time of annual adoption or by amendment to show the project in the earlier fiscal year.

With the concurrence of the appropriate transportation planning agency, the commission, and the department, one or more replacement state transportation projects shall be identified and included in the state transportation improvement program for the equivalent escalated dollar value and at the originally scheduled fiscal year of the advanced project. If the project to be advanced is programmed with federal funds, the replacement project or projects shall not result in an increase in state matching funds. A replacement project or projects shall have no lower priority for funding and delivery than did the advanced project, as originally scheduled.

CHAPTER 798

An act to add Section 727.1 to the Welfare and Institutions Code, relating to youth.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 727.1 is added to the Welfare and Institutions Code, to read:

727.1. (a) Unless otherwise authorized by law, the court may not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, in any state, unless the residential facility or program is licensed for the placement of minors by an agency of the state or states in which the minor will be placed or operates under and is inspected pursuant to standards comparable to those developed by the Youth Authority for similar facilities or programs.

(b) The court shall find, in its order of placement, that the residential facility or program is licensed or operates as required by subdivision (a). The court shall review each such placement for compliance with the requirements of subdivision (a) at least once a year.

SEC. 2. (a) It is the intention of the Legislature by this section

of this act to reduce the recidivism rate of juvenile offenders by increasing their self-esteem and encouraging them to become involved in interpersonal relationships, through the use of trained volunteers who provide them with individualized attention and direction. The Department of the Youth Authority shall conduct a statewide survey relative to delinquency prevention efforts, especially those utilizing volunteers, which focus on youthful offenders. The data developed from the survey shall be used by the Department of the Youth Authority as the basis of a workshop, to be designated the "Transfer of Knowledge Workshop", which shall be a forum for a multiagency, multijurisdictional discussion of issues relating to youthful offenders. Participation shall include, but not be limited to, interested citizens and representatives from education, probation, the judiciary, law enforcement, and volunteer organizations. The Department of the Youth Authority shall publish the summary findings of, and any recommendations of, participants in the workshop and make them available to the Legislature and local governmental agencies.

CHAPTER 799

An act to add Division 1.5 (commencing with Section 4900) to, and to repeal Sections 330 and 331 of, the Unemployment Insurance Code, relating to the Employment Development Department, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 330 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 331 of the Unemployment Insurance Code is repealed.

SEC. 3. Division 1.5 (commencing with Section 4900) is added to the Unemployment Insurance Code, to read:

DIVISION 1.5. AUTOMATION OF THE EMPLOYMENT DEVELOPMENT DEPARTMENT

CHAPTER 1. ANNUAL REPORTS

4900. As used in this division:

(a) "Department" means the Employment Development Department.

(b) "Director" means the Director of Employment Development.

4901. The director shall prepare an annual report to the Legislature, on or before February 1, 1987, and on or before February 1 of each year thereafter, on the department's automation efforts, including any recommendation on improvements for the purpose of consideration by both policy and fiscal committees of the Legislature.

4902. The report, required by Section 4901, shall be transmitted to the Legislative Analyst, the Assembly Committees on Finance and Insurance, Economic Development and New Technologies, Labor and Employment, and Ways and Means, the Senate Committees on Industrial Relations and Budget and Fiscal Review, the Department of Finance, and the Governor, on or before February 1 of each year. The report shall do all of the following:

(a) Identify all operations, including unemployment and employment services programs, which would benefit from initial or further automation. For each operation so identified, the report shall:

(1) Estimate the one-time and ongoing costs of automation.

(2) Project the benefits of automation, including improvements in services, reductions in personnel and operating costs, and continued or ceased utilization of data-processing systems provided by the state's Health and Welfare Agency Data Center.

(3) Identify how the personnel and cost savings will be used, transferred, or otherwise accounted for.

(b) Establish a three-year plan for the automation of all the operations identified in subdivision (a). The plan shall be updated annually. For all operations identified in subdivision (a), the plan shall:

(1) Determine priorities for automation with specific attention to unemployment and employment services programs in the department's field offices.

(2) Establish time lines for automation.

(3) Identify existing or needed funds for automation.

(c) Identify each automation proposal planned for submission to the Department of Finance and explain the method by which each proposal will be evaluated for its costs and benefits by the department.

(d) Identify opportunities for the department to interface and coordinate with other state entities, including the Health and Welfare Agency Data Center, in the utilization of automated data-processing telecommunication technologies.

(e) Not necessarily be in addition to or replace any reports now submitted by the director to the State Office of Information Technology in the Department of Finance.

4903. (a) Forty-five days prior to the release of the report identified in Section 4901, the director shall submit it to the Office of Information Technology in the Department of Finance, which shall review and comment on it. These comments shall be attached to the report by the director and distributed with it.

(b) When commenting on the report, the Office of Information

Technology shall include, but not be limited to, an assessment of whether:

(1) The requirements for the report have been met.

(2) The department has sufficiently sought to identify further opportunities for automation and coordination.

(3) The method described pursuant to subdivision (c) of Section 4902:

(A) Takes into full account the benefits realized from improved services.

(B) Utilizes accurate and timely data that reflect actual personnel and equipment costs of individual operations performed by automated equipment.

(C) Ensures that centralized processing and personnel costs are accurately reflected in the costs identified in subparagraph (B).

(D) Fully evaluates the relative costs and benefits of each component of the automated versus manual operations.

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

In order to facilitate the plans for computerization by the Employment Development Department at the earliest possible time and in a manner which utilizes existing department personnel and provides adequate level of services, it is necessary that this act take effect immediately.

CHAPTER 800

An act to amend Sections 32812, 36801, 36802, 36803, 36805, 36806, 36808, 61375, and 61378 of, to add Article 5.7 (commencing with Section 36971) to Chapter 2 of, and Article 40 (commencing with Section 39991) to Chapter 5 of, Part 3 of Division 15 of, and to add and repeal Article 39 (commencing with Section 38885) of Chapter 5 of Part 3 of Division 15 of, the Food and Agricultural Code, relating to dairy products, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 32812 of the Food and Agricultural Code is amended to read:

32812. Thirty days' notice is not required before a license or permit may be suspended or revoked by the director where the premises or appurtenances of the licensee or permittee are in a manifestly insanitary condition nor in cases of manipulation by the

licensee or permittee of pasteurization equipment, pasteurizer, recording and indicating thermometer charts or pasteurization temperature control devices, measures, weights, samples, or tests for milk constituents or bacterial, or somatic cell counts of milk or cream upon which payment is based, or the record of such tests or in any instance where the director determines there is an imminent or substantial danger to public health.

SEC. 1.5. Section 36801 of the Food and Agricultural Code is amended to read:

36801. Pasteurized cream which is sold or used for ice cream, ice milk, light dairy dessert, or sherbet manufacture shall be clean, sweet, and free from undesirable flavors and odors. It shall contain not more than 75,000 bacteria per milliliter, official plate count.

SEC. 2. Section 36802 of the Food and Agricultural Code is amended to read:

36802. Milk and any milk product which is used in the manufacture of ice cream, ice milk, light dairy dessert, or sherbet shall be pasteurized.

SEC. 3. Section 36803 of the Food and Agricultural Code is amended to read:

36803. Sweet butter which is used in ice cream, ice milk, and light dairy dessert shall be unsalted butter made from sweet cream which is free from undesirable flavor or odors. It shall have a rating of not less than 92 in accordance with the standards for quality of creamery butter which are established in Article 2 (commencing with Section 37131) of Chapter 3. Cream to which has been added ripener or starter, or cream which has been neutralized, is not sweet cream within the meaning of this section.

SEC. 4. Section 36805 of the Food and Agricultural Code is amended to read:

36805. Ice cream, ice milk, light dairy dessert, sherbet, or quiescently frozen confections when sold in package form shall be labeled with the name, address, and zip code of the manufacturer, the wholesale distributor, or the retailer.

When the name and address is not that of the original milk products processing plant, then there shall be stamped, printed, or embossed upon the package, in a manner acceptable to the director, the plant number of the manufacturer or packer. Any such plant identification shall be consistent with, and not be more restrictive than, the National Uniform Coding System for packaging identification of milk and milk products processing plants.

SEC. 5. Section 36806 of the Food and Agricultural Code is amended to read:

36806. Ice cream mix, ice milk mix, and light dairy dessert mix are unfrozen products which are used in the manufacture of ice cream, ice milk, or light dairy dessert. They shall comply with all the requirements for ice cream, ice milk, or light dairy dessert, respectively.

SEC. 6. Section 36808 of the Food and Agricultural Code is

amended to read:

36808. Ice cream, ice milk, and sherbet may contain safe and suitable nonmilk-derived ingredients as specified in applicable provisions of the Code of Federal Regulations. Light dairy dessert may contain safe and suitable nonmilk-derived ingredients as specified for ice milk in the Code of Federal Regulations. If these nonmilk-derived ingredients are used, the minimum quantity of food solids required in this chapter for ice cream, ice milk, light dairy dessert, and sherbet shall be maintained exclusively of these additives.

SEC. 7. Article 5.7 (commencing with Section 36971) is added to Chapter 2 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 5.7. Light Dairy Dessert

36971. Light dairy dessert is a frozen product. It shall be made with pure, sweet milk, cream, skim milk, evaporated or condensed milk, evaporated or condensed skim milk, dry milk, nonfat dry milk solids, dried buttermilk, extra grade edible dried whey, milk fat, or wholesome sweet butter made from sweet cream, or any combination of these products. It may contain sweetening which is approved by the director, clean wholesome eggs or egg products, and harmless flavoring and coloring which is approved by the director.

36972. Light dairy dessert shall contain not less than 5 percent, nor more than 7 percent milk fat and not less than 15 percent total milk solids.

36973. Light dairy dessert shall weigh not less than 4.0 pounds per gallon and not more than 4.5 pounds per gallon. It shall contain not less than 1.3 pounds food solids per gallon.

36974. Light dairy dessert shall conform to bacterial standards and labeling requirements established for ice milk in Sections 36925 and 36927, respectively.

36975. Light dairy dessert may contain wholesome, edible dairy products in addition to those established by this standard that are approved by the director by regulation for ice milk.

36976. This article shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 8. Article 39 (commencing with Section 38885) is added to Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 39. Fromage Frais or Soft Fresh Cheese, Lowfat Fromage Frais or Lowfat Soft Fresh Cheese, and Nonfat Fromage Frais or Nonfat Soft Fresh Cheese

38885. Nonfat market milk, with or without added market milk

solids, which has been pasteurized and afterwards fermented by one or more strains of streptococcus lactis, streptococcus cremoris, streptococcus diacethylactis, or leuconostoc sp., and rennet with or without pasteurized market cream, flavoring, or seasoning may be sold as fromage frais or soft fresh cheese, lowfat fromage frais or lowfat soft fresh cheese, or nonfat fromage frais or nonfat soft fresh cheese. These products may contain nutritive carbohydrate sweeteners. They shall contain no more than 10 coliform bacteria per gram.

38886. Fromage frais or soft fresh cheese shall have at least 70 percent of the lactose in the original milk solids removed through the whey. Fromage frais or soft fresh cheese shall have a maximum dry matter content of 24.5 percent prior to the addition of any bulky flavors.

38887. Fromage frais or soft fresh cheese, without the addition of bulky flavors, shall contain not less than 3.5 percent of milkfat. Lowfat fromage frais or lowfat soft fresh cheese shall contain not less than 1.0 percent of milkfat, without the addition of bulky flavors, nor more than 2.0 percent of milkfat. Nonfat fromage frais or nonfat soft fresh cheese shall contain a maximum of 0.5 percent of milkfat.

38888. When offered for sale, fromage frais or soft fresh cheese, lowfat fromage frais or lowfat soft fresh cheese, and nonfat fromage frais or nonfat soft fresh cheese shall be labeled on a principal panel of the container, with the name of the product, the name and address of the manufacturer or distributor. If the name and address of the distributor are used, the factory license number of the manufacturer shall also appear on the carton or container. Fromage frais or soft fresh cheese shall be labeled as "fromage frais" or "soft fresh cheese," lowfat fromage frais or lowfat soft fresh cheese shall be labeled as "lowfat fromage frais" or "lowfat soft fresh cheese," and nonfat fromage frais or nonfat soft fresh cheese shall be labeled as "nonfat fromage frais" or "nonfat soft fresh cheese." The phrase "____ percent milk fat" shall accompany the name "lowfat fromage frais or "lowfat soft fresh cheese" on the principal panel or panels of the label in letters not less than one-half of the height of the letters used in the name, the blank to be filled in with the fraction one-half, or multiple thereof, to indicate the actual fat content of the food.

SEC. 9. Article 40 (commencing with Section 39991) is added to Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 40. Bulky Flavored Fromage Frais or Bulky Flavored Soft Fresh Cheese

39991. Bulky flavored fromage frais or bulky flavored soft fresh cheese is fromage frais or soft fresh cheese, lowfat fromage frais or lowfat soft fresh cheese, or nonfat fromage frais or nonfat soft fresh cheese which contains clean, mature, sound fruit or its equivalent in other forms, or other bulky flavoring ingredients.

39992. When bulky flavor is added to fromage frais or soft fresh cheese, lowfat fromage frais or lowfat soft fresh cheese, or nonfat fromage frais or nonfat soft fresh cheese, the name of the bulky flavor shall accompany the name of the product on the principal panel or panels of the label. Bulky flavored fromage frais or bulky flavored soft fresh cheese in its composition and labeling shall otherwise comply with all the requirements of Article 39 (commencing with Section 38881).

SEC. 10. Section 61375 of the Food and Agricultural Code is amended to read:

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

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

SEC. 11. Section 61378 of the Food and Agricultural Code is amended to read:

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

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

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:

In order that the dairy product content requirements, and provisions regarding the sale of fromage frais or soft fresh cheese, prescribed by this act may be implemented as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 801

An act relating to Medi-Cal.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. It is the intent of the Legislature that the Director of Health Services engage in systematic consultation with all major Medi-Cal provider organizations, as determined by the director, in the preparation and development of a Request for Proposal for a new contract for the provision of fiscal intermediary services to succeed, and upon the termination of, the existing contract with Computer Sciences Corporation.

CHAPTER 802

An act to amend Section 502.7 of the Penal Code, relating to sentencing.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 502.7 of the Penal Code is amended to read:

502.7. (a) A person who, knowingly, willfully and with intent to defraud a person providing telephone or telegraph service, avoids or attempts to avoid, or aids, abets or causes another to avoid the lawful charge, in whole or in part, for telephone or telegraph service by any of the following means is guilty of a misdemeanor or a felony, as provided in subdivision (f):

(1) By charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the lawful holder thereof; or

(2) By charging such service to a nonexistent telephone number

or credit card number, or to a number associated with telephone service which is suspended or terminated, or to a revoked or canceled (as distinguished from expired) credit card number, notice of such suspension, termination, revocation or cancellation of such telephone service or credit card having been given to the subscriber thereto or the holder thereof; or

(3) By use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information; or

(4) By rearranging, tampering with, or making connection with telephone or telegraph facilities or equipment, whether physically, electrically, acoustically, inductively or otherwise, or by using telephone or telegraph service with knowledge or reason to believe that such rearrangement, tampering or connection existed at the time of such use; or

(5) By using any other deception, false pretense, trick, scheme, device or means.

(b) A person who (1) makes, possesses, sells, gives or otherwise transfers to another, or offers or advertises an instrument, apparatus, or device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or (2) sells, gives or otherwise transfers to another or offers, or advertises plans or instructions for making or assembling an instrument, apparatus or device described in paragraph (1) of this subdivision with knowledge or reason to believe that they may be used to make or assemble such instrument, apparatus or device is guilty of a misdemeanor or a felony, as provided in subdivision (f).

(c) Any person who publishes the number or code of an existing, canceled, revoked, expired or nonexistent credit card, or the numbering or coding which is employed in the issuance of credit cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful telephone or telegraph toll charge is guilty of a misdemeanor. The provisions of subdivision (f) shall not apply to this subdivision. As used in this section, "publishes" means the communication of information to any one or more persons, either orally, in person or by telephone, radio or television, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.

(d) Subdivision (a) applies when the telephone or telegraph communication involved either originates or terminates, or both originates and terminates, in this state, or when the charges for service would have been billable, in normal course, by a person providing telephone or telegraph service in this state, but for the fact that the charge for service was avoided, or attempted to be avoided by one or more of the means set forth in subdivision (a).

(e) Jurisdiction of an offense under this section is in the

jurisdictional territory where the telephone call or telegram involved in the offense originates or where it terminates, or the jurisdictional territory to which the bill for the service is sent or would have been sent but for the fact that the service was obtained or attempted to be obtained by one or more of the means set forth in subdivision (a).

(f) If the total value of all telephone or telegraph services obtained in violation of this section aggregates over four hundred dollars ($400) within any period of twelve (12) consecutive months during the three years immediately prior to the time the indictment is found or the case is certified to the superior court, or prior to the time the information is filed, or if the defendant has previously been convicted of an offense in excess of four hundred dollars ($400) under this section or of an offense in excess of four hundred dollars ($400) under the laws of another state or of the United States which would have been an offense under this section if committed in this state, a person guilty of such offense is punishable by imprisonment in the county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or both, or by imprisonment in the state prison, by a fine not exceeding ten thousand dollars ($10,000), or both.

(g) An instrument, apparatus, device, plans, instructions or written publication described in subdivision (b) or (c) may be seized under warrant or incident to a lawful arrest, and, upon the conviction of a person for a violation of subdivision (a), (b), or (c), the instrument, apparatus, device, plans, instructions or written publication may be destroyed as contraband by the sheriff of the county in which such person was convicted or turned over to the person providing telephone or telegraph service in the territory in which the same was seized.

CHAPTER 803

An act to amend Section 53602.1 of the Government Code, relating to investments by local agencies.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 53602.1 of the Government Code is amended to read:

53602.1. (a) Notwithstanding any other provision of this article, the Board of Directors of the Southern California Rapid Transit District, when the district has money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the district, may invest that portion of the money which it

determines to be wise and expedient in futures contracts in heating oil, crude oil, or gasoline on the New York Mercantile Exchange.

(b) The Legislative Analyst shall prepare and submit to the Legislature, annually, a report on the results of any investments made pursuant to subdivision (a).

(c) This section shall remain in effect only until January 1, 1989, and 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.

CHAPTER 804

An act to add Section 25503.19 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 25503.19 is added to the Business and Professions Code, to read:

25503.19. (a) Nothing in this division shall prohibit the issuance or transfer of any retail on-sale general license to any person with respect to passenger cruise ships or lines owned by, or operated by or on behalf of, the licensee, notwithstanding that a manufacturer, winegrower, manfacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler holds the ownership of any interest, directly or indirectly, in the cruise ships or lines or in the retail licensee, subject to the following conditions:

(1) Not more than 10 percent of the total gross annual revenues of the cruise ships or lines is derived from the sale of alcoholic beverages.

(2) The manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler shall not influence or attempt to influence decisions concerning the purchase and sale of alcoholic beverages by the retail licensee and those decisions are made solely by the retail licensee.

(3) The retail licensee is not required, by agreement or otherwise, to exclude from sale on board its vessels competitive alcoholic beverage products.

(4) The retail licensee shall purchase no beer, wine, or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee shall purchase no alcoholic beverages for sale in this state from any wholesale licensee holding the ownership of any interest, directly or indirectly, in the cruise ships or lines or in the retail licensee.

(b) The Legislature finds that it is necessary and proper to require

a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through verticle integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests must be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

CHAPTER 805

An act to add Section 1174.2 to the Code of Civil Procedure, relating to real property.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1174.2 is added to the Code of Civil Procedure, to read:

1174.2. (a) In an unlawful detainer proceeding involving residential premises after default in payment of rent and in which the tenant has raised as an affirmative defense a breach of the landlord's obligations under Section 1941 of the Civil Code or of any warranty of habitability, the court shall determine whether a substantial breach of these obligations has occurred. If the court finds that a substantial breach has occurred, the court shall (1) determine the reasonable rental value of the premises in its untenantable state to the date of trial, (2) deny possession to the landlord and adjudge the tenant to be the prevailing party, conditioned upon the payment by the tenant of the rent that has accrued to the date of the trial as adjusted pursuant to this subdivision within a reasonable period of time not exceeding five days, from the date of the court's determination or, if service of the court's determination is made by mail, the payment shall be made within the time set forth in Section 1013, and (3) except as otherwise provided in subdivision (b), award the tenant costs and attorneys' fees if provided by, and pursuant to, any statute or the contract of the parties. The court shall, however, award possession of the premises to the landlord if the tenant fails to pay all rent accrued to the date of trial, as determined due by the court, within the period prescribed by the court pursuant to this subdivision. The tenant shall, however, retain any rights conferred by Section 1174.

(b) If the court determines that there has been no substantial breach of Section 1941 of the Civil Code or of any warranty of

habitability by the landlord or if the tenant fails to pay all rent accrued to the date of trial, as required by the court pursuant to subdivision (a), then judgment shall be entered in favor of the landlord, and the landlord shall be the prevailing party for the purposes of awarding costs or attorneys' fees pursuant to any statute or the contract of the parties.

(c) As used in this section, "substantial breach" means the failure of the landlord to comply with applicable building and housing code standards which materially affect health and safety.

CHAPTER 806

An act to add Chapter 2.55 (commencing with Section 5678) to Part 2 of Division 5 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Chapter 2.55 (commencing with Section 5678) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 2.55. CASE MANAGEMENT for CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE

Article 1. General Provisions

5678. (a) The Legislature finds and declares all of the following:

(1) That mental health case management services required for children with serious emotional disturbance are different than these services for mentally disordered clients described in Chapter 2.5 (commencing with Section 5675).

(2) That mental health case management services for children with serious emotional disturbance are not defined in statute.

(3) That the development of mental health case management for these children would assure comprehensive appraisal and utilization of the most appropriate resources within the childrens' environment as well as the maintenance and strengthening of family ties.

(b) It is the intent of the Legislature to encourage the development of mental health case management services for children with serious emotional disturbance who are separated or at risk of being separated from their families and require mental health treatment. It is further the intent of the Legislature that mental health case management for children with serious emotional disturbance in this state be developed in accordance with the

definitions and guidelines contained in this chapter.

5678.1. Unless the context otherwise requires the definitions in this article govern the construction of this chapter.

5678.2. "Child with serious emotional disturbance" means a minor under 18 years of age described in Section 5697 who meets one or more of the following criteria:

(a) A child who is a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602 and is placed out-of-home.

(b) A child who is a special education student defined in paragraph 8 of subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations and is receiving residential care pursuant to an individual educational program. This section also includes special education students through age 21 identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code.

(c) An inpatient in a psychiatric hospital, psychiatric health facility, or residential treatment facility receiving services either on a voluntary or involuntary basis.

(d) An outpatient receiving intensive non-24-hour mental health treatment, such as day treatment or crisis services who is "at risk" of psychiatric hospitalization or out-of-home placement for residential treatment.

5678.3. "Individual treatment plan" means a plan that includes all of the following:

(a) An assessment of the minor's specific capabilities and problems.

(b) A statement of specific, time-limited objectives for improving the capabilities and resolving the problems. The objectives shall be stated in measurable terms which allow measurement of progress.

(c) A schedule of the type and amount of services to achieve treatment plan objectives, including identification of the provider or providers of service responsible for attaining each objective.

(d) A schedule of regular periodic review and reassessment to ascertain that planned services have been provided and that objectives have been reached within the times specified.

Article 2. Services

5678.5. On and after January 1, 1987, any county may provide case management services for children with serious emotional disturbance pursuant to this chapter. The case management services may include all of the following:

(a) Development of an individual treatment plan for each child. The plan shall be collaboratively prepared and reviewed and modified, if necessary, at least annually, by one representative of the mental health program, the parents, legal guardian, conservator, or court appointed social worker or probation officer, and, where appropriate, the minor.

(b) Assignment of a mental health case manager to each child. The duties of the mental health case manager may include, but not

be limited to, all of the following:

(1) Coordinating an ecological assessment of the child's needs which evaluates the child both individually and in relation to his or her family, school, and community environments.

(2) Developing, implementing, monitoring, and reviewing each individual treatment plan that addresses the identified needs.

(3) Linking and arranging or providing for the needed services.

(4) Monitoring the adequacy of the services provided.

(5) Advocating for the minor.

5678.6. Nothing in this chapter shall be construed to authorize the use of state funds to provide services under this chapter or to enforce the provisions of this chapter.

CHAPTER 807

An act to amend Section 106.7 of the Water Code, relating to water.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 106.7 of the Water Code is amended to read:

106.7. (a) It is hereby declared to be the established policy of this state to support and encourage the development of environmentally compatible small hydroelectric projects as a renewable energy source, provided that the projects do not result in surface disturbances within the following sensitive areas:

(1) Any component of the California Wild and Scenic Rivers System or the National Wild and Scenic Rivers System.

(2) Any river designated for study pursuant to Section 5(a) of the National Wild and Scenic River Act (16 U.S.C. 1276(a)). This paragraph shall not apply to any river which, upon the completion of the study, is not included in the National Wild and Scenic Rivers System.

(3) Any state or federally designated wilderness area.

(4) Any areas designated as a "Critical Condor Habitat" by the United States Fish and Wildlife Service.

(b) State agencies shall not approve small hydroelectric development within the sensitive areas specified in subdivision (a).

(c) Significant adverse impacts associated with small hydroelectric projects shall be identified by those agencies responsible for the preparation of the environmental impact document.

(d) Emphasis on the development of small hydroelectric power generating facilities which are "qualifying small power production facilities" under Section 210 of the Public Utilities Regulatory Policies Act of 1978, shall be on existing dams, diversions, and canals

with a sufficient drop so that power may be efficiently generated without significant environmental effects.

(e) For hydroelectric power generating facilities, the applicant shall demonstrate that project revenues will exceed project costs, including the cost of mitigation measures over the life of the project.

(f) Subdivisions (d) and (e) do not apply to projects with a nameplate capacity of less than 100 kilowatts.

CHAPTER 808

An act to add Section 1180.91 to the Health and Safety Code, relating to medical contracts.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1180.91 is added to the Health and Safety Code, immediately following Section 1180.9, to read:

1180.91. The state department may enter into agreements with any clinic which is licensed under subdivision (a) of Section 1204 or exempt from licensure under the provisions of subdivision (c) of Section 1206, and which requests the agreements, for up to three consecutive years.

The contracts shall be limited to the provision of health services to persons authorized to receive health services under the programs specified in this part.

The state department shall retain the right to terminate contracts under the general provisions of the contract language prior to the three years for failure to comply with the performance terms and conditions set forth in the contracts.

The multiple-year contracts shall be modified to reflect any cost-of-living adjustments which are provided to the programs specified in this section, provided the cost-of-living adjustments are granted pursuant to the Budget Act. The contracts may also be amended to reflect changes in the base budget amount, scope of work, and other contract language changes as necessary. Nothing shall prohibit the department from establishing a three-year budget and annually amending the contract to change the budget amount, scope of work, and other contract language changes as necessary. Nothing shall prohibit the contract from being modified based on the mutual consent of the contractor and the state department. Advance payments in the original contract and in each one-year extension are permitted, but shall not exceed 25 percent of the funds provided for each fiscal year.

On or before January 1, 1990, the state department at any time shall report to the Legislative Analyst as to the personnel-year and

General Fund savings that have been associated with this authority.

CHAPTER 809

An act to amend Sections 57101, 57150, 57178, and 57379 of, and to add Section 56852.5 to, the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 56852.5 is added to the Government Code, to read:

56852.5. (a) If the commission approves a proposal which includes the incorporation of a city, the resolution making determinations shall, upon the incorporation applicant's request, specify that the first election of city officers is to be held after voter approval of the proposal.

(b) If the applicant has submitted an application to the commission prior to the effective date of this section, the applicant may request that the election of city officers be held after the vote on the incorporation proposal.

(c) If the election of city officers is to be conducted after the vote on the incorporation proposal, the commission shall not set the effective date to be sooner than the election date of the city officers.

SEC. 2. Section 57101 of the Government Code is amended to read:

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 provided in Section 56852.5 and 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.

SEC. 3. Section 57150 of the Government Code is amended to read:

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. In the case of a separate election for city officers held following the election for incorporation pursuant to Section 56825.5, by the newly incorporated city.

(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.

SEC. 4. Section 57178 of the Government Code is amended to read:

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. If the incorporation applicant requested that the first election for city officers was to occur after the election on the proposal which included incorporation, the resolution shall call an election at which city officers shall be elected.

(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.

SEC. 5. Section 57379 of the Government Code is amended to

read:

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.

In the event that, pursuant to Section 56852.5, the first election for city council members was held after the election on the incorporation proposal, the term "incorporation election" in this section shall refer to the first election for city council members.

SEC. 6. Notwithstanding any law to the contrary, the provisions of this act shall apply to proceedings which include the incorporation of a city which were pending on January 1, 1986.

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.

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 permit incorporation proposals to be voted upon at the statewide election in 1986 without requiring candidates to run for city office not knowing if the city will be formed, it is necessary that this act take effect immediately.

CHAPTER 810

An act to amend Section 439.3 of the Health and Safety Code, relating to health planning.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 439.3 of the Health and Safety Code is amended to read:

439.3. Commencing on January 1, 1986, and continuing by January 1 of each year thereafter, the Office of Statewide Health Planning and Development shall prepare and submit to the Governor and to the Legislature a State Health Plan.

(a) In odd-numbered years, the State Health Plan shall include, but not be limited to, all of the following:

(1) A description of the distribution of health care services in the state with an emphasis on areas of shortages of health facilities, services, and manpower.

(2) A forecast of the future community need for health facilities, services, manpower, and capital.

(3) All elements of the Health Manpower Plan required by Section 429.94. Compliance with this section shall be deemed compliance with Sections 429.94 and 429.96. However, the office shall consult with the entities set forth in Section 429.95 when preparing this portion of the State Health Plan.

(4) All elements of the Statewide Health Facilities and Services Plan specified in subdivision (b) of Section 437.7 after the plan is formally adopted pursuant to subdivision (b) of Section 437.7.

(b) In even-numbered years, the State Health Plan shall include, but need not be limited to, all of the following:

(1) An evaluation of the costs and benefits of regulation, deregulation, and competition on health care, including an assessment of their impact on the availability, access, cost, and quality of services.

(2) Any policy recommendations that may facilitate the development of needed health care resources.

(c) In both even and odd years, the State Health Plan shall include an evaluation of the effects of competition, regulation and deregulation on special populations, including the uninsured, underinsured, unemployed, and those who are otherwise disadvantaged.

CHAPTER 811

An act to amend Section 4612 of the Public Resources Code, relating to forest practices.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 4612 of the Public Resources Code is amended to read:

4612. The director shall report to the board and the Legislature by January 1 of each year on the enforcement and penalties applied under this article. The report shall specifically identify the location and ownership of all properties where persons were cited for violations requiring corrective action by the department pursuant to Section 4607, the nature and cost of the corrective actions, and whether all related expenses incurred by the state have been reimbursed by the responsible party.

CHAPTER 812

An act to amend Section 17537 of the Business and Professions Code, relating to advertising, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 17537 of the Business and Professions Code is amended to read:

17537. (a) It is unlawful for any person to use the term "prize" or "gift" or other similar term in any manner that would be untrue or misleading, including, but not limited to, the manner made unlawful in subdivision (b) or (c).

(b) It is unlawful to notify any person by any means, as a part of an advertising plan or program, that he or she has won a prize and that as a condition of receiving such prize he or she must pay any money or purchase or rent any goods or services.

(c) It is unlawful to notify any person by any means that he or she will receive a gift and that as a condition of receiving the gift he or she must pay any money, or purchase or lease (including rent) any goods or services, if any one or more of the following conditions exist:

(1) The shipping charge, depending on the method of shipping used, exceeds (A) the average cost of postage or the average charge

of a delivery service in the business of delivering goods of like size, weight, and kind for shippers other than the offeror of the gift for the geographic area in which the gift is being distributed, or (B) the exact amount for shipping paid to an independent fulfillment house or an independent supplier, either of which is in the business of shipping goods for shippers other than the offeror of the gift.

(2) The handling charge (A) is not reasonable, or (B) exceeds the actual cost of handling, or (C) exceeds the greater of three dollars ($3) in any transaction or 80 percent of the actual cost of the gift item to the offeror or its agent, or (D) in the case of a general merchandise retailer, exceeds the actual amount for handling paid to an independent fulfillment house or supplier, either of which is in the business of handling goods for businesses other than the offeror of the gift.

(3) Any goods or services which must be purchased or leased by the offeree of the gift in order to obtain the gift could have been purchased through the same marketing channel in which the gift was offered for a lower price without the gift items at or proximate to the time the gift was offered.

(4) The majority of the gift offeror's sales or leases within the preceding year, through the marketing channel in which the gift is offered or through in-person sales at retail outlets, of the type of goods or services which must be purchased or leased in order to obtain the gift item was made in conjunction with the offer of a gift.

This paragraph does not apply to a gift offer made by a general merchandise retailer in conjunction with the sale or lease through mail order of goods or services (excluding catalog sales) if (A) the goods or services are of a type unlike any other type of goods or services sold or leased by the general merchandise retailer at any time during the period beginning six months before and continuing until six months after the gift offer, (B) the gift offer does not extend for a period of more than two months, and (C) the gift offer is not untrue or misleading in any manner.

(5) The gift offeror represents that the offeree has been specially selected in any manner unless (A) the representation is true and (B) the offeree made a purchase from the gift offeror within the six-month period before the gift offer was made or has a credit card issued by, or a retail installment account with, the gift offeror.

(d) The following definitions apply to this section:

(1) "Marketing channel" means a method of retail distribution, including, but not limited to, catalog sales, mail order, telephone sales, and in-person sales at retail outlets.

(2) "General merchandise retailer" means any person or entity regardless of the form of organization that has continuously offered for sale or lease more than 100 different types of goods or services to the public in California throughout a period exceeding five years.

(e) Each violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five

hundred dollars ($2,500), or by both.

SEC. 2. The amendment of Section 17537 of the Business and Professions Code made at the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

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 to provide immediate protection to consumers by clarifying the law relating to the offering of prizes and gifts, it is necessary that this bill go into immediate effect.

CHAPTER 813

An act to amend Sections 18290, 18291, 18293, 22458.1, and 24458.1 of, to add Section 18292.5 to, and to repeal Section 18412 of, the Financial Code, relating to loans.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 18290 of the Financial Code is amended to read:

18290. (a) As used in this division:

(1) "Credit life insurance" and "credit disability insurance" have the same meanings as defined in Section 779.2 of the Insurance Code.

(2) "Credit loss-of-income insurance" means insurance issued to a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(b) An industrial loan company may provide and collect the costs for credit life insurance on the life of one or more of the borrowers, credit disability, or loss-of-income insurance, or any combination of these coverages, to provide indemnity for payments becoming due on the indebtedness, with his or her consent, the form to be approved by the Insurance Commissioner, and in an amount not in excess of the amount of the indebtedness. The amount charged to the borrower for credit life or disability insurance shall not exceed, in the case of credit life insurance, the amount provided in paragraph (1)

or paragraph (2), whichever is less, or, in the case of credit disability insurance, the amount provided in paragraph (1) or established by or pursuant to Section 779.35 of the Insurance Code, whichever is less.

(1) The premium rate filed with the Insurance Commissioner for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code and which has not been disapproved by the Insurance Commissioner.

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is established by or pursuant to Section 779.35 of the Insurance Code.

SEC. 2. Section 18291 of the Financial Code is amended to read:

18291. (a) If credit life or disability insurance is provided pursuant to this division, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of death, or all amounts which become due on the loan thereafter during the period of disability, as the case may be, without any exception, reservation, or limitation, subject, however, to the provisions of Section 18292.

(b) Any credit life, disability, or loss-of-income insurance as provided shall be in force as soon as the loan is made. An industrial loan company shall not require any of these coverages as a condition of making a loan.

SEC. 3. Section 18292.5 is added to the Financial Code, to read:

18292.5. If credit loss-of-income insurance is provided pursuant to this division, it shall be subject to the following conditions:

(a) The insurance may provide indemnity for any single period of continuous unemployment of 30 days or longer, after which the risk may become compensable. The insurance shall be offered with retroactive coverage to an earlier date based upon unemployment having continued for a period stated in the policy.

(b) The statement required by Section 18293 shall include disclosure of the term of the coverage, the conditions of coverage, the benefits to be paid, and the exclusions from coverage.

(c) The insurance may be canceled by the borrower at any time within 15 days after it goes into force, in which event a full refund shall be made of the premium paid.

(d) The minimum benefit shall be payment of not less than four loan repayment installments which accrue during a covered period of unemployment.

(e) If combination credit disability and loss-of-income coverage is offered, credit disability and credit loss-of-income coverages shall also be offered separately.

SEC. 4. Section 18293 of the Financial Code is amended to read:

18293. If credit disability or loss-of-income insurance is provided

pursuant to this division, the industrial loan company shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making the claim. This statement shall be first approved by the commissioner.

SEC. 5. Section 18412 of the Financial Code is repealed.

SEC. 6. Section 22458.1 of the Financial Code is amended to read:

22458.1. (a) Credit insurance shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 22004, 22456, or 22457 when the insurance is provided in accordance with the provisions of the Insurance Code and this section.

As used in this division:

(1) "Credit insurance" means credit life, disability, and loss-of-income insurance, or any combination of these coverages.

(2) "Credit life insurance" and "credit disability insurance" have the same meanings as defined in Section 779.2 of the Insurance Code.

(3) "Credit loss-of-income insurance" means insurance issued to a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(b) A licensee may provide credit insurance with the borrower's consent, the form to be approved by the Insurance Commissioner and in an amount not in excess of the amount of the indebtedness, and, with respect to credit life or disability insurance, may collect from the borrower an amount not in excess of that permitted by subdivision (i).

(c) If the loan is prepaid in full by cash, a new loan, refinancing or otherwise (except by that insurance) before the final installment date the borrower shall receive a rebate of that amount computed in accordance with the formula approved by the Insurance Commissioner pursuant to Section 779.14 of the Insurance Code.

(d) When charges for the loan are precomputed in accordance with Section 22480, any permitted deferment charge may be computed on the combined total of the precomputed charge and the credit insurance charge. Only one deferment charge may be collected in connection with any loan contract irrespective of the number of borrowers, and only one borrower need be insured. The amount of the deferment charge may be deducted from the principal of the loan.

(e) If life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of death, or all amounts which become due on the loan thereafter during the period of disability, as the case may be, without any exception, reservation, or limitation, subject, however, to the provisions of Section 22458.2.

(f) If credit loss-of-income insurance is provided, it shall be

subject to the following conditions:

(1) The insurance may provide indemnity for any single period of continuous unemployment of 30 days or longer, after which the risk may become compensable. The insurance shall be offered with retroactive coverage to an earlier date based upon unemployment having continued for a period stated in the policy.

(2) The statement required by Section 22473 shall include disclosure of the term of the coverage, the conditions of coverage, the benefits to be paid, and the exclusions from coverage.

(3) The insurance may be canceled by the borrower at any time within 15 days after it goes into effect in which event a full refund shall be made of the premium paid.

(4) The minimum benefit shall be payment of not less than four loan repayment installments which accrue during a covered period of unemployment.

(5) If combination credit disability and loss-of-income coverage is offered, credit disability and credit loss-of-income coverage shall also be offered separately.

(g) Any credit insurance provided shall be in force as soon as the loan is made. A licensee shall not require credit insurance as a condition of making a loan.

(h) If a borrower procures credit insurance by or through a licensee, the statement required by Section 22473 shall disclose the cost thereof to the borrower, and the licensee shall deliver or cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. In the event a licensee provides credit disability or loss-of-income insurance pursuant to this division, the licensee shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making the claim. This statement shall be first approved by the commissioner.

(i) The amount charged to the borrower for credit life or disability insurance shall not exceed in the case of credit life insurance the amount provided in paragraph (1) or paragraph (2), whichever is less, or, in the case of credit disability insurance, the amount provided in paragraph (1) or established by or pursuant to Section 779.35 of the Insurance Code, whichever is less.

(1) The premium rate filed with the Insurance Commissioner for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code and which has not been disapproved by the Insurance Commissioner.

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is established by or pursuant to Section 779.35 of the Insurance Code.

SEC. 7. Section 24458.1 of the Financial Code is amended to read:

24458.1. (a) Credit insurance shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 24004, 24456, or 24457 when the insurance is provided in accordance with the provisions of the Insurance Code and this section.

As used in this division:

(1) "Credit insurance" means credit life, disability, and loss-of-income insurance, or any combination of these coverages.

(2) "Credit life insurance" and "credit disability insurance" have the same meanings as defined in Section 779.2 of the Insurance Code.

(3) "Credit loss-of-income insurance" means insurance issued to a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(b) A licensee may provide credit insurance with the borrower's consent, the form to be approved by the Insurance Commissioner and in an amount not in excess of the amount of the indebtedness, and, with respect to credit life or disability insurance, may collect from the borrower an amount not in excess of that permitted by subdivision (i).

(c) If the loan is prepaid in full by cash, a new loan, refinancing or otherwise (except by that insurance) before the final installment date the borrower shall receive a rebate of that amount computed in accordance with the formula approved by the Insurance Commissioner pursuant to Section 779.14 of the Insurance Code.

(d) When charges for the loan are precomputed in accordance with Section 24480, any permitted deferment charge may be computed on the combined total of the precomputed charge and the credit insurance charge. Only one deferment charge may be collected in connection with any loan contract irrespective of the number of borrowers, and only one borrower need be insured. The amount of the deferment charge may be deducted from the principal of the loan.

(e) If life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of death, or all amounts which become due on the loan thereafter during the period of disability, as the case may be, without any exception, reservation, or limitation, subject, however, to the provisions of Section 24458.2.

(f) If credit loss-of-income insurance is provided, it shall be subject to the following conditions:

(1) The insurance may provide indemnity for any single period of continuous unemployment of 30 days or longer, after which the risk may become compensable. The insurance shall be offered with retroactive coverage to an earlier date based upon unemployment having continued for a period stated in the policy.

(2) The statement required by Section 24473 shall include disclosure of the term of the coverage, the conditions of coverage,

the benefits to be paid, and the exclusions from coverage.

(3) The insurance may be canceled by the borrower at any time within 15 days after it goes into effect in which event a full refund shall be made of the premium paid.

(4) The minimum benefit shall be payment of not less than four loan repayment installments which accrue during a covered period of unemployment.

(5) If combination credit disability and loss-of-income coverage is offered, credit disability and credit loss-of-income coverage shall also be offered separately.

(g) Any credit insurance provided shall be in force as soon as the loan is made. A licensee shall not require credit insurance as a condition of making a loan.

(h) If a borrower procures credit insurance by or through a licensee, the statement required by Section 24473 shall disclose the cost thereof to the borrower, and the licensee shall deliver or cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. In the event a licensee provides credit disability or loss-of-income insurance pursuant to this division, the licensee shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making the claim. This statement shall be first approved by the commissioner.

(i) The amount charged to the borrower for credit life or disability insurance shall not exceed in the case of credit life insurance the amount provided in paragraph (1) or paragraph (2), whichever is less, or, in the case of credit disability insurance, the amount provided in paragraph (1) or established by or pursuant to Section 779.35 of the Insurance Code, whichever is less.

(1) The premium rate filed with the Insurance Commissioner for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code and which has not been disapproved by the Insurance Commissioner.

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is established by or pursuant to Section 779.35 of the Insurance Code.

CHAPTER 814

An act to amend Section 583 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 583 of the Public Utilities Code is amended to read:

583. No information furnished to the commission by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any such information is guilty of a misdemeanor.

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 815

An act to amend Section 19510.5 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 19510.5 of the Business and Professions Code is amended to read:

19510.5. The board shall require applicants for a license as a steward to pass both a written and an oral examination on matters relating to the duties of stewards. Examinations shall be held at times and places determined by the board. Notice of the time and place of the examinations shall be given as determined by the board.

The board shall prepare both written and oral examinations to be taken by persons applying for qualification as stewards, requesting and taking into consideration suggestions from representatives of

horsemen, association management, stewards, and other interested and knowledgeable groups. The written examinations may be administered by members of the board staff. Oral examinations shall be conducted by an oral examination panel to include at least two board members and one steward.

The board may admit to examination any person who meets all of the following qualifications:

(a) Who has not been convicted of a crime involving moral turpitude or of a felony.

(b) Who has completed an accredited senior high school or its equivalent.

(c) Who has been given a physical examination by a licensed physician and surgeon within 60 days prior to the date of application for the steward's examination, indicating at least 20-20 vision or vision corrected to at least 20-20, and normal hearing ability.

(d) Who has one of the following:

(1) At least five years of experience in the parimutuel horseracing industry as a licensed trainer, jockey, or driver.

(2) At least 10 years of experience in the California parimutuel horseracing industry as a licensed owner whose experience, knowledge, ability, and integrity relative to the industry are known to the board.

(3) At least three years of experience as a licensed racing official, racing secretary, assistant racing secretary, or director of racing.

(4) Experience in the horseracing industry of a character and for a length of time sufficient, in the opinion of the board, to be substantially equivalent to the requirements of paragraph (1), (2), or (3).

For the purpose of subdivision (d), the experience of the applicant shall be in the same type of racing, either harness horseracing or other forms of horseracing, as the examination applied for, and one year of experience shall mean at least 100 days actually worked within one calendar year.

Stewards qualified through this section shall be placed on eligible lists from which the board will select the best qualified individuals to contract with for services. Separate eligible lists shall be maintained for stewards who have passed the harness horseracing examination and for stewards who have passed the horseracing examination for other forms of horseracing.

The board shall establish and administer a continuing training program for stewards.

Any person who has been licensed as a steward in California prior to January 1, 1981, shall be exempt from the written examination requirements of this section.

CHAPTER 816

An act to amend Section 91573 of, to add Section 91505 to, and to repeal Title 10 (commencing with Section 91500) of, the Government Code, and to repeal Section 1 of Chapter 1605 of the Statutes of 1982, relating to industrial development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 91505 is added to the Government Code, to read:

91505. This title shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute which is chaptered prior to January 1, 1989, deletes or extends that date.

SEC. 2. Section 91573 of the Government Code is amended to read:

91573. (a) The aggregate amount of bonds qualified pursuant to this title shall not exceed three hundred fifty million dollars ($350,000,000) per calendar year, commencing January 1, 1986.

(b) Each authority shall file with the commission reports at those times which are required by the commission, setting forth with respect to each project the bonds of an issue qualified by the commission or the authority, the bonds which have been issued and the dates of delivery and receipt of the purchase prices thereof, and the passage of the period or periods for lapse of qualification.

(c) Bonds may be delivered in return for the purchase price within a six-month period of the making of the determinations required to be made pursuant to Section 91531 or the making of the last determinations to be made pursuant to Section 91532, unless extended for a definite period by further commission action or further authority action in the event the determinations were made by an authority pursuant to subdivision (d) of Section 91531. The unissued amount of a qualification lapses upon the expiration of such period or periods.

SEC. 3. Section 1 of Chapter 1605 of the Statutes of 1982 is repealed.

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 maximum economic and employment benefits can be derived from the California Industrial Development Financing Act, should impediments caused by the uncertainty of pending federal tax legislation be removed, it is necessary that this act take effect immediately.

CHAPTER 817

An act to amend Sections 851, 856, 878, 3287, 8392, 8610, 8664.8, and 11023 of, to amend and repeal Section 8305.8 of, to add Sections 1053.5 and 8834.5 to, and to repeal Sections 5504, 5506, and 5513 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 851 of the Fish and Game Code is amended to read:

851. A deputy appointed to enforce the provisions of this code is a peace officer. The deputy has all the powers and authority conferred by law upon peace officers listed in Section 830.6 of the Penal Code to make arrests for violations of this code, and may serve all processes and notices throughout the state.

SEC. 2. Section 856 of the Fish and Game Code is amended to read:

856. (a) All members of the Wildlife Protection Branch designated by the director as deputized law enforcement officers are peace officers. The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(b) Every peace officer described in this section, prior to the date that he is first deputized by the department, shall have satisfactorily completed the basic course as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) Every peace officer described in this section who is not promoted, appointed, or transferred to a first-level supervisory position, as defined in the regulations of the Commission on Peace Officer Standards and Training, shall satisfactorily complete, at least once every two years, the advanced officer course as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(d) Every peace officer described in this section who is promoted, appointed, or transferred to a first-level supervisory position, as defined in the regulations of the Commission on Peace Officer Standards and Training, shall satisfactorily complete, within the minimum time limit prescribed by the regulations of the Commission on Peace Officer Standards and Training, the supervisory course as set forth in such regulations.

(e) Persons described in this section as peace officers who do not satisfactorily complete the courses required by subdivisions (b) to (d), inclusive, shall not have the powers of a peace officer.

SEC. 3. Section 878 of the Fish and Game Code is amended to

read:

878. The county fish and game warden shall enforce the state laws relating to the protection of fish and game. The warden has the powers and authority conferred by law upon peace officers listed in Section 830.6 of the Penal Code.

SEC. 4. Section 1053.5 is added to the Fish and Game Code, to read:

1053.5. Applicants for hunting licenses pursuant to subdivision (a) of Section 1053 shall first satisfactorily complete a hunter safety equivalency examination and obtain a certificate of equivalency as provided by regulations adopted by the commission, or show proof of completion of a hunter safety training course, or show a previous year's hunting license.

SEC. 5. Section 3287 of the Fish and Game Code is amended to read:

3287. Until this article and the regulations of the commission have been complied with, it is unlawful to shoot, attempt to shoot, or otherwise to take any pheasant on the premises of any licensed pheasant club.

The department, at its option, may inspect the premises of each licensed area prior to or within 16 days after the taking of pheasants commences on the licensed area. The inspection shall be for the purpose of determining whether or not the licensee has complied with the laws and regulations required by this article.

No pheasant taken under this article shall be removed from the premises until there is securely attached to the pheasant a licensed pheasant club seal, and the seal shall remain attached to the pheasant until it is finally prepared for consumption. Each such seal shall be supplied by the department at a fee set by the commission not to exceed fifteen cents ($0.15).

SEC. 6. Section 5504 of the Fish and Game Code is repealed.

SEC. 7. Section 5506 of the Fish and Game Code is repealed.

SEC. 8. Section 5513 of the Fish and Game Code is repealed.

SEC. 9. Section 8305.8 of the Fish and Game Code is amended to read:

8305.8. Notwithstanding any other provision of law, in the mainland coastal waters from Palos Verdes Point in Los Angeles County to Dana Point in Orange County, it is unlawful to take abalone for commercial purposes.

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 enacted before January 1, 1992, deletes or extends that date.

SEC. 10. 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 tip

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 other than the swinging or fanning of the tail.

(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. 11. Section 8610 of the Fish and Game Code is amended to read:

8610. (a) Notwithstanding Sections 8693, 8696, and 8724, no person shall use set gill or trammel nets in District 10 or 17 or that portion of District 18 north of a line extending due west magnetic from Pfeiffer Point in Monterey County, except for those individuals issued a nontransferable special permit.

(b) An individual qualifying for and issued a special permit pursuant to this section shall be designated on the permit as the principal permittee.

(c) At the time the principal permittee applies for and is issued the special permit, he or she may designate on the special permit the names of up to three copermittees, each of whom shall satisfy all of the following conditions:

(1) Possesses a valid general gill and trammel net permit.

(2) Demonstrates to the department that a formal partnership existed, prior to October 28, 1985, between the principal permittee and the copermittee or copermittees. Each individual in the partnership shall hold at least a 10-percent interest in the partnership by investment in any combination of the following:

(A) A currently registered commercial fishing vessel.

(B) The net reel and hydraulics used to recover gill or trammel nets aboard that vessel.

(C) The gill or trammel nets used aboard that vessel.

(D) The engine used to propel that vessel.

(E) The labor to prepare the vessel for fishing gill and trammel nets.

Verification of the partnership shall be by notarized agreement. Verification shall be supported by signed and dated receipts or purchase vouchers for equipment, and vessel registration certificates issued by the state or federal government.

(d) A principal permittee shall not be designated as a copermittee on any special permit. A copermittee shall be so designated on only one special permit at any one time.

(e) A copermittee may become the principal permittee of the special permit on which he or she is so designated only if all of the following conditions are met:

(1) The principal permittee dies or notifies the department that he or she otherwise relinquishes his or her interest in the special permit.

(2) The copermittee is designated as an owner or operator of a vessel based on vessel registration information furnished to the department pursuant to subdivision (d) of Section 7884.

(3) The copermittee possesses a valid general gill and trammel net permit.

(4) The copermittee was designated as a copermittee on the special permit prior to April 1, 1986.

(5) The annual landing or notice of intent requirements of paragraph (3) of subdivision (g) have been met for the special permit.

(f) A copermittee, when in possession of a valid special permit upon which he or she is so designated, may conduct fishing operations without the principal permittee or other copermittees present.

(g) Except as provided in subdivision (h), the special permit shall be issued by the department, upon application, to any person who meets all of the following requirements:

(1) Possesses a valid general gill and trammel net permit.

(2) Was issued a valid special permit during the previous permit year (April 1 through March 31).

(3) Makes application for renewal of the special permit which is received by the department at one of its offices located at Menlo Park, Monterey, or Long Beach not later than May 1.

(4) Either of the following: (A) Landed at least 500 pounds of halibut, or at least 1,000 pounds of croaker, or at least 2,000 pounds of rockfish, or at least 500 pounds of shark, or at least 2,000 pounds of any combination of the above species, which were taken under authority of the special permit during the previous permit year. Only landings which can be verified by landing receipts submitted to the department pursuant to Section 8011 shall be used to determine qualification for the special permit.

(B) Declared, before the special permit was issued and prior to June 1 of the previous permit year, that he or she did not intend to use the special permit in that permit year, but declared his or her intent to fish and landed at least 2,500 pounds, or two thousand five hundred dollars ($2,500) worth of fish exvessel value in that permit year. These landings shall be verified at the time of application for the special permit in the current permit year. Verification of landings or value for purposes of this section, made at ports other than in California, shall be by fish receipts acceptable to the agency having jurisdiction over fisheries in the state of landing. Only one declaration may be made pursuant to this subparagraph in any five consecutive years.

(h) (1) No special permits shall be issued under this subdivision by the department to a person who does not qualify for a special permit under subdivision (g) unless the total number of special permits issued under subdivision (g) is less than 135. The number of special permits issued under this subdivision shall not exceed the difference between 135 and the number of special permits issued

under subdivision (g). The issuance of special permits under this subdivision, if the total number of special permits issued under subdivision (g) is less than 135, shall be based upon a random drawing of names of interested individuals who possessed a valid general gill and trammel net permit during two of the past three years.

(2) If the department determines a random drawing under this subdivision is necessary, the drawing shall be held on the fifth working day of May at the office of the department in Sacramento. Applications for the drawing shall be received at one of the department's offices located at Menlo Park, Monterey, or Long Beach on or before the first day of May.

(i) A special permit issued pursuant to this section is valid from April 1 of the year of issue to March 31 of the next succeeding year. The department may establish a fee for the special permit, which does not exceed one hundred fifty dollars ($150).

(j) The special permit issued pursuant to this section may be revoked or suspended by the department upon a conviction of a violation of any provision of Article 1 (commencing with Section 8601) or Article 5 (commencing with Section 8680) of Chapter 3, or violation of any condition of the special permit by the principal permittee, a copermittee, permittee's agent, servant, employee, or person acting under the direction or control of the principal permittee or a copermittee.

(k) Any person denied a special permit pursuant to this section may appeal to the director where evidence can be presented that illness or loss of vessel resulted in the person not meeting the qualifications for the special permit.

(*l*) This section shall become inoperative on April 1, 1989, and, as of January 1, 1990, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 12. Section 8664.8 of the Fish and Game Code is amended to read:

8664.8. (a) Notwithstanding Sections 8687, 8696, and 8724, gill or trammel nets shall not be used, except as permitted in Section 8664.9, from May 1 through September 30 in the following ocean waters:

(1) In waters which are 25 fathoms or less in depth at mean lower low water along the south facing shoreline of the Point Reyes headlands between a line extending 270° magnetic from the west point and 105° magnetic from the east point of the Point Reyes headlands in Marin County.

(2) In waters 10 fathoms or less in depth at mean lower low water between a line extending 105° magnetic from the eastern point of the Point Reyes headlands in Marin County and a line extending 210° magnetic from a point on the mainland shore 3¾ of a mile northwest of the north projection of Double Point in Marin County, excluding the waters of Drakes Estero and Estero de Limantour.

(3) In waters 15 fathoms or less in depth at mean lower low water

between a line extending 210° magnetic from a point on the mainland shore 3¾ of a mile northwest of the north projection of Double Point in Marin County and a line extending 210° magnetic from a point on the mainland shore one mile south of the south projection of Double Point in Marin County.

(4) In waters 20 fathoms or less in depth at mean lower low water between a line extending 250° magnetic from Mussel Rocks in San Mateo County and a line extending 270° magnetic from Point Montara in San Mateo County.

(5) In waters 10 fathoms or less in depth at mean lower low water between a line extending 270° magnetic from Point Montara in San Mateo County and a line extending 270° magnetic from Miramontes Point in San Mateo County.

(6) In waters 10 fathoms or less in depth at mean lower low water between a line extending 270° magnetic from the mouth of Tunitas Creek in San Mateo County and a line extending 270° magnetic from Pescadero Point in San Mateo County.

(b) Notwithstanding Sections 8687, 8696, and 8724, gill and trammel nets with meshes less than 8 inches in length shall not be used, except as permitted in Section 8664.9, in the following portions of District 10:

(1) In waters inside a line extending 160° magnetic from Duxbury Point in Marin County to the Duxbury whistle buoy, then southeasterly 95° magnetic to the Point Bonita bell buoy, located approximately 1.5 miles southwesterly from Point Bonita in Marin County, then easterly 59° magnetic to Point Bonita.

(2) In waters within one mile of the mainland shore between a line, which extends 315° magnetic from the north shore of Point Lobos in San Francisco County, to Mile Rock Light in San Francisco County and then 225° magnetic from Mile Rock Light, and a line extending 250° magnetic from Mussel Rocks in San Mateo County.

(c) Notwithstanding Sections 8687, 8696, and 8724, gill and trammel nets with meshes 8 inches or greater in length shall not be used from May 1 through September 30 in waters inside a line extending 160° magnetic from Duxbury Point in Marin County to the Duxbury whistle buoy, then southeasterly 95° magnetic to a point on a line extending 250° magnetic from Tennessee Point in Marin County, then easterly 70° magnetic to Tennessee Point, but excluding that portion of Bolinas Bay north of a line extending from Rocky Point in Marin County to Duxbury Point in Marin County.

(d) Notwithstanding Sections 8687, 8696, and 8724, gill or trammel nets with meshes 8 inches or less shall not be used in waters 40 fathoms or less in depth at mean lower low water or within 2 nautical miles, whichever is nearer to the mean lower low waterline, and nets with meshes greater than 8 inches shall not be used in waters 25 fathoms or less in depth at mean lower low water around the North, Middle, and South Farallon Islands, and Noonday Rock buoy in San Francisco County.

(e) Notwithstanding Sections 8687, 8696, and 8724, gill or trammel

nets with meshes less than 8 inches in length shall not be used from May 1 through August 15 within three nautical miles of the North, Middle, and South Farallon Islands, and within three nautical miles of the Noonday Rock buoy in San Francisco County.

(f) In District 10 between Point Reyes in Marin County and Pigeon Point in San Mateo County, in waters 40 fathoms or less in depth at mean lower low water, no permittee operating under authority of a gill or trammel net permit issued under regulations adopted pursuant to Section 8682 shall fish, in combination in any day, more than 600 fathoms of set gill or trammel nets with meshes ranging in size from 8 inches to 10 inches in length, and 1,000 fathoms of set gill or trammel nets with meshes less than 8 inches in length, except that, in that portion of Bolinas Bay north of a line extending from Rocky Point to Duxbury Reef, no gill or trammel net permittee may use more than 200 fathoms of gill or trammel net with meshes 8 inches or greater in length per boat per day.

(g) Gill and trammel nets used to take fish in District 10 shall be marked at each end with a buoy displaying above its waterline in Arabic numerals at least 2 inches high, the certificate of vessel registration number issued by the department under Section 7881 for the vessel from which the net is being used. Nets shall be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the department.

(h) 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. 13. Section 8834.5 is added to the Fish and Game Code, to read:

8834.5. South of a line extending due west, true, from Point Reyes, it is unlawful for any person on a vessel on which any type of trawl or drag net is carried or operated to take or possess Dungeness crab, as defined in Section 8275, or to transfer Dungeness crab to another vessel.

SEC. 14. Section 11023 of the Fish and Game Code is amended to read:

11023. The following constitutes Fish and Game District 15:

The waters and tidelands to high-water mark of that portion of Monterey Bay lying within the area described and bounded as follows:

Beginning at a point on the coast line four miles west of the Santa Cruz Lighthouse; thence south to a point where the water reaches a depth of 10 fathoms at mean lower low water; thence easterly along the contour of that 10-fathom depth to a point directly south of the mouth of Aptos Creek; thence north to the mouth of Aptos Creek; thence westerly following the high-tide line of Monterey Bay to the point of beginning.

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 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 818

An act to amend Section 21501 of the Public Contract Code, relating to the Desert Water Agency.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 21501 of the Public Contract Code is amended to read:

21501. (a) All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed fifteen thousand dollars ($15,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code. The board may reject any and all bids.

(b) The board may have work done by force account without advertising for bids or by informal bidding procedures in any of the following situations:

(1) All proposals are rejected.

(2) No proposals are received.

(3) The estimated cost of the work does not exceed fifteen thousand dollars ($15,000) until January 1, 1989. After January 1, 1989, the estimated cost of the work shall not exceed ten thousand dollars ($10,000).

(4) The work consists of channel protection.

(5) The work consists of maintenance work, except that informal

bidding procedures may be used only where the estimated cost does not exceed twenty-five thousand dollars ($25,000).

(6) The work consists of emergency work which is necessary to protect life and property from impending flood damage.

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account, except that, materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased, if the cost thereof exceeds fifteen thousand dollars ($15,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

(d) As used in this section, "informal bidding procedures" means that the board shall, at a minimum, award a contract to the lowest responsible bidder after publishing a notice which generally describes the work to be performed and invites written bids in a newspaper of general circulation in the agency once a week for two successive weeks. The board shall obtain a minimum of three written bids.

CHAPTER 819

An act to amend Section 12667 of the Water Code, relating to flood control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 12667 of the Water Code is amended to read:

12667. The project for flood control known as the Merced County Streams Project is adopted and authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated November 25, 1970, and adopted and authorized by the Act of Congress approved December 31, 1970 (Public Law 91-611) at an estimated cost to the state of such sums as may be appropriated for state participation by the Legislature upon the recommendation and advice of the Reclamation Board. This authorization shall not be deemed to confer preference on this project over the needs of other statewide programs in appropriations of available funds. No state funds shall be appropriated until federal construction funds are available, and no state funds shall be appropriated for any portion or unit of the project until the responsible local agency has provided assurances of financial capability to complete the recreational acquisition and development

program for that portion or unit, as detailed in the project report.

The Legislature affirms the topographical and hydrologic characteristics of the Merced County Stream Group for which provision for participation in reservoirs has been made in Section 12826 and determines that the Merced County Streams Project is a project of the Merced County Stream Group, as defined and excepted in Section 12826. The Reclamation Board may loan the local agency the funds necessary to pay the local portion of the costs of the lands, easements, and rights-of-way. The rate of interest on the loan shall be the current rate for the Pooled Money Investment Account. All other provisions of Section 12585.4 shall be applicable to a loan to the local agency under this section.

Any money previously appropriated to the department for the Merced Stream Channel Improvement shall be available for the purposes of this section, including that reappropriated from the Special Account for Capital Outlay in Item 3860-490-036(2) of the Budget Act of 1986 (Chapter 186 of the Statutes of 1986).

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:

An estimated one hundred ten million dollars ($110,000,000) in federal construction funds are available for the Merced County Streams Project. These moneys may be lost due to the inability of the responsible local agency to provide assurances of its financial capability to finance the project. In the interest of utilizing federal funds in California and reaping the economic benefits resulting from such an expenditure, and providing urgently needed flood control, it is necessary that this act take effect immediately.

CHAPTER 820

An act to amend Sections 731.02, 1392.1, 2322, 2467, and 5103 of, to add Sections 716.5, 2932.5, 2934b, and 5110.150 to, to repeal Sections 771 and 5113.5 of, to add Title 8 (commencing with Section 2223) to Part 4 of Division 3 of, and to repeal Chapter 2.5 (commencing with Section 730) of Title 2 of Part 1 of, and Title 4 (commencing with Section 852) of Part 2 of, Division 2 of, and Title 8 (commencing with Section 2215) of Part 4 of Division 3 of, the Civil Code, to amend Sections 395.1, 695.030, 709.010, 1971, and 1972 of the Code of Civil Procedure, to amend Sections 703, 10251, and 29002 of the Corporations Code, to add Chapter 6 (commencing with Section 94600) to Part 59 of the Education Code, to amend Section 1561 of the Financial Code, to amend Section 26827.4 of the Government Code, and to amend Sections 20, 82, 1032, 1200, 1200.5, 1202, 1240, 2574, 6325, 6326, and 6327 of, to add Section 83 to, to add Division 9 (commencing with Section 15000) to, and to repeal Chapter 19

(commencing with Section 1120) of, and Article 1.5 (commencing with Section 1215) of Chapter 22 of, Division 3 of, the Probate Code, relating to trusts.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 716.5 is added to the Civil Code, to read:

716.5. (a) A trust is not invalid, either in whole or in part, merely because the duration of the trust may exceed the time within which future interests in property must vest under this title, if the interest of all the beneficiaries must vest, if at all, within that time.

(b) If a trust is not limited in duration to the time within which future interests in property must vest under this title, a provision, express or implied, in the instrument creating the trust that the trust may not be terminated is ineffective insofar as it purports to be applicable beyond that time.

(c) Whenever a trust has existed longer than the time within which future interests in property must vest under this title, the following shall apply:

(1) It shall be terminated upon the request of a majority of the beneficiaries.

(2) It may be terminated by a court of competent jurisdiction upon the petition of the Attorney General or of any person who would be affected thereby if the court finds that the termination would be in the public interest or in the best interest of a majority of the persons who would be affected thereby.

SEC. 2. Chapter 2.5 (commencing with Section 730) of Title 2 of Part 1 of Division 2 of the Civil Code is repealed.

SEC. 3. Section 731.02 of the Civil Code is amended to read:

731.02. This chapter shall apply to all transactions by which a principal was established without the interposition of a trust on or after September 13, 1941, or is hereafter so established. Transactions by which a principal is held in trust are governed by Chapter 3 (commencing with Section 16300) of Part 4 of Division 9 of the Probate Code.

SEC. 4. Section 771 of the Civil Code is repealed.

SEC. 5. Title 4 (commencing with Section 852) of Part 2 of Division 2 of the Civil Code is repealed.

SEC. 6. Section 1392.1 of the Civil Code is amended to read:

1392.1. (a) Unless the power to revoke is reserved in the instrument creating the power or exists pursuant to Section 15400 of the Probate Code, the creation of a power of appointment is irrevocable.

(b) Unless made expressly irrevocable by the creating instrument or the instrument of exercise, an exercise of a power of appointment is revocable if the power to revoke exists pursuant to Section 15400

of the Probate Code or so long as the interest in the appointive property, whether present or future, has not been transferred or become distributable pursuant to such appointment.

(c) Unless the power to revoke is reserved in the instrument releasing the power, a release of a power of appointment is irrevocable.

SEC. 7. Title 8 (commencing with Section 2215) of Part 4 of Division 3 of the Civil Code is repealed.

SEC. 8. Title 8 (commencing with Section 2223) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 8. INVOLUNTARY TRUSTS

2223. One who wrongfully detains a thing is an involuntary trustee thereof, for the benefit of the owner.

2224. One who gains a thing by fraud, accident, mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he or she has some other and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it.

2225. (a) As used in this section:

(1) "Convicted felon" means any person convicted of a felony, or found not guilty by reason of insanity of a felony committed in California, either by a court or jury trial or by entry of a plea in court.

(2) "Felony" means a felony defined by any California or United States statute.

(3) "Representative of the felon" means any person or entity receiving proceeds by designation of that felon, or on behalf of that felon or in the stead of that felon, whether by the felon's designation or by operation of law.

(4) (A) "Beneficiary" means a person who, under applicable law, other than the provisions of this section, has or had a right to recover damages from the convicted felon for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) If a beneficiary described in subparagraph (A) has died, "beneficiary" also includes a person or estate entitled to recover damages pursuant to Section 573 of the Probate Code.

(C) If a person has died and the death was proximately caused by the convicted felon as a result of the crime for which the felon was convicted, "beneficiary" also includes a person described in Section 377 of the Code of Civil Procedure and any beneficiary of a will of the decedent who had a right under that will to receive more than 25 percent of the value of the estate of the decedent.

(5) "Beneficiary's interest in the proceeds" means that portion of the proceeds necessary to pay the following:

(A) In the case of a beneficiary described in subparagraph (A) or (B) of paragraph (4), those damages which, under applicable law, other than the provisions of this section, the beneficiary has or had

a right to recover from the convicted felon for injuries proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) In the case of a beneficiary described in subparagraph (C) of paragraph (4), those damages which under all the circumstances of the case may be just.

(C) A beneficiary's interest in the proceeds shall be reduced by the following amount:

(i) Money paid to the beneficiary from the Restitution Fund because of the crime for which the felon was convicted.

(ii) Money paid to the beneficiary by the convicted felon because of a requirement of restitution imposed by a court in connection with the crime for which the felon was convicted.

(iii) Money paid to the beneficiary because of a judgment against the convicted felon based upon the crime for which the felon was convicted.

(D) In the case of an unsatisfied existing judgment or order of restitution against the convicted felon and in favor of a beneficiary, any money paid to the beneficiary pursuant to this section shall be applied to reduce the amount of the unsatisfied judgment or order.

(6) "Materials" means books, magazine or newspaper articles, movies, films, video tapes, sound recordings, interviews or appearances on television and radio stations, and live presentations of any kind.

(7) "Story" means a depiction, portrayal, or reenactment of a felony and shall not be taken to mean a passing mention of the felony, as in a footnote or bibliography.

(8) "Sale" includes lease, license, or any other transfer or alienation taking place in California or elsewhere.

(9) "Proceeds" means all fees, royalties, real property, or other consideration of any and every kind or nature received by or owing to a felon or his or her representatives for the preparation for the purpose of sale of materials, for the sale of the rights to materials, or the sale or distribution by the convicted felon of materials whether earned, accrued, or paid before or after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

(b) All proceeds from the preparation for the purpose of sale, the sale of the rights to, or the sale of materials that include or are based on the story of a felony for which a convicted felon was convicted, shall be subject to an involuntary trust for the benefit of the beneficiaries set forth in this section. That trust shall continue until five years after the time of payment of the proceeds to the felon or five years after the date of conviction, whichever is later. If an action is filed by a beneficiary to recover his or her interest in a trust within those time limitations, the trust character of the property shall continue until the conclusion of the action.

(c) (1) Any beneficiary may bring an action against a convicted felon or representative of the felon to recover his or her interest in

the trust established by this section.

(2) That action may be brought in the superior court of the county in which the beneficiary resides, or of the county in which the convicted felon resides, or of the county in which proceeds are located.

(3) If the court determines that a beneficiary is entitled to proceeds pursuant to this section, the court shall order the payment from proceeds which have been received, and, if that is insufficient, from proceeds which may be received in the future.

(d) If there are two or more beneficiaries and if the available proceeds are insufficient to pay all beneficiaries, the proceeds shall be equitably apportioned among the beneficiaries taking into account the impact of the crime upon them.

Prior to any distribution of any proceeds to a beneficiary, the court shall determine whether the convicted felon has failed to pay any portion of a restitution fine or penalty fine imposed by a court, or any restitution imposed as a condition of probation. The court shall also determine whether the felon is obligated to reimburse a governmental entity for the costs of his or her defense and whether a portion of the proceeds is needed to cover his or her reasonable attorney's fees incurred in the criminal proceeding related to the felony, or any appeal or other related proceeding, or in the defense of the action brought under this section. The court shall order payment of these obligations prior to any payment to a beneficiary, except that 10 percent of the proceeds shall be reserved for payment to the beneficiaries.

(e) (1) The Attorney General may bring an action to require proceeds received by a convicted felon to be held in an express trust in a bank authorized to act as a trustee.

(2) An action may be brought under this subdivision within six months after the receipt of proceeds by a convicted felon or six months after the date of conviction, whichever is later.

That action may be brought in the superior court of any county in which the Attorney General has an office.

(3) If the Attorney General proves that the proceeds are proceeds from the sale of a story which are subject to an involuntary trust pursuant to this section, and that it is more probable than not that there are beneficiaries within the meaning of this section, the court shall order that all proceeds be deposited in a bank and held by the bank as trustee of the trust until an order of disposition is made by a court pursuant to subdivision (d), or until the expiration of the period specified in subdivision (b).

(4) If the Attorney General prevails in an action under this subdivision, the court shall order the payment from the proceeds to the Attorney General of reasonable costs and attorney's fees.

(f) In any action brought pursuant to subdivision (d) or (e), upon motion of a party the court shall grant a preliminary injunction to prevent any waste of proceeds if it appears that the proceeds are subject to the provisions of this section, and that they may be subject

to waste.

(g) Any violation of an order of a court made pursuant to this section shall be punishable as contempt.

(h) The remedies provided by this section are in addition to other remedies provided by law.

No period of limitations, except those provided by this section, shall limit the right of recovery under this section.

SEC. 9. Section 2322 of the Civil Code is amended to read:

2322. An authority expressed in general terms, however broad, does not authorize an agent to do any of the following:

(a) Act in the agent's own name, unless it is the usual course of business to do so.

(b) Define the scope of the agency.

(c) Violate a duty to which a trustee is subject pursuant to Chapter 1 (commencing with Section 16000) of Part 4 of Division 9 of the Probate Code.

SEC. 10. Section 2467 of the Civil Code is amended to read:

2467. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "estate transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) To the extent that an agent is permitted by law thus to act for a principal, apply for and procure, in the name of the principal, letters of administration, letters testamentary, letters of trusteeship, or any other type of authority, either judicial or administrative, and act as a fiduciary of any sort.

(2) To the extent that an agent is permitted by law thus to act for a principal, represent and act for the principal in all ways and in all matters affecting any estate of a decedent, absentee, minor, or incompetent, or any trust or other fund, out of which the principal is entitled, or claims to be entitled, to some share or payment or with respect to which the principal is a fiduciary.

(3) Accept, reject, receive, receipt for, sell, assign, release, disclaim, renounce, pledge, exchange, or consent to a reduction in or modification of, any share in or payment from any estate, trust, or other fund, with or without consideration.

(4) Demand and obtain by action, proceeding, or otherwise, any money or other thing of value to which the principal is, may become, or may claim to be entitled by reason of the death testate or intestate of any person or of any testamentary disposition or of any trust or by reason of the administration of the estate of a decedent or absentee or of the guardianship of a minor or the conservatorship of an incompetent or the administration of any trust or other fund; initiate, participate in, or oppose any proceeding, judicial or otherwise, for the ascertainment of the meaning, validity, or effect of any deed, will, declaration of trust, or other transaction affecting in any way the interest of the principal; initiate, participate in, or oppose any proceeding, judicial or otherwise, for the removal, substitution, or surcharge of a fiduciary; and conserve, invest, disburse, or utilize

anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(5) Establish any trust with the assets of the principal for the benefit of the principal and the spouse and descendants of the principal, or any one or more of them, upon such terms as the agent determines are necessary or proper; transfer any asset in which the principal has an interest to any such trust or to any trust that the principal has created; and exercise in whole or in part, release, or let lapse any power the principal may have under any trust whether or not created by the principal, including any power of appointment, revocation, or withdrawal, but a trust created by the principal may only be revoked by the agent as provided in the trust instrument.

(6) Purchase for the principal United States treasury bonds redeemable at par value in payment of federal estate taxes; borrow money from any source for that purpose; make, execute, endorse, and deliver promissory notes, bills of exchange, drafts, agreements, or other obligations for those bonds, and as security for them pledge, mortgage, and assign any stock, bonds, securities, insurance values, or other properties, real or personal, in which the principal may have an interest; and arrange for the safekeeping and custody of any of those treasury bonds.

(7) Prepare, sign, file, and deliver all reports, compilations of information, returns, or papers with respect to any interest had or claimed by or on behalf of the principal in any estate, trust, or other fund; and pay, compromise, or contest, and apply for refunds in connection with any tax or assessment with respect to (A) any interest had or claimed by or on behalf of the principal in any estate, trust, or other fund or by reason of the death of any person or (B) any property in which that interest is had or claimed.

(8) Agree and contract, in any manner, with any person, and on any terms, which the agent may select, for the accomplishment of the purposes enumerated in this section; and perform, rescind, reform, release, or modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal.

(9) Execute, acknowledge, verify, seal, file, and deliver any consent, designation, pleading, notice, demand, election, conveyance, release, disclaimer, assignment, check, pledge, waiver, admission of service, notice of appearance, or other instrument the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(10) Submit to arbitration, settle, and propose or accept a compromise with respect to, any controversy or claim which affects the estate of a decedent, absentee, minor, or incompetent, or the administration of a trust or other fund, in which the principal has or claims to have an interest; and do any act which the agent believes desirable or necessary in effectuating the compromise.

(11) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(12) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent with respect to the estate of a decedent, absentee, minor, or incompetent, or the administration of a trust or other fund, in any one of which the principal has or claims to have an interest or with respect to which the principal is a fiduciary.

(b) All powers described in this section are exercisable equally with respect to any estate of a decedent, absentee, minor, or incompetent, or the administration of any trust or other fund, in which the principal is interested at the time of the giving of the power of attorney or may thereafter become interested, whether located in this state or elsewhere.

SEC. 11. Section 2932.5 is added to the Civil Code, to read:

2932.5. Where a power to sell real property is given to a mortgagee, or other encumbrancer, in an instrument intended to secure the payment of money, the power is part of the security and vests in any person who by assignment becomes entitled to payment of the money secured by the instrument. The power of sale may be exercised by the assignee if the assignment is duly acknowledged and recorded.

SEC. 12. Section 2934b is added to the Civil Code, to read:

2934b. Sections 15643 and 18102 of the Probate Code apply to trustees under deeds of trust given to secure obligations.

SEC. 13. Section 5103 of the Civil Code is amended to read:

5103. (a) Subject to subdivision (b), either husband or wife may enter into any transaction with the other, or with any other person, respecting property, which either might if unmarried.

(b) Except as provided in Sections 143, 144, and 146 of the Probate Code, in transactions between themselves, a husband and wife are subject to the general rules which control the actions of persons occupying confidential relations with each other.

SEC. 14. Section 5110.150 is added to the Civil Code, to read:

5110.150. (a) Unless the trust instrument or the instrument of transfer expressly provides otherwise, community property that is transferred in trust remains community property during the marriage, regardless of the identity of the trustee, if the trust, originally or as amended before or after the transfer, provides that the trust is revocable as to that property during the marriage and the power, if any, to modify the trust as to the rights and interests in that property during the marriage may be exercised only with the joinder or consent of both spouses.

(b) Unless the trust instrument expressly provides otherwise, a power to revoke as to community property may be exercised by either spouse acting alone. Community property, including any income or appreciation, that is distributed or withdrawn from a trust

by revocation, power of withdrawal, or otherwise, remains community property unless there is a valid transmutation of the property at the time of distribution or withdrawal.

(c) The trustee may convey and otherwise manage and control the trust property in accordance with the provisions of the trust without the joinder or consent of the husband or wife unless the trust expressly requires the joinder or consent of one or both spouses.

(d) This section applies to a transfer made before, on, or after July 1, 1987. Nothing in this section affects the community character of property that is transferred before, on, or after July 1, 1987, in any manner or to a trust other than described in this section.

SEC. 15. Section 5113.5 of the Civil Code is repealed.

SEC. 16. Section 395.1 of the Code of Civil Procedure is amended to read:

395.1. Except as otherwise provided in Section 17005 of the Probate Code pertaining to trustees, when a defendant is sued in an official or representative capacity as executor, administrator, guardian, conservator, or trustee on a claim for the payment of money or for the recovery of personal property, the county which has jurisdiction of the estate which the defendant represents shall be the proper county for the trial of the action.

SEC. 17. Section 695.030 of the Code of Civil Procedure is amended to read:

695.030. (a) Except as otherwise provided by statute, property of the judgment debtor that is not assignable or transferable is not subject to enforcement of a money judgment.

(b) The following property is subject to enforcement of a money judgment:

(1) An interest in a trust, to the extent provided by law.

(2) A cause of action for money or property that is the subject of a pending action or special proceeding.

SEC. 18. Section 709.010 of the Code of Civil Procedure is amended to read:

709.010. (a) As used in this section, "trust" has the meaning provided in Section 82 of the Probate Code.

(b) The judgment debtor's interest as a beneficiary of a trust is subject to enforcement of a money judgment only upon petition under this section by a judgment creditor to a court having jurisdiction over administration of the trust as prescribed in Part 5 (commencing with Section 17000) of Division 9 of the Probate Code. The judgment debtor's interest in the trust may be applied to the satisfaction of the money judgment by such means as the court, in its discretion, determines are proper, including but not limited to imposition of a lien on or sale of the judgment debtor's interest, collection of trust income, and liquidation and transfer of trust property by the trustee.

(c) Nothing in this section affects the limitations on the enforcement of a money judgment against the judgment debtor's interest in a trust under Chapter 2 (commencing with Section 15300)

of Part 2 of Division 9 of the Probate Code, and the provisions of this section are subject to the limitations of that chapter.

SEC. 19. Section 1971 of the Code of Civil Procedure is amended to read:

1971. No estate or interest in real property, other than for leases for a term not exceeding one year, nor any power over or concerning it, or in any manner relating thereto, can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering, or declaring the same, or by the party's lawful agent thereunto authorized by writing.

SEC. 20. Section 1972 of the Code of Civil Procedure is amended to read:

1972. (a) Section 1971 shall not be construed to abridge the power of any court to compel the specific performance of an agreement, in case of part performance thereof.

(b) Section 1971 does not affect the creation of a trust under Division 9 (commencing with Section 15000) of the Probate Code nor prevent any trust from arising or being extinguished by implication or operation of law.

SEC. 21. Section 703 of the Corporations Code is amended to read:

703. (a) Shares standing in the name of another corporation, domestic or foreign, may be voted by an officer, agent, or proxyholder as the bylaws of the other corporation may prescribe or, in the absence of such provision, as the board of the other corporation may determine or, in the absence of that determination, by the chairman of the board, president or any vice president of the other corporation, or by any other person authorized to do so by the chairman of the board, president, or any vice president of the other corporation. Shares which are purported to be voted or any proxy purported to be executed in the name of a corporation (whether or not any title of the person signing is indicated) shall be presumed to be voted or the proxy executed in accordance with the provisions of this subdivision, unless the contrary is shown.

(b) Shares of a corporation owned by its subsidiary shall not be entitled to vote on any matter.

(c) Shares held by the issuing corporation in a fiduciary capacity, and shares of an issuing corporation held in a fiduciary capacity by its subsidiary, shall not be entitled to vote on any matter, except as follows:

(1) To the extent that the settlor or beneficial owner possesses and exercises a right to vote or to give the corporation binding instructions as to how to vote such shares.

(2) Where there are one or more cotrustees who are not affected by the prohibition of this subdivision, in which case the shares may be voted by the cotrustees as if it or they are the sole trustee.

SEC. 22. Section 10251 of the Corporations Code is amended to

read:

10251. (a) "Educational institution," as used in this section, means any nonprofit corporation organized under the provisions of Chapter 3 (commencing with Section 94300) or Chapter 4 (commencing with Section 94400) of Part 59 of Division 10 of Title 3 of the Education Code or organized under the provisions of Part 1 (commencing with Section 9000) of this division in effect on December 31, 1979, and designated on or after January 1, 1980, as a nonprofit public benefit corporation, or organized for charitable or eleemosynary purposes under the provisions of Part 2 (commencing with Section 5110) of this division, or Part 3 (commencing with Section 10200) of this division in effect on December 31, 1979, and designated on or after January 1, 1980, as a nonprofit public benefit corporation for the purpose of establishing, conducting or maintaining an institution offering courses beyond high school and issuing or conferring a diploma or for the purpose of offering or conducting private school instruction on the high school or elementary school level and any charitable trust organized for such purpose or purposes. "Educational institution," as used in this section, also means the University of California, the state colleges, the state community colleges and any auxiliary organization, as defined in Section 89901 of the Education Code, established for the purpose of receiving gifts, property and funds to be used for the benefit of a state college.

(b) It shall be lawful for any educational institution to become a member of a nonprofit corporation incorporated under the laws of any state for the purpose of maintaining a common trust fund or similar common fund in which nonprofit organizations may commingle their funds and property for investment and to invest any and all of its funds, whenever and however acquired, in such common fund or funds; provided, that, in the case of funds or property held as fiduciary, the investment is not prohibited by the wording of the will, deed or other instrument creating such fiduciary relationship.

(c) An educational institution electing to invest in a common fund or funds under the provisions of this section may elect to receive distributions from each fund in an amount not to exceed for each fiscal year the greater of the income, as defined in Section 16303 of the Probate Code, accrued on its interest in the fund or 10 percent of the value of its interest in the fund as of the last day of its next preceding fiscal year. The educational institution may expend the distribution or distributions for any lawful purpose notwithstanding the provisions of any general or special law characterizing the distribution, or any part thereof, as principal or income; provided, that, in the case of funds or property invested as fiduciary, the expenditure is not prohibited by the wording of the will, deed or other instrument creating the fiduciary relationship. No such prohibition of expenditure shall be deemed to exist solely because a will, deed or other instrument, whether executed or in effect before

or after the effective date of this section, directs or authorizes the use of only the "income," or "interest," or "dividends" or "rents, issues or profits," or contains words of similar import.

(d) The provisions of the Corporate Securities Law of 1968 shall not apply to the creation, administration or termination of common trust funds authorized under this section, or to participation therein.

SEC. 23. Section 29002 of the Corporations Code is amended to read:

29002. (a) "Trustee" means a person executing a trust, as defined in this section.

(b) "Trust" means any voluntary trust expressly created by or declared in an instrument in writing, other than a will or a judicial writ, order, decree, or judgment, to carry on any business or to secure the payment or repayment of money.

SEC. 24. Chapter 6 (commencing with Section 94600) is added to Part 59 of Division 10 of Title 3 of the Education Code, to read:

CHAPTER 6. UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

94600. This chapter may be cited as the Uniform Management of Institutional Funds Act.

94601. As used in this chapter:

(a) "Institution" means a private incorporated or unincorporated organization organized and operated exclusively for educational purposes and accredited by the Association of Western Colleges and Universities to the extent that it holds funds exclusively for any of such purposes.

(b) "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include (1) a fund held for an institution by a trustee that is not an institution or (2) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

(c) "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

(d) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(e) "Historic dollar value" means the aggregate fair value in dollars of (1) an endowment fund at the time it became an endowment fund, (2) each subsequent donation to the fund at the time it is made, and (3) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

(f) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or

held by an institution as an institutional fund.

94602. The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by Section 94606. Appropriations shall be based upon an average fair value covering a period of up to the five preceding fiscal years of the institution and shall be set at any reasonable date prior to each fiscal year. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

94603. (a) Section 94602 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended.

(b) With respect to gift instruments in effect prior to January 1, 1974, a restriction upon the expenditure of net appreciation need not be implied solely from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import.

(c) With respect to gift instruments executed or becoming effective on or after January 1, 1974, a restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import.

94604. In addition to an investment otherwise authorized by law or by the applicable gift instrument, the governing board, subject to any specific limitations set forth in the applicable gift instrument, may do any or all of the following:

(a) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, or partnerships, and obligations of any government or subdivision or instrumentality thereof.

(b) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable.

(c) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution.

(d) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or

similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

94605. Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may do the following:

(a) Delegate to its committees, officers, or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds.

(b) Contract with independent investment advisers, investment counsel or managers, banks, or trust companies, so to act.

(c) Authorize the payment of compensation for investment advisory or management services.

94606. (a) When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing property, appropriating appreciation, and delegating investment management for the benefit of an institution, the members of the governing board shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of like character and with like aims to accomplish the purposes of the institution. In the course of administering the fund pursuant to this standard, individual investments shall be considered as part of an overall investment strategy.

(b) In exercising judgment under this section, the members of the governing board shall consider the long and short term needs of the institution in carrying out its purposes, its present and anticipated financial requirements, expected total return on its investments, general economic conditions, the appropriateness of a reasonable proportion of higher risk investment with respect to institutional funds as a whole, income, growth, and long-term net appreciation, as well as the probable safety of funds.

94607. (a) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(b) If written consent of the donor cannot be obtained by reason of the donor's death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the superior court of the county in which the principal activities of the institution are conducted, or other court of competent jurisdiction, for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. No court has jurisdiction to modify any use of an institutional fund under this part unless the Attorney General is a party to the proceedings. If the court finds that the restriction is obsolete or impracticable, it may by order release the restriction in whole or in part. A release under this subdivision may not change an endowment fund to a fund that is not an endowment fund.

(c) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(d) This section does not limit the application of the doctrine of cy pres.

94608. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

94609. This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it.

94610. Nothing in this chapter alters the status of governing boards under other laws of this state.

SEC. 25. Section 1561 of the Financial Code is amended to read:

1561. Trust funds received by any trust company in connection with its trust business, if invested, shall be invested as provided in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

SEC. 26. Section 26827.4 of the Government Code is amended to read:

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

(1) Section 591.2 of the Probate Code.

(2) Accountings of trustees of testamentary trusts that are subject to the continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9 of the Probate Code.

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

(b) Objections to any papers exempt from the fee imposed by this section shall be subject to the filing fee of fourteen dollars ($14). This section does not apply to petitions filed pursuant to subdivision (b) of Section 26827.

SEC. 27. Section 20 of the Probate Code is amended to read:

20. Unless the provision or context otherwise requires, the words and phrases defined in this part govern the construction of Division 1 (commencing with Section 1), Division 2 (commencing with Section 100), Division 6 (commencing with Section 6100), and Division 9 (commencing with Section 15000).

SEC. 27.5. Section 20 of the Probate Code is amended to read:

20. Unless the provision or context otherwise requires, the words and phrases defined in this part govern the construction of Division 1 (commencing with Section 1), Division 2 (commencing with Section 100), Division 6 (commencing with Section 6100), Division 8 (commencing with Section 13000), Division 9 (commencing with

Section 15000), and Division 10 (commencing with Section 20100).

SEC. 28. Section 82 of the Probate Code is amended to read:

82. (a) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created, but does not include a charitable trust that is not subject to the jurisdiction of the Attorney General.

(b) "Trust" includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(c) "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, conservatorships, personal representatives, Totten trust accounts, custodial arrangements pursuant to the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of any state, business trusts that are taxed as partnerships or corporations, investment trusts subject to regulation under the laws of this state or any other jurisdiction, common trust funds, voting trusts, security arrangements, transfers in trust for purpose of suit or enforcement of a claim or right, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

SEC. 29. Section 83 is added to the Probate Code, to read:

83. "Trust company" means an entity that has qualified to engage in and conduct a trust business in this state.

SEC. 30. Section 1032 of the Probate Code is amended to read:

1032. (a) If a will contains a marital deduction gift, the provisions of the will, including any power, duty, or discretionary authority given to the fiduciary, shall be construed to comply with the marital deduction provisions of the Internal Revenue Code and the regulations thereunder in order to conform to that intent. Whether the will contains a marital deduction gift depends upon the intention of the testator at the time the will is executed. If the testator has adequately evidenced an intention to make a marital deduction gift, the fiduciary shall not take any action or have any power that may impair that deduction. This chapter shall not apply to a trust which qualifies for the marital deduction under Section 20.2056(e)-2(b) of the Code of Federal Regulations (the so-called "estate trust"). This chapter shall neither require nor prohibit a fiduciary making the election referred to in Section 2056(b)(7) of the Internal Revenue Code.

(b) If a will indicates the testator's intention at the time the will is executed to comply with the Internal Revenue Code requirements for a charitable remainder unitrust or a charitable remainder annuity trust as each is defined in Section 664 of the Internal Revenue Code, the provisions of the will, including any power, duty, or discretionary authority given to the fiduciary, shall be construed to comply with the charitable deduction provisions of Section 2055 of the Internal Revenue Code and the charitable remainder trust provisions of

Section 664 of the Internal Revenue Code in order to conform to that intent. In no event shall the fiduciary take any action or have any power that may impair the charitable deduction. After the death of the testator, the provisions of the will may be augmented in any manner consistent with subdivision (e) of Section 2055 of the Internal Revenue Code upon a petition provided for in Section 17200 of this code.

SEC. 31. Chapter 19 (commencing with Section 1120) of Division 3 of the Probate Code is repealed.

SEC. 32. Section 1200 of the Probate Code is amended to read:

1200. (a) Upon the filing of:

(1) A petition for the sale of stocks or bonds;

(2) A petition for confirmation of a sale or a petition to grant an option to purchase real property;

(3) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine; or

(4) A petition for leave to lease or to exchange property, or to institute an action for the partition of property, the clerk shall set the same for hearing by the court and shall give notice of the proceeding by causing a notice of the time and place of hearing thereof to be posted at the courthouse of the county where the proceedings are pending, at least 10 days before the day of hearing, giving the name of the estate, the name of the petitioner and the nature of the application, referring to the petition for further particulars, and stating the time at which the application will be heard.

(b) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(c) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(d) This section does not apply to proceedings under Division 9 (commencing with Section 15000).

(e) Notwithstanding any other provision of this code which requires the clerk to post notice of a hearing in accordance with this section, the posting shall not be required, except as to those matters specifically enumerated in subdivision (a).

SEC. 33. Section 1200.5 of the Probate Code is amended to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the

return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale or a petition to grant an option to purchase real property.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money.

(11) An account of an executor or administrator.

(12) A petition for partial or ratable or preliminary or final distribution.

(13) A petition for the delivery of the estate of a nonresident.

(14) A petition for determination of heirship or interests in an estate.

(15) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(16) A report of status of administration.

(17) A petition for family allowance.

(18) An objection to the appraisement made by the executor, administrator, or probate referee.

(19) A petition under Section 709 for leave to file a claim against the estate after the expiration of the prescribed period.

(20) Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge.

(b) At least 10 days before the time set for the hearing of the petition or account, the petitioner or person filing the account shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and,

if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) This section does not apply to proceedings under Division 9 (commencing with Section 15000).

(f) The notice required by this section shall be in addition to the notice, if any, required to be given in the manner specified in Section 1200.

SEC. 33.5. Section 1200.5 of the Probate Code is amended to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale, a petition to grant an option to purchase real property, or a petition to authorize a transfer or conveyance to a person given an option to purchase property of the decedent by a will admitted to probate.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money

(11) An account of an executor or administrator.

(12) A petition for partial or ratable or preliminary or final distribution.

(13) A petition for the delivery of the estate of a nonresident.

(14) A petition for determination of heirship or interests in an estate.

(15) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(16) A report of status of administration.

(17) A petition for family allowance.

(18) An objection to the appraisement made by the executor, administrator, or probate referee.

(19) A petition under Section 709 for leave to file a claim against the estate after the expiration of the prescribed period.

(20) Any other proceeding under this code in which (A) notice is required to be given for the period and in the manner provided by this section or (B) notice is required and no other time or method is prescribed by law or by court or judge.

(b) At least 10 days before the time set for the hearing of the petition or account, the petitioner or person filing the account shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) This section does not apply to proceedings under Division 9 (commencing with Section 15000).

(f) The notice required by this section shall be in addition to the notice, if any, required to be given in the manner specified in Section 1200.

SEC. 34. Section 1202 of the Probate Code is amended to read:

1202. At any time after the issuance of letters testamentary or of administration, any person interested in the estate, whether as heir, devisee, legatee, creditor, beneficiary under a trust, or as otherwise interested, or the State Controller, may, in person or by attorney, serve upon the executor or administrator, or upon the attorney for the executor or administrator, and file with the clerk of the court where the proceedings are pending, with a written admission or proof of service, a written request, stating that the person desires special notice of the filing of any or all of the petitions or accounts

mentioned in Section 1200, and giving the post office address of the person making the request or the person's attorney. Thereafter the person is entitled to notice as provided in Section 1200.

SEC. 35. Article 1.5 (commencing with Section 1215) of Chapter 22 of Division 3 of the Probate Code is repealed.

SEC. 36. Section 1240 of the Probate Code is amended to read:

1240. An appeal may be taken from an order or the refusal to make an order:

(a) Granting or revoking letters testamentary or of administration.

(b) Admitting a will to probate or revoking the probate thereof.

(c) Setting aside an estate claimed not to exceed twenty thousand dollars ($20,000) in value.

(d) Setting apart property as a homestead or claimed to be exempt from enforcement of a money judgment.

(e) Granting or modifying a family allowance.

(f) Directing or authorizing the sale or conveyance or confirming the sale of property.

(g) Directing or authorizing the granting of an option to purchase real property.

(h) Adjudicating the merits of any claim under Section 851.5, 852 or 853.

(i) Allocating debts under Section 980.

(j) Settling an account of an executor or administrator.

(k) Instructing or directing an executor or administrator.

(*l*) Directing or allowing the payment of a debt, claim, legacy, or attorney's fee.

(m) Determining heirship or the persons to whom distribution should be made.

(n) Distributing property.

(o) Determining that property is community property passing or belonging to the surviving spouse pursuant to Section 655.

(p) Fixing an inheritance tax or determining that none is due.

(q) Authorizing a personal representative to invest or reinvest any surplus moneys pursuant to Section 584.5.

SEC. 36.5. Section 2574 of the Probate Code is amended to read:

2574. (a) Subject to subdivision (b), the guardian or conservator, without authorization of the court, may invest funds of the estate pursuant to this section in:

(1) Direct obligations of the United States, or of this state, having a maturity at the time of acquisition of not more than five years and 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.

(2) United States Treasury bonds redeemable at par value on the death of the holder for payment of federal estate taxes, regardless of maturity date.

(3) Stocks, bonds, and other securities listed on an established stock or bond exchange in the United States which are purchased on

such exchange.

(4) Eligible securities for the investment of surplus state moneys as provided for in Section 16430 of the Government Code.

(b) In making and retaining investments made under this section, the guardian or conservator shall conform to Section 16040 and shall take into consideration the circumstances of the estate, indicated cash needs, and, if reasonably ascertainable, the date of the prospective termination of the guardianship or conservatorship.

(c) Nothing in this section limits the authority of the guardian or conservator to seek court authorization for any investment, or to make other investments with court authorization, as provided in this division.

SEC. 37. Section 6325 of the Probate Code is amended to read:

6325. (a) The court in which the proceedings are pending for administration of the estate of the decedent has jurisdiction, before or after payment or transfer of benefits and rights or their proceeds to the trustee, to:

(1) Determine the validity of the trust.

(2) Determine the terms of the trust.

(3) Fill vacancies in the office of trustee.

(4) Require a bond of a trustee in its discretion and in such amount as the court may determine for the faithful performance of duties as trustee, subject to the provisions of Article 3 (commencing with Section 1540) of Chapter 12 of Division 1 of the Financial Code and Section 15602 of this code.

(5) Grant additional powers to the trustee, as provided in Section 16201.

(6) Instruct the trustee.

(7) Fix or allow payment of compensation of a trustee as provided in Sections 15680 to 15683, inclusive.

(8) Hear and determine adverse claims to the subject of the trust by the personal representative, surviving spouse, or other third person.

(9) Determine the identity of the trustee and the trustee's acceptance or rejection of the office and, upon request, furnish evidence of trusteeship to a trustee.

(10) Order postponement of the payment or transfer of the benefits and rights or their proceeds.

(11) Authorize or direct removal of the trust or trust property to another jurisdiction pursuant to the procedure provided in Chapter 5 (commencing with Section 17400) of Part 5 of Division 9.

(12) Make any order incident to the foregoing or to the accomplishment of the purposes of this chapter.

(b) The personal representative of the designator's estate, any trustee named in the will or designation or successor to such trustee, or any person interested in the estate or trust may petition the court for an order under this section. Notice of hearing of the petition shall be given in the manner provided in Section 17203, except as the court may otherwise order.

SEC. 38. Section 6326 of the Probate Code is amended to read:

6326. As to matters not specifically provided in Section 6325, the provisions of Division 9 (commencing with Section 15000) apply to the trust.

SEC. 39. Section 6327 of the Probate Code is amended to read:

6327. An appeal may be taken from any of the following:

(a) Any order described in Section 1240 made pursuant to this chapter.

(b) An order making or refusing to make a determination specified in paragraph (1), (2), or (8) of subdivision (a) of Section 6325.

(c) As provided in Section 17207 for an order made pursuant to Section 6326.

SEC. 40. Division 9 (commencing with Section 15000) is added to the Probate Code, to read:

DIVISION 9. TRUST LAW

PART 1. GENERAL PROVISIONS

15000. This division shall be known and may be cited as the Trust Law.

15001. Except as otherwise provided by statute:

(a) On and after July 1, 1987, this division applies to all trusts regardless of whether they were created before, on, or after July 1, 1987.

(b) On and after July 1, 1987, this division applies to all proceedings concerning trusts commenced before July 1, 1987, unless in the opinion of the court application of a particular provision of this division would substantially interfere with the effective conduct of the proceedings or the rights of the parties and other interested persons, in which case the particular provision of this division does not apply and prior law applies.

15002. Except to the extent that the common law rules governing trusts are modified by statute, the common law as to trusts is the law of this state.

15003. (a) Nothing in this division affects the law relating to constructive or resulting trusts.

(b) The repeal of Title 8 (commencing with Section 2215) of Part 4 of Division 3 of the Civil Code as provided in the act that added this division to the Probate Code is not intended to alter the rules applied by the courts to fiduciary and confidential relationships, except as to express trusts governed by this division.

15004. Unless otherwise provided by statute, this division applies to charitable trusts that are subject to the jurisdiction of the Attorney General to the extent that the application of the provision is not in conflict with the Uniform Supervision of Trustees for Charitable Purposes Act, Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

15005. (a) Except as provided in subdivision (b), Article 3 (commencing with Section 1030) of Chapter 16 of Division 3 applies to gifts, whether outright or in trust, made in a trust.

(b) This section does not apply to any trust if its terms expressly or by necessary implication make this section inapplicable to it.

(c) For purposes of this section, references in Article 3 (commencing with Section 1030) of Chapter 16 of Division 3 to a "testator" refer to the settlor and references to a "will" refer to a trust.

15006. The Judicial Council may prescribe the form of the petitions, notices, orders, and other documents required by this division. The form prescribed by the Judicial Council is deemed to comply with this division.

PART 2. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUSTS

CHAPTER 1. CREATION AND VALIDITY OF TRUSTS

15200. Subject to other provisions of this chapter, a trust may be created by any of the following methods:

(a) A declaration by the owner of property that the owner holds the property as trustee.

(b) A transfer of property by the owner during the owner's lifetime to another person as trustee.

(c) A testamentary transfer of property by the owner to another person as trustee.

(d) An exercise of a power of appointment to another person as trustee.

(e) An enforceable promise to create a trust.

15201. A trust is created only if the settlor properly manifests an intention to create a trust.

15202. A trust is created only if there is trust property.

15203. A trust may be created for any purpose that is not illegal or against public policy.

15204. A trust created for an indefinite or general purpose is not invalid for that reason if it can be determined with reasonable certainty that a particular use of the trust property comes within that purpose.

15205. (a) A trust, other than a charitable trust, is created only if there is a beneficiary.

(b) The requirement of subdivision (a) is satisfied if the trust instrument provides for either of the following:

(1) A beneficiary or class of beneficiaries that is ascertainable with reasonable certainty or that is sufficiently described so it can be determined that some person meets the description or is within the class.

(2) A grant of a power to the trustee or some other person to select the beneficiaries based on a standard or in the discretion of the

trustee or other person.

15206. A trust in relation to real property is not valid unless evidenced by one of the following methods:

(a) By a written instrument signed by the trustee, or by the trustee's agent if authorized in writing to do so.

(b) By a written instrument conveying the trust property signed by the settlor, or by the settlor's agent if authorized in writing to do so.

(c) By operation of law.

15207. (a) The existence and terms of an oral trust of personal property may be established only by clear and convincing evidence.

(b) The oral declaration of the settlor, standing alone, is not sufficient evidence of the creation of a trust of personal property.

(c) In the case of an oral trust, a reference in this division or elsewhere to a trust instrument or declaration means the terms of the trust as established pursuant to subdivision (a).

15208. Consideration is not required to create a trust, but a promise to create a trust in the future is enforceable only if the requirements for an enforceable contract are satisfied.

15209. If a trust provides for one or more successor beneficiaries after the death of the settlor, the trust is not invalid, merged, or terminated in either of the following circumstances:

(a) Where there is one settlor who is the sole trustee and the sole beneficiary during the settlor's lifetime.

(b) Where there are two or more settlors, one or more of whom are trustees, and the beneficial interest in the trust is in one or more of the settlors during the lifetime of the settlors.

CHAPTER 2. RESTRICTIONS ON VOLUNTARY AND INVOLUNTARY TRANSFERS

15300. Except as provided in Sections 15304 to 15307, inclusive, if the trust instrument provides that a beneficiary's interest in income is not subject to voluntary or involuntary transfer, the beneficiary's interest in income under the trust may not be transferred and is not subject to enforcement of a money judgment until paid to the beneficiary.

15301. (a) Except as provided in subdivision (b) and in Sections 15304 to 15307, inclusive, if the trust instrument provides that a beneficiary's interest in principal is not subject to voluntary or involuntary transfer, the beneficiary's interest in principal may not be transferred and is not subject to enforcement of a money judgment until paid to the beneficiary.

(b) After an amount of principal has become due and payable to the beneficiary under the trust instrument, upon petition to the court under Section 709.010 of the Code of Civil Procedure by a judgment creditor, the court may make an order directing the trustee to satisfy the money judgment out of that principal amount. The court in its discretion may issue an order directing the trustee

to satisfy all or part of the judgment out of that principal amount.

15302. Except as provided in Sections 15304 to 15307, inclusive, if the trust instrument provides that the trustee shall pay income or principal or both for the education or support of a beneficiary, the beneficiary's interest in income or principal or both under the trust, to the extent the income or principal or both is necessary for the education or support of the beneficiary, may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary.

15303. (a) If the trust instrument provides that the trustee shall pay to or for the benefit of a beneficiary so much of the income or principal or both as the trustee in the trustee's discretion sees fit to pay, a transferee or creditor of the beneficiary may not compel the trustee to pay any amount that may be paid only in the exercise of the trustee's discretion.

(b) If the trustee has knowledge of the transfer of the beneficiary's interest or has been served with process in a proceeding under Section 709.010 of the Code of Civil Procedure by a judgment creditor seeking to reach the beneficiary's interest, and the trustee pays to or for the benefit of the beneficiary any part of the income or principal that may be paid only in the exercise of the trustee's discretion, the trustee is liable to the transferee or creditor to the extent that the payment to or for the benefit of the beneficiary impairs the right of the transferee or creditor. This subdivision does not apply if the beneficiary's interest in the trust is subject to a restraint on transfer that is valid under Section 15300 or 15301.

(c) This section applies regardless of whether the trust instrument provides a standard for the exercise of the trustee's discretion.

(d) Nothing in this section limits any right the beneficiary may have to compel the trustee to pay to or for the benefit of the beneficiary all or part of the income or principal.

15304. (a) If the settlor is a beneficiary of a trust created by the settlor and the settlor's interest is subject to a provision restraining the voluntary or involuntary transfer of the settlor's interest, the restraint is invalid against transferees or creditors of the settlor. The invalidity of the restraint on transfer does not affect the validity of the trust.

(b) If the settlor is the beneficiary of a trust created by the settlor and the trust instrument provides that the trustee shall pay income or principal or both for the education or support of the beneficiary or gives the trustee discretion to determine the amount of income or principal or both to be paid to or for the benefit of the settlor, a transferee or creditor of the settlor may reach the maximum amount that the trustee could pay to or for the benefit of the settlor under the trust instrument, not exceeding the amount of the settlor's proportionate contribution to the trust.

15305. (a) As used in this section, "support judgment" means a money judgment for support of the trust beneficiary's spouse or former spouse or minor child.

(b) If the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the support judgment out of all or part of those payments as they become due and payable, presently or in the future.

(c) Whether or not the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the support judgment out of all or part of future payments that the trustee, pursuant to the exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.

(d) This section applies to a support judgment notwithstanding any provision in the trust instrument.

15306. (a) Notwithstanding any provision in the trust instrument, if a statute of this state makes the beneficiary liable for reimbursement of this state or a local public entity in this state for public support furnished to the beneficiary or to the beneficiary's spouse or minor child, upon petition to the court under Section 709.010 of the Code of Civil Procedure by the appropriate state or local public entity or public official, to the extent the court determines it is equitable and reasonable under the circumstances of the particular case, the court may do the following:

(1) If the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, order the trustee to satisfy all or part of the liability out of all or part of the payments as they become due, presently or in the future.

(2) Whether or not the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, order the trustee to satisfy all or part of the liability out of all or part of the future payments that the trustee, pursuant to the exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.

(3) If the beneficiary is a settlor or the spouse or minor child of the settlor and the beneficiary does not have the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, to the extent that the trustee has the right to make payments of income or principal or both to or for the beneficiary pursuant to the exercise of the trustee's discretion, order the trustee to satisfy all or part of the liability without regard to whether the trustee has then exercised or may thereafter exercise the discretion in favor of the beneficiary.

(b) Subdivision (a) does not apply to any trust that is established for the benefit of an individual who has a disability that substantially impairs the individual's ability to provide for his or her own care or

custody and constitutes a substantial handicap.

15306.5. (a) Notwithstanding a restraint on transfer of the beneficiary's interest in the trust under Section 15300 or 15301, and subject to the limitations of this section, upon a judgment creditor's petition under Section 709.010 of the Code of Civil Procedure, the court may make an order directing the trustee to satisfy all or part of the judgment out of the payments to which the beneficiary is entitled under the trust instrument or that the trustee, in the exercise of the trustee's discretion, has determined or determines in the future to pay to the beneficiary.

(b) An order under this section may not require that the trustee pay in satisfaction of the judgment an amount exceeding 25 percent of the payment that otherwise would be made to, or for the benefit of, the beneficiary.

(c) An order under this section may not require that the trustee pay in satisfaction of the judgment any amount that the court determines is necessary for the support of the beneficiary and all the persons the beneficiary is required to support.

(d) An order for satisfaction of a support judgment, as defined in Section 15305, has priority over an order to satisfy a judgment under this section. Any amount ordered to be applied to the satisfaction of a judgment under this section shall be reduced by the amount of an order for satisfaction of a support judgment under Section 15305, regardless of whether the order for satisfaction of the support judgment was made before or after the order under this section.

(e) If the trust gives the trustee discretion over the payment of either principal or income of a trust, or both, nothing in this section affects or limits that discretion in any manner. The trustee has no duty to oppose a petition to satisfy a judgment under this section or to make any claim for exemption on behalf of the beneficiary. The trustee is not liable for any action taken, or omitted to be taken, in compliance with any court order made under this section.

(f) Subject to subdivision (d), the aggregate of all orders for satisfaction of money judgments against the beneficiary's interest in the trust may not exceed 25 percent of the payment that otherwise would be made to, or for the benefit of, the beneficiary.

15307. Notwithstanding a restraint on transfer of a beneficiary's interest in the trust under Section 15300 or 15301, any amount to which the beneficiary is entitled under the trust instrument or that the trustee, in the exercise of the trustee's discretion, has determined to pay to the beneficiary in excess of the amount that is or will be necessary for the education and support of the beneficiary may be applied to the satisfaction of a money judgment against the beneficiary. Upon the judgment creditor's petition under Section 709.010 of the Code of Civil Procedure, the court may make an order directing the trustee to satisfy all or part of the judgment out of the beneficiary's interest in the trust.

15308. Any order entered by a court under Section 15305, 15306, 15306.5, or 15307 is subject to modification upon petition of an

interested person filed in the court where the order was made.

15309. A disclaimer or renunciation by a beneficiary of all or part of his or her interest under a trust shall not be considered a transfer under Section 15300 or 15301.

CHAPTER 3. MODIFICATION AND TERMINATION OF TRUSTS

15400. Unless a trust is expressly made irrevocable by the trust instrument, the trust is revocable by the settlor. This section applies only where the settlor is domiciled in this state when the trust is created, where the trust instrument is executed in this state, or where the trust instrument provides that the law of this state governs the trust.

15401. (a) A trust that is revocable by the settlor may be revoked in whole or in part by any of the following methods:

(1) By compliance with any method of revocation provided in the trust instrument.

(2) By a writing (other than a will) signed by the settlor and delivered to the trustee during the lifetime of the settlor. If the trust instrument explicitly makes the method of revocation provided in the trust instrument the exclusive method of revocation, the trust may not be revoked pursuant to this paragraph.

(b) A trust may not be revoked by an attorney in fact under a power of attorney unless it is expressly permitted by the trust instrument.

(c) Nothing in this section limits the authority to modify or terminate a trust pursuant to Section 15403 or 15404 in an appropriate case.

(d) The manner of revocation of a trust revocable by the settlor that was created by an instrument executed before July 1, 1987, is governed by prior law and not by this section.

15402. Unless the trust instrument provides otherwise, if a trust is revocable by the settlor, the settlor may modify the trust by the procedure for revocation.

15403. (a) Except as provided in subdivision (b), if all beneficiaries of an irrevocable trust consent, they may compel modification or termination of the trust upon petition to the court.

(b) If the continuance of the trust is necessary to carry out a material purpose of the trust, the trust cannot be modified or terminated unless the court, in its discretion, determines that the reason for doing so under the circumstances outweighs the interest in accomplishing a material purpose of the trust. Under this section the court does not have discretion to permit termination of a trust that is subject to a valid restraint on transfer of the beneficiary's interest as provided in Chapter 2 (commencing with Section 15300).

15404. (a) If the settlor and all beneficiaries of a trust consent, they may compel the modification or termination of the trust.

(b) If any beneficiary does not consent to the modification or termination of the trust, upon petition to the court, the other

beneficiaries, with the consent of the settlor, may compel a modification or a partial termination of the trust if the interests of the beneficiaries who do not consent are not substantially impaired.

(c) If the trust provides for the disposition of principal to a class of persons described only as "heirs" or "next of kin" of the settlor, or using other words that describe the class of all persons who would take under the rules of intestacy, the court may limit the class of beneficiaries whose consent is needed to compel the modification or termination of the trust to the beneficiaries who are reasonably likely to take under the circumstances.

15405. For the purposes of Section 15403 and 15404, the consent of a beneficiary who is legally incapacitated, unascertained, or unborn may be given in proceedings before the court by a guardian ad litem, if it would be appropriate to do so. In this case the guardian ad litem may rely on general family benefit accruing to living members of the beneficiary's family as a basis for approving a modification or termination of the trust.

15406. In determining the class of beneficiaries whose consent is necessary to modify or terminate a trust pursuant to Section 15403 or 15404, the presumption of fertility is rebuttable.

15407. (a) A trust terminates when any of the following occurs:

(1) The term of the trust expires.

(2) The trust purpose is fulfilled.

(3) The trust purpose becomes unlawful.

(4) The trust purpose becomes impossible to fulfill.

(5) The trust is revoked.

(b) On termination of the trust, the trustee continues to have the powers reasonably necessary under the circumstances to wind up the affairs of the trust.

15408. (a) On petition by a trustee or beneficiary, if the court determines that the fair market value of the principal of a trust has become so low in relation to the cost of administration that continuation of the trust under its existing terms will defeat or substantially impair the accomplishment of its purposes, the court may, in its discretion and in a manner that conforms as nearly as possible to the intention of the settlor, order any of the following:

(1) Termination of the trust.

(2) Modification of the trust.

(3) Appointment of a new trustee.

(b) Notwithstanding subdivision (a), if the trust principal does not exceed twenty thousand dollars ($20,000) in value, the trustee has the power to terminate the trust.

(c) The existence of a trust provision restraining transfer of the beneficiary's interest does not prevent application of this section.

15409. (a) On petition by a trustee or beneficiary, the court may modify the administrative or dispositive provisions of the trust or terminate the trust if, owing to circumstances not known to the settlor and not anticipated by the settlor, the continuation of the trust under its terms would defeat or substantially impair the

accomplishment of the purposes of the trust. In this case, if necessary to carry out the purposes of the trust, the court may order the trustee to do acts that are not authorized or are forbidden by the trust instrument.

(b) The court shall consider a trust provision restraining transfer of the beneficiary's interest as a factor in making its decision whether to modify or terminate the trust, but the court is not precluded from exercising its discretion to modify or terminate the trust solely because of a restraint on transfer.

15410. At the termination of a trust, the trust property shall be disposed of as follows:

(a) In the case of a trust that is revoked by the settlor, as directed by the settlor.

(b) In the case of a trust that is terminated by the consent of the settlor and all beneficiaries, as agreed by the settlor and all beneficiaries.

(c) In any other case, as provided in the trust instrument or in a manner directed by the court that conforms as nearly as possible to the intention of the settlor as expressed in the trust instrument. If a trust is terminated by the trustee pursuant to subdivision (b) of Section 15408, the trust property shall be distributed as determined by the trustee pursuant to this subdivision.

15411. If the terms of two or more trusts are substantially similar, on petition by a trustee or beneficiary, the court, for good cause shown, may combine the trusts if the court determines that administration as a single trust will not defeat or substantially impair the accomplishment of the trust purposes or the interests of the beneficiaries.

15412. On petition by a trustee or beneficiary, the court, for good cause shown, may divide a trust into two or more separate trusts, if the court determines that dividing the trust will not defeat or substantially impair the accomplishment of the trust purposes or the interests of the beneficiaries.

PART 3. TRUSTEES AND BENEFICIARIES

CHAPTER 1. TRUSTEES

Article 1. General Provisions

15600. (a) The person named as trustee may accept the trust, or a modification of the trust, by one of the following methods:

(1) Signing the trust instrument or the trust instrument as modified, or signing a separate written acceptance.

(2) Knowingly exercising powers or performing duties under the trust instrument or the trust instrument as modified, except as provided in subdivision (b).

(b) In a case where there is an immediate risk of damage to the trust property, the person named as trustee may act to preserve the

trust property without accepting the trust or a modification of the trust, if within a reasonable time after acting the person delivers a written rejection of the trust or the modification of the trust to the settlor or, if the settlor is dead or incompetent, to a beneficiary. This subdivision does not impose a duty on the person named as trustee to act.

15601. (a) A person named as trustee may in writing reject the trust or a modification of the trust.

(b) If the person named as trustee does not accept the trust or a modification of the trust by a method provided in subdivision (a) of Section 15600 within a reasonable time after learning of being named as trustee or of the modification, the person has rejected the trust or the modification.

(c) A person named as trustee who rejects the trust or a modification of the trust is not liable with respect to the rejected trust or modification.

15602. (a) A trustee is not required to give a bond to secure performance of the trustee's duties, unless any of the following circumstances occurs:

(1) A bond is required by the trust instrument.

(2) Notwithstanding a waiver of a bond in the trust instrument, a bond is found by the court to be necessary to protect the interests of beneficiaries.

(3) An individual who is not named as a trustee in the trust instrument is appointed as a trustee by the court.

(b) Notwithstanding paragraph (1) of subdivision (a), the court may excuse a requirement of a bond, reduce or increase the amount of a bond, release a surety, or permit the substitution of another bond with the same or different sureties.

(c) If a bond is required, it shall be filed or served and shall be in the amount and with sureties and liabilities ordered by the court.

(d) Except as otherwise provided in the trust instrument or ordered by the court, the cost of the bond shall be charged against the trust.

(e) A trust company may not be required to give a bond, notwithstanding a contrary provision in the trust instrument.

15603. On application by the trustee, the court clerk shall issue a certificate that the trustee is a duly appointed and acting trustee under the trust if the court file shows the incumbency of the trustee.

Article 2. Cotrustees

15620. Unless otherwise provided in the trust instrument, a power vested in two or more trustees may only be exercised by their unanimous action.

15621. Unless otherwise provided in the trust instrument, if a vacancy occurs in the office of a cotrustee, the remaining cotrustee or cotrustees may act for the trust as if they are the only trustees.

15622. Unless otherwise provided in the trust instrument, if a

cotrustee is unavailable to perform the duties of the cotrustee because of absence, illness, or other temporary incapacity, the remaining cotrustee or cotrustees may act for the trust when necessary to accomplish the purposes of the trust or to avoid irreparable injury to the trust property as if they are the only trustees.

Article 3. Resignation and Removal of Trustees

15640. (a) A trustee who has accepted the trust may resign only by one of the following methods:

(1) As provided in the trust instrument.

(2) In the case of a revocable trust, with the consent of the person holding the power to revoke the trust.

(3) In the case of a trust that is not revocable, with the consent of all adult beneficiaries who are receiving or are entitled to receive income under the trust or to receive a distribution of principal if the trust were terminated at the time consent is sought.

(4) Pursuant to a court order obtained as provided in subdivision (b).

(b) On petition by the trustee, the court shall accept the trustee's resignation. The court may also make any orders necessary for the preservation of the trust property, including the appointment of a receiver or a temporary trustee.

15641. The liability for acts or omissions of a resigning trustee or of the sureties on the trustee's bond, if any, is not released or affected in any manner by the trustee's resignation.

15642. (a) A trustee may be removed in accordance with the trust instrument or by the court on its own motion or on petition of a cotrustee or beneficiary.

(b) The grounds for removal of a trustee by the court include the following:

(1) Where the trustee has committed a breach of the trust.

(2) Where the trustee is insolvent or otherwise unfit to administer the trust.

(3) Where hostility or lack of cooperation among cotrustees impairs the administration of the trust.

(4) Where the trustee fails or declines to act.

(5) For other good cause.

(c) If it appears to the court that trust property or the interests of a beneficiary may suffer loss or injury pending a decision on a petition for removal of a trustee and any appellate review, the court may, on its own motion or on petition of a cotrustee or beneficiary, compel the trustee whose removal is sought to surrender trust property to a cotrustee or to a receiver or temporary trustee. The court may also suspend the powers of the trustee to the extent the court deems necessary.

15643. There is a vacancy in the office of trustee in any of the following circumstances:

(a) The person named as trustee rejects the trust.

(b) The person named as trustee cannot be identified or does not exist.

(c) The trustee resigns or is removed.

(d) The trustee dies.

(e) A conservator or guardian of the person or estate of an individual trustee is appointed.

(f) The trustee files a petition for adjudication of bankruptcy or for approval of an arrangement, composition, or other extension under the federal Bankruptcy Code, or a petition filed against the trustee for any of these purposes is approved.

(g) A trust company's charter is revoked or powers are suspended, if the revocation or suspension is to be in effect for a period of 30 days or more.

(h) A receiver is appointed for a trust company if the appointment is not vacated within a period of 30 days.

15644. When a vacancy has occurred in the office of trustee, the former trustee who holds property of the trust shall deliver the trust property to the successor trustee or a person appointed by the court to receive the property and remains responsible for the trust property until it is delivered. A trustee who has resigned or is removed has the powers reasonably necessary under the circumstances to preserve the trust property until it is delivered to the successor trustee and to perform actions necessary to complete the resigning or removed trustee's administration of the trust.

Article 4. Appointment of Trustees

15660. (a) If the trust has no trustee or if the trust instrument requires a vacancy in the office of a cotrustee to be filled, the vacancy shall be filled as provided in this section.

(b) If the trust instrument provides a practical method of appointing a trustee or names the person to fill the vacancy, the vacancy shall be filled as provided in the trust instrument.

(c) If the vacancy in the office of trustee is not filled as provided in subdivision (b), on petition of a cotrustee or beneficiary, the court may, in its discretion, appoint a trustee to fill the vacancy. If the trust provides for more than one trustee, the court may, in its discretion, appoint the original number or any lesser number of trustees. In selecting a trustee, the court shall give consideration to the wishes of the beneficiaries who are 14 years of age or older.

Article 5. Compensation and Indemnification of Trustees

15680. (a) Subject to subdivision (b), if the trust instrument provides for the trustee's compensation, the trustee is entitled to be compensated in accordance with the trust instrument.

(b) Upon proper showing, the court may fix or allow greater or lesser compensation than could be allowed under the terms of the

trust in any of the following circumstances:

(1) Where the duties of the trustee are substantially different from those contemplated when the trust was created.

(2) Where the compensation in accordance with the terms of the trust would be inequitable or unreasonably low or high.

(3) In extraordinary circumstances calling for equitable relief.

(c) An order fixing or allowing greater or lesser compensation under subdivision (b) applies only prospectively to actions taken in administration of the trust after the order is made.

15681. If the trust instrument does not specify the trustee's compensation, the trustee is entitled to reasonable compensation under the circumstances.

15682. The court may fix an amount of periodic compensation under Sections 15680 and 15681 to continue for as long as the court determines is proper.

15683. Unless the trust instrument otherwise provides or the trustees otherwise agree, if the trust has two or more trustees, the compensation shall be apportioned among the cotrustees according to the services rendered by them.

15684. A trustee is entitled to the repayment out of the trust property for the following:

(a) Expenditures that were properly incurred in the administration of the trust.

(b) To the extent that they benefited the trust, expenditures that were not properly incurred in the administration of the trust.

15685. The trustee has an equitable lien on the trust property as against the beneficiary in the amount of advances, with any interest, made for the protection of the trust, and for expenses, losses, and liabilities sustained in the administration of the trust or because of ownership or control of any trust property.

CHAPTER 2. BENEFICIARIES

15800. Except to the extent that the trust instrument otherwise provides or where the joint action of the settlor and all beneficiaries is required, during the time that a trust is revocable and the person holding the power to revoke the trust is competent:

(a) The person holding the power to revoke, and not the beneficiary, has the rights afforded beneficiaries under this division.

(b) The duties of the trustee are owed to the person holding the power to revoke.

15801. (a) In any case where the consent of a beneficiary may be given or is required to be given before an action may be taken, during the time that a trust is revocable and the person holding the power to revoke the trust is competent, the person holding the power to revoke, and not the beneficiary, has the power to consent or withhold consent.

(b) This section does not apply where the joint consent of the settlor and all beneficiaries is required by statute.

15802. Notwithstanding any other statute, during the time that a trust is revocable and the person holding the power to revoke the trust is competent, a notice that is to be given to a beneficiary shall be given to the person holding the power to revoke and not to the beneficiary.

15803. The holder of a presently exercisable general power of appointment or power to withdraw property from the trust has the rights of a settlor provided by Sections 15800 to 15802, inclusive, to the extent of the holder's power over the trust property.

15804. (a) Subject to subdivisions (b) and (c), it is sufficient compliance with a requirement in this division that notice be given to a beneficiary, or to a person interested in the trust, if notice is given as follows:

(1) Where an interest has been limited on any future contingency to persons who will compose a certain class upon the happening of a certain event without further limitation, notice shall be given to the persons in being who would constitute the class if the event had happened immediately before the commencement of the proceedings.

(2) Where an interest has been limited to a living person and the same interest, or a share therein, has been further limited upon the happening of a future event to the surviving spouse or to persons who are or may be the distributees, heirs, issue, or other kindred of the living person, notice shall be given to the living person.

(3) Where an interest has been limited upon the happening of any future event to a person, or a class of persons, or both, and the interest, or a share of the interest, has been further limited upon the happening of an additional future event to another person, or a class of persons, or both, notice shall be given to the person or persons in being who would take the interest upon the happening of the first of these events.

(b) If a conflict of interest involving the subject matter of the trust proceeding exists between a person to whom notice is required to be given and a person to whom notice is not otherwise required to be given under subdivision (a), notice shall also be given to persons not otherwise entitled to notice under subdivision (a) with respect to whom the conflict of interest exists.

(c) Nothing in this section affects any of the following:

(1) Requirements for notice to a person who has requested special notice, a person who has filed notice of appearance, or a particular person or entity required by statute to be given notice.

(2) Availability of a guardian ad litem pursuant to Section 17208.

PART 4. TRUST ADMINISTRATION

CHAPTER 1. DUTIES OF TRUSTEES

Article 1. Trustee's Duties in General

16000. On acceptance of the trust, the trustee has a duty to administer the trust according to the trust instrument and, except to the extent the trust instrument provides otherwise, according to this division.

16001. (a) Except as provided in subdivision (b), the trustee of a revocable trust shall follow any written direction acceptable to the trustee given from time to time (1) by the person then having the power to revoke the trust or the part thereof with respect to which the direction is given or (2) by the person to whom the settlor delegates the right to direct the trustee.

(b) If a written direction given under subdivision (a) would have the effect of modifying the trust, the trustee has no duty to follow the direction unless it complies with the requirements for modifying the trust.

16002. (a) The trustee has a duty to administer the trust solely in the interest of the beneficiaries.

(b) It is not a violation of the duty provided in subdivision (a) for a trustee who administers two trusts to sell, exchange, or participate in the sale or exchange of trust property between the trusts, if both of the following requirements are met:

(1) The sale or exchange is fair and reasonable with respect to the beneficiaries of both trusts.

(2) The trustee gives to the beneficiaries of both trusts notice of all material facts related to the sale or exchange that the trustee knows or should know.

16003. If a trust has two or more beneficiaries, the trustee has a duty to deal impartially with them.

16004. (a) The trustee has a duty not to use or deal with trust property for the trustee's own profit or for any other purpose unconnected with the trust, nor to take part in any transaction in which the trustee has an interest adverse to the beneficiary.

(b) The trustee may not enforce any claim against the trust property that the trustee purchased after or in contemplation of appointment as trustee, but the court may allow the trustee to be reimbursed from trust property the amount that the trustee paid in good faith for the claim.

(c) A transaction between the trustee and a beneficiary which occurs during the existence of the trust or while the trustee's influence with the beneficiary remains and by which the trustee obtains an advantage from the beneficiary is presumed to be a violation of the trustee's fiduciary duties. This presumption is a presumption affecting the burden of proof. This subdivision does not apply to the provisions of an agreement between a trustee and a beneficiary relating to the hiring or compensation of the trustee.

16005. The trustee of one trust has a duty not to knowingly become a trustee of another trust adverse in its nature to the interest of the beneficiary of the first trust, and a duty to eliminate the conflict or resign as trustee when the conflict is discovered.

16006. The trustee has a duty to take reasonable steps under the

circumstances to take and keep control of and to preserve the trust property.

16007. The trustee has a duty to make the trust property productive under the circumstances and in furtherance of the purposes of the trust.

16008. (a) Except as provided in subdivision (b), the trustee has a duty within a reasonable time to dispose of any part of the trust property included in the trust at the time of its creation, or later acquired by or added to the trust, that would not be a proper investment for the trustee to make.

(b) Unless the trust instrument expressly provides otherwise, the trustee may, without liability, continue to hold property included in the trust at its creation or later added to the trust or acquired pursuant to proper authority, if retention is in the best interests of the trust or in furtherance of the purposes of the trust.

16009. The trustee has a duty to do the following:

(a) To keep the trust property separate from other property not subject to the trust.

(b) To see that the trust property is designated as property of the trust.

16010. The trustee has a duty to take reasonable steps to enforce claims that are part of the trust property.

16011. The trustee has a duty to take reasonable steps to defend actions that may result in a loss to the trust.

16012. (a) The trustee has a duty not to delegate to others the performance of acts that the trustee can reasonably be required personally to perform and may not transfer the office of trustee to another person nor delegate the entire administration of the trust to a cotrustee or other person.

(b) In a case where a trustee has properly delegated a matter to an agent, cotrustee, or other person, the trustee has a duty to exercise general supervision over the person performing the delegated matter.

16013. If a trust has more than one trustee, each trustee has a duty to do the following:

(a) To participate in the administration of the trust.

(b) To take reasonable steps to prevent a cotrustee from committing a breach of trust or to compel a cotrustee to redress a breach of trust.

16014. (a) The trustee has a duty to apply the full extent of the trustee's skills.

(b) If the settlor, in selecting the trustee, has relied on the trustee's representation of having special skills, the trustee is held to the standard of the skills represented.

16015. The provision of services for compensation by a regulated financial institution or its affiliates in the ordinary course of business either to a trust of which it also acts as trustee or to a person dealing with the trust is not a violation of the duty provided in Section 16002 or 16004. For the purposes of this section, "affiliate" means a

corporation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another domestic or foreign corporation.

Article 2. Trustee's Standard of Care

16040. (a) The trustee shall administer the trust with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims to accomplish the purposes of the trust as determined from the trust instrument.

(b) When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing trust property, the trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, including but not limited to the general economic conditions and the anticipated needs of the trust and its beneficiaries, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims to accomplish the purposes of the trust as determined from the trust instrument. In the course of administering the trust pursuant to this standard, individual investments shall be considered as part of an overall investment strategy.

(c) The settlor may expand or restrict the standards provided in subdivisions (a) and (b) by express provisions in the trust instrument. A trustee is not liable to a beneficiary for the trustee's good faith reliance on these express provisions.

16041. A trustee's standard of care and performance in administering the trust is not affected by whether or not the trustee receives any compensation.

16042. If a trust created before, on, or after July 1, 1987, refers to "investments permissible by law for investment of trust funds," "authorized by law for investment of trust funds," "legal investments," "authorized investments," or "investments acquired using the judgment and care which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety of their capital," or uses other words of similar meaning in defining the powers of the trustee relative to investments, such language, in the absence of other controlling or modifying provisions of the trust instrument, shall be construed as imposing the standard of care provided by Section 16040 and authorizing any investment permitted under Chapter 2 (commencing with Section 16200).

Article 3. Trustee's Duty to Report Information and Account to Beneficiaries

16060. The trustee has a duty to keep the beneficiaries of the trust reasonably informed of the trust and its administration.

16061. Except as provided in Section 16064, on reasonable request by a beneficiary, the trustee shall provide the beneficiary with a report of information about the assets, liabilities, receipts, and disbursements of the trust, the acts of the trustee, and the particulars relating to the administration of the trust relevant to the beneficiary's interest, including the terms of the trust that describe or affect the beneficiary's interest.

16062. (a) Except as provided in Section 16064, the trustee shall account at least annually, at the termination of the trust, and upon a change of trustees, to each beneficiary to whom income or principal is required or authorized in the trustee's discretion to be currently distributed.

(b) A trustee of a living trust created by an instrument executed before July 1, 1987, or of a trust created by a will executed before July 1, 1987, is not subject to the duty to account provided in this section, but the requirement of an account pursuant to former Section 1120.1a of the Probate Code may be satisfied by furnishing an account that satisfies the requirements of Section 16063.

16063. An account furnished pursuant to Section 16062 shall contain the following information:

(a) A statement of receipts and disbursements of principal and income that have occurred during the last complete fiscal year of the trust or since the last account.

(b) A statement of the assets and liabilities of the trust as of the end of the last complete fiscal year of the trust or since the last account.

(c) The trustee's compensation for the last complete fiscal year of the trust or since the last account.

(d) The agents hired by the trustee, their relationship to the trustee, if any, and their compensation, for the last complete fiscal year of the trust or since the last account.

(e) A statement that the recipient of the account may petition the court pursuant to Section 17200 to obtain a court review of the account and of the acts of the trustee.

(f) A statement that claims against the trustee for breach of trust may not be made after the expiration of three years from the date the beneficiary receives an account or report disclosing facts giving rise to the claim.

16064. The trustee is not required to report information or account to a beneficiary in any of the following circumstances:

(a) To the extent the trust instrument waives the report or account.

(b) In the case of a beneficiary of a revocable trust, as provided in Section 15800.

(c) As to a beneficiary who has waived in writing the right to a report or account. A waiver of rights under this subdivision may be withdrawn in writing at any time as to the most recent account and future accounts. A waiver has no effect on the beneficiary's right to petition for a report or account pursuant to Section 17200.

(d) Where the beneficiary and the trustee are the same person.

Article 4. Duties With Regard to Discretionary Powers

16080. Except as provided in Section 16081, a discretionary power conferred upon a trustee is not left to the trustee's arbitrary discretion, but shall be exercised reasonably.

16081. (a) Subject to the additional requirements of subdivision (b), if a trust instrument confers "absolute," "sole," or "uncontrolled" discretion on a trustee, the trustee shall act in accordance with fiduciary principles and shall not act in bad faith or in disregard of the purposes of the trust.

(b) Notwithstanding the settlor's use of terms like "absolute," "sole," or "uncontrolled," a person who is a beneficiary of a trust and who, either individually or as trustee or cotrustee, holds a power to take or distribute income or principal to or for the benefit of himself or herself pursuant to a standard, shall exercise that power reasonably and in accordance with the standard. In any case in which the standard governing the exercise of the power does not clearly indicate that a broader power is intended, the holder of the power may exercise it in his or her favor only for his or her health, education, support, or maintenance.

Article 5. Duties of Trustees of Private Foundations, Charitable Trusts, and Split-Interest Trust

16100. As used in this article, the following definitions shall control:

(a) "Charitable trust" means a charitable trust as described in Section 4947(a)(1) of the Internal Revenue Code.

(b) "Private foundation" means a private foundation as defined in Section 509 of the Internal Revenue Code.

(c) "Split-interest trust" means a split-interest trust as described in Section 4947(a)(2) of the Internal Revenue Code.

16101. During any period when a trust is deemed to be a charitable trust or a private foundation, the trustee shall distribute its income for each taxable year (and principal if necessary) at a time and in a manner that will not subject the property of the trust to tax under Section 4942 of the Internal Revenue Code.

16102. During any period when a trust is deemed to be a charitable trust, a private foundation, or a split-interest trust, the trustee shall not do any of the following:

(a) Engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code.

(b) Retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code.

(c) Make any investments in such manner as to subject the property of the trust to tax under Section 4944 of the Internal Revenue Code.

(d) Make any taxable expenditure as defined in Section 4945(d) of the Internal Revenue Code.

16103. With respect to split-interest trusts:

(a) Subdivisions (b) and (c) of Section 16102 do not apply to any trust described in Section 4947(b)(3) of the Internal Revenue Code.

(b) Section 16102 does not apply with respect to any of the following:

(1) Any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed under Section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) of the Internal Revenue Code.

(2) Any amounts in trust other than amounts for which a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 of the Internal Revenue Code, if the amounts are segregated, as that term is defined in Section 4947(a)(3) of the Internal Revenue Code, from amounts for which no deduction was allowable.

(3) Any amounts irrevocably transferred in trust before May 27, 1969.

16104. The provisions of Sections 16101, 16102, and 16103 shall be deemed to be contained in the instrument creating every trust to which this article applies. Any provision of the instrument inconsistent with or contrary to this article is without effect.

16105. (a) A proceeding contemplated by Section 101(*l*)(3) of the federal Tax Reform Act of 1969 (Public Law 91-172) may be commenced pursuant to Section 17200 by the organization involved. All specifically named beneficiaries of the organization and the Attorney General shall be parties to the proceedings. Notwithstanding Section 17000, this provision is not exclusive and does not limit any jurisdiction that otherwise exists.

(b) If an instrument creating a trust affected by this section has been recorded, a notice of pendency of judicial proceedings under this section shall be recorded in a similar manner within 10 days from the commencement of the proceedings. A duly certified copy of any final judgment or decree in the proceedings shall be similarly recorded.

CHAPTER 2. POWERS OF TRUSTEES

Article 1. General Provisions

16200. A trustee has the following powers without the need to obtain court authorization:

(a) The powers conferred by the trust instrument.

(b) Except as limited in the trust instrument, the powers conferred by statute.

(c) Except as limited in the trust instrument, the power to perform any act that a trustee would perform for the purposes of the trust under the standard of care provided in Section 16040.

16201. This chapter does not affect the power of a court to relieve a trustee from restrictions on the exercise of powers under the trust instrument.

16202. The grant of a power to a trustee, whether by the trust instrument, by statute, or by the court, does not in itself require or permit the exercise of the power. The exercise of a power by a trustee is subject to the trustee's fiduciary duties.

16203. An instrument that incorporates the powers provided in former Section 1120.2 of the Probate Code shall be deemed to refer to the powers provided in Article 2 (commencing with Section 16220). For this purpose, the trustee's powers under former Section 1120.2 of the Probate Code are not diminished and the trustee is not required to obtain court approval for exercise of a power for which court approval was not required by former law.

Article 2. Specific Powers of Trustees

16220. The trustee has the power to collect, hold, and retain trust property received from a settlor or any other person until, in the judgment of the trustee, disposition of the property should be made. The property may be retained even though it includes property in which the trustee is personally interested.

16221. The trustee has the power to accept additions to the property of the trust from a settlor or any other person.

16222. (a) Subject to subdivision (b), the trustee has the power to continue or participate in the operation of any business or other enterprise that is part of the trust property and may effect incorporation, dissolution, or other change in the form of the organization of the business or enterprise.

(b) Except as provided in subdivision (c), the trustee may continue the operation of a business or other enterprise only as authorized by the trust instrument or by the court.

(c) The trustee may continue the operation of a business or other enterprise for a reasonable time pending a court hearing on the matter or pending a sale of the business or other enterprise.

16223. The trustee has the power to invest in any kind of property, whether real, personal, or mixed.

16224. (a) In the absence of an express provision to the contrary in a trust instrument, where the instrument directs or permits investment in obligations of the United States government, the trustee has the power to invest in those obligations directly or in the form of an interest in a money market mutual fund registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) or an investment vehicle authorized for the collective investment of

trust funds pursuant to Section 9.18 of Part 9 of Title 12 of the Code of Federal Regulations, the portfolios of which are limited to United States government obligations maturing not later than five years from the date of investment or reinvestment and to repurchase agreements fully collateralized by United States government obligations.

(b) This section applies only to trusts created on or after January 1, 1985.

16225. (a) The trustee has the power to deposit trust funds at reasonable interest in any of the following accounts to the extent that the account is insured by a government agency or collateralized:

(1) An account in a bank.

(2) An account in an insured savings and loan association, as defined in Section 1406.

(3) An account consisting of shares of an insured credit union, as defined in Section 1443.

(b) A trustee may deposit trust funds pursuant to subdivision (a) in a financial institution operated by, or that is an affiliate of, the trustee. For the purpose of this subdivision, "affiliate" means a corporation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another domestic or foreign corporation.

(c) This section does not limit the power of a trustee in a proper case to deposit trust funds in an account described in subdivision (a) that is subject to notice or other conditions respecting withdrawal prescribed by law or governmental regulation.

(d) The court may authorize the deposit of trust funds in an account described in subdivision (a) in an amount greater than the maximum insured or collateralized amount.

(e) Nothing in this section prevents the trustee from holding an amount of trust property reasonably necessary for the orderly administration of the trust in the form of cash or in a checking account without interest.

16226. The trustee has the power to acquire or dispose of property, for cash or on credit, at public or private sale, or by exchange.

16227. The trustee has the power to manage, control, divide, develop, improve, exchange, partition, change the character of, or abandon trust property or any interest therein.

16228. The trustee has the power to encumber, mortgage, or pledge trust property for a term within or extending beyond the term of the trust in connection with the exercise of any power vested in the trustee.

16229. The trustee has the power to do any of the following:

(a) Make ordinary or extraordinary repairs, alterations, improvements in buildings or other trust property.

(b) Demolish any improvements.

(c) Raze existing or erect new party walls or buildings.

16230. The trustee has the power to do any of the following:

(a) Subdivide or develop land.

(b) Dedicate land to public use.

(c) Make or obtain the vacation of plats and adjust boundaries.

(d) Adjust differences in valuation on exchange or partition by giving or receiving consideration.

(e) Dedicate easements to public use without consideration.

16231. The trustee has the power to enter into a lease for any purpose as lessor or lessee with or without the option to purchase or renew and for a term within or extending beyond the term of the trust.

16232. The trustee has the power to enter into a lease or arrangement for exploration and removal of gas, oil, or other minerals, and to enter into a community oil lease or a pooling or unitization agreement, and for a term within or extending beyond the term of the trust.

16233. The trustee has the power to grant an option involving disposition of trust property or to take an option for the acquisition of any property, and an option may be granted or taken that is exercisable beyond the term of the trust.

16234. With respect to any shares of stock of a domestic or foreign corporation, any membership in a nonprofit corporation, or any other property, a trustee has the power to do any of the following:

(a) Vote in person, and give proxies to exercise, any voting rights with respect to the shares, memberships, or property.

(b) Waive notice of a meeting or give consent to the holding of a meeting.

(c) Authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners.

16235. The trustee has the power to pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.

16236. The trustee has the power to sell or exercise stock subscription or conversion rights.

16237. The trustee has the power to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise, and to participate in voting trusts, pooling arrangements, and foreclosures, and in connection therewith, to deposit securities with and transfer title and delegate discretions to any protective or other committee as the trustee may deem advisable.

16238. The trustee has the power to hold a security in the name of a nominee or in other form without disclosure of the trust so that title to the security may pass by delivery, but the trustee is liable for any act of the nominee in connection with the security so held.

16239. The trustee has the power to deposit securities in a securities depository, as defined in Section 30004 of the Financial Code, which is licensed under Section 30200 of the Financial Code or is exempt from licensing by Section 30005 or 30006 of the Financial Code. The securities may be held by the securities depository in the

manner authorized by Section 775 of the Financial Code.

16240. The trustee has the power to insure the property of the trust against damage or loss and to insure the trustee against liability with respect to third persons.

16241. The trustee has the power to borrow money for any trust purpose to be repaid from trust property.

16242. The trustee has the power to do any of the following:

(a) Pay or contest any claim.

(b) Settle a claim by or against the trust by compromise, arbitration, or otherwise.

(c) Release, in whole or in part, any claim belonging to the trust.

16243. The trustee has the power to pay taxes, assessments, reasonable compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the collection, care, administration, and protection of the trust.

16244. The trustee has the following powers:

(a) To make loans out of trust property to the beneficiary on terms and conditions that the trustee determines are fair and reasonable under the circumstances.

(b) To guarantee loans to the beneficiary by encumbrances on trust property.

16245. The trustee has the power to pay any sum distributable to a beneficiary, without regard to whether the beneficiary is under a legal disability, by paying the sum to the beneficiary or by paying the sum to another person for the use or benefit of the beneficiary.

16246. The trustee has the power to effect distribution of property and money in divided or undivided interests and to adjust resulting differences in valuation. A distribution in kind may be made pro rata or non-pro rata.

16247. The trustee has the power to hire persons, including accountants, attorneys, auditors, investment advisers, or other agents, even if they are associated or affiliated with the trustee, to advise or assist the trustee in the performance of administrative duties.

16248. The trustee has the power to execute and deliver all instruments which are needed to accomplish or facilitate the exercise of the powers vested in the trustee.

16249. The trustee has the power to prosecute or defend actions, claims, or proceedings for the protection of trust property and of the trustee in the performance of the trustee's duties.

CHAPTER 3. REVISED UNIFORM PRINCIPAL AND INCOME ACT

16300. This chapter may be cited as the Revised Uniform Principal and Income Act.

16301. As used in this chapter:

(a) "Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income.

(b) "Inventory value" means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but in the case of a testamentary trust the trustee may use any value finally determined for the purposes of an estate or inheritance tax.

(c) "Remainder beneficiary" means the person entitled to principal, presently or in the future, including income which has been accumulated and added to principal.

16302. (a) A trust shall be administered with due regard to the respective interests of income beneficiaries and remainder beneficiaries. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each in any of the following ways:

(1) In accordance with the terms of the trust instrument, notwithstanding contrary provisions of this chapter.

(2) In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this chapter.

(3) If neither paragraph (1) nor (2) is applicable, in accordance with the standard of care provided in Section 16040 and with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal.

(b) If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference that the trustee has improperly exercised such discretion arises from the fact that the trustee has made an allocation contrary to a provision of this chapter.

16303. (a) Income is the return in money or property derived from the use of principal, including return received as any of the following:

(1) Rent of real or personal property, including sums received for cancellation or renewal of a lease.

(2) Interest on money lent, including sums received as consideration for the prepayment of principal except as provided in Section 16307 on bond premium and bond discount.

(3) Receipts allocated to income as provided in Section 16304.

(4) Income earned during administration of a decedent's estate as provided in Section 16305.

(5) Corporate distributions as provided in Section 16306.

(6) Accrued increment on bonds or other obligations issued at discount as provided in Section 16307.

(7) Receipts from business and farming operations as provided in Section 16308.

(8) Receipts from disposition of natural resources as provided in Section 16309.

(9) Receipts from other principal subject to depletion as provided in Section 16310.

(10) Receipts from disposition of underproductive property as provided in Section 16311.

(b) Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainder beneficiary while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes the following:

(1) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal.

(2) Proceeds of property taken on eminent domain proceedings.

(3) Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary.

(4) Receipts allocated to principal as provided in Section 16304.

(5) Stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in Section 16306.

(6) Receipts from the disposition of corporate securities as provided in Section 16307.

(7) Royalties and other receipts from disposition of natural resources as provided in Section 16309.

(8) Receipts from other principal subject to depletion as provided in Section 16310.

(9) Any profit resulting from any change in the form of principal except as provided in Section 16311 on underproductive property.

(10) Receipts from disposition of underproductive property as provided in Section 16311.

(11) Any allowances for depreciation established under Section 16308 and paragraph (2) of subdivision (b) of Section 16312.

16304. (a) An income beneficiary is entitled to income from the date specified in the trust instrument or, if none is specified, from the date an item of property becomes subject to the trust. In the case of an item of property becoming subject to a trust by reason of a person's death, it becomes subject to the trust as of the date of the death of the person even though there is an intervening period of administration of the person's estate.

(b) Upon property becoming subject to a trust by reason of a person's death:

(1) Receipts due but not paid at the date of death of the person are principal.

(2) Receipts in the form of periodic payments (other than corporate distributions to stockholders), including rent, interest, or annuities, not due at the date of the death of the person shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal and the balance is income.

(c) In all other cases, any receipt from income-producing property is income even though the receipt was earned or accrued in whole or in part before the date when the property became subject to the trust.

(d) If an income beneficiary's right to income ceases by death or in any other manner, all payments actually paid to the income beneficiary or in the hands of the trustee for payment to the income beneficiary before such termination belong to the income beneficiary or to his or her personal representative. All income actually received by the trustee after such termination shall be paid to the person next entitled to income by the terms of the trust. This subdivision does not apply to income received by a trustee under subdivision (b) of Section 16305.

(e) Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

16305. (a) Unless the will otherwise provides, income from the property of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be distributed in the manner set forth in Chapter 11 (commencing with Section 660) of Division 3. Income received by a trustee under this subdivision shall be treated as income of the trust.

(b) When an income beneficiary's right to income, including interest payable under Section 663, ceases by death or in any other manner during the period of probate administration, income attributable to the period prior to the termination of such right, when subsequently received by the trustee, shall be equitably prorated between the beneficiary or his or her personal representative and the person next entitled to income by the terms of the trust instrument.

16306. (a) Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.

(b) Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to any of the following:

(1) A call of shares.

(2) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation.

(3) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

(c) In the case of a regulated investment company or a trust

qualifying and electing to be taxed under federal law as a real estate investment trust:

(1) Distributions made from ordinary income are income.

(2) All other distributions, including distributions from capital gains, depreciation, or depletion, whether made in the form of cash, an option to take new stock or cash, or an option to purchase additional shares, are principal.

(d) Except as provided in subdivisions (a), (b), and (c), all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subdivisions (b) and (c), if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

(e) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this chapter concerning the source or character of dividends or distributions of corporate assets.

16307. (a) Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subdivision (b) for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

(b) The increment in value of a bond or other obligation for the payment of money payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued is distributable as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized.

16308. (a) If a trustee uses any part of the principal in the operation of a business, including an agricultural or farming operation, of which the settlor was a sole proprietor or a partner, the net profits and losses of the business shall be computed in accordance with recognized methods of accounting for a comparable business. Net profits from a business are income. Net losses from a business do not reduce other trust income for the fiscal or calendar year during which they occur but shall be carried into subsequent fiscal or calendar years and reduce the net profits of the business for those years.

(b) Subdivision (a) is subject to the provisions of Section 16313 and for this purpose any property of the business or agricultural or farming operation shall be deemed to be "trust property" within the meaning of Section 16313.

16309. (a) If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on, or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

(1) If received as rent on a lease or extension payments on a lease, the receipts are income.

(2) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income.

(3) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in paragraphs (1) and (2) shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. The receipts shall be allocated entirely to income or apportioned between income and principal as the trustee in its discretion may determine, but the amount added to principal as an allowance for depletion may not exceed the lesser of (A) the percentage of gross receipts allowed as a deduction for depletion in computing taxable income for federal income tax purposes or (B) 50 percent of the net receipts remaining after payment of expenses, direct and indirect, computed without allowance for depletion.

(b) This section does not apply to timber, water, soil, sod, dirt, turf, or mosses.

16310. If the principal consists of property subject to depletion, other than property subject to Section 16309, including land from which merchantable timber may be removed and, when subject to depletion or amortization, leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, receipts from the property shall be allocated entirely to income or apportioned between income and principal as the trustee in its discretion may determine, but in no event shall the amount allocated to principal exceed a reasonable allowance for depletion or amortization.

16311. (a) Except as otherwise provided in this section, a portion of the net proceeds of sale of any part of principal which has not produced an average net income of at least 1 percent per year of its inventory value for more than a year, including as income the value of any beneficial use of the property by the income beneficiary, shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property

received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in disposition and less any carrying charges paid while the property was underproductive.

(b) The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at 5 percent per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, is income, and the balance is principal.

(c) If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages, (for example, real property acquired by or in lieu of a foreclosure), the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

(d) This section does not apply to securities listed on a national securities exchange or traded over the counter if the securities are held in a broadly diversified portfolio designed to produce a reasonable return appropriate to the purposes of the trust.

16312. (a) After determining income and principal in accordance with the terms of the trust instrument or with this chapter, the trustee shall charge to income or principal expenses and other charges as provided in this section.

(b) The following charges shall be made against income:

(1) Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainder beneficiary, or trustee, interest paid by the trustee, and ordinary repairs.

(2) The trustee in its discretion may make a reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance shall be made for depreciation of that portion of any real property used by a beneficiary as a residence.

(3) One-half of court costs, attorney's fees, and other fees on periodic judicial accounting, unless the court directs otherwise.

(4) Court costs, attorney's fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise.

(5) One-half of the trustee's regular compensation, whether based on a percentage of principal or income, unless the court directs

otherwise.

(6) All expenses reasonably incurred for current management of principal and application of income.

(7) Any tax levied upon receipts defined as income under this part or the trust instrument and payable by the trustee.

(c) If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

(d) The following charges shall be made against principal:

(1) Trustee's compensation not chargeable to income under paragraphs (4) and (5) of subdivision (b), special compensation of trustees, expenses reasonably incurred in connection with principal, court costs and attorney's fees primarily concerning matters of principal, and trustee's compensation computed on principal as an acceptance, distribution, or termination fee.

(2) Charges not provided for in subdivision (b), including the cost of investing and reinvesting principal, the payments on principal of an indebtedness (including a mortgage amortized by periodic payments of principal), expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action or proceeding to construe the trust or protect it or the property or assure the title of any trust property.

(3) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but a trustee may establish an allowance for depreciation out of income to the extent permitted by paragraph (2) of subdivision (b) and by Section 16308.

(4) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the taxing authority.

(5) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainder beneficiary have an interest, any amount apportioned to the trust, including penalties, even though the income beneficiary also has rights in the principal.

(e) Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under Section 16304.

16313. The trustee is not required to set aside a reserve or allowance from trust income for depreciation or depletion of, or to amortize, any trust property unless the trust instrument expressly requires a reserve or allowance. Nothing in this chapter prevents a trustee in its discretion from establishing a reserve or allowance, or from continuing any previous practice of maintaining a reserve or allowance.

CHAPTER 4. LIABILITY OF TRUSTEES TO BENEFICIARIES

Article 1. Liability for Breach of Trust

16400. A violation by the trustee of any duty that the trustee owes the beneficiary is a breach of trust.

16401. (a) Except as provided in subdivision (b), the trustee is not liable to the beneficiary for the acts or omissions of an agent.

(b) The trustee is liable to the beneficiary for an act or omission of an agent employed by the trustee in the administration of the trust that would be a breach of the trust if committed by the trustee under any of the following circumstances:

(1) Where the trustee has the power to direct the act of the agent.

(2) Where the trustee delegates to the agent the authority to perform an act that the trustee is under a duty not to delegate.

(3) Where the trustee does not use reasonable care in the selection of the agent or the retention of the agent selected by the trustee.

(4) Where the trustee does not exercise proper supervision over the agent's conduct in a case where the trustee has the power to supervise the agent.

(5) Where the trustee conceals the act of the agent.

(6) Where the trustee neglects to take reasonable steps to compel the agent to redress the wrong in a case where the trustee knows of the agent's acts or omissions.

(c) The liability of a trustee for acts or omissions of agents that occurred before July 1, 1987, is governed by prior law and not by this section.

16402. (a) Except as provided in subdivision (b), a trustee is not liable to the beneficiary for a breach of trust committed by a cotrustee.

(b) A trustee is liable to the beneficiary for a breach committed by a cotrustee under any of the following circumstances:

(1) Where the trustee participates in a breach of trust committed by the cotrustee.

(2) Where the trustee improperly delegates the administration of the trust to the cotrustee.

(3) Where the trustee approves, knowingly acquiesces in, or conceals a breach of trust committed by the cotrustee.

(4) Where the trustee negligently enables the cotrustee to commit a breach of trust.

(5) Where the trustee neglects to take reasonable steps to compel the cotrustee to redress a breach of trust in a case where the trustee knows or has information from which the trustee reasonably should have known of the breach.

(c) The liability of a trustee for acts or omissions of a cotrustee that occurred before July 1, 1987, is governed by prior law and not by this section.

16403. (a) Except as provided in subdivision (b), a successor

trustee is not liable to the beneficiary for a breach of trust committed by a predecessor trustee.

(b) A successor trustee is liable to the beneficiary for breach of trust involving acts or omissions of a predecessor trustee in any of the following circumstances:

(1) Where the successor trustee knows or has information from which the successor trustee reasonably should have known of a situation constituting a breach of trust committed by the predecessor trustee and the successor trustee improperly permits it to continue.

(2) Where the successor trustee neglects to take reasonable steps to compel the predecessor trustee to deliver the trust property to the successor trustee.

(3) Where the successor trustee neglects to take reasonable steps to redress a breach of trust committed by the predecessor trustee in a case where the successor trustee knows or has information from which the successor trustee reasonably should have known of the predecessor trustee's breach.

(c) The liability of a trustee for acts or omissions of a predecessor trustee that occurred before July 1, 1987, is governed by prior law and not by this section.

Article 2. Remedies for Breach of Trust

16420. (a) If a trustee commits a breach of trust, or threatens to commit a breach of trust, a beneficiary or cotrustee of the trust may commence a proceeding for any of the following purposes that is appropriate:

(1) To compel the trustee to perform the trustee's duties.

(2) To enjoin the trustee from committing a breach of trust.

(3) To compel the trustee to redress a breach of trust by payment of money or otherwise.

(4) To appoint a receiver or temporary trustee to take possession of the trust property and administer the trust.

(5) To remove the trustee.

(6) Subject to Section 18100, to set aside acts of the trustee.

(7) To reduce or deny compensation of the trustee.

(8) Subject to Section 18100, to impose an equitable lien or a constructive trust on trust property.

(9) Subject to Section 18100, to trace trust property that has been wrongfully disposed of and recover the property or its proceeds.

(b) The provision of remedies for breach of trust in subdivision (a) does not prevent resort to any other appropriate remedy provided by statute or the common law.

16421. The remedies of a beneficiary against the trustee are exclusively in equity.

Article 3. Measure of Liability for Breach of Trust

16440. (a) If the trustee commits a breach of trust, the trustee is chargeable with any of the following that is appropriate under the circumstances:

(1) Any loss or depreciation in value of the trust estate resulting from the breach of trust, with interest.

(2) Any profit made by the trustee through the breach of trust, with interest.

(3) Any profit that would have accrued to the trust estate if the loss of profit is the result of the breach of trust.

(b) If the trustee has acted reasonably and in good faith under the circumstances as known to the trustee, the court, in its discretion, may excuse the trustee in whole or in part from liability under subdivision (a) if it would be equitable to do so.

16441. If the trustee is liable for interest pursuant to Section 16440, the trustee is liable for the greater of the following amounts:

(a) The amount of interest that accrues at the legal rate on judgments.

(b) The amount of interest actually received.

16442. The provisions in this article for liability of a trustee for breach of trust do not prevent resort to any other remedy available under the statutory or common law.

Article 4. Limitations and Exculpation

16460. (a) Unless a claim is previously barred by adjudication, consent, limitation, or otherwise:

(1) If a beneficiary has received an interim or final account in writing, or other written report, that adequately discloses the existence of a claim against the trustee for breach of trust, the claim is barred as to that beneficiary unless a proceeding to assert the claim is commenced within three years after receipt of the account or report. An account or report adequately discloses existence of a claim if it provides sufficient information so that the beneficiary knows of the claim or reasonably should have inquired into the existence of the claim.

(2) If an interim or final account or other report does not adequately disclose the existence of a claim against the trustee for breach of trust, the claim is barred as to that beneficiary unless a proceeding to assert the claim is commenced within three years after the beneficiary discovered, or reasonably should have discovered, the subject of the claim.

(b) For the purpose of subdivision (a), a beneficiary is deemed to have received an account or report, as follows:

(1) In the case of an adult who is reasonably capable of understanding the account or report, if it is received by the adult personally.

(2) In the case of an adult who is not reasonably capable of

understanding the account or report, if it is received by the person's legal representative, including a guardian ad litem or other person appointed for this purpose.

(3) In the case of a minor, if it is received by the minor's guardian or, if the minor does not have a guardian, if it is received by the minor's parent so long as the parent does not have a conflict of interest.

(c) The limitations period applicable to actions by a beneficiary against a trustee on a claim that arose before July 1, 1987, is governed by this section, except that a claim arising before July 1, 1987, is not barred by this section until July 1, 1988.

16461. (a) Except as provided in subdivision (b), the trustee can be relieved of liability for breach of trust by provisions in the trust instrument.

(b) A provision in the trust instrument is not effective to relieve the trustee of liability (1) for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference to the interest of the beneficiary, or (2) for any profit that the trustee derives from a breach of trust.

16462. (a) Notwithstanding Section 16461, a trustee of a revocable trust is not liable to a beneficiary for any act performed or omitted pursuant to written directions from the person holding the power to revoke, including a person to whom the power to direct the trustee is delegated.

(b) Subdivision (a) applies to a trust that is revocable in part with respect to the interest of the beneficiary in that part of the trust property.

16463. (a) Except as provided in subdivisions (b) and (c), a beneficiary may not hold the trustee liable for an act or omission of the trustee as a breach of trust if the beneficiary consented to the act or omission before or at the time of the act or omission.

(b) The consent of the beneficiary does not preclude the beneficiary from holding the trustee liable for a breach of trust in any of the following circumstances:

(1) Where the beneficiary was under an incapacity at the time of the consent or of the act or omission.

(2) Where the beneficiary at the time consent was given did not know of his or her rights and of the material facts that the trustee knew or should have known and that the trustee did not reasonably believe that the beneficiary knew.

(3) Where the consent of the beneficiary was induced by improper conduct of the trustee.

(c) Where the trustee has an interest in the transaction adverse to the interest of the beneficiary, the consent of the beneficiary does not preclude the beneficiary from holding the trustee liable for a breach of trust under any of the circumstances described in subdivision (b) or where the transaction to which the beneficiary consented was not fair and reasonable to the beneficiary.

16464. (a) Except as provided in subdivision (b), a beneficiary

may be precluded from holding the trustee liable for a breach of trust by the beneficiary's release or contract effective to discharge the trustee's liability to the beneficiary for that breach.

(b) A release or contract is not effective to discharge the trustee's liability for a breach of trust in any of the following circumstances:

(1) Where the beneficiary was under an incapacity at the time of making the release or contract.

(2) Where the beneficiary did not know of his or her rights and of the material facts (A) that the trustee knew or reasonably should have known and (B) that the trustee did not reasonably believe that the beneficiary knew.

(3) Where the release or contract of the beneficiary was induced by improper conduct of the trustee.

(4) Where the transaction involved a bargain with the trustee that was not fair and reasonable.

16465. (a) Except as provided in subdivision (b), if the trustee, in breach of trust, enters into a transaction that the beneficiary may at his or her option reject or affirm, and the beneficiary affirms the transaction, the beneficiary shall not thereafter reject it and hold the trustee liable for any loss occurring after the trustee entered into the transaction.

(b) The affirmance of a transaction by the beneficiary does not preclude the beneficiary from holding a trustee liable for a breach of trust if, at the time of the affirmance, any of the following circumstances existed:

(1) The beneficiary was under an incapacity.

(2) The beneficiary did not know of his or her rights and of the material facts (A) that the trustee knew or reasonably should have known and (B) that the trustee did not reasonably believe that the beneficiary knew.

(3) The affirmance was induced by improper conduct of the trustee.

(4) The transaction involved a bargain with the trustee that was not fair and reasonable.

PART 5. JUDICIAL PROCEEDINGS CONCERNING TRUSTS

CHAPTER 1. JURISDICTION and VENUE

17000. (a) The superior court having jurisdiction over the trust pursuant to this part has exclusive jurisdiction of proceedings concerning the internal affairs of trusts.

(b) The superior court having jurisdiction over the trust pursuant to this part has concurrent jurisdiction of the following:

(1) Actions and proceedings to determine the existence of trusts.

(2) Actions and proceedings by or against creditors or debtors of trusts.

(3) Other actions and proceedings involving trustees and third persons.

17001. In proceedings concerning the internal affairs of trusts commenced pursuant to this division, the court has all the powers of the superior court.

17002. (a) The principal place of administration of the trust is the usual place where the day-to-day activity of the trust is carried on by the trustee or its representative who is primarily responsible for the administration of the trust.

(b) If the principal place of administration of the trust cannot be determined under subdivision (a), it shall be determined as follows:

(1) If the trust has a single trustee, the principal place of administration of the trust is the trustee's residence or usual place of business.

(2) If the trust has more than one trustee, the principal place of administration of the trust is the residence or usual place of business of any of the cotrustees as agreed upon by them or, if not, the residence or usual place of business of any of the cotrustees.

17003. Subject to Section 17004:

(a) By accepting the trusteeship of a trust having its principal place of administration in this state the trustee submits personally to the jurisdiction of the court under this division.

(b) To the extent of their interests in the trust, all beneficiaries of a trust having its principal place of administration in this state are subject to the jurisdiction of the court under this division.

17004. The court may exercise jurisdiction in proceedings under this division on any basis permitted by Section 410.10 of the Code of Civil Procedure.

17005. (a) The proper county for commencement of a proceeding pursuant to this division is either of the following:

(1) In the case of a living trust, the county where the principal place of administration of the trust is located.

(2) In the case of a testamentary trust, either the county where the decedent's estate is administered or where the principal place of administration of the trust is located.

(b) If a living trust has no trustee, the proper county for commencement of a proceeding for appointing a trustee is the county where the trust property, or some portion of the trust property, is located.

(c) Except as otherwise provided in subdivisions (a) and (b), the proper county for commencement of a proceeding pursuant to this division is determined by the rules applicable to civil actions generally.

17006. There is no right to a jury trial in proceedings under this division concerning the internal affairs of trusts.

CHAPTER 2. NOTICE

17100. This chapter applies to notice in proceedings commenced pursuant to this division or notice otherwise required by this division.

17101. If notice of the time and place of a hearing is required to

be given, the notice shall be in the form prescribed by the Judicial Council or, if the Judicial Council has not prescribed an applicable form, in compliance with Section 1200.1.

17102. (a) If a notice or other paper is required or permitted to be mailed, it shall be sent as follows:

(1) By first-class mail if the person's address is within the United States.

(2) By airmail if the person's address is not within the United States.

(b) Mailing is complete when the notice or other paper is deposited in the mail, postage prepaid, addressed to the person to whom it is mailed.

(c) If the address is not known, notice shall be given as the court may require in the manner provided in Section 413.30 of the Code of Civil Procedure.

17103. If a notice or other paper is required or permitted to be mailed, it may be delivered personally to the person to whom it is required or permitted to be mailed.

17104. (a) Proof of the giving of notice shall be made at or before the hearing to the satisfaction of the court. Proof may be made by, but is not limited to, the means provided in Section 1468.

(b) If it appears to the satisfaction of the court that notice has been regularly given or that the party entitled to notice has waived it, the court shall so find in its order. When the order becomes final, it is conclusive on all persons, whether or not in being.

17105. (a) The court may, on its own motion or on motion of a trustee or other person interested in the trust, require that further or additional notice be given at any stage of the proceeding. The court may prescribe the form and method of the notice to be given.

(b) A petitioner or other person required to give notice may cause notice to be given to any person interested in the trust without the need for a court order.

17106. The court may for good cause shorten the time for giving a notice.

17107. The court may continue or postpone any hearing, from time to time, in the interest of justice, and no further notice of the continued or postponed hearing is required unless otherwise ordered by the court.

CHAPTER 3. PROCEEDINGS CONCERNING TRUSTS

17200. (a) Except as provided in Section 15800, a trustee or beneficiary of a trust may petition the court under this chapter concerning the internal affairs of the trust or to determine the existence of the trust.

(b) Proceedings concerning the internal affairs of a trust include, but are not limited to, proceedings for any of the following purposes:

(1) Determining questions of construction of a trust instrument.

(2) Determining the existence or nonexistence of any immunity,

power, privilege, duty, or right.

(3) Determining the validity of a trust provision.

(4) Ascertaining beneficiaries and determining to whom property shall pass or be delivered upon final or partial termination of the trust, to the extent the determination is not made by the trust instrument.

(5) Settling the accounts and passing upon the acts of the trustee, including the exercise of discretionary powers.

(6) Instructing the trustee.

(7) Compelling the trustee to report information about the trust or account to the beneficiary, if (A) the trustee has failed to submit a requested report or account within 60 days after written request of the beneficiary and (B) no report or account has been made within six months preceding the request.

(8) Granting powers to the trustee.

(9) Fixing or allowing payment of the trustee's compensation.

(10) Appointing or removing a trustee.

(11) Accepting the resignation of a trustee.

(12) Compelling redress of a breach of the trust by any available remedy.

(13) Approving or directing the modification or termination of the trust.

(14) Approving or directing the combination or division of trusts.

(15) Amending or conforming the trust instrument in the manner required to qualify a decedent's estate for the charitable estate tax deduction under federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States Internal Revenue Service, in any case in which all parties interested in the trust have submitted written agreement to the proposed changes or written disclaimer of interest.

(16) Authorizing or directing transfer of a trust or trust property to or from another jurisdiction.

(17) Directing transfer of a testamentary trust subject to continuing court jurisdiction from one county to another.

(18) Approving removal of a testamentary trust from continuing court jurisdiction.

(19) Reforming or excusing compliance with the governing instrument of an organization pursuant to Section 16105.

17201. (a) A proceeding under this chapter is commenced by filing a verified petition stating facts showing that the petition is authorized under this chapter and the grounds of the petition.

(b) When a petition that requires a hearing is filed with the court clerk, the clerk shall set the matter for hearing.

17202. The court may dismiss a petition if it appears that the proceeding is not reasonably necessary for the protection of the interests of the trustee or beneficiary.

17203. At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of

hearing to be mailed to any of the following persons who are not petitioners:

(a) All trustees.

(b) All beneficiaries who are entitled to notice.

(c) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General, unless the Attorney General waives notice.

17204. (a) If proceedings involving a trust are pending, a beneficiary of the trust may, in person or by attorney, serve on the trustee or the trustee's attorney and file with the court clerk where the proceedings are pending a written request stating that the beneficiary desires special notice of the filing of petitions in the proceeding relating to any or all of the purposes described in Section 17200 and giving an address for receiving notice by mail. Proof of service of the request on the trustee shall be filed with the court clerk when the request is filed.

(b) Except as provided in subdivision (c), after serving and filing a request and proof of service pursuant to subdivision (a), the beneficiary is entitled to notice pursuant to Section 17203.

(c) A request for special notice made by a beneficiary whose right to notice is restricted by Section 15802 is not effective.

17205. If a trustee or beneficiary has served and filed either a notice of appearance, in person or by counsel, directed to the petitioner or the petitioner's counsel in connection with a particular petition and proceeding or a written request for a copy of the petition, and has given an address to which notice or a copy of the petition may be mailed or delivered, the petitioner shall cause a copy of the petition to be mailed to that person within five days after service of the notice of appearance or receipt of the request.

17206. The court in its discretion may make any orders and take any other action necessary or proper to dispose of the matters presented by the petition, including appointment of a temporary trustee to administer the trust in whole or in part.

17207. An appeal may be taken from the grant or denial of any final order made under this chapter, except the following:

(a) Compelling the trustee to submit an account or report acts as trustee to a beneficiary pursuant to paragraph (7) of subdivision (b) of Section 17200.

(b) Accepting the resignation of a trustee pursuant to paragraph (11) of subdivision (b) of Section 17200.

(c) Approving removal of a testamentary trust from continuing court jurisdiction pursuant to paragraph (18) of subdivision (b) of Section 17200.

17208. (a) The court may, on its own motion or on request of a trustee or other person interested in the trust, appoint a guardian ad litem at any stage of a proceeding concerning the trust to represent the interest of any of the following persons, if the court determines that representation of the interest otherwise would be inadequate:

(1) A minor.

(2) An incapacitated person.
(3) An unborn person.
(4) An unascertained person.
(5) A person whose identity or address is unknown.
(6) A designated class of persons who are not ascertained or are not in being.

(b) If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(c) The reasonable expenses of the guardian ad litem, including compensation and attorney's fees, shall be determined by the court and paid as the court orders, either out of trust property or by the petitioner.

(d) Sections 372 to 373.5, inclusive, of the Code of Civil Procedure do not apply to the appointment of a guardian ad litem under this section.

17209. The administration of trusts is intended to proceed expeditiously and free of judicial intervention, subject to the jurisdiction of the court.

17210. In a case involving a charitable trust subject to the jurisdiction of the Attorney General, the Attorney General may petition under this chapter.

CHAPTER 4. TESTAMENTARY TRUSTS SUBJECT TO CONTINUING COURT JURISDICTION

Article 1. Administration of Testamentary Trusts Subject to Continuing Court Jurisdiction

17300. This article applies only to the following:

(a) A trust created by a will executed before July 1, 1977, and not incorporated by reference in a will on or after July 1, 1977.

(b) A trust created by a will which provides that the trust is subject to the continuing jurisdiction of the superior court.

17301. If a trust described in Section 17300 continues after distribution of the decedent's estate, the court in which the decedent's estate was administered retains jurisdiction over the trust for any of the purposes specified in Section 17200.

17302. Except as otherwise provided in this article, proceedings relating to trusts under continuing court jurisdiction are governed by this part.

17303. This article does not apply to a trust described in Section 17300 that has been removed from continuing court jurisdiction.

17304. (a) At any time after final distribution of the decedent's estate, a trust described in Section 17300 may be transferred to a different county in this state as provided in this section.

(b) The petition for transfer shall set forth all of the following:

(1) The name of the county to which jurisdiction over the trust is sought to be transferred.

(2) The names, ages, and places of residence of the trustees and

all beneficiaries of the trust, so far as known to the petitioner.

(3) A brief description of the character, condition, value, and location of property of the trust.

(4) A brief statement of the reasons for transfer.

(c) If, after hearing, it appears to the court that the transfer of jurisdiction to the county designated in the petition or to any other county in this state will be in the best interests of the estate, or that economical and convenient administration of the trust will be facilitated by the transfer, the court shall make an order transferring jurisdiction over the trust. Upon such order, the court clerk shall certify a copy of the order of transfer to the clerk of the court to which jurisdiction is transferred, together with copies of the instrument creating the trust, the decree of distribution, and any other documents or matters of record the court determines by order to be necessary to define the powers and duties of the trustee, or otherwise to be necessary in connection with further administration of the trust.

(d) The court to which jurisdiction is transferred may from time to time require by order the filing of certified copies of additional papers or matters of record from the court in which the decedent's estate was administered as are required.

(e) Upon the filing of a certified copy of the order of transfer, together with supporting documents, the court to which jurisdiction is transferred has the same jurisdiction over the trust as the court in which the decedent's estate was administered but for the transfer.

Article 2. Removal of Trusts From Continuing Court Jurisdiction

17350. This article applies only to trusts created by will executed before July 1, 1977, and not incorporated by reference in a will on or after July 1, 1977.

17351. (a) If any of the trustees of a trust described in Section 17350 is a trust company, the trust shall be removed from continuing court jurisdiction as provided in this section. Within six months after the initial funding of the trust, the trustee shall give a notice of removal of the trust from continuing court jurisdiction to each beneficiary. Notice of removal shall be sent by registered or certified mail or by first-class mail, but notice sent by first-class mail is effective only if an acknowledgment of receipt of notice is signed by the beneficiary and returned to the trustee.

(b) The notice of removal of the trust from continuing court jurisdiction shall contain the following:

(1) A statement that as of January 1, 1983, the law was changed to remove the necessity for continuing court jurisdiction over the trust.

(2) A statement that Section 17200 of the Probate Code gives any beneficiary the right to petition a court to determine important matters relating to the administration of the trust.

(3) A copy of the text of Sections 17200 and 17201.

(4) A statement that each income beneficiary, as defined in

subdivision (a) of Section 16301, is entitled to an annual statement of the principal and income receipts and disbursements of the trust and that any other beneficiary is entitled to such information upon written request to the trustee.

(5) The name and location of the court in the county in which it is appropriate to file a petition pursuant to Section 17200, the name and location of the court that had jurisdiction over the administration of the decedent's estate, and a statement that it is appropriate to file a petition pursuant to Section 17200 with either court.

(c) The trustee shall file with the court that had jurisdiction over the administration of the decedent's estate proof of giving notice under this section within seven months after the initial funding of the trust.

17352. (a) If none of the trustees of a trust described in Section 17350 is a trust company, the trust may be removed from continuing court jurisdiction only with approval of the court. The trustee may petition for court approval at any time, and from time to time, in the trustee's discretion.

(b) The petition for removal shall set forth the trust accounts in detail, report the trustee's acts, and show the condition of the trust estate. A copy of the trust instrument shall be attached to the petition.

(c) At the hearing the court may receive testimony from any interested person and may grant or deny the petition, or may grant the petition on such conditions as the court in its discretion deems proper.

(d) If the petition is granted, the trustee shall send the notice of removal of the trust provided in subdivision (b) of Section 17351 and file proof of service as required by subdivision (c) of Section 17351 within six months and seven months, respectively, from the date the petition is granted. A copy of the court order granting the petition shall be attached to the notice.

(e) If the petition is not granted, the trust shall continue to be administered under Article 1 (commencing with Section 17300) as if the settlor had provided in the will that the court does not lose jurisdiction of the estate by final distribution.

17353. If a trust company is appointed as a successor trustee of a trust which, at the time of the appointment, is subject to continuing court jurisdiction because it was not removed pursuant to Section 17352, the successor trustee shall comply with Section 17351. For the purpose of complying with Section 17351, the date of appointment of the successor trustee shall be treated as the date of initial funding of the trust.

17354. After a trust is removed from continuing court jurisdiction pursuant to this article, neither a change in trustees nor any other event causes the trust to be subject to continuing court jurisdiction under Article 1 (commencing with Section 17300).

CHAPTER 5. TRANSFER OF TRUST TO ANOTHER JURISDICTION

17400. (a) This chapter applies to all of the following:

(1) A trust that is subject to this division.

(2) A trust subject to Chapter 8 (commencing with Section 6320) of Part 1 of Division 6.

(3) Any other trust to which the provisions of this chapter are made applicable by statute or trust instrument.

(b) This chapter does not prevent the transfer of the place of administration of a trust or of trust property to another jurisdiction by any other available means.

17401. (a) The court may make an order for the transfer of the place of administration of a trust or the transfer of some or all of the trust property to a jurisdiction outside this state as provided in this chapter.

(b) Except as otherwise provided in this chapter, proceedings under this chapter are governed by this part.

17402. The petition for transfer shall set forth all of the following:

(a) The names and places of residence of the following:

(1) The trustee administering the trust in this state.

(2) The trustee, including any domiciliary trustee, who will administer the trust or trust property in the other jurisdiction.

(b) The names, ages, and places of residence of the living beneficiaries, as far as known to the petitioner.

(c) Whether the trustee who will administer the trust in the other jurisdiction has agreed to accept the trust. If so, the acceptance or a copy shall be attached as an exhibit to the petition or otherwise filed with the court.

(d) A general statement of the qualifications of the trustee who will administer the trust in the other jurisdiction and the amount of fiduciary bond, if any. If the trustee is an individual, the statement shall include the trustee's age.

(e) A general statement of the nature and value of the property of any trust of the same settlor being administered in the other jurisdiction by the trustee who will administer the trust in the other jurisdiction.

(f) The name of the court, if any, having jurisdiction of the trustee in the other jurisdiction or of its accounts or in which a proceeding may be had with respect to administration of the trust or the trustee's accounts.

(g) A statement of the character, condition, location, and value of the trust property sought to be transferred.

(h) Whether there is any pending civil action in this state against the trustee arising out of the administration of the trust sought to be transferred.

(i) A statement of the reasons for the transfer.

17403. (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of the hearing to be mailed to each of the persons named in the

petition at their respective addresses as stated in the petition.

(b) Any person interested in the trust, as trustee, beneficiary, or otherwise, may appear and file written grounds in opposition to the petition.

17404. The court may, in its discretion, grant the petition and order the trustee to transfer the trust property or to transfer the place of administration of the trust to the other jurisdiction if, after hearing, all of the following appear to the court:

(a) The transfer of the trust property to a trustee in another jurisdiction, or the transfer of the place of administration of the trust to another jurisdiction, will promote the best interests of the trust and those interested in it, taking into account the interest in the economical and convenient administration of the trust.

(b) The transfer will not violate the trust instrument.

(c) Any new trustee to whom the trust property is to be transferred is qualified, willing, and able to administer the trust or trust property under the trust instrument.

17405. If a transfer is ordered under this chapter, the court may direct the manner of transfer and impose terms and conditions as may be just, including, but not limited to, a requirement for the substitution of a successor trustee in any pending litigation in this state. The delivery of property in accordance with the order of the court is a full discharge of the trustee in relation to all property embraced in the order.

CHAPTER 6. TRANSFER OF TRUST FROM ANOTHER JURISDICTION

17450. (a) This chapter applies to a trust, or portion thereof, administered in a jurisdiction outside this state.

(b) This chapter does not prevent the transfer of the place of administration of a trust or of trust property to this state by any other available means.

17451. (a) The court may make an order accepting the transfer of the place of administration of a trust from another jurisdiction to this state or the transfer of some or all of the trust property in another jurisdiction to a trustee in this state as provided in this chapter.

(b) Except as otherwise provided in this chapter, proceedings under this chapter are governed by this part.

17452. (a) If the petition requests that a resident of this state be appointed trustee, the petition shall be filed in the court of the county where the proposed principal place of administration of the trust pursuant to Section 17002 is located.

(b) If the petition requests that only a nonresident of this state be appointed trustee, the petition shall be filed in the court of the county where either (1) any beneficiary resides or (2) a substantial portion of the trust property to be transferred is located or will be located.

17453. The petition for transfer shall set forth all of the following:

(a) The names and places of residence of the following:

(1) The trustee administering the trust in the other jurisdiction.

(2) The proposed trustee to whom administration of the trust or trust property will be transferred.

(b) The names, ages, and places of residence of all living beneficiaries, as far as known to the petitioner.

(c) Whether administration of the trust has been subject to supervision in a jurisdiction outside this state. If so, the petition shall state whether a petition or appropriate request for transfer of place of administration of the trust or trust property to this state has been filed, if necessary, with the court in the other jurisdiction, and the status of the petition or request.

(d) Whether the trustee proposed to administer the trust in this state has agreed to accept the trust in this state. If the trustee has agreed, the acceptance shall be attached as an exhibit to the petition or otherwise filed with the court.

(e) A general statement of the qualifications of the trustee proposed to administer the trust in this state and the amount of any bond to be requested. If the trustee is an individual, the statement shall include the trustee's age.

(f) A copy of the trust instrument or a statement of the terms of the trust instrument in effect at the time the petition is filed, including all amendments thereto.

(g) A statement of the character, condition, location, and value of the trust property sought to be transferred.

(h) A statement of the reasons for the transfer.

17454. (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of the hearing to be mailed to each of the persons named in the petition at their respective addresses as stated in the petition.

(b) Any person interested in the trust, as trustee, beneficiary, or otherwise, may appear and file written grounds in opposition to the petition.

17455. (a) The court may, in its discretion, grant the petition and issue an order accepting transfer of trust property or the place of administration of the trust to this state and appoint a trustee to administer the trust in this state, if, after hearing, all of the following appear to the court:

(1) The transfer of the trust property to a trustee in this state, or the transfer of the place of administration of the trust to this state, will promote the best interests of the trust and those interested in it, taking into account the interest in the economical and convenient administration of the trust.

(2) The transfer will not violate the trust instrument.

(3) The trustee appointed by the court to administer the trust in this state, and to whom the trust property is to be transferred, is qualified, willing, and able to administer the trust or trust property under the trust instrument.

(4) The proper court in the other jurisdiction has approved the transfer if approval is necessary under the law of the other

jurisdiction.

(b) If the court grants the petition under subdivision (a), the court shall require the trustee to give a bond, if necessary under the law of the other jurisdiction or of this state, and may require bond as provided in Section 15602.

17456. If appropriate to facilitate transfer of the trust property or the place of administration of a trust to this state, the court may issue a conditional order appointing a trustee to administer the trust in this state and indicating that transfer to this state will be accepted if transfer is approved by the proper court of the other jurisdiction.

17457. A trust transferred to this state pursuant to this chapter shall be administered in the same manner as a trust of that type created in this state.

PART 6. RIGHTS OF THIRD PERSONS

CHAPTER 1. LIABILITY OF TRUSTEE TO THIRD PERSONS

18000. (a) Unless otherwise provided in the contract or in this chapter, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administration of the trust unless the trustee fails to reveal the trustee's representative capacity or identify the trust in the contract.

(b) The personal liability of a trustee on a contract entered into before July 1, 1987, is governed by prior law and not by this section.

18001. A trustee is personally liable for obligations arising from ownership or control of trust property only if the trustee is personally at fault.

18002. A trustee is personally liable for torts committed in the course of administration of the trust only if the trustee is personally at fault.

18003. (a) A cotrustee who does not join in exercising a power held by three or more cotrustees is not liable to third persons for the consequences of the exercise of the power.

(b) A dissenting cotrustee who joins in an action at the direction of the majority cotrustees is not liable to third persons for the action if the dissenting cotrustee expresses the dissent in writing to any other cotrustee at or before the time the action is taken.

(c) This section does not excuse a cotrustee from liability for failure to discharge the cotrustee's duties as a trustee.

18004. A claim based on a contract entered into by a trustee in the trustee's representative capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administration of the trust may be asserted against the trust by proceeding against the trustee in the trustee's representative capacity, whether or not the trustee is personally liable on the claim.

18005. The question of liability as between the trust estate and the trustee personally may be determined in a proceeding under Section 17200.

CHAPTER 2. PROTECTION OF THIRD PERSONS

18100. With respect to a third person dealing with a trustee or assisting a trustee in the conduct of a transaction, if the third person acts in good faith and for a valuable consideration and without actual knowledge that the trustee is exceeding the trustee's powers or improperly exercising them:

(a) The third person is not bound to inquire whether the trustee has power to act or is properly exercising a power and may assume without inquiry the existence of a trust power and its proper exercise.

(b) The third person is fully protected in dealing with or assisting the trustee just as if the trustee has and is properly exercising the power the trustee purports to exercise.

18101. A third person who acts in good faith is not bound to ensure the proper application of trust property paid or delivered to the trustee.

18102. If a third person acting in good faith and for a valuable consideration enters into a transaction with a former trustee without knowledge that the person is no longer a trustee, the third person is fully protected just as if the former trustee were still a trustee.

18103. If an express trust relating to real property is not contained or declared in the grant to the trustee, or in an instrument signed by the trustee and recorded in the same office with the grant to the trustee, the grant shall be deemed absolute in favor of purchasers from the trustee without notice and for a valuable consideration.

18104. (a) If an interest in or lien or encumbrance on real property is conveyed, created, or affected by an instrument in favor of a person in trust but no beneficiary is indicated in the instrument, it is presumed that the person holds the interest, lien, or encumbrance absolutely and free of the trust. This is a presumption affecting the burden of proof. In an action or proceeding involving the interest, lien, or encumbrance instituted against the person, the person shall be deemed the only necessary representative of the undisclosed beneficiary and of the original grantor or settlor and anyone claiming under them. A judgment is binding upon and conclusive against these persons as to all matters finally adjudicated in the judgment.

(b) An instrument executed by the person holding an interest, lien, or encumbrance described in subdivision (a), whether purporting to be the act of that person in his or her own right or in the capacity of a trustee, is presumed to affect the interest, lien, or encumbrance according to the tenor of the instrument. This is a presumption affecting the burden of proof. Upon the recording of the instrument in the county where the land affected by the instrument is situated, the presumption is conclusive in favor of a purchaser or encumbrancer in good faith and for valuable consideration.

CHAPTER 3. RIGHTS OF CREDITORS OF SETTLOR

18200. If the settlor retains the power to revoke the trust in whole or in part, the trust property is subject to the claims of creditors of the settlor to the extent of the power of revocation during the lifetime of the settlor.

18201. Upon the death of a settlor who had retained the power to revoke the trust in whole or in part, the property that was subject to the power of revocation at the time of the settlor's death is subject to the claims of creditors of the decedent settlor's estate and to the expenses of administration of the estate to the extent that the decedent settlor's estate is inadequate to satisfy those claims and expenses.

SEC. 41. Section 27.5 of this bill incorporates amendments to Section 20 of the Probate Code proposed by both this bill and AB 2625. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 20 of the Probate Code, and (3) this bill is enacted after AB 2625, in which case Section 27 of this bill shall not become operative.

SEC. 42. Section 33.5 of this bill incorporates amendments to Section 1200.5 of the Probate Code proposed by both this bill and AB 2625. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 1200.5 of the Probate Code, and (3) this bill is enacted after AB 2625, in which case Section 33 of this bill shall not become operative.

SEC. 43. (a) Except as provided in subdivisions (b) and (c), this act becomes operative on July 1, 1987.

(b) After the effective date of this act, the Judicial Council may adopt any forms necessary so that the forms may be used when the remainder of this act becomes operative.

(c) After the effective date of this act, the courts may adopt any rules necessary so that the rules shall be effective when the remainder of this act becomes operative.

CHAPTER 821

An act to add Article 3 (commencing with Section 2891) to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. The Legislature hereby finds and declares that residential telephone and telegraph customers and subscribers have a right to private communications, that the protection of this right

to privacy is of paramount state concern, and to this end, has enacted this act.

SEC. 2. Article 3 (commencing with Section 2891) is added to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 3. Customer Right of Privacy

2891. (a) No telephone or telegraph corporation shall make available to any other person or corporation, without first obtaining the residential customer's or subscriber's consent, in writing, of any of the following information:

(1) The customer's or subscriber's personal calling patterns, including any listing of the telephone or other access numbers called by the customer or subscriber, but excluding the identification to the person called of the person calling and the telephone number from which the call was placed.

(2) The residential customer's or subscriber's credit or other personal financial information, except when the corporation is ordered by the commission to provide this information to any electrical, gas, heat, telephone, telegraph, or water corporation for the purpose of determining the creditworthiness of new subscribers.

(3) Services obtained from the corporation or from independent suppliers of information services who use the corporation's telephone or telegraph line to provide service to the residential customer or subscriber. This paragraph does not apply to information transmitted between telephone or telegraph corporations pursuant to the furnishing of telephone service between service areas.

(4) Demographic information about the residential customer or subscriber, either as an individual or in the aggregate.

(b) Any residential subscriber who gives his or her written consent for the release of one or more of the categories of personal information specified in subdivision (a) shall be informed by the telephone or telegraph corporation regarding the identity of each person or corporation to whom the information has been released, upon written request. The corporation shall notify every residential subscriber of the provisions of this subdivision whenever consent is requested pursuant to this subdivision.

(c) Any residential subscriber who has, pursuant to subdivision (b), given written consent for the release of one or more of the categories of personal information specified in subdivision (a) may rescind this consent upon submission of a written notice to the telephone or telegraph corporation. The corporation shall cease to make available any personal information about the subscriber, within 30 days following receipt of notice given pursuant to this subdivision.

(d) This section does not apply to information provided by subscribers for inclusion in the corporation's directory of subscribers, information customarily provided by the corporation through directory assistance services, postal zip code information,

information provided under supervision of the commission to a collection agency by a telephone corporation exclusively for the collection of unpaid debts, information provided to an emergency service agency responding to a 911 telephone call, information required by a law enforcement agency pursuant to a warrant issued by a superior court or a court of higher jurisdiction, or information which is required by the commission pursuant to its jurisdiction and control over telephone and telegraph corporations.

(e) Every violation shall be a grounds for a civil suit by the aggrieved residential subscriber against the telephone or telegraph corporation and its employees responsible for the violation.

(f) For purposes of this section, "access number" shall mean a telex, teletex, facsimile, computer modem, or any other code which is used by a residential subscriber of a telephone or telegraph corporation to direct a communication to another customer of the same or another telephone or telegraph corporation.

CHAPTER 822

An act to add Sections 1524.5 and 1569.175 to the Health and Safety Code, relating to care facilities.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 1524.5 is added to the Health and Safety Code, to read:

1524.5. (a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

SEC. 2. Section 1569.175 is added to the Health and Safety Code, to read:

1569.175. (a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

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 823

An act to amend Section 237.7 of the Civil Code, to amend Sections 26857, 68926, 69952, and 69953 of the Government Code, and to amend Sections 395 and 800 of the Welfare and Institutions Code, relating to fees.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 237.7 of the Civil Code is amended to read:

237.7. Upon appeal from a judgment freeing a minor who is a

dependent child of the juvenile court from parental custody and control, the appellate court shall appoint counsel for the appellant as provided by this section.

Upon motion by the appellant and a finding that the appellant is unable to afford counsel, the appellate court shall appoint counsel for the indigent appellant, and appellant's counsel shall be provided a free copy of the reporter's and clerk's transcript. All of those costs shall be a charge against the state.

The reporter's and clerk's transcripts shall be prepared and transmitted immediately after filing of the notice of appeal, at state expense and without advance payment of fees. If the appellant is able to afford counsel, the state may seek reimbursement from the appellant for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

SEC. 1.1. Section 26857 of the Government Code is amended to read:

26857. No fee shall be charged by the clerk for service rendered in any criminal action or, except as otherwise provided in Section 10619 of the Health and Safety Code, in any adoption proceeding, nor shall any fees be charged for any service to the state. No fee shall be charged by the clerk for service rendered in any juvenile court proceeding or proceeding to declare a minor free from parental custody or control. No fee shall be charged by the clerk for service rendered to any municipality or county in the state, or to the national government, nor for any service relating thereto.

SEC. 1.2. Section 68926 of the Government Code is amended to read:

68926. The fee for filing a notice of appeal in a civil case appealed to a court of appeal is two hundred dollars ($200). The fee for filing a petition for a writ within the original civil jurisdiction of the Supreme Court or of a court of appeal is two hundred dollars ($200). These fees are in full, for all services, through the rendering of the judgment or the issuing of the remittitur or peremptory writ, except the fee imposed by Section 68927. The Judicial Council may make rules governing the time and method of payment of these fees, and providing for excuse therefrom in appropriate cases. No fee shall be charged in appeals from, nor petitions for writs involving, juvenile cases or proceedings to declare a minor free from parental custody or control.

SEC. 2. Section 69952 of the Government Code is amended to read:

69952. (a) The court may specifically direct the making of a verbatim record and payment therefor shall be from the county treasury on order of the court in the following cases:

(1) Criminal matters.

(2) Juvenile proceedings.

(3) Proceedings to declare a minor free from custody.

(4) Proceedings under the Lanterman-Petris-Short Act, (Part 1

(commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

(5) As otherwise provided by law.

(b) Except as otherwise authorized by law, the court shall not order to be transcribed and paid for out of the county treasury any matter or material except that reported by the reporter pursuant to Section 269 of the Code of Civil Procedure. When there is no official reporter in attendance and a reporter pro tempore is appointed, his or her reasonable expenses for traveling and detention shall be fixed and allowed by the court and paid in like manner. When the court orders a daily transcript, necessitating the services of two phonographic reporters, the reporting fee for each of the reporters and the transcript fee shall be proper charges against the county treasury, and the daily transcript shall be pursuant to Section 269 of the Code of Civil Procedure. When the daily transcript is prepared by a single reporter, an additional fee for technological services, as set by the court with the agreement of the reporter, may be imposed. However, the total of the fee for a single reporter and the fee for technological services shall be less than the total fee for two reporters.

SEC. 3. Section 69953 of the Government Code is amended to read:

69953. In any case where a verbatim record is not made at public expense pursuant to Section 69952 or other provisions of law, the cost of making any verbatim record shall be paid by the parties in equal proportion; and either party at his option may pay the whole. In either case, all amounts so paid by the party to whom costs are awarded shall be taxed as costs in the case. The fees for transcripts and copies ordered by the parties shall be paid by the party ordering them. Except as provided in Section 69952, no reporter shall perform any service in a civil action other than transcriptions until his fee for it has been deposited with the clerk of the court or with the reporter.

SEC. 4. Section 395 of the Welfare and Institutions Code is amended to read:

395. A judgment in a proceeding under Section 300 may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by the appeal, unless, pending the appeal, suitable provision is made for the maintenance, care, and custody of the person alleged or found to come within the provisions of Section 300, and unless the provision is approved by an order of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

An appellant unable to afford counsel, shall be provided a free copy of the transcript in any appeal.

The record shall be prepared and transmitted immediately after filing of the notice of appeal, without advance payment of fees. If the appellant is able to afford counsel, the county may seek reimbursement for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

SEC. 5. Section 800 of the Welfare and Institutions Code is amended to read:

800. A judgment in a proceeding under Section 601 or 602, or the denial of a motion made pursuant to Section 262, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment. Pending appeal of the order or judgment, the granting or refusal to order release shall rest in the discretion of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A ruling on a motion to suppress pursuant to Section 700.1 shall be reviewed on appeal even if the judgment is predicated upon an admission of the allegations of the petition or even if the judgment is a dismissal of the petition or any count or counts thereof; however, no appeal by the people shall lie as to any count which, if the people are successful, will be the basis for further proceedings subjecting any person to double jeopardy in violation of the State or Federal Constitution.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

An appellant unable to afford counsel, shall be provided a free copy of the transcript in any appeal.

The record shall be prepared and transmitted immediately after filing of the notice of appeal, without advance payment of fees. If the appellant is able to afford counsel, the county may seek reimbursement for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

All appeals shall be initiated by the filing of notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code.

SEC. 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.

CHAPTER 824

An act to amend Sections 12983, 12984, 12989, and 50731.5 of, and to add Section 50731 to, the Water Code, relating to reclamation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986]

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

SECTION 1. Section 12983 of the Water Code is amended to read:

12983. The Legislature further finds and declares that there is an urgent need for a higher degree of levee maintenance and rehabilitation generally throughout the delta and that the state has an interest in providing technical and financial assistance for delta levee maintenance and rehabilitation.

The Legislature also finds and declares that, because of the instability of delta soils, the effect of winds, tides, and floodflows, and the unique problems of erosion, seepage, and subsidence, the same security against levee failure and flooding cannot be achieved by protective works in the delta as in areas less vulnerable to these problems. Although the rehabilitation and maintenance of delta levees is an important undertaking, a significant risk of levee failure will still persist.

The purpose of the state's approval of plans and inspection of works, which duties are set forth in this part, is to ensure that subvention funds are properly expended and that delta levees are effectively rehabilitated and maintained, and the state does not thereby assume any responsibility for the safety of any delta levee against failure.

SEC. 2. Section 12984 of the Water Code is amended to read:

12984. The department shall develop and submit to the board, for adoption by the board, criteria for the maintenance and improvement of nonproject levees. The criteria shall vary as required to meet specific conditions and shall be multipurpose in nature, and include environmental considerations, when feasible. The criteria shall embody and implement the short-term mitigation plan set forth in the "Flood Hazard Mitigation Plan for the Sacramento-San Joaquin Delta," prepared by the department for the Office of Emergency Services, dated September 15, 1983, and as it may be subsequently amended.

SEC. 3. Section 12989 of the Water Code is amended to read:

12989. The department shall conduct at least one annual inspection of every levee for which maintenance or improvement costs have been reimbursed pursuant to this part. In addition, the department shall inspect nonproject levees of local agencies for the purpose of monitoring and ascertaining the degree of compliance

with, or progress toward meeting, the standards in the Flood Hazard Mitigation Plan, as set forth in Section 12984.

The local agency shall cooperate with the department in the conduct of these inspections, including the provision of reasonable access over local agency lands and easements.

SEC. 4. Section 50731 is added to the Water Code, to read:

50731. In addition to the regular election under Section 50730, upon receipt of a recommendation of the board of trustees or upon receipt of a verified petition of 20 percent of the landowners who, together, own at least 20 percent in value of the lands in the district, as determined from the last tax roll of the county, the board of supervisors shall appoint a time, not less than 75 days or more than 90 days after receipt of the petition, and place for holding a general district election for the unexpired term of the trustees then serving.

SEC. 5. Section 50731.5 of the Water Code is amended to read:

50731.5. (a) Nominations for the office of trustee shall be made by petition filed with the secretary not earlier than 75 days or later than 5 p.m. on the 54th day before the election.

(b) The petition shall be signed as follows:

(1) If there are 15 or more qualified voters in the district, by five or more qualified voters.

(2) If there are less than 15 qualified voters in the district, by one or more qualified voters.

(c) Notice that the petitions may be received shall be published once by the secretary at least seven days prior to the final date for receiving petitions. The notice shall be published in a newspaper in each county in which any of the district lands are situated, if any newspaper is published therein, and if not, in a newspaper having general circulation therein.

SEC. 6. 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. 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 federal emergency relief funds are made available to repair damage caused by the 1986 floods in the Sacramento-San Joaquin Delta, and, in order to expedite the return to productivity of agricultural lands destroyed by those floods, it is necessary that this act take effect immediately.

CHAPTER 825

An act to amend Section 6006.3 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 6006.3 of the Revenue and Taxation Code is amended to read:

6006.3. "Lease" includes rental, hire and license. "Lease" does not include a use of tangible personal property for a period of less than one day for a charge of less than twenty dollars ($20) when the privilege to use the property is restricted to use thereof on the premises or at a business location of the grantor of the privilege. Where a contract designated as a lease binds the lessee for a fixed term and the lessee is to obtain title at the end of the term upon the completion of the required payment or has the option at that time to purchase the property for a nominal amount, the contract shall be regarded as a sale under a security agreement from its inception and not as a lease. In the case of a contract designated as a lease with any state or local governmental body, or any agency or instrumentality thereof, the lessee shall be treated as bound for a fixed term notwithstanding any right of the lessee to terminate the contract in the event that sufficient funds are not appropriated to pay amounts due under the contract.

SEC. 1.5. If a transaction entered into prior to the effective date of this act has been treated by the lessor as a lease, the full term of which has not expired or has been earlier terminated, then that transaction shall be classified as a sale under a security agreement occurring in the first calendar quarter commencing more than 90 days after the effective date of this act, and shall be classified as a lease for all earlier periods. Any use tax previously paid on a transaction described in the preceding sentence shall be credited against any sales or use tax due.

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 because this act is intended as a clarification of existing law, rather than as a change in the 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 ensure that transactions entered into by governmental entities proceed without any uncertainty regarding the classification

of those transactions for purposes of the California sales and use tax, it is necessary that this act take effect immediately.

CHAPTER 826

An act to amend Sections 21628, 21637, 21638, 21642, 21645, and 21647 of the Business and Professions Code, to amend Section 21209 of the Financial Code, and to amend Section 1411 of the Penal Code, relating to secondhand property.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 21628 of the Business and Professions Code is amended to read:

21628. Every secondhand dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of such property, on forms either approved or provided at actual cost by the Department of Justice, all tangible personal property which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633. The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

(a) The name and current address of the intended seller or pledgor of the property.

(b) The identification of the intended seller or pledgor. The identification of the seller or pledgor of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, is signed by the person, and bears a serial or other identifying number:

(1) A passport of the United States.

(2) A driver's license issued by any state.

(3) An identification card issued by any state.

(4) An identification card issued by any branch or the armed forces of the United States.

(c) A complete and reasonably accurate description of serialized property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number.

(d) A complete and reasonably accurate description of nonserialized property, including, but not limited to, the following:

size, color, material, manufacturer's pattern name (when known), owner-applied numbers and personalized inscriptions and other identifying marks or symbols.

(e) A certification by the intended seller or pledgor that he or she is the owner of the property or has the authority of the owner to sell or pledge the property.

(f) A certification by the intended seller or pledgor that to his or her knowledge and belief the information is true and complete.

(g) A legible fingerprint taken from the intended seller or pledgor, as prescribed by the Department of Justice.

SEC. 2. Section 21637 of the Business and Professions Code is amended to read:

21637. Nothing herein contained shall be deemed to excuse compliance with the provisions of any city, county, or city and county ordinance or any other state law pertaining to or covering the reporting, holding, or releasing of tangible personal property, not inconsistent with the provisions of this article, except that no city, county, or city and county or any other state agency shall adopt the following:

(a) Holding, reporting, or identification requirements for transactions involving coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals.

(b) Identification or reporting requirements for the acquisition of tangible personal property, in the ordinary course of business, by pawnbrokers and secondhand dealers, other than as set forth in Sections 21628, 21630, and 21633 of this code, and Section 21208 of the Financial Code.

SEC. 3. Section 21638 of the Business and Professions Code is amended to read:

21638. The provisions of this article shall not prohibit enactment, amendment, or enforcement by any city, county, or city and county of any local ordinance relating to a secondhand dealer which is not inconsistent with the provisions of this article, except that no city, county, or city and county, or any other state agency shall adopt the following:

(a) Holding, reporting, or identification requirements for transactions involving coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals.

(b) Identification or reporting requirements for the acquisition of tangible personal property, in the ordinary course of business, by pawnbrokers and secondhand dealers, other than as set forth in Sections 21628, 21630, and 21633 of this code, and Section 21208 of the Financial Code.

SEC. 4. Section 21642 of the Business and Professions Code is amended to read:

21642. (a) A license granted pursuant to Section 21641 shall be renewable one year from the date of issue, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee specified by the licensing authority.

(b) The license shall be subject to forfeiture by the licensing authority and the licensee's activities as a secondhand dealer shall be subject to being enjoined pursuant to Section 21646 for breach, and the authority may impose any of the following conditions:

(1) The business shall be carried on only in the building or buildings designated on the license.

(2) The license or a copy thereof, certified by the licensing authority, shall be displayed on the premises where it easily can be seen.

(3) The licensee shall not engage in the business of secondhand dealer, as defined in Section 21626, with any minor.

(4) The licensee shall not engage in any act which the licensee knows to be in violation of this article.

(5) The licensee shall not be convicted of an attempt to receive stolen property or any other offense involving stolen property. For the purposes of this paragraph, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the chief of police, the sheriff or, where appropriate, the police commission, is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

SEC. 5. Section 21645 of the Business and Professions Code is amended to read:

21645. A violation of any provision of this article under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor punishable as follows:

(a) For the first offense, a fine of up to one thousand five hundred dollars ($1,500) or imprisonment in the county jail up to two months, or both.

(b) For the second offense, a fine of up to five thousand dollars ($5,000) or imprisonment in the county jail up to four months, or both.

(c) For the third, and any subsequent offense, a fine of up to twenty-five thousand dollars ($25,000) or imprisonment in the county jail up to six months, or both.

SEC. 6. Section 21647 of the Business and Professions Code is amended to read:

21647. (a) Whenever any peace officer has probable cause to believe that property in the possession of a pawnbroker or secondhand dealer is stolen, the peace officer may place a hold on the property for a period not to exceed 90 days. The peace officer shall give the pawnbroker or secondhand dealer a written notice at the time the hold is placed, describing the item or items to be held. During that period the pawnbroker or secondhand dealer shall not release or dispose of the property, except pursuant to a court order

or upon receipt of a written authorization signed by any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. Except as specifically set forth in this section, a pawnbroker or secondhand property dealer shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a pawnbroker or secondhand dealer is subject to a hold and the property is required by a peace officer in a criminal investigation, the pawnbroker or secondhand dealer, upon reasonable notice, shall produce the property at reasonable times and places upon the request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a pawnbroker or secondhand dealer is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) With respect to the property being held, if the law enforcement agency has no knowledge of the property on hold being reported as stolen, the property shall be released.

(2) If the law enforcement agency has knowledge that the property has been reported stolen, the law enforcement agency shall notify the person who reported the stolen property of the name and address of the pawnbroker or secondhand dealer holding the property, authorize the release of the property to that person, and advise the person that the law neither requires nor prohibits payment of a fee or any other condition in return for the surrender of the property.

The law enforcement agency that placed the property on hold shall release the hold after 30 days has elapsed following the delivery of the notice to the person who reported the property stolen.

(3) If a pledgor seeks to redeem property that is subject to a hold, the pawnbroker or secondhand dealer shall advise the pledgor of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution the hold shall be released.

SEC. 7. Section 21209 of the Financial Code is amended to read:

21209. The violation of any provision of this chapter under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor.

SEC. 8. Section 1411 of the Penal Code is amended to read:

1411. If the ownership of the property stolen or embezzled and the address of the owner, and the address of the owner of a security interest therein, can be reasonably ascertained, the peace officer who took custody of the property shall notify the owner, and a person having a security interest therein, by letter of the location of the

property and the method by which the owner may obtain it. This notice shall be given upon the conviction of a person for an offense involving the theft, embezzlement, or possession of the property, or if a conviction was not obtained, upon the making of a decision by the district attorney not to file the case or upon the termination of the proceedings in the case. Except as provided in Section 516 of the Welfare and Institutions Code, if the property stolen or embezzled is not claimed by the owner before the expiration of three months after the giving of this notice, or, in any case in which such a notice is not given, before the expiration of six months from the conviction of a person for an offense involving the theft, embezzlement, or possession of the property, or if a conviction was not obtained, then from the time the property came into the possession of the peace officer or the case involving the person from whom it was obtained is disposed of, whichever is later, the magistrate or other officer having it in custody may, on the payment of the necessary expenses incurred in its preservation, deliver it to the county treasurer or other proper county officer, by whom it shall be sold and the proceeds paid into the county treasury. However, notwithstanding any other provision of law, if the person from whom custody of the property was taken is a secondhand dealer or licensed pawnbroker and reasonable but unsuccessful efforts have been made to notify the owner of the property and the property is no longer needed for the criminal proceeding, the property shall be returned to the secondhand dealer or pawnbroker who had custody of the property and be treated as regularly acquired property. If the property is transferred to the county purchasing agent it may be sold in the 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 officer determines that any the property transferred to him for sale is needed for a public use, the property may be retained by the county and need not be sold. The magistrate or other officer having the property in custody may, however, provide for the sale of the property in the manner provided for the sale of unclaimed property which has been held for at least three months pursuant to Section 2080.4 of the Civil Code.

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 827

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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, 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, 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) Hospice service which is Medicare-certified hospice service is covered, subject to utilization controls. Coverage shall be available only to the extent that no additional net program costs are incurred.

(y) 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.

CHAPTER 828

An act to amend Sections 20010, 22001, 22005, 22007, 22031, and 22048 of, to add Sections 20030 and 22001.5 to, and to repeal Sections 22032, 22033, 22034, 22035, 22036, 22037, 22038, 22039, 22040, 22041, 22042, 22043, 22050, 22051, and 22052 of, the Food and Agricultural Code, relating to cattle.

[Approved by Governor September 14, 1986. Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 20010 of the Food and Agricultural Code is amended to read:

20010. "Inspector" means a hide and brand inspector. It includes the chief, regional brand supervisors, senior brand inspectors, investigators, and persons employed on a collaborative basis pursuant to Section 483 to carry out this division.

SEC. 2. Section 20030 is added to the Food and Agricultural Code, to read:

20030. "Licensed slaughterer" means any person who is in the business of slaughtering bovine animals and who has applied to and

been issued a grant of inspection by the United States Department of Agriculture Food Safety and Inspection Service.

SEC. 3. Section 22001 of the Food and Agricultural Code is amended to read:

22001. Except as otherwise provided in this chapter, a person shall not slaughter, or request or hire any person that is not a licensed slaughterer to slaughter, any bovine animal.

SEC. 4. Section 22001.5 is added to the Food and Agricultural Code, to read:

22001.5. Mobile slaughter operators who perform the service of slaughtering cattle for the owner of the cattle on the owner's premises are not licensed slaughterers pursuant to this chapter. However, these persons are subject to Section 22008.

SEC. 5. Section 22005 of the Food and Agricultural Code is amended to read:

22005. The skinning, splitting, and quartering of the cattle slaughtered pursuant to Section 22002 at a licensed frozen food locker plant are not required to be performed by a licensed slaughterer.

SEC. 6. Section 22007 of the Food and Agricultural Code is amended to read:

22007. Any owner or producer of livestock may have them inspected and slaughtered by a licensed slaughterer. The owner or producer may, thereafter, sell the meat from those livestock.

SEC. 7. Section 22031 of the Food and Agricultural Code is amended to read:

22031. A person shall not engage in the business of slaughtering cattle unless the person has been issued a grant of inspection by the United States Department of Agriculture Food Safety and Inspection Service, except that this requirement does not apply to rendering plants.

SEC. 8. Section 22032 of the Food and Agricultural Code is repealed.

SEC. 9. Section 22033 of the Food and Agricultural Code is repealed.

SEC. 10. Section 22034 of the Food and Agricultural Code is repealed.

SEC. 11. Section 22035 of the Food and Agricultural Code is repealed.

SEC. 12. Section 22036 of the Food and Agricultural Code is repealed.

SEC. 13. Section 22037 of the Food and Agricultural Code is repealed.

SEC. 14. Section 22038 of the Food and Agricultural Code is repealed.

SEC. 15. Section 22039 of the Food and Agricultural Code is repealed.

SEC. 16. Section 22040 of the Food and Agricultural Code is repealed.

SEC. 17. Section 22041 of the Food and Agricultural Code is repealed.

SEC. 18. Section 22042 of the Food and Agricultural Code is repealed.

SEC. 19. Section 22043 of the Food and Agricultural Code is repealed.

SEC. 20. Section 22048 of the Food and Agricultural Code is amended to read:

22048. If a licensed slaughterer desires to change to another location, the person shall notify the bureau of the relocation.

SEC. 21. Section 22050 of the Food and Agricultural Code is repealed.

SEC. 22. Section 22051 of the Food and Agricultural Code is repealed.

SEC. 23. Section 22052 of the Food and Agricultural Code is repealed.

SEC. 24. 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 829

An act to amend Sections 17873, 17880, 17883, 17885, 17892, 17893, 17899.1, 17899.2, 17899.3, 94153, and 94212 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1986 Filed with Secretary of State September 15, 1986.]

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

SECTION 1. Section 17873 of the Education Code is amended to read:

17873. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(c) "Bonds" means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(d) "Cost," as applied to all or part of a project financed pursuant

to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing charges.

(6) Interest prior to, during, and for a period following, the completion of such construction or improvement as determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing under this chapter.

(e) "Educational facility" means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools, including, but not limited to, all of the following:

(1) Classrooms.

(2) Auditoriums.

(3) Student centers.

(4) Administrative offices.

(5) Sports facilities.

(6) Maintenance, storage, or utility facilities.

(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(f) "Participating school district" means a school district which undertakes the financing or refinancing of a project or of working capital pursuant to this chapter.

(g) "Project" means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. "Project" may include any combination of the foregoing undertaken jointly by any participating school district with one or more other participating school districts.

(h) "Working capital" means funds to be used by, or on behalf of, a participating school district to pay maintenance or operating expenses, or any other costs which would be treated as an expense

item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

(1) Reserves for maintenance or operating expenses.

(2) Interest for a period not to exceed one year on any loan for working capital made pursuant to this chapter.

(3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.

SEC. 1.5. Section 17873 of the Education Code, as amended by Section 2 of Assembly Bill 3908, is amended to read:

17873. As used in this chapter, the following words and terms have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(c) "Bonds" means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(d) "Cost," as applied to all or part of a project financed pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing charges.

(6) Interest prior to, during, and for a period following, the completion of such construction or improvement as determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing under this chapter.

(e) "Educational facility" means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools or community colleges, including, but not limited to, all of the following:

(1) Classrooms.

(2) Auditoriums.
(3) Student centers.
(4) Administrative offices.
(5) Sports facilities.
(6) Maintenance, storage, or utility facilities.
(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(f) "Participating district" means a school district or community college district that undertakes the financing or refinancing of a project or of working capital pursuant to this chapter.

(g) "Project" means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. "Project" may include any combination of the foregoing undertaken jointly by any participating district with one or more other participating districts.

(h) "Working capital" means funds to be used by, or on behalf of, a participating district to pay maintenance or operating expenses, or any other costs that would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

(1) Reserves for maintenance or operating expenses.
(2) Interest for a period not to exceed one year on any loan for working capital made pursuant to this chapter.
(3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.

SEC. 2. Section 17880 of the Education Code is amended to read:

17880. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.
(2) A state agency.
(3) A municipality, county, or other political subdivision of the state.
(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain,

manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating school district as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating school district as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state which the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating school district as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating school district, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, a participating school district for any of the following purposes:

(1) To finance a project or provide working capital. No loan to finance a project shall exceed the total cost of the project, as determined by the participating school district and approved by the authority.

(2) To refinance indebtedness incurred by the participating school district in connection with projects undertaken, educational facilities acquired, or working capital financed.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed pursuant to this chapter to a participating school district, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating school district of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the district's outstanding

indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating school districts its administrative costs and expenses incurred pursuant to this chapter.

(*l*) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating school district.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

SEC. 2.5. Section 17880 of the Education Code, as amended by Section 4 of Assembly Bill 3908, is amended to read:

17880. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating district as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating district as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state which the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating district as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating district, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, a participating district for any of the following purposes:

(1) To finance a project or provide working capital. No loan to finance a project shall exceed the total cost of the project, as determined by the participating district and approved by the authority.

(2) To refinance indebtedness incurred by the participating district in connection with projects undertaken, educational facilities acquired, or working capital financed.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed pursuant to this chapter to a participating district, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating district of all of the

indebtedness incurred by the authority for the financing of the project or for the refinancing of the district's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating districts its administrative costs and expenses incurred pursuant to this chapter.

(*l*) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating district.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds. or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

SEC. 3. Section 17883 of the Education Code is amended to read:

17883. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating school district.

(2) A series of projects or financings of working capital for a single participating school district.

(3) A single project or financing of working capital for several participating school districts.

(4) Several projects or financing of working capital for several participating school districts.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any

agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

(1) The date or dates of the bonds.

(2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.

(3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.

(4) When the bonds are payable.

(5) The denominations of the bonds.

(6) The form of the bonds, which shall be either bearer or registered.

(7) The registration privileges of the bonds.

(8) The manner in which the bonds are to be executed.

(9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating school district or districts, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon

which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing such a statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

SEC. 3.5. Section 17883 of the Education Code, as amended by Section 5 of Assembly Bill 3908, is amended to read:

17883. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating district.

(2) A series of projects or financings of working capital for a single participating district.

(3) A single project or financing of working capital for several participating districts.

(4) Several projects or financing of working capital for several participating districts.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any

agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

(1) The date or dates of the bonds.

(2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.

(3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.

(4) When the bonds are payable.

(5) The denominations of the bonds.

(6) The form of the bonds, which shall be either bearer or registered.

(7) The registration privileges of the bonds.

(8) The manner in which the bonds are to be executed.

(9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating district or districts, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds that shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon

which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing such a statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

SEC. 4. Section 17885 of the Education Code is amended to read:

17885. (a) Revenue bonds issued under this chapter are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under this chapter.

(b) Each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, or any political subdivision, is pledged to the payment of the principal or interest of the bonds.

(c) The issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political

subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.

SEC. 5. Section 17892 of the Education Code is amended to read:

17892. (a) Pledges by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights, or other rights to payment of any other kind made by or to the authority pursuant to this chapter shall be valid and binding from the time the pledge is made for the benefit of the pledges, and the successors thereto.

(b) The revenues, moneys, accounts, accounts receivable, and other rights to payment of any other kind pledged by or to the authority or its assignees, shall immediately be subject to the lien of the pledge without physical delivery, or any further act. The lien of any pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The trust agreement, indenture, resolution, or other instrument by which any pledge is created need not be recorded.

SEC. 6. Section 17893 of the Education Code is amended to read:

17893. (a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating school district, and each agreement, note, or other instrument evidencing the obligations of a participating school district to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating school district shall be sufficient to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves which may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating school district for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds which may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating school district may include in any lease or agreement between them or with a credit provider any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

SEC. 6.5. Section 17893 of the Education Code, as amended by

Section 9 of Assembly Bill 3908, is amended to read:

17893. (a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating district, and each agreement, note, or other instrument evidencing the obligations of a participating district to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating district shall be sufficient to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves which may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating district for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds which may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating district may include in any lease or agreement between them or with a credit provider any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

SEC. 7. Section 17899.1 of the Education Code is amended to read:

17899.1. (a) Any participating school district, exclusively for the purpose of securing financing of projects or working capital through the issuance of revenue bonds by the authority, and notwithstanding any other provision of law, may borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other payment, security, default, remedy, and other terms or provisions as may be specified in a loan, loan purchase, installment sale, lease, or other agreement between the authority and the participating school district, subject to the following conditions:

(1) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other district

funds which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, "revenue" includes, but is not limited to, federal and state funds received by the district.

(2) In computing the maximum amount which may be borrowed in any fiscal year pursuant to paragraph (1), the district may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the district which has a term scheduled to terminate during that fiscal year.

(3) A participating school district that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan within 15 months of the loan date.

(4) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cash-flow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating school district must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating school district will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating school district may take into account all district funds and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Any participating school district may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or appropriate in connection with the borrowing of money or the lease of educational facilities, whichever is applicable.

(c) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district.

SEC. 7.5. Section 17899.1 of the Education Code, as amended by Section 12 of Assembly Bill 3908, is amended to read:

17899.1. (a) Any participating district, exclusively for the purpose of securing financing of projects or working capital through the issuance of revenue bonds by the authority, and notwithstanding any other provision of law, may borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, at any interest rate

or rates, rental provisions, with any maturity date or dates or term, and with any other payment, security, default, remedy, and other terms or provisions as may be specified in a loan, loan purchase, installment sale, lease, or other agreement between the authority and the participating district, subject to the following conditions:

(1) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other district funds that will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, "revenue" includes, but is not limited to, federal and state funds received by the district.

(2) In computing the maximum amount that may be borrowed in any fiscal year pursuant to paragraph (1), the district may exclude the amount of any principal or interest that is secured by a pledge of the amount in any inactive or term deposit of the district which has a term scheduled to terminate during that fiscal year.

(3) A participating district that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan within 15 months of the loan date.

(4) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cash-flow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating district must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating district will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating district may take into account all district funds and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Any participating district may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or appropriate in connection with the borrowing of money or the lease of educational facilities, whichever is applicable.

(c) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a district.

SEC. 8. Section 17899.2 of the Education Code is amended to

read:

17899.2. An action may be commenced under 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 revenue bonds, the loan of the proceeds thereof, the sale, purchase, or lease of facilities under this chapter, or the legality and validity of any proceedings previously taken or proposed in a resolution of the authority to be taken for the authorization, issuance, sale, and delivery of the bonds, for the use of the proceeds thereof, or for the payment of the principal and interest thereon.

SEC. 9. Section 17899.3 of the Education Code is amended to read:

17899.3. (a) The total amount of revenue bonds which may be issued and outstanding at any time under this chapter shall not exceed two hundred fifty million dollars ($250,000,000).

(b) For purposes of subdivision (a), bonds which meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds which have been refunded pursuant to Section 17888.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

(3) Bonds which have been issued to provide working capital.

SEC. 9.5. Section 17899.3 of the Education Code, as amended by Section 13 of Assembly Bill 3908, is amended to read:

17899.3. (a) The total amount of revenue bonds that may be issued and outstanding at any time under this chapter shall not exceed three hundred fifty million dollars ($350,000,000).

(b) For purposes of subdivision (a), bonds that meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds that have been refunded pursuant to Section 17888.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

(3) Bonds which have been issued to provide working capital.

SEC. 10. 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 one billion two hundred fifty million dollars ($1,250,000,000). 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. 11. Section 94212 of the Education Code is amended to read:

94212. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized, and shall be regarded as supplemental and additional to powers conferred by other laws; provided, however, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the

issuance of bonds including the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as otherwise provided in subdivision (a), a project that is financed in accordance with this chapter shall not be exempt from any provision of law that is otherwise applicable to the project.

SEC. 12. Section 94212 of the Education Code as amended by Section 11 of this act shall apply to bonds issued on or after December 1, 1985.

SEC. 13. Section 1.5 of this bill incorporates amendments to Section 17873 of the Education Code proposed by both this bill and AB 3908. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 17873 of the Education Code, and (3) this bill is enacted after AB 3908, in which case Section 17873 of the Education Code, as amended by AB 3908, 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.

SEC. 14. Section 2.5 of this bill incorporates amendments to Section 17880 of the Education Code proposed by both this bill and AB 3908. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 17880 of the Education Code, and (3) this bill is enacted after AB 3908, in which case Section 17880 of the Education Code, as amended by AB 3908, 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 this bill shall not become operative.

SEC. 15. Section 3.5 of this bill incorporates amendments to Section 17883 of the Education Code proposed by both this bill and AB 3908. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 17883 of the Education Code, and (3) this bill is enacted after AB 3908, in which case Section 17883 of the Education Code, as amended by AB 3908, 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. 16. Section 6.5 of this bill incorporates amendments to Section 17893 of the Education Code proposed by both this bill and AB 3908. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 17893 of the Education Code, and (3) this bill is enacted after AB 3908, in which case Section 17893 of the Education Code, as amended by AB 3908, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

SEC. 17. Section 7.5 of this bill incorporates amendments to

Section 17899.1 of the Education Code proposed by both this bill and AB 3908. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 17899.1 of the Education Code, and (3) this bill is enacted after AB 3908, in which case Section 17899.1 of the Education Code, as amended by AB 3908, shall remain operative only until the operative date of this bill, at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative.

SEC. 18. Section 9.5 of this bill incorporates amendments to Section 17899.3 of the Education Code proposed by both this bill and AB 3908. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 17899.3 of the Education Code, and (3) this bill is enacted after AB 3908, in which case Section 17899.3 of the Education Code, as amended by AB 3908, shall remain operative only until the operative date of this bill, at which time Section 9.5 of this bill shall become operative, and Section 9 of this bill shall not become operative.

SEC. 19. Section 8 of this act shall not become operative if AB 3908 is enacted and becomes effective before the effective date of this act and AB 3908 amends Section 17892 of the Education Code.

SEC. 20. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Without immediate implementation of this act, the educational facilities covered by the so-called California Educational Facilities Authority Act will run out of funds and the viability of California School Finance Authority Finance Fund will be in jeopardy. To avoid these problems, it is necessary that this act take effect immediately.

CHAPTER 830

An act to add Article 2.5 (commencing with Section 1527) to Chapter 3 of Division 2 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Article 2.5 (commencing with Section 1527) is added to Chapter 3 of Division 2 of the Health and Safety Code, to read:

Article 2.5. Foster Care for Children

1527. The State Department of Social Services shall establish a task force consisting of representatives from the Department of Health Services, (Licensing and Certification Division, Medi-Cal Policy Division and California Children's Services Program), the Department of Developmental Services, the County Welfare Director's Association, the State Foster Parent's Association, and the California Continuity of Care Association to conduct a study of the problems of medically fragile children who are dependents or potential dependents of the court in care outside of an acute care hospital. The findings and recommendations of the task force shall be submitted to the Legislature by January 1, 1988. The report shall include, but not be limited to, the following:

(a) Identification of a "medically fragile child" shall include, but not be limited to, children with the following conditions or care needs:

(1) Children with enteral feeding tubes.

(2) Children with tracheostomies.

(3) Children who are oxygen dependent.

(4) Children on cardiorespiratory monitors.

(5) Children who have had a colostomy or ileostomy.

(6) Children who are on intravenous therapy.

(7) Children who are on total parenteral nutrition.

(8) Children with urinary catheterization.

(9) Children who are in need of special medication regimes including, but not limited to, injections, aerosol treatment, intravenous, or oral medications.

(b) Recommendations regarding the need for a new licensing category to provide services to the medically fragile child and the roles the State Department of Social Services and the State Department of Health Services will assume in terms of facility licensure and program standards for caring for these childrens.

(c) Development of a process for ensuring the individual facility's ability to serve the medically fragile child.

(d) Recommendations for qualifications or training of care providers.

(e) Recommendations for appropriations in the 1988–89 Budget to implement this level of care.

CHAPTER 831

An act to add Section 30757 to the Streets and Highways Code, relating to the Benicia-Martinez Bridge, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 30757 is added to the Streets and Highways Code, to read:

30757. (a) Upon inclusion of the project in the state transportation improvement program by the commission, the department may design and construct traffic capacity improvements to the Benicia-Martinez Bridge.

(b) At the earliest practicable time, the department may proceed with all preliminary work on an additional toll bridge across the Carquinez Straits parallel to the Benicia-Martinez Bridge, including, but not limited to, environmental studies, layouts, traffic studies, and all other work found to be necessary for construction.

(c) The preliminary work shall be funded from that portion of the bridge revenues which exceeds the amount necessary to pay for the cost of operation and maintenance of the bridge, and to meet all obligations under the bond resolution applicable to the bridge.

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

In order that the Department of Transportation can undertake the design and environmental studies for the Benicia-Martinez Bridge as early as possible in order to save toll revenues, it is necessary that this act take effect immediately.

CHAPTER 832

An act to add Sections 4.8, 5.1, 5.2, 5.3, 5.4, 15.1, 15.2, 24.1, 26.1, 29.1, 29.2, 29.3, 29.4, 29.5, and 29.6 to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), relating to the Castaic Lake Water Agency.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 4.8 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 4.8. As used in this act, "purveyor" means a retail water distributor which has facilities connected to the agency's water transmission system on April 15, 1986, or is under contract with the agency for water on that date.

SEC. 2. Section 5.1 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 5.1. Notwithstanding any other provision of this act, the number of directors on the board shall, effective January 1, 1987, be increased to 11 by the addition of four appointed directors. One nominee for the office of appointed director shall be nominated by each purveyor and submitted in writing to the board of directors. The board of directors shall appoint each nominee within 30 days after the nomination is submitted, or may within the same time period by resolution reject any nominee for cause which is documented in the resolution by a detailed statement of reasons. If the board of directors rejects a nominee of any purveyor, the affected purveyor shall promptly submit a second and different nominee to the board of directors. The board of directors shall appoint the second nominee within 30 days after the second nomination is submitted, or may within the same time period likewise by resolution reject that second nominee for cause which is documented in the resolution by a detailed statement of reasons. If the board of directors rejects any second nominee of any purveyor, the affected purveyor shall select a third and still different nominee, which nominee shall be entitled without further board action to take an oath of office as required by law and to thereafter serve as an appointed director of the agency. A nominee of a purveyor may be a shareholder, director, officer, agent, or employee of the nominating purveyor, and shall be a registered voter within Los Angeles County or Ventura County. Any nominee of a purveyor who is the chief executive officer, chief operating officer, or the general manager of the purveyor shall be rejected for appointment only on the ground that the nominee is legally disqualified from holding the office of director by reason of a provision of law applicable to appointed directors of the agency. The initial terms of two of the appointed directors shall expire on the first Monday of January 1989, and the initial terms of the other two appointed directors shall expire on the first Monday of January 1991. After the expiration of the initial term of office of an appointed director, the term of that office shall be four years. The initial term of each appointed director shall be determined by lot, provided that a director nominated either by the Los Angeles County Board of Supervisors on behalf of Los Angeles County Waterworks District No. 36 or by Newhall County Water District and a director

nominated by Santa Clarita Water Company or by Valencia Water Company shall be appointed to an office the initial term of which will expire on the first Monday of January 1991. Upon expiration of an initial term of office of an appointed director, the office of that appointed director shall be filled pursuant to Section 5.2. If a vacancy occurs in the office of an appointed director, it shall be filled in the same manner as is provided in subdivisions (a) and (b) of Section 5.2 for the appointment of a successor appointed director, except that the purveyor or its successor in interest to which the vacancy relates shall within not more than 60 days of the occurrence of the vacancy nominate a person for appointment to the vacant office, and the vacant office shall be filled by the board of directors not later than 30 days after that nomination. An incumbent in the office of appointed director shall be subject to recall by the voters of the entire agency in accordance with the recall provisions of Division 16 (commencing with Section 27000) of the Elections Code applicable to local officers, except that any vacancy created by a successful recall shall be filled in accordance with the procedure provided by this section for a vacancy created other than by a recall election.

SEC. 3. Section 5.2 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 5.2. (a) Not more than 90 or less than 30 days before the expiration of the terms of office of the directors appointed pursuant to Section 5.1, each purveyor, whose appointed director's term expires, shall submit a nominee for a successor appointed director to the board of directors. The nominee shall have the same qualifications as prescribed in Section 5.1. Any appointed director whose term is expiring may be nominated by the purveyor for appointment by the board of directors as the successor appointed director. The term "purveyor," for purposes of this section, includes all successors in interest to any purveyor.

(b) The board of directors shall appoint each nominee within 30 days after the nomination is submitted, or may within the same time period by resolution reject any such nominee for cause which is documented in the resolution by a detailed statement of reasons. If the board of directors rejects a nominee of any purveyor, the affected purveyor shall promptly submit a second and different nominee to the board of directors. The board of directors shall appoint the second nominee within 30 days after the second nomination is submitted, or may within the same time period by resolution likewise reject that second nominee for cause which is documented in the resolution by a detailed statement of reasons. If the board of directors rejects the nominee of any purveyor, the affected purveyor shall select a third and still different nominee, which nominee shall be entitled without further board action to take an oath of office as required by law and to thereafter serve as an appointed director of the agency. A successor appointed director shall take office on the first Monday in odd-numbered years, or as soon thereafter as

qualifying by taking the required oath of office. A successor appointed director appointed to or otherwise entitled to fill a vacancy shall take office immediately upon taking the required oath of office. A nominee of a purveyor who is the chief executive office, chief operating officer, or the general manager of the purveyor shall be rejected for appointment only on the ground that the nominee is legally disqualified from holding the office of director by reason of a provision of law applicable to appointed directors of the agency.

(c) At any time after January 1, 1991, the board of directors may abolish the offices of appointed director by a resolution passed by at least six directors. The six directors approving the resolution shall include at least one appointed director. Immediately upon the effective date of the resolution, the offices of appointed director shall be abolished and this section and Sections 5.1 and 15.2 shall cease to have any force or effect.

SEC. 3.5. Section 5.3 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 5.3. It is hereby declared as a matter of legislative determination that any individual nominated by a purveyor and appointed to or otherwise taking the office of an appointed director on the agency's board of directors pursuant to Section 5.1 or 5.2 is intended to represent and further the interest of the water industry within the boundaries of the agency, and that this representation and furtherance will ultimately serve the public interest. Accordingly, the Legislature finds that for purposes of persons who hold that office the water industry is tantamount to and constitutes the public generally within the meaning of Section 87103 of the Government Code.

SEC. 3.6. Section 5.4 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 5.4. Notwithstanding any other provision of this act or any other provision of law, the provisions of Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code shall not be applicable to any individual nominated by a purveyor or successor in interest to a purveyor and serving as an appointed director. The fact the appointed director is simultaneously a shareholder, director, officer, agent, or employee of the purveyor or successor in interest to a purveyor shall not in any way constitute the holding of incompatible offices under or for purpose of any common law doctrine prohibiting the simultaneous holding of these offices, and shall not disqualify the director from serving as a director of the agency or from discharging fully the responsibilities of the office of appointed director with respect to any matter coming before the board of directors of the agency for consideration, decision, determination, or other form of action.

SEC. 4. Section 15.1 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session),

to read:

Sec. 15.1. In addition to the other powers set forth in this act, the agency may:

(a) Acquire water and water rights, including, but not limited to, water from the State of California under the State Water Resources Development System.

(b) Develop, store, treat, distribute, and reclaim the water.

(c) Provide, sell, and deliver water at wholesale only for municipal, industrial, domestic, and other purposes.

SEC. 5. Section 15.2 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 15.2. In addition to the other powers set forth in this act, the agency may:

(a) Require reporting to the agency of all production, distribution, and reclamation of water within the agency in excess of 10 acre-feet per annum.

(b) Store and recover water in the aquifers within the agency.

(c) Develop groundwater management plans within the agency which may include, without limitation, conservation, and overdraft protection plans and groundwater extraction charge plans, and implement any or all such plans subject to the rights of property owners and with the approval of the retail water purveyors and other major extractors of over 100 acre-feet of water per year.

This section shall cease to be operative if the board of directors adopts a resolution abolishing the offices of appointed directors pursuant to subdivision (c) of Section 5.2.

SEC. 6. Section 24.1 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 24.1. The agency, by resolution, may annually fix on the basis of benefit a water standby charge within any water service area of the agency to which water is made available by any retail water distributor operating within the agency that obtains all or any portion of its water supplies from the agency. The agency may cause the water standby charge to be applied on an area or parcel basis, or a combination of both, to benefited lands, whether water available from those suppliers is actually used or not. The agency may fix and establish in its adopting resolution appropriate schedules varying the water standby charges within its water service areas according to the land uses and the degree of availability or quantity of use of water from those suppliers on affected lands. The water standby charge of the agency shall not exceed forty dollars ($40) per acre per year for each acre of land, or forty dollars ($40) per year for any parcel of land less than one acre, within any water service area of the agency. The resolution fixing water standby charges shall be adopted by the board of directors only at or after the annual hearing on the formation of water service areas within the agency. The agency may use the proceeds of the water standby charges only for the annual capital

budget of the agency, as described in Section 29.1.

On or before the second Monday in August of each year in which a water standby charge is to be levied and collected for the then current fiscal year, the board of directors shall furnish in writing to the county auditor of each affected county the parcel number of each parcel of land within any water service area within the agency upon which a charge is to be levied and collected, together with the amount of the water standby charge fixed by the agency on each assessed parcel of land subject to the levy. 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, assessment, or charge it levies, a water standby charge in the amounts and on the respective parcels identified by the agency's board. All county officers charged with the duty of collecting, receiving, and disbursing taxes shall collect agency water 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. The agency shall reimburse the county for its necessary costs and expenses. Any water service charges fixed by the agency shall be liens against the parcels of land against which those charges have been imposed. Liens for those charges shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for either state or county taxes.

SEC. 7. Section 26.1 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 26.1. (a) In addition to the other powers provided in this act, the agency may establish and impose a charge referred to as a facility capacity fee, and which is in the nature of a connection fee, for the right to make a new retail connection to the water distribution system of any retail water distributor within the agency that obtains all or any portion of its water supplies from the agency. The necessity for the fee and the amounts thereof shall be determined, established, imposed, collected, and used in the manner provided in this section.

(b) At such time or times as the board of directors shall find and determine that its then-existing water importation, transportation, and delivery facilities and other related works, property, and improvements may not be adequate for the purpose of receiving, importing, transporting, and delivering additional needed quantities of water available from the State Water Resources Development System or from other sources, the board of directors may, as provided in this section, adopt and carry out (1) a plan for obtaining those additional facilities, works, property, improvements, and supplies of water, (2) a plan for increasing or enlarging as may be appropriate its then-existing capacity and facilities for obtaining, importing, transporting, and delivering that additional quantity of water to retail water distributors within the agency and in need of those additional water supplies, and (3) a plan for financing or reimbursing

the agency for advancing the cost of acquiring those facilities, works, property, improvements, and supplies of water and for allocating that cost among lands within water service areas of the agency, which lands by reason of new development or new construction thereon will need new water service and will be benefited by making the additional supplies of agency water available for purchase by the retail water distributors that will supply those lands with water.

(c) Prior to adopting the plans referred to in subdivision (b), the board of directors shall hold at least one public hearing, at which oral or written presentations may be made, as part of a regularly scheduled meeting to establish water service areas within the agency. Notwithstanding other notice requirements of this act, notice of the time and place of the hearing and meeting, including a general explanation of the matters to be considered, and a statement that the data required by this subdivision is available, shall be mailed at least 14 days prior to the hearing to any interested party who files a written request with the agency for mailed notice of the hearing on those plans and on allocation of the costs thereof. Any written request for that mailed notice shall be valid only for one year from the date on which it is filed with the agency unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1st of each year. The board of directors may establish a reasonable annual charge for sending the notices based on the agency's estimated cost of providing the service. At least 10 days prior to the hearing, the agency shall make available to the public data indicating the cost, or estimated cost, to acquire, construct, and provide the water importation, transportation, and delivery facilities and other works, property, and improvements necessary to obtain and provide the additional water to those retail water distributors who will serve water to the lands on which the new developments and new construction will be located, and the proposed method and basis for allocating the costs as among those lands.

(d) Following the public hearing or hearings, the board of directors of the agency (1) shall determine the extent of the need for the additional property and supplies of water to be supplied by the agency and (2) shall determine whether then-existing facilities and other works and improvements of the agency are adequate to import, receive, transport, and deliver those additional quantities of water. If the board of directors determines that there is a need or that the agency's then-existing facilities, works, property, and improvements are inadequate to serve that water, or both, the board of directors shall adopt the plan or plans specified in subdivision (b).

(e) In making its determinations as to how to allocate the costs of the plan or plans within water service areas of the agency, the board of directors shall determine the amount of the facility capacity fee to be imposed for and upon each new connection to the delivery facilities of the retail water distributors that will supply those lands with imported or local water. The facility capacity fee shall be fixed and determined pursuant to a method and basis whereby it shall be

as nearly as reasonable an amount equal to the benefit to the land, including consideration of the volume of water to be delivered to the new retail connection.

(f) The board of directors may contract with the counties in which the agency is located for the collection of the facility capacity fee along with building permit fees or other fees related to the improvement of property, or may contract for collection of the facility capacity fee by the retail water distributor.

(g) The proceeds of the facility capacity fee imposed and collected pursuant to this section shall be used exclusively by the board of directors for the annual capital budget of the agency, as described in Section 29.1, for purposes authorized by this section as specified in the plans adopted pursuant to subdivisions (b), (d), and (e).

(h) Any action taken by the board of directors pursuant to this section shall be taken only by resolution.

(i) Any judicial action or proceeding to attack, review, set aside, void, or annul any resolution imposing a facility capacity charge of the agency, or a resolution modifying or amending an existing charge duly enacted and adopted by the agency, shall be commenced within 120 days of the effective date of the resolution. Any such action or proceeding shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 8. Section 29.1 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 29.1. For any agency fiscal year commencing on or after July 1, 1987, the board of directors shall divide all lands within the agency into separate, nonoverlapping water service areas. The water service areas shall be fixed, formed, and established following a public hearing and notice pursuant to Section 29.3. The purpose for the formation of water service areas is to provide a source of and to apportion moneys, not to exceed the amount permitted annually by law, for, and only for, the annual capital budget of the agency. The funding and apportioning of the capital budget shall be on the principle of benefit received by the lands and people within each water service area. Projected use of water in any way to be made available by the agency within a water service area during any agency fiscal year, as well as the agency's contract interests pursuant to the State Water Resources Development System and the agency's existing property, plant, and distribution facilities, shall be deemed by the board of directors to be the principal benefits to be considered in determining the proportion of the annual capital budget of the agency to be collected from sources within each water service area. Different schedules of rates, charges, fees, assessments, and taxes to fund the capital budget of the agency, or a portion thereof, may be fixed and established in each water service area, except that tax rates within any individual water service area shall be uniform. The lands within each water service area need not be contiguous.

As used in this act, the "annual capital budget of the agency" means that sum annually projected by the board of directors to be reasonably necessary (1) for payments of capital costs to the State of California, including its agencies or departments, in any way for purposes of the State Water Resources Development System as from time to time amended, (2) for payments for acquisition of other water imported into the agency or for local water, (3) for payments in any way concerning agency bonded indebtedness or for lands and facilities, within or outside the agency, useful or necessary to bank, store, transport, treat, and distribute water currently or eventually to be made available by the agency within water service areas thereof, and (4) for payment to agency budget reserve accounts for the above uses or purposes in future agency fiscal years. Moneys collected by the agency for the "annual capital budget of the agency" shall only be utilized for "capital," as that term is utilized under general accounting principles. The annual capital budget of the agency, as found and determined during the annual formation of water service areas, is not subject to adjustment during any agency fiscal year, except that the board of directors in its budgetary processes during any fiscal year may shift "capital" moneys between or among "capital" accounts. Notwithstanding the foregoing, the annual capital budget of the agency as derived from all water service areas of the agency shall be funded in strict accordance with constitutional and statutory restrictions, as existing from time to time, on legally permissible rates, charges, fees, assessments, and taxes.

SEC. 9. Section 29.2 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 29.2. The board of directors shall annually adopt a resolution of intention to form water service areas. The resolution shall contain all of the following:

(a) The proposed boundary description of each proposed water service area.

(b) The projected benefits to be received by the lands and people within each proposed water service area during a specific, identified agency fiscal year.

(c) The proposed annual capital budget of the agency for that agency's fiscal year, and the portion thereof proposed to be obtained from sources within each proposed water service area.

(d) The proposed rates, charges, fees, assessments, and taxes proposed to be fixed, levied, or collected within or from each proposed water service area for the proposed annual capital budget of the agency.

(e) The date, time, and location for a public hearing concerning the formation of the water service areas.

The agency shall not adopt a resolution of intention to form water service areas without first soliciting from each purveyor or its successor in interest, by letter delivered by certified mail not less

than 30 days prior to the adoption of the resolution, a request that each purveyor submit to the agency its recommendation concerning all mandatory matters to be included in an agency resolution of intention to form water service areas.

SEC. 10. Section 29.3 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 29.3. The board of directors shall hold the public hearing to fix, form, and establish water service areas only after not less than two weeks' notice of the hearing has been given by all of the following means:

(a) Publication of and notice once a week for two weeks, the publications to be seven days apart, in a newspaper of general circulation within the agency published in the county where the agency has its principal office, with the first notice to be published not less than 15 calendar days in advance of the hearing.

(b) Posting of the notice not less than 15 calendar days in advance of the hearing in three public places in each of the proposed water service areas.

(c) Mailing of the notice by first-class mail, postage prepaid, not less than 21 calendar days in advance of the hearing, to each person or entity to whom land is assessed, as shown on the last equalized assessment roll of any county whose territory is within a proposed water service area, at the address shown on the assessment roll, and also to each purveyor.

Notice which is published shall include the text of the agency resolution to fix, form, and establish water service areas. All other notices need only include (1) the date, time, and location for the public hearing, and (2) the rates, charges, fees, assessments, and taxes proposed to affect the specific property proposed to be included within a specific water service area.

Except as otherwise provided in this act, no additional notice need be given on any adjournment or continuation of the public hearing.

SEC. 11. Section 29.4 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 29.4. The board of directors shall at the public hearing concerning the formation of water service areas, which hearing may be adjourned and continued from time to time, hear and consider any objections or comments concerning the fixing, forming, and establishing of proposed water service areas as described in the agency's resolution of intention to form the areas. At or following the hearing, the board of directors may make any changes in the proposals set forth in the resolution of intention that are deemed by the board of directors to be proper; provided, except that if additional land is to be included within or described land is to be excluded from a proposed water service area, or if any proposed described benefit within a proposed water service area is to be materially changed, or if any proposed rate, charge, fee, assessment,

or tax within a proposed water service area is to be increased or decreased by 15 percent or more, the hearing shall be continued for at least 30 days and mailed notice of that continuance shall be given to all affected property owners not waiving that notice by mailing the notice not less than 21 days in advance of the continued hearing.

Absent any need to continue the public hearing, the board of directors shall thereafter find and determine whether it is in the best interest of the agency and each proposed water service area that the water service area be fixed, formed, and established. If all those findings and determinations are affirmative, the board of directors shall by resolution accomplish the following:

(a) Fix, form, and establish each water service area and describe the land in that area.

(b) Fix the annual capital budget of the agency.

(c) Determine the benefits proposed to be received by the lands and people within each water service area.

(d) Fix, levy, and apportion within each water service area the rates, charges, fees, assessments, and taxes to be collected therefrom for the purpose of equitably matching those rates, charges, fees, assessments, and taxes with projected benefits within each water service area.

SEC. 12. Section 29.5 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 29.5. Until the later of (1) the date the board of directors finds and declares by resolution based on substantial evidence that there is on a reliable basis more than 25,000 acre-feet of potable water available each year from the agency, or (2) July 1, 1991, the agency shall allocate water of the agency to each purveyor on a percentage basis as follows:

(a)	Los Angeles County Waterworks District No. 36	2.5%
(b)	Newhall County Water District	1.8%
(c)	Santa Clarita Water Company	59.8%
(d)	Valencia Water Company	35.9%

The allocation of agency water thereafter shall be with respect to agency water service areas. Retail water distributors operating within each water service area shall have a preferential right to purchase for beneficial use within a water service area a portion of the water available for sale by the agency which shall, from year to year, thereafter bear the same ratio to all agency water available as the total of amounts received by the agency since January 1, 1987, from the water service area from taxes and from the nontax portion of the annual capital budget of the agency, as described in Section 29.1, bears to the total of amounts received by the agency since January 1, 1987, from taxes and from the nontax portion of that annual capital budget of the agency. The board of directors may adopt reasonable rules and regulations in furtherance of the

allocation provided for in this section.

SEC. 13. 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 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 833

An act to amend Section 40802 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 40802 of the Vehicle Code, as amended by Section 1 of Chapter 357 of the Statutes of 1981, is amended to read:

40802. A "speed trap" is either of the following:

(a) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(b) A particular section of a highway with a prima facie speed limit provided by this code or by local ordinance pursuant to paragraph (1) of subdivision (b) of Section 22352, or established pursuant to Section 22354, 22357, 22358, or 22358.3, which speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and where enforcement involves the use of radar or other electronic devices which measure the speed of moving objects. The provisions of this subdivision do not apply to local streets and roads.

For purposes of this section, local streets and roads shall be defined by the latest functional usage and federal-aid system maps as submitted to the Federal Highway Administration. When these maps have not been submitted, the following definition shall be used: A local street or road primarily provides access to abutting residential property and shall meet the following three conditions:

(1) Roadway width of not more than 40 feet.

(2) Not more than one-half mile of uninterrupted length. Interruptions shall include official traffic control devices as defined in Section 445.

(3) Not more than one traffic lane in each direction.

This section shall remain in effect only until January 1, 1993, and

as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 2. Section 40802 of the Vehicle Code, as amended by Section 2 of Chapter 357 of the Statutes of 1981, is amended to read:

40802. A "speed trap" is either of the following:

(a) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(b) A particular section of a highway with a prima facie speed limit provided by this code or by local ordinance pursuant to paragraph (1) of subdivision (b) of Section 22352, or established pursuant to Section 22354, 22357, 22358, or 22358.3, which speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and where enforcement involves the use of radar or other electronic devices which measure the speed of moving objects.

This section shall become operative on January 1, 1993.

CHAPTER 834

An act to amend Sections 14005.7, 14005.9, and 14006 of, and to repeal Sections 14006 and 14008.5 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 14005.7 of the Welfare and Institutions Code is amended to read:

14005.7. (a) Medically needy persons and medically needy family persons are entitled to health care services under Section 14005 providing all eligibility criteria established pursuant to this chapter are met.

(b) Except as otherwise provided in this chapter or in Title XIX of the federal Social Security Act, no medically needy family person, medically needy person or state-only Medi-Cal persons shall be entitled to receive health care services pursuant to Section 14005 during any month in which his or her share of cost has not been met.

(c) In the case of a medically needy person, monthly income in excess of the amount required for maintenance established pursuant to Section 14005.12, exclusive of any amounts considered exempt as income under Chapter 3 (commencing with Section 12000), less amounts paid for Medicare and other health insurance premiums shall be the share of cost to be met under Section 14005.9.

(d) In the case of a medically needy family person or state-only

Medi-Cal person, monthly income in excess of the amount required for maintenance established pursuant to Section 14005.12, exclusive of any amounts considered exempt as income under Chapter 2 (commencing with Section 11200), less amounts paid for Medicare and other health insurance premiums shall be the share of cost to be met under Section 14005.9.

(e) In determining the income of a medically needy person residing in a licensed community care facility, any amount paid to the facility for residential care and support that exceeds the amount needed for maintenance shall be deemed unavailable for the purposes of this chapter.

SEC. 2. Section 14005.9 of the Welfare and Institutions Code is amended to read:

14005.9. (a) Share of cost shall be determined on a monthly basis. No person or family shall be required to incur more than one month's share of cost prior to being certified as specified in Section 14018.

(b) For persons in long-term care, any income exempted under Sections 14005.4 and 14005.7 shall be considered in the share-of-cost determination to the extent required by federal law or regulations.

(c) Once the beneficiary has incurred expenses for Medicare and other health insurance deductibles or coinsurance charges and necessary medical and remedial services during the month that are not subject to payment by a third party and which equal or exceed his or her share of cost, the individual is entitled to receive health care services pursuant to Section 14005 if all other applicable conditions of eligibility under this chapter are met.

SEC. 3. Section 14006 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 981 of the Statutes of 1985, is repealed.

SEC. 4. Section 14006 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 981 of the Statutes of 1985, is amended to read:

14006. (a) This section applies to medically needy persons, medically needy family persons, and state-only Medi-Cal persons.

(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, subject to notice and an opportunity for a hearing, have a lien against the property, to the extent permitted by federal law, for the cost of medical services.

The lien shall be recorded, and from the date of recording, shall have the force, effect, and priority of a judgment lien.

(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 ensure 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 or her 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 or her own earnings, he or she 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. 5. Section 14008.5 of the Welfare and Institutions Code is repealed.

CHAPTER 835

An act to amend Section 90001 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. 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 25 percent of the Senate districts, 25 percent of the Assembly districts and 25 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) With respect to local candidates and their controlled committees, the commission shall promulgate regulations which provide a method of selection for these audits.

(j) 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. 2. It is the intent of the Legislature that the cost of the audits of local candidates required by subdivision (i) of Section 90001 of the Government Code, as amended by Section 1 of this act, shall be funded by the cost savings to the Franchise Tax Board as a result of the reduction in audits of legislative and judicial offices pursuant to subdivision (c) of Section 90001 of the Government Code, as amended by Section 1 of this act.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 836

An act to amend Section 46300 of the Education Code, relating to pupil attendance.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 46300 of the Education Code is amended to read:

46300. (a) In computing average daily attendance of a school district, there shall be included the attendance of pupils while engaged in educational activities required of those pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him or her to render service in the capacity and during the period in which he or she served.

(b) For the purposes of a work experience education program in a secondary school that meets the standards of the California State Plan for Vocational Education, the term "immediate supervision," in the context of off-campus work training stations, means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in a work experience program shall not exceed 125 students per full-time equivalent certificated teacher coordinator. Notwithstanding Section 52033, this ratio may be waived by the State Board of Education pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 under criteria developed by the State Board of Education.

A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time student enrolled in regular classes that meet the requirements of Section 46141 or 46144.

(c) For the purposes of the rehabilitative schools, classes, or programs described in Section 48917 that require immediate supervision, the term "immediate supervision" means that the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per calendar day.

(d) For the purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school

pupils who are also enrolled in a regional occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities that are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education, however, none of that attendance shall be counted for purposes of computing attendance pursuant to Section 52324.

A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.

The divisor for computing proportional average daily attendance pursuant to this subdivision is 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor is 180.

Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

(e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28.

A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.

(f) For purposes of cooperative vocational education programs and community classrooms described in Section 52372.1, the term "immediate supervision" means pupil participation in paid and unpaid on-the-job experiences, as outlined under a training agreement and individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

CHAPTER 837

An act to amend Section 14031.10 of the Government Code, relating to railway transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. (a) The Legislature finds and declares that local agencies which participate with the Department of Transportation in the funding and operation of commuter rail service on the San Francisco Peninsula between San Francisco and San Jose are cooperating with the Metropolitan Transportation Commission and

the department to create a joint powers agreement to achieve, in part, greater local control of, and responsibility for this transportation service, and that this service is expected to be fully operational under this agreement by July, 1990.

(b) It is, therefore, the intent of the Legislature in enacting this act to provide a mechanism for the local agencies concerned with the operation of the San Francisco Peninsula commuter rail service to assume a greater role in funding the operation of this service, during the period of transition to operation under the joint powers agreement, by contributing any funds required in addition to those generated by passenger fares in order to achieve the 40 percent ratio of fare revenues to operating costs required for continued state funding for this service.

SEC. 2. Section 14031.10 of the Government Code is amended to read:

14031.10. For purposes of Sections 14031.8 and 14031.9:

(a) "Avoidable cost" means all costs associated with a particular service which would not be incurred if the service were not provided.

(b) "Operating costs" means all costs, exclusive of capital costs, amortization and depreciation costs, and lease-with-an-option-to-purchase costs, associated with a particular service which would be incurred only if the service were provided.

(c) "Fare revenues" means the total revenues collected from the operation of a particular service. Until June 30, 1990, "fare revenues" shall also include that portion of the local operating support for any existing commuter services funded under Section 14031.6 which exceeds the level of local operating support as required by the terms of any agreement in existence on January 1, 1986, between the department and local agencies.

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:

Commuter rail service on the San Francisco Peninsula will be interrupted and many residents of the area will be unable to travel to their places of business, recreation, and commerce unless fare revenues are defined to include local support as specified in this act.

CHAPTER 838

An act to add and repeal Title 6 (commencing with Section 890) of Part 2 of Division 2 of the Civil Code, relating to real property.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Title 6 (commencing with Section 890) is added to Part 2 of Division 2 of the Civil Code, to read:

TITLE 6. RENT SKIMMING

890. (a) "Rent skimming" means using revenue received from the rental of a parcel of residential real property at any time during the first year period after acquiring that property without first applying the revenue or an equivalent amount to the payments due on all mortgages and deeds of trust encumbering that property.

(b) "Multiple acts of rent skimming" means knowingly and willfully rent skimming with respect to each of five or more parcels of residential real property acquired within any two-year period.

(c) "Person" means any natural person, any form of business organization, its officers and directors, and any natural person who authorizes rent skimming or who, being in a position of control, fails to prevent another from rent skimming.

891. (a) A seller of an interest in residential real property who received a promissory note or other evidence of indebtedness for all or a portion of its purchase price secured by a lien on the property may bring an action against any person who has engaged in rent skimming with respect to that property. A seller who prevails in the action shall recover all actual damages and reasonable attorney's fees and costs. The court may award any appropriate equitable relief. The court shall award exemplary damages of not less than three times the actual damages if the defendant has engaged in multiple acts of rent skimming and may award exemplary damages in other cases.

(b) A seller of an interest in residential real property who reacquires the interest from a person who has engaged in rent skimming with respect to that property, or a law enforcement agency, may request the court for an order declaring that the reacquired interest is not encumbered by any lien that is or has the effect of a judgment lien against the person who engaged in rent skimming if the lien is not related to any improvement of the property and does not represent security for loan proceeds made by a bona fide lien holder without knowledge of facts constituting a violation of this title. The motion or application shall be made with at least 30 days' advance written notice to all persons who may be affected by the order, including lienholders, and shall be granted

unless the interests of justice would not be served by such an order.

(c) A mortgagee or beneficiary under a deed of trust encumbering residential real property may bring an action against a person who has engaged in rent skimming with respect to that property as one of multiple acts of rent skimming, whether or not the person has become contractually bound by an obligation secured by the mortgage or deed of trust. The mortgagee or beneficiary who prevails in the action shall recover actual damages to the extent of the amount of the rent collected on the encumbered property and attorney's fees and costs. The court also may order any appropriate equitable relief and may award exemplary damages.

(d) A tenant of residential real property may bring an action against a person who has engaged in rent skimming with respect to that property for the recovery of actual damages, including any security, as defined in Section 1950.5, and moving expenses if the property is sold at a foreclosure sale and the tenant was required to move. A prevailing plaintiff in such an action shall be awarded reasonable attorney's fees and costs. The court also may award exemplary damages; it shall award exemplary damages of at least three times the amount of actual damages if the payments due under any deed of trust or mortgage were two or more months delinquent at the time the tenant rented the premises or if the defendant has engaged in multiple acts of rent skimming.

(e) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

(f) Rent skimming is unlawful, and any waiver of the provisions of this section are void and unenforceable as contrary to public policy.

(g) Sections 580a, 580b, 580d, and 726 of the Code of Civil Procedure do not apply to any action brought under this title.

892. (a) Any person who engages in multiple acts of rent skimming is subject to criminal prosecution. Each act of rent skimming comprising the multiple acts of rent skimming shall be separately alleged. A person found guilty of five acts shall be punished by imprisonment in the state prison or by imprisonment in the county jail for not more than one year, by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment. A person found guilty of additional acts shall be separately punished for each additional act by imprisonment in the state prison or by imprisonment in the county jail for not more than one year, by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(b) If a defendant has been once previously convicted of a violation of subdivision (a), any subsequent knowing and willful act of rent skimming shall be punishable by imprisonment in the state prison or by imprisonment in the county jail for not more than one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(c) A prosecution for a violation of this section shall be

commenced within three years after the date of the acquisition of the last parcel of property that was the subject of the conduct for which the defendant is prosecuted.

(d) The penalties under this section are in addition to any other remedies or penalties provided by law for the conduct proscribed by this section.

893. (a) It is an affirmative defense for a natural person who is a defendant in a civil action brought under Section 891, or a criminal action brought under Section 892, if all of the following occurred:

(1) The defendant used the rental revenue due but not paid to holders of mortgages or deeds of trust to make payments to any of the following:

(A) Health care providers, as defined in paragraph (2) of subdivision (c) of Section 6146 of the Business and Professions Code, for the unforeseen and necessary medical treatment of the defendant or his or her spouse, parents, or children.

(B) Licensed contractors or material suppliers to correct the violation of any statute, ordinance, or regulation relating to the habitability of the premises.

(2) The defendant made the payments within 30 days of receiving the rental revenue.

(3) The defendant had no other source of funds from which to make the payments.

(b) The defendant has the burden of producing evidence of each element of the defense specified in subdivision (a) in a criminal action under Section 892 and the burden of proof of each element of the defense in a civil action under Section 891.

894. If any provision of this title or the application thereof to any person or circumstances is held to be unconstitutional, the remainder of the title and the application of its provisions to other persons and circumstances shall not be affected thereby.

895. This title shall remain in effect only until January 1, 1992, and on that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

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 839

An act to amend Section 66484.3 of the Government Code, and to amend Sections 99233.2 and 99233.5 of the Public Utilities Code, relating to public transportation.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) The Board of Supervisors of the County of Orange and the city council of any city in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee

apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6) of this subdivision. The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests

are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facility or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares. The sole security for repayment of the indebtedness shall be moneys in planned bridge facility or major thoroughfares funds.

(g) The term "construction," as used in this section, includes design, acquisition of right-of-way, administration of construction contracts, and actual construction, and also includes reasonable

administrative expenses, not exceeding six hundred thousand dollars ($600,000) in any calendar year, incurred in association with those activities.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

SEC. 2. Section 99233.2 of the Public Utilities Code is amended to read:

99233.2. (a) Except as provided in subdivision (b), there shall be allocated to the transportation planning agency, if it is statutorily created, such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning and programming process, unless a greater amount is approved by the director.

(b) In those areas that have a county transportation commission created pursuant to Section 130050, up to 1 percent of annual revenues shall be allocated to the commission in Los Angeles County, up to 2 percent of the annual revenues shall be allocated to the commissions in Riverside and San Bernardino Counties, and up to 3 percent of annual revenues shall be allocated to the commission in Orange County for the transportation planning and programming process. In addition, up to three-fourths of 1 percent of annual revenues, but not more than one million dollars ($1,000,000) per year, shall be allocated to the multicounty designated transportation planning agency, as defined in Section 130004, for the transportation planning and programming process. No operator shall grant any funds it receives under this chapter to the designated multicounty transportation planning agency for the purposes of the agency carrying out its responsibilities under Division 12 (commencing with Section 130000).

SEC. 3. Section 99233.5 of the Public Utilities Code is amended to read:

99233.5. (a) Up to 2 percent of the remaining money in the fund for the areas under the jurisdiction of the transit development boards

created pursuant to Division 11 (commencing with Section 120000) and Division 11.5 (commencing with Section 125000) shall be allocated for transportation planning pursuant to Sections 120300 and 125301 to the council of governments that is the transportation planning agency for those areas.

(b) (1) Up to 10 percent of the remaining money for the area under the jurisdiction of a transit development board created pursuant to Division 11 (commencing with Section 120000) shall be allocated to the transit development board to carry out its administrative and planning powers, duties, and functions and its construction and acquisition programs.

(2) Thereafter, the remaining money for allocation in that area shall be allocated by the transportation planning agency to claimants as directed by the transit development board.

CHAPTER 840

An act to amend Sections 31558, 31558.1, 31558.2, 31558.6, 31639.3, 31662.4, 31662.6, 31662.8, 31663, 31663.25, 31663.26, and 31700 of the Government Code, relating to county retirement.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 31558 of the Government Code is amended to read:

31558. All existing members of a pension system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200) of this part and all employees eligible as safety members who at the time of entering service elected to become safety members, or who subsequently became members, shall become safety members and thereafter each person employed in a position, the principal duties of which consist of active law enforcement or active fire suppression or juvenile hall group counseling and group supervision, as defined in Sections 31469.3, 31469.4, 31470.2 and 31470.4, shall become a safety member on the first day of the calendar month following his or her entrance into the service. The sheriff and undersheriff shall become safety members on the first day of the calendar month following their entrance into the service. The marshal and assistant marshal shall become safety members on the first day of the calendar month following their appointment.

SEC. 2. Section 31558.1 of the Government Code is amended to read:

31558.1. Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to July 1, 1969, was employed

in a position, the principal duties of which consist of active law enforcement as defined in Section 31469.3 or active fire suppression as defined in Section 31470.4, who has continuously since his or her employment made the salary contributions required of a safety member, and who has continuously since his or her employment been employed in a position which would make such 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, shall become a safety member as of the first day of the calendar month following his or her original entrance into the service.

A member who meets the requirements of the preceding paragraph, except that he or she has not made the contributions required of a safety member, may receive credit for such 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 required if he or she had been a safety member. Such additional contributions are to be made prior to retirement and notice of election to receive credit for service, as a safety member, pursuant to this section, shall be made to the retirement board prior to April 1, 1975.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make the provisions of the section applicable in that county.

SEC. 3. Section 31558.2 of the Government Code is amended to read:

31558.2. Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to the effective date of this section was employed in positions the principal duties of which consist of active law enforcement for not less than 10 years and who is employed by a county in a position which would make such person eligible to become a safety member 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.

A member may receive credit for such 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. Such 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 the provisions of this section applicable in that county.

SEC. 4. Section 31558.6 of the Government Code is amended to read:

31558.6. Notwithstanding any of the provisions of Section 31558 to the contrary, each person who is employed in a position, the principal duties of which consist of juvenile hall group counseling and group supervision as defined in Section 31469.4, on the date the provisions of Section 31469.4 are made applicable in a county by the

board of supervisors and who files with the board written election to become a safety member on or prior to one year after the date the provisions of Section 31469.4 are made applicable in a county by the board of supervisors, shall become a safety member.

Thereafter each person when employed in such position, shall become a safety member on the first day of the calendar month following his or her entrance into the service.

SEC. 5. Section 31639.3 of the Government Code is amended to read:

31639.3. Until revised pursuant to Sections 31453 and 31454, the rate of contribution of each safety member is that percentage of his or her earnable compensation shown in the following tables according to age at the time of entry into the retirement system:

Age	Percentage
18	9.27
19	9.29
20	9.32
21	9.34
22	9.43
23	9.53
24	9.63
25	9.73
26	9.83
27	9.94
28	10.04
29	10.15
30	10.25
31	10.36
32	10.48
33	10.59
34	10.71
35	10.82
36	10.94
37	11.06
38	11.17
39	11.30
40	11.42
41	11.55
42	11.66
43	11.79
44	11.92
45	12.04
46	12.17
47	12.30
48	12.43
49 and over	12.56

SEC. 6. Section 31662.4 of the Government Code is amended to

read:

31662.4. At the expiration of two years after a retirement system pursuant to this chapter becomes operative, or on January 1, 1954, whichever is later, every safety member except an elective officer, the sheriff and undersheriff, who has attained age 60 shall be retired forthwith. On the said date a sheriff who is a safety member, is not an elective officer, and who has attained age 70 and an undersheriff who is a safety member and who has attained age 70 shall be retired forthwith.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 7. Section 31662.6 of the Government Code is amended to read:

31662.6. Two years after a retirement system established by this chapter becomes operative, a safety member except an elective officer, the sheriff and undersheriff, and the marshal of all of the municipal courts within the county, shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 60.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 8. Section 31662.8 of the Government Code is amended to read:

31662.8. Every safety member holding an elective office shall be retired at the end of the first term to which he or she is elected which expires on the date following his or her seventieth birthday, except that if the term expires within two years after the date on which a retirement system becomes operative or prior to January 1, 1954, whichever is later, he or she shall be retired at the end of the next term to which he or she is elected.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 9. Section 31663 of the Government Code is amended to read:

31663. After January 1, 1954, or two years after a retirement system established by this chapter becomes operative, whichever is later, a sheriff who is a safety member and not elective, and an undersheriff, who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 70.

The marshal of all the municipal courts within the county who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 65.

In any county having a population in excess of 503,000 but less than 600,000 as determined by Section 28020 as amended in 1961, a sheriff's inspector, a chief inspector in a sheriff's office, or a chief deputy in

a sheriff's office, who is a safety member and whose primary duties are administrative, shall be retired as of the first day of the calendar month next succeeding that in which he attains age 70.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 10. Section 31663.25 of the Government Code is amended to read:

31663.25. Except as provided in Section 31663.26, any safety member who has reached the applicable compulsory age of retirement, if any, or any safety member who has completed 10 years of continuous service and who has reached the age of 50, or any safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which he or she desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

The provisions of this section shall supersede the provisions of Section 31663.2.

SEC. 11. Section 31663.26 of the Government Code is amended to read:

31663.26. Notwithstanding Section 31663.25, any safety member who has reached the applicable compulsory age of retirement, if any, or any safety member who is a full-time employee, has completed 10 years of service, has reached the age of 50, and has no service break which exceeds 12 months, or any safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which he or she desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

The provisions of this section shall supersede the provisions of Section 31663.2.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make this section applicable in the county.

SEC. 12. Section 31700 of the Government Code is amended to read:

31700. Any member, whether over or under the minimum age of voluntary service retirement, who leaves county service after completing five years of service or who leaves county service and within 90 days becomes a member of the Public Employees' Retirement System, or a retirement system established under this chapter in another county, may elect in writing, within 180 days after leaving county service, to leave his or her accumulated contributions in the retirement fund and be granted a deferred retirement allowance to become effective either:

(a) Upon the option of the member, at any time at which he or she could have retired had he or she remained in county service in a full-time position, or

(b) Not later than the first day of the month following that in which he or she attains the applicable compulsory retirement age, if any.

SEC. 13. The Legislature hereby finds and declares: that the federal courts have held that to the extent that there is conflict between the provisions of the County Employees Retirement Law of 1937 providing for mandatory retirement of safety members upon attaining specified ages and the federal Age Discrimination in Employment Act of 1967 (29 U.S.C. Sec. 621 et seq.), the federal law prevails and that a Los Angeles County maximum age limit of 35 years for entry level employment in positions of deputy sheriff and fire department helicopter pilots violates that federal law; that the federal Equal Employment Opportunity Commission, acting pursuant to that federal law, is and has been initiating related proceedings against various counties; and that it is the intent of the Legislature in enacting this act to remove all such conflicts, similar conflicts, and related matters and, therefore, to eliminate the costs of counties in defending themselves in such proceedings, except for those counties which elect to retain mandatory retirement ages.

SEC. 14. 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 841

An act to add Section 44255 to the Education Code, relating to teacher credentialing.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 44255 is added to the Education Code, to read:

44255. The commission shall issue a life credential to an applicant who meets both of the following requirements:

(a) As of August 31, 1985, the applicant had fulfilled all requirements for a life credential that were in effect at that time, including the requirement of two years of teaching in California public schools.

(b) The applicant applies to the commission for a life credential between January 1, 1987, and March 31, 1987, setting forth the qualifications that would have entitled the applicant to receive a life

credential if he or she had applied on or before August 31, 1985, and enclosing the appropriate credential fee.

CHAPTER 842

An act to amend Sections 15438, 15438.5, 15450, 15459, 15453.7, 15454, 15462, and 15462.5 of, and to add Sections 15453.8, 15459.1, 15459.2, 15459.3, and 15459.4 to, the Government Code, relating to the financing of health care facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 15438 of the Government Code is amended to read:

15438. Subject to the conditions, restrictions, and limitations of Section 15438.1, the authority may do any of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept from any agency of the United States or any agency of the State of California or any municipality, county or other political subdivision thereof, or from any individual, association, or corporation gifts, grants, or donations of moneys for achieving any of the purposes of this chapter.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this part.

(f) Determine the location and character of any project to be financed under this part, and to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, to enter into contracts for any or all of those purposes, to enter into contracts for the management and operation of a project or other health facilities owned by the authority, and to designate a participating health institution as its agent to determine the location and character of a project undertaken by that participating health institution under this chapter and as the agent of the authority, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, and as the agent of the authority, to enter into contracts for any or all of those purposes, including contracts for the management and operation of that

project or other health facilities owned by the authority.

(g) Acquire, directly or by and through a participating health institution as its agent, by purchase solely from funds provided under the authority of this part, or by gift or devise, and to sell, by installment sale or otherwise, any lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, which are located within the state the authority determines necessary or convenient for the acquisition, construction, or financing of a health facility or the acquisition, construction, financing, or operation of a project, upon the terms and at the prices considered by the authority to be reasonable and which can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating health institution as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of a project or any portion of a project in either money, property, labor, or other things of value.

(i) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in connection with the financing of a project or working capital in accordance with an agreement between the authority and the participating health institution. However, no loan to finance a project shall exceed the total cost of the project, as determined by the participating health institution and approved by the authority.

(j) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in accordance with an agreement between the authority and the participating health institution to refinance indebtedness incurred by that participating health institution in connection with projects undertaken or for health facilities acquired or for working capital financed prior to or after January 1, 1980.

(k) Mortgage all or any portion of interest of the authority in a project or other health facilities and the property on which that project or other health facilities are located whether owned or thereafter acquired including the granting of a security interest in any property, tangible or intangible, and to assign or pledge all or any portion of the interests of the authority in mortgages, deeds of trust, indentures of mortgage or trust or similar instruments, notes, and security interests in property, tangible or intangible, of participating health institutions to which the authority has made loans, and the revenues therefrom, including payments or income from any thereof owned or held by the authority, for the benefit of the holders of bonds issued to finance the project or health facilities or issued to refund or refinance outstanding indebtedness of participating health institutions as permitted by this part.

(*l*) Lease to a participating health institution the project being financed or other health facilities conveyed to the authority in

connection with that financing, upon the terms and conditions the authority determines proper, and to charge and collect rents therefor and to terminate the lease upon the failure of the lessee to comply with any of the obligations of the lease; and to include in that lease, if desired, provisions granting the lessee options to renew the term of the lease for the period or periods and at the rent, as determined by the authority, to purchase any or all of the health facilities or that upon payment of all of the indebtedness incurred by the authority for the financing of that project or health facilities or for refunding outstanding indebtedness of a participating health institution, then the authority may convey any or all of the project or the other health facilities to the lessee or lessees thereof with or without consideration.

(m) Charge and equitably apportion among participating health institutions, the administrative costs and expenses incurred by the authority in the exercise of the powers and duties conferred by this part.

(n) Obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, 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 loan, lease, or obligation, made or entered into pursuant to this part; and notwithstanding any other provisions of this part, to enter into any agreement, contract, or any other instrument whatsoever with respect to that insurance or guarantee, to accept payment in the manner and form as provided therein in the event of default by a participating health institution, and to assign that insurance or guarantee as security for the authority's bonds.

(o) Enter into any and all agreements or contracts, including agreements for liquidity and credit enhancement, interest rate swaps or hedges, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly granted by this part.

(p) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in any obligations authorized by the resolution authorizing the issuance of the bonds secured thereof or authorized by law for the investment of trust funds in the custody of the State Treasurer.

SEC. 2. Section 15438.5 of the Government Code is amended to read:

15438.5. (a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivisions (b), (c), and (d), only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the

Legislature that all or part of any savings experienced by a participating health institution, as a result of that tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects for county health facilities, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist counties to arrange projects which will meet the financial feasibility standards developed under this part.

(c) The authority may issue revenue bonds pursuant to this part to finance the development of a multilevel facility, or any portion of a multilevel facility, including the portion licensed as a residential facility for the elderly, if the skilled nursing facility, intermediate care facility, or general acute care hospital is operated or provided by an eligible participating health institution.

(d) The authority may issue revenue bonds pursuant to this part, if the bonds rank in either of the two highest rating categories established by a nationally recognized bond rating organization, to finance working capital for a participating health institution provided or operated by a city, city and county, county, or district hospital authorized by the laws of this state to provide or operate a health facility and which, pursuant to this part, undertakes financing or refinancing as provided in this part.

SEC. 3. Section 15450 of the Government Code is amended to read:

15450. A pledge by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind made by or to the authority pursuant to the authority granted in this part shall be valid and binding from the time the pledge is made for the benefit of pledges and successors thereto. The revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind pledged by or to the authority or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of such pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The indenture, trust agreement, resolution or another instrument by which such pledge is created need not be recorded.

SEC. 4. Section 15453.7 of the Government Code is amended to read:

15453.7. Notwithstanding Section 15453, 15453.5, or 15453.6, the total amount of bonds which may be outstanding at any one time is

hereby increased by an amount not exceeding nine hundred sixty-five million dollars ($965,000,000). 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 that have been deposited in trust shall not be deemed outstanding for the purposes of this section.

SEC. 5. Section 15453.8 is added to the Government Code, to read:

15453.8. Notwithstanding Section 15453, 15453.5, 15453.6, or 15453.7, 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 that have been deposited in trust shall not be deemed outstanding for the purposes of this section.

SEC. 6. Section 15454 of the Government Code is amended to read:

15454. Notwithstanding Section 15453, bonds issued pursuant to this part shall not be subject to the limitation of, or be considered or included in computing the amount of outstanding bonds for purposes of, Section 15453, 15453.5, 15453.6, or 15453.7, or any similar provision regarding the maximum amount of outstanding bonds, if issued to finance any of the following:

(a) A project which is, or is for, a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, without regard to whether funding is provided for the project under that section.

(b) A project which is, or is for, an adult day health center.

(c) A project which is, or is for, a multilevel facility.

(d) A project or working capital for a city, city and county, county, or hospital district pursuant to Section 15462 or 15462.5.

SEC. 7. Section 15459 of the Government Code is amended to read:

15459. As a condition of the issuance of revenue bonds, whether by the authority or any local agency, to finance the construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or the acquisition of a health facility, each borrower shall give reasonable assurance to the authority that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

For the purposes of this section and Sections 15459.1, 15459.2, 15459.3, and 15459.4, all of the following definitions apply:

(a) "Borrower" means each local agency or nonprofit corporation or association which operates or provides the health facility and receives the benefit of the issuance of revenue bonds.

(b) "Local agency" means any public district, public corporation, authority, agency, board, commission, county, city and county, city, school district, or any other public entity.

(c) "Revenue bond" means any bonds, warrants, notes, lease, or installment sale obligations evidenced by certificates of participation, or other evidence of indebtedness issued by the authority or by 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.

SEC. 8. Section 15459.1 is added to the Government Code, to read:

15459.1. As part of its assurance under Section 15459, the borrower shall agree to all of the following actions:

(a) To advise each person seeking services at the borrower's facility as to the person's potential eligibility for Medi-Cal and Medicare benefits or benefits from other governmental third-party payers.

(b) To make available to the authority and to any interested person a list of physicians with staff privileges at the borrower's facility, which includes all of the following:

(1) Name.

(2) Specialty.

(3) Language spoken.

(4) Whether the physician takes Medi-Cal and Medicare patients.

(5) Business address and phone number.

(c) To inform in writing on a periodic basis all practitioners of the healing arts having staff privileges in the borrower's facility as to the existence of the facility's community service obligation. The required notice to practitioners shall contain a statement, as follows:

"This hospital has agreed to provide a community service and to accept Medi-Cal and Medicare patients. The administration and enforcement of this agreement is the responsibility of the California Health Facilities Financing Authority and this facility."

(d) To post notices in the following form, which shall be multilingual where the borrower serves a multilingual community, in appropriate areas within the facility, including, but not limited to, admissions offices, emergency rooms, and business offices:

"This facility has agreed to make its services available to all persons residing or employed in this area. This facility is prohibited by law from discriminating against Medi-Cal and Medicare patients. Should you believe you may be eligible for Medi-Cal or Medicare, you should contact our business office (or designated person or office) for assistance in applying. You should also contact our business office (or designated person or office) if you are in need of a physician to provide you with services at this facility. If you believe that you have been refused services at this facility in violation of the community service obligation you should inform (designated person or office) and the California Health Facilities Financing Authority."

The borrower shall provide copies of this notice for posting to all welfare offices in the county where the borrower's facility is located.

(e) For all facilities in areas, and of a type, not subject to Medi-Cal

contracting and for all borrowers which have negotiated in good faith to obtain a Medi-Cal contract but were not awarded a contract by the California Medi-Cal Assistance Commission, the authority shall make modifications to the requirements contained in this section to reflect the absence of a Medi-Cal contract. Nothing in this section relieves a hospital of its obligations under Section 1317 of the Health and Safety Code.

SEC. 9. Section 15459.2 is added to the Government Code, to read:

15459.2. If the borrower cannot demonstrate that it meets the requirements of Section 15459, it may nonetheless be eligible for financing through the issuance of revenue bonds if it presents a plan that is satisfactory to the authority which details the reasonable steps and timetables that the borrower agrees to take to bring the facility into compliance with Section 15459.

SEC. 10. Section 15459.3 is added to the Government Code, to read:

15459.3. Each borrower shall make available to the authority and to the public upon request an annual report substantiating compliance with the requirements of Section 15459. The annual report shall set forth sufficient information and verification therefor to indicate the borrower's compliance. The report shall include at least the following:

(a) By category for inpatient admissions, emergency admission, and where the facility has a separate identifiable outpatient service:

(1) The total number of patients receiving services.

(2) The total number of Medi-Cal patients served.

(3) The total number of Medicare patients served.

(4) The total number of patients who had no financial sponsor at the time of service.

(5) The dollar volume of services provided to each patient category listed in paragraphs (1), (2), and (3).

(b) Where appropriate, the actions taken pursuant to Section 15459.2 and the effect the actions have had on the data specified in subdivision (a).

(c) Any other information which the authority may reasonably require.

SEC. 11. Section 15459.4 is added to the Government Code, to read:

15459.4. The remedies and sanctions available to the authority against the borrower for failure to adhere to the assurance given to the authority under Section 15459 shall include all of the following:

(a) Rendering the borrower ineligible for federal and state financial assistance under the Hill-Burton Program.

(b) Requiring a borrower that had originally met the conditions of community service to submit a plan that is satisfactory to the authority which details the reasonable steps and timetables that the borrower agrees to take to bring the facility back into compliance with the assurances given to the authority.

(c) Referring the violation to the office of the Attorney General of California for legal action authorized under existing law or other remedy at law or equity, when a facility fails to carry out the actions agreed to in a plan approved by the authority pursuant to subdivision (b) of this section. However, the remedies obtainable by the legal action shall not include withdrawal or cancellation of the project or projects financed or to be financed through the issuance of revenue bonds.

SEC. 12. Section 15462 of the Government Code is amended to read:

15462. Exclusively for the purpose of securing the financing of projects or working capital through the issuance of revenue bonds through the authority, and notwithstanding any other provision of law, any city, city and county, county, or local hospital district may borrow money from the authority at the interest rate or rates, with the maturity date or dates, payment, security, default, remedy, and other terms as specified in a loan, loan purchase, or other agreement between the authority and the city, city and county, county, or hospital district, and the city, city and county, county or hospital district may enter into any agreement for liquidity or credit enhancement that may be necessary or appropriate, as determined by the authority, in connection with that borrowing of money. This section provides a complete, additional, and alternative method for performing the acts authorized by this section, and the borrowing of money from the authority, and any provisions for payment or security or any agreement for liquidity or credit enhancement in connection with the borrowing of money pursuant to this section need not comply with the requirements of any other law applicable to borrowing by a city, county, city and county, or hospital district.

SEC. 13. Section 15462.5 of the Government Code is amended 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, city and county, county, or hospital district 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, city and county, county, or hospital district, and the city, city and county, county, or hospital district 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 provisions for payment and security or 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, pledge, encumbrance, or credit, as the case may be, by a city, city and county, county, or hospital district.

SEC. 14. Notwithstanding any other provision of law, borrowers shall not be subject to the assurance requirements under Sections 7 to 13, inclusive, except for the construction, expansion, remodeling, renovation, furnishing or equipping of a health facility, or the acquisition of a health facility, commenced on and after January 1, 1987.

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:

It is estimated that the total amount of revenue bonds authorized to be outstanding under the existing California Health Facilities Financing Authority Act were issued prior to July 1, 1986. In order to increase the amount of revenue bonds authorized to be outstanding at any one time as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 843

An act to amend Sections 89031.5, 89045, 89046, and 89048 of, and to repeal Section 89046 of, the Education Code, to amend Section 11007.7 of, and to repeal Section 11007.7 of, the Government Code, and to amend Sections 10295, 10389, and 12100.5 of, and to repeal Sections 10295 and 12100.5 of, the Public Contract Code, relating to the California State University.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 89031.5 of the Education Code is amended to read:

89031.5. The trustees shall perform inspections of all motor vehicles owned by the California State University or under their jurisdiction. These inspections shall be provided for in the appropriate administrative manual of the California State University.

SEC. 1.5. Section 89045 of the Education Code is amended to read:

89045. (a) The trustees shall establish an internal audit staff which shall include the staff positions authorized for internal auditing. The internal auditing staff shall report directly to the trustees and shall be available for consultation with any audit committee of the trustees which may be established by the trustees.

(b) The duties of the internal audit staff shall include, but shall not be limited to, auditing, reviewing, cost and systems analysis, analyzing, and recommending operating procedures for the California State University.

(c) Management audits shall be made to determine the effectiveness and efficiency of the organization, operation, and procedures of each state university, each auxiliary organization, and the office of the chancellor. Officials and employees of each state university, each auxiliary organization, and the office of the chancellor shall furnish all books, papers, contracts, management charts, and related information necessary for management audits.

(d) In addition, the internal audit staff shall perform audits, at least once every five years, of the activities of the California State University pursuant to Sections 89031.5, 89046, and 89048 of the Education Code, Section 11007.7, of the Government Code, and Section 10295, 10389, and 12100.5 of the Public Contract Code.

SEC. 2. Section 89046 of the Education Code, as amended by Section 104 of Chapter 143 of the Statutes of 1983, is amended to read:

89046. The trustees may lease any property of a state university or college for any purpose which they consider is not inconsistent with the functions of the California State University including, but not limited to:

(a) The lease of state university property to a nonprofit organization composed exclusively of students of the university or of members of the faculty of the university, or both, for purposes related to the activities of the university or for the activities of student or faculty organizations.

(b) The lease of state university property to any nonprofit organization for the purpose of constructing and using thereon buildings as living quarters for students of the university and as meetingplaces.

(c) The lease to any student or faculty organization of the university of property for the purpose of establishing and maintaining cooperative stores, and cafeterias in connection with such stores.

Any rental received by the trustees under this or other leasing sections shall be deposited in the State Treasury and credited to the support appropriation of the California State University current during the period of occupancy.

Any lease under this section extending for a term of more than 20 years shall be approved by the Department of General Services.

SEC. 3. Section 89046 of the Education Code, as amended by Section 105 of Chapter 143 of the Statutes of 1983, is repealed.

SEC. 4. Section 89048 of the Education Code is amended to read:

89048. Notwithstanding Article 1 (commencing with Section 11000) of Chapter 1 of Part 1, Article 2 (commencing with Section 14660) of Chapter 2 of Part 5.5, and Part 11 (commencing with Section 15850), of Division 3 of Title 2 of the Government Code, or any other provision of law to the contrary, the trustees may perform

the following functions, without prior ecessary for the proper utilization of real property of the California State University.

(b) Grant and convey in the name of the California State University easements and rights-of-way across property belonging to the California State University subject to the conditions, limitations, restrictions, and reservations the trustees determine are in the best interests of the California State University.

(c) Quitclaim the right, title, and interest of the California State University in and to easements and rights-of-way owned by the California State University which the trustees determine are no longer needed for California State University purposes.

(d) Sell or exchange any personal property belonging to the California State University if the trustees determine that the sale or exchange is in the best interests of the California State University. Transactions under this subdivision shall be for consideration based on fair market values.

SEC. 5. Section 11007.7 of the Government Code, as amended by Section 4 of Chapter 867 of the Statutes of 1981, is amended to read:

11007.7. The procurement of insurance or official bonds by any state agency shall be subject to approval of the Department of General Services. Any such procurement may, upon request of the state agency concerned, be made by the Department of General Services on behalf of such agency.

Whenever the procurement of insurance or official bonds for or on behalf of the state is authorized by law and no state agency is specifically authorized to purchase such insurance or official bonds, the Department of General Services may procure such insurance or official bonds.

This section shall not apply to (a) insurance procured by the Department of Transportation or the California Transportation Commission under Sections 100.7 and 30450 to 30453, inclusive, of the Streets and Highways Code; (b) workers' compensation insurance procured under Section 11870 of the Insurance Code; (c) insurance procured by the Department of Veterans Affairs under Division 4 (commencing with Section 690) of the Military and Veterans Code; (d) insurance procured by the California State University.

SEC. 6. Section 11007.7 of the Government Code, as amended by Section 5 of Chapter 867 of the Statutes of 1981, is repealed.

SEC. 7. The first Section 10295 of the Public Contract Code, as added by Section 4 of Chapter 1231 of the Statutes of 1983, is amended to read:

10295. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or elementary school textbooks, (b) services, whether or not the services involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction,

alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval. This section shall apply to any state agency which by general or specific statute is expressly or impliedly authorized to enter into transactions referred to herein. This section shall not apply to any transaction entered into by the Trustees of the California State University involving an expenditure of less than one hundred thousand dollars ($100,000) or by a department under the State Contract Act or the California State University Contract Law, nor to any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 7.5. The second Section 10295 of the Public Contract Code, as added by Section 4 of Chapter 1231 of the Statutes of 1983, is repealed.

SEC. 8. Section 10389 of the Public Contract Code is amended to read:

10389. This article shall not apply to the Trustees of the California State University.

SEC. 9. Section 12100.5 of the Public Contract Code, as added by Section 5 of Chapter 1231 of the Statutes of 1983, is amended to read:

12100.5. With regard to any contract involving an expenditure of less than one hundred thousand dollars ($100,000), the Trustees of the California State University shall not be subject to supervision or approval of the Department of General Services, but shall be subject to all the other procedures of this chapter, including, but not limited to, competitive bidding requirements.

The Regents of the University of California shall not be subject to the provisions of this chapter.

SEC. 10. Section 12100.5 of the Public Contract Code, as added by Section 6 of Chapter 1231 of the Statutes of 1983, is repealed.

SEC. 11. It is the intent of the Legislature that this act shall result in greater economy or efficiency in the operation of the California State University. If the California State University determines that greater economy or efficiency would be served by contracting with the Department of General Services or another department or agency of the state for the performance of any service or function,

the Department of General Services or other department or agency shall contract with the California State University to perform the service or functions.

CHAPTER 844

An act to amend Sections 1569.2, 1569.18, 1569.35, 1569.36, 1569.44, 1569.50, 1569.66, 1569.145, and 1569.312 of, to add Section 1569.151 to, and Article 8 (commencing with Section 1569.80) to Chapter 3.3 of Division 2 of, and to repeal Section 1569.67 of, the Health and Safety Code, relating to residential care facilities for the elderly.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 1569.2 of the Health and Safety Code is amended to read:

1569.2. As used in this chapter:

(a) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which resident physical health, mental health, safety or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

(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, meals, 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, grooming, and mobility and associated tasks.

(h) "Personal care" means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.

(i) "Protective supervision" means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.

(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 and intensities of care and supervision, protective 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.

(k) "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, protective 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.

(*l*) " 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; and counseling services.

SEC. 2. Section 1569.145 of the Health and Safety Code is amended to read:

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, congregate housing project for the elderly, or other similar place that is limited to providing one or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities; or that have residents independently accessing supportive services; provided, however, that no resident thereof requires any element of care and supervision or protective supervision 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.

SEC. 2.5. Section 1569.151 is added to the Health and Safety Code, to read:

1569.151. Upon receipt of an application to operate a residential care facility for the elderly from an applicant who is also applying or intends to apply for a permit to sell deposit subscriptions on life care contracts pursuant to Chapter 10 (commencing with Section 1770), the department shall review the application for licensure to determine the applicant's ability and intent to meet all statutory and regulatory requirements for a residential care facility for the elderly.

Upon determination that the applicant has provided satisfactory evidence of ability and intent, the department shall issue a preliminary approval for licensure, for purposes of the applicant obtaining a permit to sell deposit subscriptions for life care contracts. Preliminary approval does not guarantee that a license will be issued by the department.

SEC. 3. Section 1569.18 of the Health and Safety Code is amended to read:

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 is for the purpose of financing a portion of the application and renewal processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

Capacity	Original Application	Renewal Application
1- 6	$100	$100
7-15	$150	$150
16-49	$200	$200
50+	$250	$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 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 other 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.

(c) These fees applicable to residential care facilities for the elderly shall not be effective unless licensing fees are established for all adult residential facilities licensed by the State Department of Social Services.

SEC. 4. Section 1569.312 of the Health and Safety Code is amended to read:

1569.312. Every facility required to be licensed under this chapter shall provide at least the following basic services:

(a) Care and supervision as defined in Section 1569.2.

(b) Assistance with instrumental activities of daily living in the combinations which meet the needs of residents.

(c) Helping residents gain access to appropriate supportive services, as defined, in the community.

(d) Being aware of the resident's general whereabouts, although the resident may travel independently in the community.

(e) Monitoring the activities of the residents while they are under the supervision of the facility to ensure their general health, safety, and well-being.

(f) Encouraging the residents to maintain and develop their maximum functional ability through participation in planned activities.

SEC. 5. Section 1569.35 of the Health and Safety Code is amended to read:

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. 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, 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 except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies. 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.

SEC. 6. Section 1569.36 of the Health and Safety Code is amended to read:

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.

SEC. 7. Section 1569.44 of the Health and Safety Code is amended 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 care facility for

the elderly, the department shall refer residents to the appropriate placement or adult protective services agency or the appropriate local or state long-term care ombudsman, 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. 8. Section 1569.66 of the Health and Safety Code is amended to read:

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 and the services for which each facility has been licensed. A list or lists containing changes shall be published and made available periodically, as determined by the director.

SEC. 9. Section 1569.50 of the Health and Safety Code is amended to read:

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 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, the 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 of the temporary suspension and at the same time shall serve the 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 the notice. The temporary suspension shall remain in effect until the time 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.

SEC. 10. Section 1569.67 of the Health and Safety Code is repealed.

SEC. 11. Article 8 (commencing with Section 1569.80) is added to Chapter 3.3 of Division 2 of the Health and Safety Code, to read:

Article 8. Local Regulation

1569.82. The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers of residential care facilities for the elderly as are commensurate with local need.

This article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.

For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

1569.83. Any person licensed under this chapter who operates, or proposes to operate a residential care facility for the elderly, the department or other public agency authorized to license the facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke this article.

This section shall not be construed to prohibit any interested party from bringing suit to invoke this article.

1569.84. A residential care facility for the elderly, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other single family dwellings are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1569.85, local bond assessments, and other fees, charges, and assessments to which other single-family dwellings are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential care facilities for the elderly which service six or fewer persons.

1569.85. Whether or not unrelated persons are living together, a residential care facility for the elderly which serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

For the purpose of all local ordinances, a residential care facility for the elderly which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of the aged, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential care facility for the elderly is a business run for profit or differs in any other way from a single-family residence.

This section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly which serves six or fewer persons as long as the restrictions are identical to those applied to other family residences.

This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly which serve six or fewer persons from other single-family dwellings; and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other single-family dwellings.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly which serves six or fewer persons which is not required of a single-family residence in the same zone.

Use of a single-family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.

1569.86. No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility for the elderly because of a failure to comply with local ordinances from which the facilities are exempt under Section 1569.85, provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.

1569.87. 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.

CHAPTER 845

An act to amend Section 314 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 314 of the Public Utilities Code is amended to read:

314. (a) The commission, each commissioner, and each officer and person employed by the commission may, at any time, inspect the accounts, books, papers, and documents of any public utility. The commission, each commissioner, and any officer of the commission or any employee authorized to administer oaths may examine under oath any officer, agent, or employee of a public utility in relation to its business and affairs. Any person, other than a commissioner or an officer of the commission, demanding to make any inspection shall produce, under the hand and seal of the commission, authorization to make the inspection. A written record of the testimony or statement so given under oath shall be made and filed with the commission.

(b) Subdivision (a) also applies to inspections of the accounts, books, papers, and documents of any business which is a subsidiary or affiliate of, or a corporation which holds a controlling interest in, an electrical, gas, or telephone corporation with respect to any transaction between the electrical, gas, or telephone corporation and the subsidiary, affiliate, or holding corporation on any matter that might adversely affect the interests of the ratepayers of the electrical, gas, or telephone corporation.

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 846

An act to amend Section 597 of the Penal Code, relating to animals.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 597 of the Penal Code is amended to read:

597. (a) Except as provided in subdivision (c), every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal which is the property of another, or maliciously and intentionally, kills an animal which is the property of another, is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by both the fine and imprisonment.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a misdemeanor.

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish as described in subdivision (d), is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, by a fine of not more than two thousand dollars ($2,000), or by both the fine and imprisonment if any of the following facts are proven:

(1) The person knows the mammal, bird, reptile, amphibian, or fish is a creature described in subdivision (e).

(2) The person has been convicted of violation of Section 12008 of the Fish and Game Code, which conviction occurred within five years of the conviction of this violation.

(3) The person has been convicted of a violation of this

subdivision, which conviction occurred within five years of the conviction of this offense.

(4) The person maliciously and intentionally maims, tortures, or mutilates three or more separate specimens of the creatures described in subdivision (d) whether from the same or separate or any combination of the groups of creatures described therein.

(d) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(e) For the purposes of subdivision (c) each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (d) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(f) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

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 847

An act to amend Sections 930.1, 930.5, 931, 934, 935, 938, 939, 13003, 13004, 13006, 13009, 13050, and 13101 of, to add Sections 928, 928.5, 931.5, 938.1, and 938.3 to, to repeal and add Section 937 of, and to repeal Section 932 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 928 is added to the Unemployment Insurance Code, to read:

928. Unless otherwise specifically provided, the definitions and qualifications of deferred compensation plans shall be determined for purposes of this part in accordance with Subchapter D (commencing with Section 401) of Chapter 1 of Subtitle A of the Internal Revenue Code. When applying the Internal Revenue Code for the purposes of this part, any reference to regulations of the Internal Revenue Service shall not apply if the Employment Development Department has adopted and issued regulations on this subject. In the absence of regulations issued by the Employment Development Department, regulations issued under the Internal Revenue Code shall govern the interpretation of this part.

SEC. 2. Section 928.5 is added to the Unemployment Insurance Code, to read:

928.5. "Wages" also includes all of the following:

(a) Any employer contributions under a qualified cash or deferred arrangement, as defined by Section 401(k) of the Internal Revenue Code, to the extent the amount is excluded from the gross income of the employee under Section 402(a)(8) of the Internal Revenue Code.

(b) Any amount treated as an employer contribution under a state pickup plan as defined by Section 414(h)(2) of the Internal Revenue Code, only if the payments are made pursuant to a salary reduction arrangement.

(c) Any amount deferred under a nonqualified deferred compensation plan shall be taken into account, for purposes of this article, on the later of the following:

(1) When the services are performed.

(2) When there is no substantial risk of forfeiture of the right to the amount.

(d) Any amount taken into account as "wages" by reason of subdivision (c), and the income attributable thereto, shall be taxed only once and shall not thereafter be treated as "wages" for purposes of this article.

(e) For the purposes of this section, the term "nonqualified

deferred compensation plan" means any plan or arrangement for deferral of compensation other than a plan described under Section 934.

SEC. 2.5. Section 930.1 of the Unemployment Insurance Code is amended to read:

930.1. For the purpose of determining whether an employer has paid remuneration with respect to employment in excess of the limitation prescribed by Section 930 to an individual during any calendar year, the remuneration shall be deemed to include any remuneration paid to the individual by the employer for services constituting employment under the unemployment compensation law of another state which the employer has reported to the other state as wages for contribution purposes. As used in this section, "remuneration" does not include the remuneration of the type described in Sections 931, 931.5, 933, 934, 935, 936, 937, 938, 938.1, and 938.3 when paid by the employer in another state.

SEC. 3. Section 930.5 of the Unemployment Insurance Code is amended to read:

930.5. If an employer during any calendar year acquires substantially all the property used in a trade or business of another employer, or used in a separate unit of a trade or business of the other employer, and immediately after the acquisition employs in his or her trade or business an individual who immediately prior to the acquisition was employed in the trade or business of the employer from whom the property was acquired, then, for the purpose of determining whether the acquiring employer has paid remuneration with respect to employment in excess of the limitation prescribed by Section 930, or the limitation prescribed by Section 985, to the individual during the calendar year, any remuneration with respect to employment paid to the individual by the employer from whom the property was acquired during the calendar year and prior to the acquisition shall be considered as having been paid by the acquiring employer. As used in this section, "remuneration" does not include the remuneration referred to in Sections 931, 931.5, 933, 934, 935, 936, 937, 938, 938.1, and 938.3.

SEC. 3.5. Section 931 of the Unemployment Insurance Code is amended to read:

931. "Wages" does not include the amount of any payment, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any payment, made to or on behalf of an employee or any of his or her dependents under a plan or system established by an employer which makes provision for his or her employees generally, or for his or her employees generally and their dependents, or for a class or classes of his or her employees, or for a class or classes of his or her employees and their dependents, on account of any of the following:

(a) Sickness or accident disability, but in the case of payments made to an employee or any of his or her dependents, this subdivision shall exclude from "wages" only those payments which

are received under a workers' compensation law.

(b) Medical or hospitalization expenses in connection with sickness or accident disability.

(c) Death.

SEC. 4. Section 931.5 is added to the Unemployment Insurance Code, to read:

931.5. Any third party which makes a payment included in the term "wages" solely by reason of subdivision (a) of Section 931 shall be treated as the employer with respect to those wages unless both of the following occur:

(a) The third party payor withholds the amounts required by Sections 984 and 13020 and deposits those amounts as required by Section 13021.

(b) The third party payor notifies the last employer who is a member of the plan and for whom the services were performed within 15 days of payment, and provides all of the following information:

(1) The name and social security account number of the recipients of the wages paid pursuant to subdivision (a) of Section 931.

(2) The amount of gross wages paid pursuant to subdivision (a) of Section 931.

(3) The amounts withheld and remitted pursuant to Section 13021.

When the third party payor has met the above conditions, the last employer, not the third party payor, shall be required to pay the tax imposed by Section 976 and 976.6 and to comply with the requirements of Section 1088.

SEC. 5. Section 932 of the Unemployment Insurance Code is repealed.

SEC. 6. Section 934 of the Unemployment Insurance Code is amended to read:

934. "Wages" does not include any payment made to, or on behalf of, an employee or his or her beneficiary:

(a) From or to a trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 501(a) of that code at the time of the payment unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust.

(b) Under or to an annuity plan which, at the time of the payment, is a plan described in Section 403(a) of the Internal Revenue Code.

(c) Under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under Section 219(b)(2) of the Internal Revenue Code for the payment.

(d) Under or to an annuity contract described in Section 403(b) of the Internal Revenue Code, other than a payment for the purchase of the contract which is made by reason of a salary

reduction agreement, whether evidenced by a written instrument or otherwise.

(e) Under or to an exempt governmental deferred compensation plan as defined in Section 3121 (v) (3) of the Internal Revenue Code.

(f) To supplement pension benefits under a plan or trust described in any of the foregoing provisions of this section to take into account some portion or all of the increase in the cost of living, as determined by the Secretary of Labor, since retirement, but only if the supplemental payments are under a plan which is treated as a welfare plan under Section 3(2) (B) (ii) of the Employee Retirement Income Security Act of 1974.

SEC. 7. Section 935 of the Unemployment Insurance Code is amended to read:

935. "Wages" does not include the payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under Section 3101 of the Internal Revenue Code with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor, as defined in subsection (g) of Section 3121 of the Internal Revenue Code.

SEC. 8. Section 937 of the Unemployment Insurance Code is repealed.

SEC. 9. Section 937 is added to the Unemployment Insurance Code, to read:

937. "Wages" does not include the payment to, or on behalf of, an employee for moving expenses, if at the time of the payment it is reasonable to believe that a corresponding deduction from income is allowable to the employee under Section 217 of the Internal Revenue Code.

SEC. 10. Section 938 of the Unemployment Insurance Code is amended to read:

938. (a) "Wages" does not include any payment or series of payments by an employer to an employee or any of his or her dependents which is paid:

(1) Upon or after the termination of an employee's employment relationship because of death or retirement for disability, and

(2) Under a plan established by the employer which makes provision for his or her employees generally or a class or classes of his or her employees, or for the employees or class or classes of employees and their dependents.

(b) This section shall not apply to any payment or series of payments which would have been paid if the employee's employment relationship had not been terminated as prescribed by this section.

SEC. 11. Section 938.1 is added to the Unemployment Insurance Code, to read:

938.1. "Wages" does not include any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his or her spouse, or his or her

dependents, under the provisions of Section 120 of the Internal Revenue Code, relating to amounts received under a qualified group legal services plan.

SEC. 12. Section 938.3 is added to the Unemployment Insurance Code, to read:

938.3. "Wages" does not include any payment made, or benefit furnished to, or for the benefit of, an employee, for any of the following:

(a) An educational assistance program if, at the time of payment or the furnishing, it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 127 of the Internal Revenue Code.

(b) A dependent care assistance program if, at the time of payment or the furnishing, it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 129 of the Internal Revenue Code.

SEC. 13. Section 939 of the Unemployment Insurance Code is amended to read:

939. Types of payments excluded from the definition of wages by Sections 931, 931.5, 933, 934, 935, 936, 937, 938, 938.1, 938.3, and 938.7 shall be excluded from the definition of wages only during the time that the respective type or types of payments set forth in those sections are similarly excluded from the definition of wages contained in the Federal Unemployment Tax Act.

SEC. 14. Section 13003 of the Unemployment Insurance Code is amended to read:

13003. (a) Except where the context otherwise requires, the definitions set forth in this chapter, and in addition the definitions and provisions of the Personal Income Tax Law referred to and hereby incorporated by reference as set forth in the following provisions of the Revenue and Taxation Code, shall apply to and govern the construction of this division:

(1) "Corporation" as defined by Section 17009.
(2) "Fiduciary" as defined by Section 17006.
(3) "Fiscal year" as defined by Section 17011.
(4) "Foreign country" as defined by Section 17019.
(5) "Franchise Tax Board" as defined by Section 17003.
(6) "Husband" and "wife" as defined by Section 17021.
(7) "Individual" as defined by Section 17005.
(8) "Military or naval forces" as defined by Section 17022.
(9) "Nonresident" as defined by Section 17015.
(10) "Partnership" as defined by Section 17008.
(11) "Person" as defined by Section 17007.
(12) "Resident" as defined by Sections 17014 and 17016.
(13) "State" as defined by Section 17018.
(14) "Taxable year" as defined by Section 17010.
(15) "Taxpayer" as defined by Section 17004.
(16) "Trade or business" as defined by Section 17020.
(17) "United States" as defined by Section 17017.

(b) The provisions of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, relating to the following items, are hereby incorporated by reference and shall apply to and govern construction of this division:

(1) Trade or business expense (Article 6 (commencing with Section 17201) of Chapter 3).

(2) Deductions for retirement savings (Article 6 (commencing with Section 17201) of Chapter 3).

(3) Deduction for moving expense (Article 6 (commencing with Section 17201) of Chapter 3).

(4) Distributions of property by a corporation to a shareholder (Chapter 4 (commencing with Section 17321)).

(5) Deferred compensation (Chapter 5 (commencing with Section 17501)).

(6) Partners and partnerships (Chapter 10 (commencing with Section 17851)).

(7) Gross income of nonresident taxpayers Chapter 11 (commencing with Section 17951)).

(8) Postponement of the time for certain acts by individuals in or in support of the armed forces (Article 4 (commencing with Section 18470) of Chapter 17).

(9) Disclosure of information (Article 2 (commencing with Section 19281) of Chapter 21, except Section 19289.5). For this purpose "Franchise Tax Board" as used therein shall mean the Employment Development Department in respect to information obtained in the administration of this division.

SEC. 15. Section 13004 of the Unemployment Insurance Code is amended to read:

13004. "Employee" means a resident individual who receives remuneration for services performed within or without this state or a nonresident individual who receives remuneration for services performed within this state and includes an officer, employee, or elected official of the United States, a state, territory, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing. "Employee" also includes an officer of a corporation.

Whether an individual provides equipment in the performance of services for remuneration shall not be considered in a determination of whether that individual is an employee.

SEC. 16. Section 13006 of the Unemployment Insurance Code is amended to read:

13006. "Gross income" means all compensation for services including fees, commissions, and similar items, except as otherwise provided by this division. "Gross income" shall specifically include those items relating to compensation specified by Article 2 (commencing with Section 17081) of, and shall specifically exclude those items relating to compensation specified by Article 3 (commencing with Section 17131) of, Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code.

SEC. 17. Section 13009 of the Unemployment Insurance Code is amended to read:

13009. "Wages" means all remuneration, other than fees paid to a public official, for services performed by an employee for his or her employer, including all remuneration paid to a nonresident employee for services performed in this state, and the cash value of all remuneration paid in any medium other than cash, except as provided by this section. "Wages" includes tips received by an employee in the course of his or her employment. The wages shall be deemed to be paid at the time a written statement including tips is furnished to the employer pursuant to Section 13055 or, if no statement including those tips is so furnished, at the time received.

"Wages" shall not include remuneration paid under any of the following conditions:

(a) For agricultural labor, as defined in subdivision (g) of Section 3121 of the Internal Revenue Code.

(b) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority.

(c) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for that service is fifty dollars ($50) or more and the service is performed by an individual who is regularly employed by the employer to perform the service. For purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if either of the following conditions is met:

(1) On each of some 24 days during the quarter, the individual performs for the employer for some portion of the day service not in the course of the employer's trade or business.

(2) The individual was regularly employed, as determined under paragraph (1), by the employer in the performance of the service during the preceding calendar quarter.

(d) For services by a citizen or resident of the United States for a foreign government or an international organization.

(e) For services performed by a nonresident alien individual as designated by regulations prescribed by the department.

(f) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order.

(g) (1) For services performed by an individual under the age of 18 in delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(2) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of the price over the amount at

which the newspapers or magazines are charged to him or her whether or not he or she is guaranteed a minimum amount of compensation for the services, or is entitled to be credited with the unsold newspapers or magazines turned back.

(h) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash.

(i) To, or on behalf of, an employee or his or her beneficiary under any of the following situations:

(1) From or to a trust which is exempt from tax under Section 17631 of the Revenue and Taxation Code at the time of payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust.

(2) Under or to an annuity plan which, at the time of payment, is a plan qualified pursuant to Chapter 5 (commencing with Section 17501) of Part 10 of Division 2 of the Revenue and Taxation Code.

(3) Under or to a bond purchase plan which, at the time of payment, is a bond purchase plan qualified pursuant to Chapter 5 (commencing with Section 17501) of Part 10 of Division 2 of the Revenue and Taxation Code.

(4) For a payment which qualifies for deduction by an employee pursuant to Section 17272 of the Revenue and Taxation Code if, at the time of payment, it is reasonable to believe that the employee will be entitled to a deduction under that section for payment.

(j) To a master, officer, or any other seaman who is a member of a crew on a vessel engaged in foreign, coastwise, intercoastal, interstate, or noncontiguous trade.

(k) Pursuant to any provision of law other than Section 5(c) or 6 (*l*) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of that act.

(*l*) In the form of group-term life insurance on the life of an employee.

(m) To or on behalf of an employee, and to the extent that, at the time of the payment of remuneration it is reasonable to believe that a corresponding deduction is allowable for moving expenses pursuant to Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code.

(n) (1) As tips in any medium other than cash.

(2) As cash tips to an employee in any calendar month in the course of his or her employment by an employer, unless the amount of the cash tips is twenty dollars ($20) or more.

(o) For service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat pursuant to which all of the following apply:

(1) The individual does not receive any cash remuneration, other than as provided in paragraph (2).

(2) The individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch

of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch.

(3) The amount of the individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life.

This subdivision shall apply only where the operating crew of the boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

(p) For any medical care reimbursement made to, or for the benefit of, an employee under a self-insured medical reimbursement plan pursuant to Section 105(h)(6) of the Internal Revenue Code.

(q) To, or on behalf of, an employee to the extent not includable in gross income pursuant to Section 13006.

SEC. 18. Section 13050 of the Unemployment Insurance Code is amended to read:

13050. (a) Every employer or person required to deduct and withhold from an employee a tax under Section 986, 3260, or 13020, or who would have been required to deduct and withhold a tax under Section 13020 (determined without regard to Section 13025) if the employee had claimed no more than one withholding exemption, shall furnish to each employee in respect of the remuneration paid by the person to the employee during the calendar year, on or before January 31 of the succeeding year, or, if his or her employment is terminated before the close of the calendar year, on the day on which the last payment of remuneration is made, a written statement showing all of the following:

(1) The name of the person.

(2) The name of the employee, and his or her social security or identifying number if wages have been paid.

(3) The total amount of wages, except that in the case of tips received by an employee in the course of his or her employment, the amounts required shall include only those tips included in statements furnished to the employer pursuant to Section 13055.

(4) The total amount deducted and withheld as tax under Section 13020.

(5) The total amount of worker contributions paid by the employee pursuant to Section 986.

(6) The total amount of worker contributions paid by the employee pursuant to Section 3260.

(b) The statement required to be furnished pursuant to this section in respect of any remuneration shall be furnished at other times, shall contain other information, and shall be in a form, as the department may by authorized regulations prescribe.

(c) A duplicate of any statement made pursuant to this section and in accordance with authorized regulations prescribed by the department shall, when required by the regulations, be filed with the department.

(d) If, during any calendar year, any person makes a payment of third-party sick pay to an employee, that person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom the payment was made showing all of the following:

(1) The name and, if there is withholding under this division, the social security number of that employee.

(2) The total amount of the third-party sick pay paid to that employee during the calendar year.

(3) The total amount, if any, deducted and withheld from that sick pay under this division. For purposes of the preceding sentence, the term "third-party sick pay" means any sick pay, as defined in subdivision (b) of Section 13028.6, which does not constitute wages for purposes of this division, determined without regard to subdivision (a) of Section 13028.

(A) The reporting requirements of subdivision (a) with respect to any payments shall, with respect to those payments, be in lieu of the requirements of subdivision (a) and of Section 18802 of the Revenue and Taxation Code.

(B) For purposes of Chapter 6 (commencing with Section 13090), the statements required to be furnished by this subdivision shall be treated as statements required under this section to be furnished to employees.

(C) Every employer who receives a statement under this subdivision with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to that employee showing all of the following:

(i) The information shown on the statement furnished under this subdivision.

(ii) If any portion of the sick pay is excludable from gross income pursuant to Article 3 (commencing with Section 17131) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code, the portion which is not so excludable and the portion which is so excludable. To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement, if any, required under subdivision (a).

(e) The Franchise Tax Board shall be allowed access to the information filed with the department pursuant to this section.

SEC. 19. Section 13101 of the Unemployment Insurance Code is amended to read:

13101. (a) In addition to any criminal penalty provided by law, if any individual makes a statement under Section 13040, 13041, or 13042 which results in a decrease in the amounts deducted and withheld under this division, and as of the time the statement was made, there was no reasonable basis for the statement, the individual shall pay a penalty of five hundred dollars ($500) for the statement.

(b) The department may waive, in whole or in part, the penalty imposed under subdivision (a) if the taxes imposed with respect to

the individual under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code for the taxable year are equal to or less than the sum of both of the following:

(1) The credits against those taxes allowed by Sections 17052.1 through 17053.7 and Section 18551.1.

(2) The payments of estimated tax which are considered payments on account of those taxes.

(c) Article 11 (commencing with Section 1221) of Chapter 4 of Part 1, relating to administrative appellate review, shall not apply to the assessment or collection of any penalty imposed by subdivision (a).

(d) This section shall apply to acts and failures to act after December 31, 1981.

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 848

An act to amend Sections 8880.6, 8880.32, and 8880.59 of the Government Code, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 8880.6 of the Government Code is amended to read:

8880.6. Other Statutory Provisions

Sections 320, 321, 322, 323, 324, 325, 326, and 328 of the Penal Code do not apply to the California State Lottery or its operations. This exemption applies only to the operators of the Lottery and shall not be construed to change existing law relating to lotteries operated by persons or entities other than the Lottery.

SEC. 2. Section 8880.32 of the Government Code is amended to read:

8880.32. Validation and Payment of Prizes

The Commission shall promulgate rules and regulations to establish a system of verifying the validity of prizes and to effect payment of such prizes, provided:

(a) For convenience of the public, Lottery Game Retailers may be authorized by the Commission to pay winners of up to six hundred

dollars ($600) after performing validation procedures on their premises appropriate to the Lottery Game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the Lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the Lottery Game involved, purchased by a minor, or not in compliance with such additional specific rules and regulations and confidential validation and security tests appropriate to the particular Lottery Game.

The Commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. Any such declaration shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any Lottery Game may be paid more than once, and in the event the Commission reaches a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of the claimants is the award to each of them of an equal share in the prize and the Commission shall direct the Controller to disburse the award to the claimants in equal shares.

(d) The Commission may specify that winners of less than twenty-five dollars ($25) claim the prizes from either the same Lottery Game Retailer from whom it was purchased or from the Lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the Lottery Game or play in which the prize was won. The Commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the Lottery Commission within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this chapter.

(f) After the expiration of the claim period for prizes for each Lottery Game, the Commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a Lottery Game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the Lottery Commission.

(g) The right of any person to a prize shall not be assignable, except that payment of any prize may be paid to the estate of a deceased prize winner or to a person designated pursuant to an appropriate judicial order. In the event that there is no probate, the prize shall be distributed in accordance with Section 21211. The Director, the Commission, and the state shall be discharged of all further liability upon the payment of a prize pursuant to this subdivision.

(h) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the Commission or to any officer or employee of the Commission or to any spouse, child, brother, sister,

or parent of that person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(i) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 3. Section 8880.59 of the Government Code is amended to read:

8880.59. Performance Bond

Each Lottery Contractor may be required by the Lottery to post , with the Commission an acceptable performance bond, letter of credit, or other form of security or guarantee of performance, using a surety acceptable to the Commission, in an amount equal to the full amount estimated to be paid annually to the supplier under the contract. The Commission may require any Lottery Game Retailer to provide a fidelity bond which shall be payable upon order of the Commission.

SEC. 4. The Legislature finds and declares that the provisions of this act further the purpose of the California State Lottery Act of 1984.

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:

In order to clarify the application of Penal Code provisions to lotteries operated by persons or entities other than the California State Lottery and to provide additional security for the California State Lottery as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 849

An act to add Sections 31760.2, 31785.1, and 31786.1 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 31760.2 is added to the Government Code, to read:

31760.2. Notwithstanding Section 31760.1, upon the death of any member after retirement for service or nonservice-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of his or her retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued throughout life to his or her surviving spouse if the spouse is designated as beneficiary. If there is no surviving spouse entitled to an allowance under this section or if she or he dies before every child of the deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived, shall be paid to his or her child or children under that age collectively, to continue until every such child dies or attains that age. However, no child shall receive any allowance after marrying or attaining the age of 18 years.

No allowance shall be paid under this section to a surviving spouse unless he or she was married to the member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death and no other person has been designated in an order of a court in a domestic relations proceeding as a payee.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school, as determined by the board.

If at the death of any retired member there is no surviving spouse or minor children eligible for the 60-percent continuance provided in this section and the total retirement allowance income received by him or her during his or her lifetime did not equal or exceed his or her accumulated normal contributions, his or her designated beneficiary shall be paid an amount equal to the excess of his or her accumulated normal contributions over his or her total retirement allowance income.

No allowance shall be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31760.1.

This section shall not be operative in any county until such time

as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 2. Section 31785.1 is added to Government Code, to read:

31785.1. Notwithstanding Section 31785, upon the death of any safety member, after retirement for service or nonservice-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of his or her retirement allowance if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued throughout life to his or her surviving spouse if the spouse is designated as beneficiary. If there is no surviving spouse entitled to an allowance under this section or if she or he dies before every child of the deceased safety member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived, shall be paid to his or her child or children under that age, collectively, to continue until every child dies or attains that age. However, no child shall receive any allowance after marrying or attaining the age of 18 years.

No allowance shall be paid under this section to a surviving spouse unless he or she was married to the safety member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death and no other person has been designated in an order of a court in a domestic relations proceeding as a payee.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

No allowance shall be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31785.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 3. Section 31786.1 is added to the Government Code, to read:

31786.1. Notwithstanding Section 31786, upon the death of any member after retirement for service-connected disability, his or her retirement allowance as it was at his or her death, shall be continued throughout life to his or her surviving spouse if the spouse is designated as beneficiary. If there is no surviving spouse entitled to an allowance under this section or if he or she dies before every child of the deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived, shall be paid to his or her child or children under that age, collectively, to continue until every such child dies or attains that age. However, no child shall receive any allowance after marrying or attaining the age of 18 years.

No allowance shall be paid under this section to a surviving spouse unless he or she was married to the member at least two years prior

to the date of death and has attained the age of 55 years on or prior to the date of death and no other person has been designated in an order of a court in a domestic relations proceeding as a payee.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

No allowance shall be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31786.

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. 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 850

An act to amend Section 1203.3 of the Penal Code, relating to probation.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 1203.3 of the Penal Code is amended to read:

1203.3. (a) The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. It may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held, but no order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke, modify, or change its order, and in all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall at the end of the term of probation or any extension thereof, be by the court discharged subject to the provisions of these sections.

(b) If a probationer is ordered to serve time in jail, and the probationer escapes while serving that time, the probation is

revoked as a matter of law on the day of the escape.

(c) If probation is revoked under this section, upon taking the probationer into custody, the probationer shall be accorded a hearing or hearings consistent with the holding in the case of People v. Vickers, 8 Cal. 3d 451. The purpose of that hearing or hearings is not to revoke probation, as the revocation has occurred as a matter of law in accordance with this section, but rather to afford the defendant an opportunity to require the prosecution to establish that the alleged violation did in fact occur and to justify the revocation.

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 851

An act to amend Section 7027 of the Business and Professions Code, and to amend Section 18035.3 of, and to add Section 18035.25 to, the Health and Safety Code, relating to contractors.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 7027 of the Business and Professions Code is amended to read:

7027. (a) For the purposes of this chapter, "contractor" includes any person engaged in the business of the construction, installation, alteration, repair, or preparation for moving of a mobilehome or mobilehome accessory buildings and structures upon a site for the purpose of occupancy as a dwelling.

(b) "Contractor" does not include the manufacturer of the mobilehome or mobilehome accessory building or structure if it is constructed at a place other than the site upon which it is installed for the purpose of occupancy as a dwelling, and does not include the manufacturer when the manufacturer is solely performing work in compliance with the manufacturer's warranty. "Contractor" includes the manufacturer if the manufacturer is engaged in onsite construction, alteration, or repair of a mobilehome or mobilehome accessory buildings and structures pursuant to specialized plans, specifications, or models, or any work other than in compliance with the manufacturer's warranty.

(c) "Contractor" does not include a seller of a manufactured home or mobilehome who holds a retail manufactured home or

mobilehome dealer's license under Chapter 7 (commencing with Section 18045) of Part 2 of Division 13 of the Health and Safety Code, if the installation of the manufactured home or mobilehome is to be performed by a licensed contractor and the seller certifies that fact in writing to the buyer prior to the performance of the installation. The certification shall include the name, business address, and contractor's license number of the licensed contractor by whom the installation will be performed.

(d) For the purposes of this chapter, the following terms have the following meanings:

(1) "Mobilehome" means a vehicle defined in Section 18008 of the Health and Safety Code.

(2) "Mobilehome accessory building or structure" means a building or structure defined in Section 18008.5 of the Health and Safety Code.

(3) "Manufactured home" means a structure defined in Section 18007 of the Health and Safety Code.

SEC. 2. Section 18035.25 is added to the Health and Safety Code, to read:

18035.25. Notwithstanding any other provision of this part to the contrary, it is a ground for disciplinary action, and not a criminal offense, for a dealer to fail to correct, or cause to be corrected, any defects in the installation of a manufactured home or mobilehome performed by a licensed contractor whom the dealer had certified to the purchaser as the installation contractor pursuant to subdivision (c) of Section 7027 of the Business and Professions Code. Any accusation filed against a licensee for a violation of this section shall be filed within three years after the occurrence of the act or omission alleged as the ground for disciplinary action.

SEC. 3. Section 18035.3 of the Health and Safety Code is amended to read:

18035.3. (a) For every sale by a dealer of a new or used manufactured home or mobilehome, either the purchase order, conditional sale contract, or other document evidencing the purchase thereof, or any attachment to such a purchase document signed and dated by the purchaser, shall contain the following:

(1) A description of the manufactured home or mobilehome, a description and the cash price of each accessory, structure, or service included with the purchase, and the total cash price for the purchase. The statement shall also state whether the purchase price includes or excludes the towbar, wheels, wheel hubs, tires, and axles and, if so, the price thereof.

(2) The amount, if any, charged by the dealer for documentary preparation and, if a documentary preparation charge is imposed, a notice advising the purchaser that the charge is not a governmental fee.

(3) A notice in type no smaller than 8-point that complaints concerning the purchase shall be referred to the dealer and, if the complaint is not resolved, may be referred to the Department of

Housing and Community Development, Division of Codes and Standards, Occupational Licensing, Post Office Box 31, Sacramento, California, 95801 (telephone number (800) 952-5275).

(4) A notice, in at least 10-point bold type reading as follows:

(A) Do NOT sign the purchase agreement before you read it or if it contains any blank spaces to be filled in.

(B) You are entitled to a completely filled-in copy of that agreement and, if purchasing a manufactured home or mobilehome covered by a warranty, a copy of the warranty.

(5) The name, business address, and contractor's license number of the licensed contractor whom the dealer certifies as performing the installation of the manufactured home or mobilehome pursuant to subdivision (c) of Section 7027 of the Business and Professions Code.

The disclosures required by this subdivision need not be contained in the same document.

(b) A failure to disclose pursuant to this section shall not be the basis for rescission of a conditional sale contract.

(c) Notwithstanding any other provision of this part to the contrary, a failure to provide the disclosures specified in paragraph (5) of subdivision (a) is a ground for disciplinary action and not a criminal offense.

CHAPTER 852

An act to amend Section 15463 of the Government Code, relating to County Health Facilities Financing Assistance Fund, and making an appropriation therefor.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. 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) (1) The Controller shall transfer the following amounts to the fund:

(A) 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.

(B) 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.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer twenty-five million dollars ($25,000,000) to the fund.

(c) Investment income derived from moneys in the fund shall be utilized by the authority to provide assistance to local jurisdictions, as defined in Section 16700 of the Welfare and Institutions Code, to pay the debt service on loans for, or otherwise assist in the financing of, facilities owned or operated by the local jurisdiction for the provision of county health services, 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 local jurisdictions 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 local jurisdictions 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 local jurisdiction for, or secured by, those facilities, as determined necessary 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 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) (1) The Controller shall transfer the following amounts to the fund:

(A) 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.

(B) 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.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer twenty-five million dollars ($25,000,000) to the fund.

(c) Moneys in the fund shall be utilized by the authority to provide assistance to local jurisdictions, as defined in Section 16700 of the Welfare and Institutions Code to pay the debt service on loans for, or otherwise assist in the financing of, facilities owned or operated by the local jurisdiction for the provision of county health services, 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 local jurisdictions 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 local jurisdictions 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 local jurisdiction for, or secured by, those facilities, as determined necessary 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. 3. 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) (1) The Controller shall transfer the following amounts to the fund:

(A) 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.

(B) 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.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer ten million dollars ($10,000,000) to the fund.

(c) Investment income derived from moneys in the fund shall be utilized by the authority to provide assistance to local jurisdictions, as defined in Section 16700 of the Welfare and Institutions Code, to pay the debt service on loans for, or otherwise assist in the financing of, facilities owned or operated by the local jurisdiction for the provision of county health services, 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 local jurisdictions 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 local jurisdictions 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 local jurisdiction for, or secured by, those facilities, as determined necessary 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. 4. 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) (1) The Controller shall transfer the following amounts to the fund:

(A) 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.

(B) 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.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer ten million dollars ($10,000,000) to the fund.

(c) Moneys in the fund shall be utilized by the authority to provide assistance to local jurisdictions, as defined in Section 16700

of the Welfare and Institutions Code to pay the debt service on loans for, or otherwise assist in the financing of, facilities owned or operated by the local jurisdiction for the provision of county health services, 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 local jurisdictions 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 local jurisdictions 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 local jurisdiction for, or secured by, those facilities, as determined necessary 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. 5. Section 2 of this bill incorporates amendments to Section 15463 of the Government Code proposed by both this bill and AB 3475. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, and AB 3515 is not enacted, (2) each bill amends Section 15463 of the Government Code, and (3) this bill is enacted after AB 3475, in which case Section 2 of this bill shall become operative, and Sections 1, 3, and 4 of this bill shall not become operative.

SEC. 6. Section 3 of this bill incorporates amendments to Section 15463 of the Government Code proposed by both this bill and AB 3515. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, and AB 3475 is not enacted, (2) each bill amends Section 15463 of the Government Code, and (3) this bill is enacted after AB 3515, in which case Section 15463 of the Government Code, as amended by AB 3515, 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.

SEC. 7. Section 4 of this bill incorporates amendments to Section 15463 of the Government Code proposed by this bill, AB 3475, and AB 3515. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 15463 of the Government Code, and (3) this bill is enacted after AB 3475 and AB 3515, in which case Section 15463 of the Government Code, as amended by AB 3515, 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.

CHAPTER 853

An act to amend Sections 53601 and 53635 of the Government Code, relating to funds of local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 53601 of the Government Code, as amended by Section 1 of Chapter 1526 of the Statutes of 1985, 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. 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. 1.5. Section 53601 of the Government Code, as amended by Section 1 of Chapter 1526 of the Statutes of 1985, 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 any portion of the money which it deems wise or expedient in:

(a) Bonds issued by the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 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 the 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, means 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.

(k) Medium-term corporate notes of a maximum of five years

maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment advisor registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(m) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease, installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease, installment sale, or other agreement, or, to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

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. 2. Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 1526 of the Statutes of 1985, 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. 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. 2.5. Section 53601 of the Government Code, as amended by

Section 1.5 of Chapter 1526 of the Statutes of 1985, 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 any portion of the money which it deems wise or expedient in:

(a) Bonds issued by the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 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 the 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, means 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) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (*l*), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment advisor registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

SEC. 3. Section 53635 of the Government Code, as amended by Section 2 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 deposit issued by a nationally or state-chartered bank, a savings association or federal association, a state or federal credit union, or 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 deposit do not come within 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certficates of deposit.

(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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for

one year or less. 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. 3.5. Section 53635 of the Government Code, as amended by Section 2 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union 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 deposit do not come within 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certficates of deposit.

(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 the 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, means 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.

(k) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of

medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Shares of beneficial interests issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (*l*), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment advisor registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 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. 4. Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union 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 deposit do not come within 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certificates of deposit.

(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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. 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. 4.5. Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 1526 of the Statutes of 1985, 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, savings associations or federal associations or credit unions in this 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 the local agency, 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 of the local agency.

(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 of the state.

(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 of the local agency.

(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, 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.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(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 deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union 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 deposit do not come within 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. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency 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 state or federal credit union issuing the negotiable certficates of deposit.

(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 the 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. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "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) Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securites eligible for investment under this subdivision shall be rated in the top three note rating categories by two of the three largest nationally recognized rating services. Purchase of medium-term corporate notes may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, of this section and which comply with the investment and deposit restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment advisor registered with the Securities and Exchange Commission with not less than five years experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

SEC. 5. Sections 1.5 and 2.5 of this bill incorporate amendments to Section 53601 of the Government Code proposed by both this bill and AB 2595. Sections 3.5 and 4.5 of this bill incorporate amendments to Section 53635 of the Government Code proposed by both this bill and AB 2595. Those sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, but this bill becomes operative first, (2) each bill amends Sections

53601 and 53635 of the Government Code, and (3) this bill is enacted after AB 2595, in which case Section 53601 of the Government Code, as amended by Sections 1 and 2 of this bill, and Section 53635 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of AB 2595, at which time Sections 1.5, 2.5, 3.5, and 4.5 of this bill shall become operative.

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

In order to clarify how the underlying securities of repurchase agreements must be delivered so that repurchase agreements can continue to be issued, this act must take immediate effect.

CHAPTER 854

An act to add Article 8.7 (commencing with Section 1037) to Chapter 4 of Division 8 of the Evidence Code, relating to evidence.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Article 8.7 (commencing with Section 1037) is added to Chapter 4 of Division 8 of the Evidence Code, to read:

Article 8.7. Domestic Violence Victim-Counselor Privilege

1037. As used in this article, "victim" means any person who suffers domestic violence, as defined in Section 1037.7.

1037.1. As used in this article "domestic violence counselor" means a person who is employed by any organization providing the programs specified in Section 18294 of the Welfare and Institutions Code, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of domestic violence, who has received specialized training in the counseling of domestic violence victims, and who meets one of the following requirements:

(a) Has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in the counseling of domestic violence victims.

(b) Has at least 40 hours of training as specified in this subdivision and is supervised by an individual who qualifies as a counselor under subdivision (a); or is a psychotherapist, as defined in Section 1010. The training, provided by a person qualified under subdivision (a), shall include, but need not be limited to, the following areas: history of domestic violence, civil and criminal law as it relates to domestic violence, societal attitudes towards domestic violence, peer

counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of domestic violence victims, and referral services available to domestic violence victims.

1037.2. As used in this article, "confidential communication" means information transmitted between the victim and the counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the domestic violence counselor is consulted. It includes all information regarding the facts and circumstances involving all incidences of domestic violence, as well as all information about the children of the victim or abuser and the relationship of the victim with the abuser.

The court may compel disclosure of information received by a domestic violence counselor which constitutes relevant evidence of the facts and circumstances involving a crime allegedly perpetrated against the victim or another household member and which is the subject of a criminal proceeding, if the court determines that the probative value of the information outweighs the effect of disclosure of the information on the victim, the counseling relationship, and the counseling services. The court may compel disclosure if the victim is either dead or not the complaining witness in a criminal action against the perpetrator. The court may also compel disclosure in proceedings related to child abuse if the court determines that the probative value of the evidence outweighs the effect of the disclosure on the victim, the counseling relationship, and the counseling services.

When a court rules on a claim of privilege under this article, it may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege consents to have present. If the judge determines that the information is privileged and shall not be disclosed, neither he nor she nor any other person may disclose, without the consent of a person authorized to permit disclosure, any information disclosed in the course of the proceedings in chambers.

If the court determines that information shall be disclosed, the court shall so order and inform the defendant in the criminal action. If the court finds there is a reasonable likelihood that any information is subject to disclosure pursuant to the balancing test provided in this section, the procedure specified in subdivisions (1), (2), and (3) of Section 1035.4 shall be followed.

1037.3. Nothing in this article shall be construed to limit any obligation to report instances of child abuse as required by Section 11166 of the Penal Code.

1037.4. As used in this article, "holder of the privilege" means:

(a) The victim when he or she has no guardian or conservator.

(b) A guardian or conservator of the victim when the victim has a guardian or conservator.

1037.5. A victim of domestic violence, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor if the privilege is claimed by any of the following persons:

(a) The holder of the privilege.

(b) A person who is authorized to claim the privilege by the holder of the privilege.

(c) The person who was the domestic violence counselor at the time of the confidential communication. However, that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.

1037.6. The domestic violence counselor who received or made a communication subject to the privilege granted by this article shall claim the privilege whenever he or she is present when the communication is sought to be disclosed and he or she is authorized to claim the privilege under subdivision (c) of Section 1037.5.

1037.7. (a) "Domestic violence" is abuse perpetrated against a family or household member, or against a person as provided in subdivisions (d) and (e).

(b) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to herself, himself, or another.

(c) "Family or household member" means a spouse, former spouse, parent, child, any other adult person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who within the last six months regularly resided in the household.

(d) A person who is the parent of a minor child where (1) there exists the presumption that the male parent is the father of any minor child of the female parent pursuant to the Uniform Parentage Act, Part 7 (commencing with Section 7000) of Division 4 of the Civil Code, and (2) one parent has perpetrated abuse as defined in subdivision (b) against the other parent.

(e) A person who is in, or has been in, a dating, courtship, or engagement relationship and abuse as defined in subdivision (b) has been perpetrated against that person by the person with whom they have had a dating, courtship, or engagement relationship.

CHAPTER 855

An act to add Section 69 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 69 is added to the Revenue and Taxation Code, to read:

69. (a) Notwithstanding any other provision of law, pursuant to Section 2 of Article XIII A of the Constitution, the base-year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county which is acquired or newly constructed within two years after the disaster as a replacement for the substantially damaged or destroyed property. At the time the base-year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base-year value of the replacement property acquired shall be determined in accordance with this section.

The following procedure shall be used by the assessor in determining the appropriate replacement base-year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base-year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base-year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base-year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base-year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base-year value of the property substantially

damaged or destroyed, then that lower value shall become the replacement property's base-year value.

(4) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces.

(A) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(B) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed.

(i) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.

(ii) A replacement property or portion thereof which satisfies the use requirement but has a full cash value which exceeds 120 percent of the full cash value of the property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership when the replacement property is acquired or newly constructed.

(3) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(d) This section shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985.

(e) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property obtaining title to

replacement property. The acquisition of an ownership interest in a legal entity which, directly or indirectly, owns real property is not an acquisition of comparable property.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

SEC. 3. This act shall not become operative unless Senate Constitutional Amendment No. 28 of the 1985–86 Regular Session is adopted by the voters. In that event, this act shall become operative on the effective date of Senate Constitutional Amendment No. 28.

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

In order that the property tax relief provided by this act to owners of substantially damaged or destroyed real property may be available contemporaneously with the adoption by the voters of Senate Constitutional Amendment No. 28 of the 1985–86 Regular Session, it is necessary that this act go into immediate effect.

CHAPTER 856

An act to amend Sections 50533.2 50533.4, 50533.5, and 50533.7 of, and to repeal Section 50533.3 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 50533.2 of the Health and Safety Code is amended to read:

50533.2. (a) The department shall administer the Senior Citizens' Shared Housing Program and select eligible sponsors to establish or continue programs that assist seniors in finding other seniors and nonseniors with whom to share existing housing units.

(b) Not less than 90 percent of the funds available pursuant to this chapter shall be allocated by the department for the establishment or continuance of programs described in subdivision (a). The department may make up to 10 percent of the funds available to eligible sponsors that have operational shared housing programs and which demonstrate the capability to provide technical assistance to other eligible sponsors inexperienced in the operation of shared housing programs, which intend to establish, or already operate those programs as of January 1, 1987, in areas where there is a

demonstrated need for those programs.

(c) "Eligible sponsors," as used in this chapter, means nonprofit corporations, as defined in Section 50091, and local public entities, as defined in Section 50079.

SEC. 2. Section 50533.3 of the Health and Safety Code is repealed.

SEC. 3. Section 50533.4 of the Health and Safety Code is amended to read:

50533.4. (a) The department shall establish criteria to analyze the effectiveness of proposals made by eligible sponsors which seek funds pursuant to this chapter. Those criteria shall include, but not be limited to, all of the following:

(1) At least 50 percent of those individuals expected to change their living arrangements from that of living alone to sharing existing housing shall be seniors.

(2) Seniors assisted in finding shared living arrangements shall be expected to experience a reduced cost of living, which is less than the cost of institutionalization, due to their change in living arrangements.

(3) Eligible sponsors shall provide an equal match of funds. However, no match of funds shall be required if the department determines that an eligible sponsor has the capability to carry out the purposes specified in this chapter, was organized within the preceding 12 months, and is unable to provide the equal match of funds.

The department's criteria shall include recognition of the special needs shown in proposals which are targeted toward the special needs of the frail elderly, including the provision of special care and services. For these purposes, "frail elderly" means a person 60 years of age or older who has chronic physical or mental limitations which restrict his or her ability to carry out normal activities of daily living and which threaten an individual's capacity to live an independent life.

(b) The department shall consult with the Department of Aging with respect to the administration of the Senior Citizens' Shared Housing Program, including, but not limited to, administrative activities related to the solicitation and review of proposals and the award of funds.

SEC. 4. Section 50533.5 of the Health and Safety Code is amended to read:

50533.5. Funds allocated to eligible sponsors pursuant to this chapter shall be utilized only for staff and office operation costs. No eligible sponsor shall receive more than fifty thousand dollars ($50,000) in any calendar year. The department may utilize funds appropriated for the purposes of this chapter for administrative costs incurred in order to implement this chapter.

SEC. 5. Section 50533.7 of the Health and Safety Code is amended to read:

50533.7. The department shall make a final report six months after the termination of the grant period for each round of funding.

CHAPTER 857

An act to amend Sections 65865 and 65865.4 of, and to add Section 65865.3 to, the Government Code, relating to local government.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 65865 of the Government Code is amended to read:

65865. (a) Any city, county, or city and county, may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article.

(b) Any city may enter into a development agreement with any person having a legal or equitable interest in real property in unincorporated territory within that city's sphere of influence for the development of the property as provided in this article. However, the agreement shall not become operative unless annexation proceedings annexing the property to the city are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement is null and void.

(c) Every city, county, or city and county, shall, upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.

(d) A city, county, or city and county may recover from applicants the direct costs associated with adopting a resolution or ordinance to establish procedures and requirements for the consideration of development agreements.

SEC. 2. Section 65865.3 is added to the Government Code, to read:

65865.3. (a) Except as otherwise provided in subdivision (b), Section 65868, or Section 65869.5, notwithstanding any other law, if a newly incorporated city comprises territory that was formerly unincorporated, any development agreement entered into by the county prior to the effective date of the incorporation shall remain valid within the newly incorporated city for the duration of the agreement, or eight years from the effective date of the incorporation, whichever is earlier. The holder of the development agreement and the newly incorporated city may agree that the development agreement shall remain valid for more than eight years, provided that the longer period shall not exceed 15 years from the effective date of the incorporation. The holder of the development agreement and the newly incorporated city shall have

the same rights and obligations with respect to each other as if the property had remained in the unincorporated territory of the county.

(b) The newly incorporated city may modify or suspend the provisions of the development agreement if the city determines that the failure of the city to do so would place the residents of the territory subject to the development agreement, or the residents of the city, or both, in a condition dangerous to their health or safety, or both.

(c) Except as otherwise provided in subdivision (d), this section applies to any development agreement which meets both of the following requirements:

(1) The application for the agreement is submitted to the county prior to the date that the first signature was affixed to the petition for incorporation pursuant to Section 56704 or the adoption of the resolution pursuant to Section 56800, whichever occurs first.

(2) The county enters into the agreement with the applicant prior to the date of the election on the question of incorporation.

(d) This section does not apply to any territory subject to a development agreement if that territory is incorporated and the effective date of the incorporation is prior to January 1, 1987.

SEC. 3. Section 65865.4 of the Government Code is amended to read:

65865.4. Unless amended or canceled pursuant to Section 65868, or modified or suspended pursuant to Section 65869.5, and except as otherwise provided in subdivision (b) of Section 65865.3, a development agreement shall be enforceable by any party thereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the city, county, or city and county entering the agreement, which alters or amends the rules, regulations, or policies specified in Section 65866.

SEC. 4. The Legislature declares that the amendment to Section 65865.3 of the Government Code limiting the period of time that a development agreement shall remain valid in a newly incorporated city shall not be construed as an indication by the Legislature as to the appropriate duration of other development agreements.

CHAPTER 858

An act to amend Sections 2960 and 2970 of, and to add Sections 2962, 2964, 2966, 2968, 2972, 2974, 2976, 2978, and 2980 to, the Penal Code, relating to mentally disordered offenders.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 2960 of the Penal Code is amended to read:

2960. The Legislature finds that there are prisoners who have a treatable, severe mental disorder that was one of the causes of, or was an aggravating factor in the commission of the crime for which they were incarcerated. Secondly, the Legislature finds that if the severe mental disorders of those prisoners are not in remission or cannot be kept in remission at the time of their parole or upon termination of parole, there is a danger to society, and the state has a compelling interest in protecting the public. Thirdly, the Legislature finds that in order to protect the public from those persons it is necessary to provide mental health treatment until the severe mental disorder which was one of the causes of or was an aggravating factor in the person's prior criminal behavior is in remission and can be kept in remission.

The Legislature further finds and declares the Department of Corrections should evaluate each prisoner for severe mental disorders during the first year of the prisoner's sentence, and that severely mentally disordered prisoners should be provided with an appropriate level of mental health treatment while in prison and when returned to the community.

SEC. 2. Section 2962 is added to the Penal Code, to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment. The term "severe mental disorder" means an illness or disease or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission in the absence of treatment is unlikely. The term "severe mental disorder" as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances. The term "remission" means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or

psychosocial support. A person "cannot be kept in remission without treatment" if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another 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, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) Prior to release on parole the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, and that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

If the professionals doing the evaluation do not concur that (1) the prisoner has a severe mental disorder, or (2) that the disorder is not in remission or cannot be kept in remission without treatment, or (3) that the severe mental disorder was a cause of, or aggravated the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, as provided for in Section 2978. Only if both independent professionals concur with the chief psychiatrist's certification, shall the provisions of this subdivision be applicable to the prisoner.

(e) The crime referred to in subdivision (b) was a crime in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (5) of subdivision (e) of Section 243.

SEC. 3. Section 2964 is added to the Penal Code, to read:

2964. (a) The treatment required by Section 2962 shall be

inpatient unless the State Department of Mental Health certifies to the Board of Prison Terms that there is reasonable cause to believe the parolee can be safely and effectively treated on an outpatient basis, in which case the Board of Prison Terms shall permit the State Department of Mental Health to place the parolee in an outpatient treatment program specified by the State Department of Mental Health. Any prisoner who is to be required to accept treatment pursuant to Section 2962 shall be informed in writing of his or her right to request a hearing pursuant to Section 2966. Prior to placing a parolee in a local outpatient program, the State Department of Mental Health shall consult with the local outpatient program as to the appropriate treatment plan. Notwithstanding any other provision of law, a parolee ordered to have outpatient treatment pursuant to this section may be placed in an outpatient treatment program used to provide outpatient treatment under Title 15 (commencing with Section 1600) of Part 2, but the procedural provisions of Title 15 shall not apply. The director of an outpatient program used to provide treatment under Title 15 in which a parolee is placed may place the parolee in a secure mental health facility if the parolee can no longer be safely or effectively treated in the outpatient program, and until the parolee can be safely and effectively treated in the program. Within 15 days after placement in a secure facility the State Department of Mental Health shall conduct a hearing on whether the parolee can be safely and effectively treated in the program. Before deciding to seek revocation of the parole of a parolee receiving mental health treatment pursuant to Section 2962, and return him or her to prison, the parole officer shall consult with the director of the parolee's outpatient program.

(b) If the State Department of Mental Health has not placed a parolee on outpatient treatment within 60 days after receiving custody of the parolee or after parole is continued pursuant to Section 3001, the parolee may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing to determine whether the prisoner shall be treated as an inpatient or an outpatient. At the hearing, the burden shall be on the State Department of Mental Health to establish that the prisoner requires inpatient treatment as described in this subdivision. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in Section 2978.

SEC. 4. Section 2966 is added to the Penal Code, to read:

2966. (a) A prisoner may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing if so requested, for the purpose of proving that the prisoner meets the criteria in Section 2962. At the hearing the burden of proof shall be on the person or agency who certified the prisoner under subdivision (d) of Section 2962. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two

independent professionals as provided for in Section 2978. The prisoner shall be informed at the hearing of his or her right to request a trial pursuant to subdivision (b). The Board of Prison Terms shall provide a prisoner who requests a trial a petition form and instructions for filing the petition.

(b) A prisoner who disagrees with the determination of the Board of Prison Terms that he or she meets the criteria of Section 2962, may file in the superior court of the county in which he or she is incarcerated or is being treated a petition for a hearing on whether he or she meets the criteria of Section 2962. The court shall conduct a hearing on the petition within 60 calendar days after the petition is filed, unless either time is waived by the petitioner or his counsel, or good cause is shown. The order of the Board of Prison Terms shall be in effect until the completion of the court proceedings. The court shall advise the petitioner of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the petitioner shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing; however, in order to reduce costs, the rules of criminal discovery, as well as civil discovery, shall be applicable. The standard of proof shall be beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney.

(c) If the Board of Prison Terms continues a parolee's mental health treatment under Section 2962 when they continue the parolee's parole under Section 3001, this section shall be applicable for the purpose of determining whether the parolee meets the criteria of Section 2962.

SEC. 5. Section 2968 is added to the Penal Code, to read:

2968. If the prisoner's severe mental disorder is put into remission during the parole period, and can be kept in remission, the Director of Mental Health shall notify the Board of Prison Terms and the State Department of Mental Health shall discontinue treating the parolee.

SEC. 6. Section 2970 of the Penal Code is amended to read:

2970. Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital which is treating the parolee, or the county mental health director in charge of the parolee's outpatient program, or the Director of Corrections shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits. The

district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall state the reasons necessitating the continued treatment, with accompanying affidavits specifying the conditions in Section 2962 and that treatment during the parole period, if any, has been continuously provided by the State Department of Mental Health either in a state hospital or in an outpatient program. The petition shall also specify why the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued.

SEC. 7. Section 2972 is added to the Penal Code, to read:

2972. (a) The court shall conduct a hearing on the petition under Section 2970 for continued treatment. The court shall advise the person of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the person shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing, however, in order to reduce costs the rules of criminal discovery, as well as civil discovery, shall be applicable. The need for continued treatment shall be proven beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless the time is waived by the person or unless good cause is shown.

(b) The people shall be represented by the district attorney. If the person is indigent, the county public defender shall be appointed.

(c) If the court or jury finds that the patient is a person described in Section 2962, and his or her severe mental disorder is not in remission or cannot be kept in remission without treatment, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which he or she was being treated at the time the petition was filed, or committed to the State Department of Mental Health if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in Section 2970.

(d) A person shall be released on outpatient status if the committing court finds that there is reasonable cause to believe that the committed person can be safely and effectively treated on an outpatient basis. Except as provided in this subdivision, the provisions of Title 15 (commencing with Section 1600) of Part 2, shall apply to persons placed on outpatient status pursuant to this paragraph. The standard for revocation under Section 1609 shall be that the person cannot be safely and effectively treated on an outpatient basis.

(e) Prior to the termination of a commitment under this section, a petition for recommitment may be filed to determine whether the patient remains a person described in Section 2962 whose severe

mental disorder is not in remission or cannot be kept in remission without treatment. The recommitment proceeding shall be conducted in accordance with the provisions of this section.

(f) Any commitment under this article places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

(g) Except as provided in this subdivision, the person committed shall be considered to be an involuntary mental health patient and he or she shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health may adopt regulations to modify those rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is being held. This subdivision and the regulations adopted pursuant thereto shall become operative on January 1, 1987, except that regulations may be adopted prior to that date.

SEC. 8. Section 2974 is added to the Penal Code, to read:

2974. Before releasing any inmate or terminating supervision of any parolee who is a danger to self or others, or gravely disabled as a result of mental disorder, and who does not come within the provisions of Section 2962, the Director of Corrections may, upon probable cause, place, or cause to be placed, the person in a state hospital pursuant to the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

SEC. 9. Section 2976 is added to the Penal Code, to read:

2976. (a) The cost of inpatient or outpatient treatment under this article shall be a state expense while the person is under the jurisdiction of the Department of Corrections.

(b) Any person placed outside of a facility of the Department of Corrections for the purposes of inpatient treatment under this article shall not be deemed to be released from imprisonment or from the custody of the Department of Corrections prior to the expiration of the maximum term of imprisonment of the person.

SEC. 10. Section 2978 is added to the Penal Code, to read:

2978. (a) Any independent professionals appointed by the Board of Prison Terms for purposes of this article shall not be state government employees; shall have at least five years of experience in the diagnosis and treatment of mental disorders; and shall include psychiatrists, and licensed psychologists who have a doctoral degree in psyschology.

(b) On July 1 of each year the Department of Corrections and the State Department of Mental Health shall submit to the Board of Prison Terms a list of 20 or more independent professionals on which both departments concur. The professionals shall not be state government employees and shall have at least five years of experience in the diagnosis and treatment of mental disorders and shall include psychiatrists and licensed psychologists who have a

doctoral degree in psychology. For purposes of this article, when the Board of Prison Terms receives the list, they shall only appoint independent professionals from the list. The list shall not be binding on the Board of Prison Terms until they have received it, and shall not be binding after June 30 following receipt of the list.

SEC. 11. Section 2980 is added to the Penal Code, to read:

2980. This article applies to persons incarcerated before, as well as after, January 1, 1986.

CHAPTER 859

An act to amend Section 40000.7 of, and to add Section 4463.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 4463.5 is added to the Vehicle Code, to read:

4463.5. (a) No person shall manufacture or sell a decorative or facsimile license plate of a size substantially similar to the license plate issued by the department.

(b) Notwithstanding subdivision (a), the director may authorize the manufacture and sale of decorative or facsimile license plates for special events or media productions.

(c) A violation of this section is a misdemeanor punishable by a fine of not less than five hundred dollars ($500).

SEC. 2. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Section 2416, relating to regulations for emergency vehicles.

(b) Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

(c) Section 2800.1, relating to fleeing from a peace officer.

(d) Section 2801, relating to failure to obey a fireman's lawful order.

(e) Section 2803, relating to unlawful vehicle or load.

(f) Section 2813, relating to stopping for inspection.

(g) Subdivision (b) of Section 4461 and subdivisions (b) and (c) of Section 4463, relating to disabled person placards.

(h) Section 4463.5, relating to deceptive or facsimile license plates.

(i) Section 5500, relating to the surrender of registration documents and license plates before dismantling may begin.

(j) Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

(k) Section 5901, relating to dealers and lessor-retailers giving notice.

(*l*) Section 5901.1, relating to lessors giving notice and failure to pay fee.

(m) Section 8802, relating to the return of canceled, suspended, or revoked certificates of ownership, registration cards, or license plates, when committed by any person with intent to defraud.

(n) Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, remanufacturer, transporter, dismantler, or salesman.

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 860

An act to add Section 11194.5 to the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 11194.5 is added to the Penal Code, to read:

11194.5. (a) At the request of the board of supervisors of any county that is adjacent to another state, the county sheriff shall negotiate with the appropriate officials of the adjacent state to contract pursuant to the authority of Article III of a compact executed under Section 11189 or 11190 for the confinement of county jail prisoners in corresponding facilities located in the adjacent state. The sheriff shall determine that the corresponding facilities are a suitable place of confinement of prisoners submitted to his or her custody and shall at least annually redetermine the suitability as a precondition to any contract under this section. In determining the suitability of the facilities of the other states, the sheriff shall assure himself or herself that it maintains standards of care and discipline not incompatible with those of this state and that all inmates therein are treated equally, regardless of race, religion, color, creed, or national origin.

(b) With the approval of the board of supervisors including agreement as to terms for payments to be made for prisoner maintenance and expenses, the county sheriff may enter into a contract negotiated under subdivision (a).

(c) No prisoner may be transferred to an institution outside of this state under this section unless he or she has executed a written consent to the transfer.

(d) Any person who was sent to another state from a county under the authority of this section shall be released within the territory of the county unless the person, the sheriff of the sending county, and the corresponding official or agency of the other state shall agree upon release in another place. The county shall bear the cost of transporting the person to the place of release.

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 overcrowding in local jails, it is necessary for this act to take effect immediately.

CHAPTER 861

An act to add and repeal Section 1628 of the Health and Safety Code, relating to blood.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 1628 is added to the Health and Safety Code, to read:

1628. (a) No person shall prohibit any natural or adoptive parent from doing either of the following:

(1) Making blood donations to be used directly for blood transfusions for the parent's child when prescribed by a physician and surgeon.

(2) Directing that blood donated by the parent or parents pursuant to paragraph (1) be used in any blood transfusion to his or her child if that blood type is compatible with the child's blood type and use of that blood is not contraindicated, as determined by a physician and surgeon.

(b) Subdivision (a) does not exempt any person from complying with all requirements of Chapter 4 (commencing with Section 1600) of Division 2.

(c) Donations pursuant to this section shall be made through a licensed blood bank during the bank's normal working hours.

(d) Blood donated under this section may be used for persons other than the donor's child when it is determined by the prescribing physician and surgeon of the child with the blood bank that there is a more immediate need, or with the donor's consent.

(e) 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 enacted before January 1, 1992, deletes or extends that date.

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 862

An act to amend Sections 7860, 7861, 7862, and 7863 of, to amend and renumber Section 7852.8 of, to add and repeal Sections 7861.3 and 7925 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 7852.8 of the Fish and Game Code is amended and renumbered to read:

7861.6. 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 Section 7860 for each year, whether engaged in commercial fishing for salmon or not.

SEC. 2. Section 7860 of the Fish and Game Code is amended to read:

7860. (a) A commercial fishing salmon stamp, in addition and affixed to a commercial fishing license, entitles the holder to take salmon during the commercial salmon season, and, except as provided in subdivision (b), no salmon may be taken for commercial purposes by anyone who does not have that stamp. The stamp shall be issued for a fee of eighty-five dollars ($85), except as provided in this section, and is valid during the commercial salmon season of the year in which issued. For any commercial salmon season preceded by a commercial salmon season in which the commercial troll salmon landings in this state equal or exceed 3,000,000 pounds dressed weight, as determined by the department, the fee shall be increased by twelve dollars and fifty cents ($12.50) for every 250,000 pounds over 3,000,000 pounds of dressed weight landings up to a maximum of two hundred sixty dollars ($260). This section does not apply to licensees who are 70 years of age or older on April 15 of the year for which the license is issued. Every person licensed and engaged in the taking of salmon on board a vessel shall have a commercial fishing salmon stamp unless the person is exempt pursuant to this section.

(b) Notwithstanding Section 1053, one additional commercial fishing salmon stamp for a crewmember may be issued to the owner or operator of a vessel who holds a commercial fishing salmon stamp issued under Section 7861.6 for the vessel upon application to the department accompanied by the same fee as prescribed in subdivision (a). Notwithstanding subdivision (a), one crewmember of a vessel for which a commercial fishing salmon stamp is issued pursuant to this subdivision may take salmon for commercial purposes as a crewmember on that vessel without obtaining a commercial fishing salmon stamp under the following conditions:

(1) The crewmember is designated by name and commercial fishing license number on a form furnished by the department before salmon are taken on the vessel when that crewmember is aboard.

(2) The crewmember has a valid commercial fishing license issued under Section 7850.

(3) The commercial fishing salmon stamp for the crewmember is affixed to the form prescribed in paragraph (1) on which the crewmember who is exempted by this subdivision is designated by the last entered name and commercial fishing license number.

SEC. 3. Section 7861 of the Fish and Game Code is amended to read:

7861. (a) Except as provided in subdivision (b), all funds collected pursuant to Section 7860 shall be placed in a special account in the Fish and Game Preservation Fund to be appropriated annually by the Legislature for new or expanded salmon restoration and enhancement programs in the state that will serve to increase ocean salmon landings. No moneys in this account shall be used in lieu of other funds appropriated for salmon restoration and enhancement programs presently authorized by law.

(b) Thirty dollars ($30) of the fees collected for each commercial fishing salmon stamp issued shall be used for raising chinook salmon to a yearling size, at which size they shall be released into state waters. The amount of salmon stamp revenues expended for this purpose in any fiscal year shall not exceed the amount expended by the department for the same purpose during the same period. The calculation of the amount expended by the department for this purpose shall not include expenditures made by the department for which reimbursements are received from state or federal agencies, public utilities, or private entities for raising chinook salmon to yearling size as part of a fish mitigation program instituted to compensate for the adverse effect of a dam on natural salmon production. If the department expends no funds other than moneys collected from the sale of salmon stamps or moneys for which reimbursements are received as part of an anadromous fish mitigation program for the raising of chinook salmon to yearling size within the period of a fiscal year, that portion of the commercial fishing salmon stamp program, as specified in in this subdivision, shall be discontinued and no fee shall thereafter be collected for the

issuance of that portion of a salmon stamp.

If the salmon stamps issued pursuant to Section 7860 raise more money for the purpose of this subdivision than is necessary to match the funds expended by the department during any fiscal year, then the excess salmon stamp revenue allocated pursuant to this subdivision may be carried over into the following fiscal year.

SEC. 4. Section 7861.3 is added to the Fish and Game Code, to read:

7861.3. It is the intent of the Legislature that the department use the moneys from the sale of commercial fishing salmon stamps allocated pursuant to subdivision (b) of Section 7861 and the matching share contributed by the department to raise approximately two million chinook salmon annually to yearling size to contribute to the replenishing of California's salmon resource. In no case shall moneys from the General Fund be used to match the salmon stamp revenues expended for this program. It is the further intent of the Legislature that the salmon stamp fee authorized in subdivision (b) of Section 7861 shall generate revenues equal to one-half the amount necessary to raise this number of salmon to yearling size.

SEC. 5. Section 7862 of the Fish and Game Code is amended to read:

7862. A Commercial Salmon Trollers Advisory Committee shall be established consisting of five members selected by the director. One member shall be chosen from the personnel of the department. Four persons shall be selected, with alternates, from a list submitted by a fishermen's organization deemed to represent the commercial salmon fishermen of California. The term of appointment to the committee shall be for two years. Necessary and proper expenses, if any, and per diem shall be paid committee members from the special account created pursuant to subdivision (a) of Section 7861. The rate of per diem shall be the same as the rate established pursuant to Section 8902 of the Government Code.

The committee shall recommend programs and a budget from the special account to the department. The department shall review the programs and the budget and shall include its recommendations regarding these items in the Governor's Budget and submit to the Legislature an annual report on the sale of commercial fishing salmon stamps, the expenditure of funds, and a status report of the programs funded pursuant to Section 7861. The department shall not recommend funding for any program not contained in the committee's recommendations.

SEC. 6. Section 7863 of the Fish and Game Code is amended to read:

7863. 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.

SEC. 7. Section 7925 is added to the Fish and Game Code, to read:

7925. The owner or operator of any vessel licensed pursuant to

this article which is operating in waters north of Point Arguello shall procure one commercial fishing salmon stamp pursuant to Section 7860 for the operator and one additional commercial fishing salmon stamp for each crewmember required by United States Coast Guard regulations. The commercial fishing salmon stamps shall be affixed to the vessel's commercial passenger fishing boat license required by Section 7920.

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.

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 863

An act to amend Sections 51010 and 51019.1 of, and to add Sections 51010.6 and 51019.05 to, the Government Code, relating to pipeline safety, and making an appropriation therefor.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 51010 of the Government Code is amended to read:

51010. It is the intent of the Legislature, in enacting this chapter, that the State Fire Marshal shall exercise safety regulatory and enforcement authority over intrastate hazardous liquid pipelines and, to the extent authorized by agreement between the State Fire Marshal and the United States Secretary of Transportation, to act as agent for the United State Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act (49 U.S.C. Sec. 2001 et seq.) and federal pipeline safety regulations as to those portions of interstate pipelines located within this state, as necessary to obtain annual federal certification.

SEC. 2. Section 51010.6 is added to the Government Code, to read:

51010.6. Notwithstanding Section 51010.5, that portion of an interstate pipeline which is located within this state and is subject to an agreement between the United States Secretary of Transportation and the State Fire Marshal is subject to the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 2001 et seq.) and federal pipeline safety regulations.

SEC. 3. Section 51019.05 is added to the Government Code, to read:

51019.05. If the agreement specified in Section 51010.6 is entered into, the State Fire Marshal may assess and collect, from every operator of an interstate pipeline having a portion thereof located within this state, as described in the agreement, an annual fee for the purpose of carrying out this chapter. The State Fire Marshal may assess this fee for expenses which will be incurred during the following year. The pipeline operator shall pay this fee when billed by the State Fire Marshal.

The State Fire Marshal may impose a delinquency fee of 10 percent of the annual fee if the interstate pipeline operator does not pay the fee within 60 days after receipt of the bill, and, in addition, the interstate pipeline operator shall pay interest on that portion of its annual fee not paid within 60 days at the rate of 15 percent per annum from the date of receipt of the bill until paid.

The total amount of the fee collected pursuant to this section and Section 51019 shall not exceed the actual expenses incurred, or the estimated expenses which will be incurred, by the State Fire Marshal in carrying out this chapter.

SEC. 4. Section 51019.1 of the Government Code is amended to read:

51019.1. (a) There is hereby created the California Hazardous Liquid Pipeline Safety Fund, consisting of the Local Training Account, the Intrastate Pipeline Operations Account, the Interstate Pipeline Operations Account, and the Local Agency Reimbursement Account.

(b) All fees collected pursuant to Section 51019 shall be deposited in the Intrastate Pipeline Operations Account. The money in the account is available, upon appropriation by the Legislature, to the State Fire Marshal for the purpose of carrying out this chapter with respect to intrastate pipelines.

(c) All fees collected pursuant to Section 51019.05 shall be deposited in the Interstate Pipeline Operations Account. The money in the account is available, upon appropriation by the Legislature, to the State Fire Marshal for the purpose of carrying out the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 2001 et seq.) and federal pipeline safety regulations pursuant to this chapter with respect to interstate pipelines.

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. The sum of one hundred thirty-seven thousand dollars ($137,000) is hereby appropriated from the Interstate Pipeline Operations Account in the California Hazardous Liquid Pipeline Safety Fund to the State Fire Marshal for expenditure during the

1986–87 fiscal year for purposes of this act.

CHAPTER 864

An act to amend Sections 99215, 125050, and 125052 of, and to add Sections 120108 and 120356 to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 99215 of the Public Utilities Code is amended to read:

99215. "Transit development board" means a public entity created pursuant to state law and designated in the enabling legislation as a transit development board, including, solely for purposes of submission of claims, receipt of funds, separate annual reporting to the Controller, and provision of service as an operator under this chapter, any nonprofit corporation or other legal entity wholly owned or controlled by the transit development board which operates a public transportation system.

SEC. 2. Section 120108 is added to the Public Utilities Code, to read:

120108. The board shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles as adopted by the Government Accounting Standards Board (GASB) of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller. The activities of any nonprofit corporation or other legal entity wholly owned or controlled by the board and operating a public transit system shall be reported separately in the board's annual report to the Controller.

SEC. 3. Section 120356 is added to the Public Utilities Code, to read:

120356. The board may establish and maintain reserve funds for its planning, procurement, construction, and acquisition programs with moneys received from private and public contributions, donations and assessments, licenses, leases, sales, and rental income, and any other revenues of the board, except revenues received pursuant to Sections 99260, 99275, 99312, 99313, and 99319.

SEC. 4. Section 125050 of the Public Utilities Code is amended to read:

125050. There is hereby created, in that portion of the County of San Diego as described in Section 125051, the North San Diego County Transit Development Board. The board shall consist of members selected as follows:

(a) One member of the San Diego County Board of Supervisors appointed by the board of supervisors, which member shall represent, on the board of supervisors, the largest portion of the area under the jurisdiction of the transit development board.

(b) One member of each of the City Councils of the Cities of Carlsbad, Del Mar, Escondido, Oceanside, San Marcos, and Vista, and each new city that incorporates within the board boundaries, appointed by the respective city council.

SEC. 5. Section 125052 of the Public Utilities Code is amended to read:

125052. The area of jurisdiction of the board shall consist of the following areas:

(a) The Cities of Carlsbad, Del Mar, Escondido, Oceanside, San Marcos, and Vista and each new city that incorporates within the board boundaries.

(b) Camp Joseph H. Pendleton.

(c) The unincorporated areas of San Diego County lying within census tracts: 170.04 (but excluding that portion lying east of the eastern boundary of the City of San Digeo), 171.00, 173.00, 174.01, 174.02, 175.00, 176.00, 177.00, 178.02, 185.02, 185.03, 186.01, 186.02, 188.00, 189.01, 189.02, 190.00, 191.01, 191.02, 192.01, 192.02, 193.00, 194.00, 196.00, 197.00, 198.00, 199.00, 200.01, 200.02, 200.03, 201.01, 201.02, 202.03, 202.05, 203.00, 204.00, 206.02, 207.01, 207.02, and 208.00, as set forth in the 1970 decennial census maps for the State of California on file with the Bureau of the Census, Department of Commerce, Washington, D.C.

SEC. 6. 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 865

An act to amend Section 217 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Section 217 of the Welfare and Institutions Code is amended to read:

217. The board of supervisors of any county or the governing body of any city may by ordinance provide that any bicycles or toys, or both, in the possession of the sheriff of the county or in the possession of the police department of the city which have been

unclaimed for a period of at least 60 days may, instead of being sold at public auction to the highest bidder pursuant to the provisions of Section 2080.5 of the Civil Code, be turned over to the probation officer, to the welfare department of the county, or to any charitable or nonprofit organization which is authorized under its articles of incorporation to participate in a program or activity designed to prevent juvenile delinquency and which is exempt from income taxation under federal or state law, or both, for use in any program or activity designed to prevent juvenile delinquency.

CHAPTER 866

An act to amend Section 5329 of the Education Code, to amend Sections 1013, 1200, 1310, 1353, 3713, 3781, 4018, 5011, 5156, 6618, 6653, 6653.3, 6657, 6658, 6659, 10211, and 25304 of, and to repeal Section 6652 of, the Elections Code, and to amend Sections 1780, 23702, 23709, 23722, 23731, 34456, 34461, 53326, 57144, and 57148 of, the Government Code, relating to elections.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 5329 of the Education Code is amended to read:

5329. Whenever a candidate has filed a declaration of candidacy the name of the candidate shall be printed upon the ballot unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots at least 68 days before the election.

SEC. 2. Section 1013 of the Elections Code is amended to read:

1013. All absentee ballots cast under the provisions of this division shall be voted on or before the day of the election. The absent voter shall return the ballot to the official from whom it came by mail or in person, or may return it to any member of a precinct board at any polling place within the jurisdiction. The ballot must, however, be received by either the official or the precinct board before the close of the polls on election day.

The official shall establish procedures to insure the secrecy of any ballot returned to a precinct polling place.

SEC. 3. Section 1200 of the Elections Code is amended to read:

1200. When a special absentee voter, as defined in Section 1000 applies for an absent voter's ballot and the elections official determines that he or she is not registered to vote, the official shall send the affidavit of registration card with the ballot. The affidavit of registration must be completed by the voter and returned with the voted ballot or the ballot shall not be counted.

If the application has been made upon a federal form for absentee ballots the form shall be deemed an affidavit of registration and the applicant shall be considered registered for that election only. If the special absentee voter requests an absentee ballot for the ensuing primary election, the elections official shall also consider the request valid for the ensuing general election.

If the applicant is not a resident of the county to which he has applied, the official receiving the application shall forward it immediately to the proper county.

SEC. 4. Section 1310 of the Elections Code is amended to read:

1310. All absentee ballots cast pursuant to this chapter shall be received by the county clerk not later than 8 o'clock p.m. on the day of a federal election.

SEC. 5. Section 1353 of the Elections Code is amended to read:

1353. Notwithstanding Section 1016, ballots cast under the provisions of this chapter shall be returned to the official from whom they were obtained no later than 8 p.m. on election day.

SEC. 6. Section 3713 of the Elections Code is amended to read:

3713. Whenever any ordinance is required by this article to be submitted to the voters of a county at any election, the county clerk shall cause the ordinance to be printed. A copy of the ordinance shall be made available to any voter upon request.

SEC. 7. Section 3781 of the Elections Code is amended to read:

3781. Whenever any county measure qualifies for a place on the ballot, the county clerk shall transmit a copy of the measure to the county counsel or to the district attorney in any county which has no county counsel. The county counsel or district attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

Immediately below the impartial analysis there shall be printed in no less than 10-point bold type a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

SEC. 8. Section 4018 of the Elections Code is amended to read:

4018. Whenever any ordinance or measure is required by this article to be submitted to the voters of a city at any election, the clerk of the legislative body shall cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

SEC. 9. Section 5011 of the Elections Code is amended to read:

5011. Whenever any city measure qualifies for a place on the ballot, the governing body may direct the city clerk to transmit a copy of the measure to the city attorney, unless the organization or salaries of the office of the city attorney are affected. The city attorney shall prepare an impartial analysis of the measure showing

the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the city attorney, the governing board may direct the city clerk to prepare the impartial analysis. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

Immediately below the impartial analysis there shall be printed in no less than 10-point bold type a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you.

SEC. 10. Section 5156 of the Elections Code is amended to read:

5156. Whenever any ordinance is required by this article to be submitted to the voters of a district at any election, the clerk of the district board shall cause the ordinance to be printed. A copy of the ordinance shall be made available to any voter upon request.

The clerk shall mail with the sample ballot to each voter the following notice printed in no less than 10-point type.

"If you desire a copy of the proposed ordinance, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

SEC. 11. Section 6618 of the Elections Code is amended to read:

6618. Not less than 68 days before the general election, the Secretary of State shall deliver to the county clerk of each county a certificate showing:

(a) The name of every person entitled to receive votes within that county at the general election who has received the nomination as a candidate for public office pursuant to the provisions of this chapter.

(b) For each nominee the name of the party which has nominated him, if any.

(c) The designation of the public office for which he has been nominated.

SEC. 12. Section 6652 of the Elections Code is repealed.

SEC. 13. Section 6653 of the Elections Code is amended to read:

6653. No vacancy on the ballot for a general election shall be filled except if the candidate dies and that fact has been ascertained by the officer charged with the duty of printing the ballots at least 68 days before the date of the next ensuing general election.

SEC. 14. Section 6653.3 of the Elections Code is amended to read:

6653.3. Notwithstanding Sections 6653 and 6659, any candidate who has been nominated at any primary election for superior court judge in which election there were at least two other candidates, and who has, after the date prescribed for the filing of declaration of candidacy pursuant to Article 4 (commencing with Section 6489) of this chapter, been appointed to any federal or state office may request the county clerk to have his or her name removed from the ballot of the next ensuing general election. If such request is received

by the county clerk at least 68 days before the next ensuing general election, the county clerk shall remove such candidate's name from the ballot.

If a candidate's name is removed from the ballot pursuant to this section, the two remaining candidates who received the highest number of votes cast on all the ballots of all the voters participating in the primary election for nomination for that office of superior court judge, shall be the candidates for that office at the ensuing general election, and their names as candidates for that office shall be placed on the official ballot at the ensuing election.

SEC. 15. Section 6657 of the Elections Code is amended to read:

6657. A vacancy authorized to be filled because of the death of a candidate shall be filled, and the name of the person named to fill the vacancy shall be certified to the officer charged with the duty of printing the ballots, 68 days before the day of election.

SEC. 16. Section 6658 of the Elections Code is amended to read:

6658. Whenever a candidate has declared a candidacy for a primary election, the candidate's name shall be printed upon the ballot for the primary election, unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 68 days before the day of the election.

SEC. 17. Section 6659 of the Elections Code is amended to read:

6659. Whenever a candidate has been nominated at any primary election after having a declaration of candidacy filed, the name of the candidate shall be printed upon the ballot for the ensuing general election unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 68 days before the day of election.

SEC. 18. Section 10211 of the Elections Code is amended to read:

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination papers to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating the principal professions, vocations, or occupations of the candidate. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an

office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326, 5327, and 5328 of the Education Code or Section 8873, 9373, 9723, 22844, or 23520 of the Elections Code.

(b) Neither the Secretary of State nor any other election official shall accept a designation which:

(1) Would mislead the voter.

(2) Would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) Abbreviates the word "retired" or places it following any word or words which it modifies.

(4) Uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) Uses the name of any political party, whether or not it has qualified for the ballot.

(6) Uses a word or words referring to a racial, religious, or ethnic group.

(7) Refers to any activity, which activity is prohibited by law.

If upon checking the nomination papers the election official finds the designation to be in violation of any of the restrictions set forth in this subdivision, the election official shall notify the candidate by registered mail return receipt requested. The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation. In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(c) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination papers, except as specifically requested by the election official as specified in subdivision (b) or as provided in subdivision (d).

(d) The designation shall remain the same for all purposes of both primary and general elections unless the candidate, at least 83 days prior to the general election requests in writing a different designation which the candidate is entitled to use at the time of the request.

(e) In all cases words so used shall be printed in 8-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the election official shall use a type size for the designation for each candidate for that office sufficiently smaller

to meet these requirements.

(f) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965, as amended by Public Law 94-73, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with the provisions of this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 19. Section 25304 of the Elections Code is amended to read:

25304. In any county or any judicial district in which only the incumbent has filed nomination papers for the office of superior court judge, municipal court judge or justice court judge, his name shall not appear on the ballot unless there is filed with the county clerk or registrar of voters, within 10 days after the final date for filing nomination papers for the office, a petition indicating that a write-in campaign will be conducted for the office and signed by 100 registered voters qualified to vote with respect to the office.

If a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by 100 registered voters qualified to vote with respect to the office, is filed with the county clerk or registrar of voters not less than 68 days before the general election, the name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot.

If, in conformity with this section, the name of the incumbent does not appear either on the primary ballot or general election ballot, the county clerk or registrar of voters, on the day of the general election, shall declare the incumbent reelected.

SEC. 20. Section 1780 of the Government Code is amended to read:

1780. (a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled as provided in this section. The remaining district board members may fill the vacancy by appointment. The person appointed shall hold office until the next district general election that is scheduled 130 or more days after the effective date of the vacancy, unless an election is also held on the same date for the purpose of electing a director to serve a full term in the same office to which the person was appointed, in which event the person appointed to the vacancy shall fill the balance of the unexpired term of his predecessor. Appointments pursuant to this subdivision shall be made within a period of 60 days immediately subsequent to the effective date of such vacancy and a notice of the vacancy shall be posted in three or more conspicuous places in the district at least 15 days before the appointment is made. In lieu of making an appointment the remaining members of the board may within 60 days of the vacancy call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of

Division 4 of the Elections Code that is 130 or more days after the vacancy occurs.

(b) If the vacancy is not filled by the district board as specified, or if the board has not called for an election within 60 days of the vacancy, the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may fill the vacancy within 90 days of the vacancy, or the city council or county supervisors may order the district to call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 130 or more days after the vacancy occurs.

(c) If within 90 days of the vacancy the remaining members of the board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, the district shall call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 130 or more days after the vacancy occurs.

(d) Persons appointed to fill a vacancy shall hold office until the next district general election and thereafter until the person elected at such election to fill the vacancy has been qualified, but persons elected to fill a vacancy shall hold office for the unexpired balance of the term of office.

SEC. 21. Section 23702 of the Government Code is amended to read:

23702. Petitions to propose or revise a charter shall be signed by at least 10 percent of the qualified electors of the county, computed upon the total number of votes cast for all candidates for Governor at the last preceding general election at which a Governor was elected, and shall request the election of a charter commission to prepare and propose or revise a charter for the county. It shall be filed in the office of the county clerk.

SEC. 22. Section 23709 of the Government Code is amended to read:

23709. The county clerk shall cause the complete text of the proposed charter or revised charter to be printed. A copy of the proposed charter shall be made available to any voter upon request.

The impartial analysis prepared by the county counsel's office pursuant to Section 3781 of the Elections Code shall include a statement notifying voters that they may call the elections official's office and request that a copy of the proposed or revised charter be mailed to them at no cost.

SEC. 23. Section 23722 of the Government Code is amended to read:

23722. Upon the presentation of a petition, or upon its own submission of a proposal to amend or repeal the charter, the

governing body shall submit the amendment or amendments proposed or the question of the repeal of the charter to the eligible registered voters of the county at a special election held on the next established election date not less than 88 days after the presentation of the petition, or submission of the proposal. In submitting the question of charter repeal or amendment, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

The county clerk shall cause the complete text of the proposed amendment or amendments to be printed. A copy of the proposed amendment or amendments shall be made available to any voter upon request.

The impartial analysis prepared by the county counsel's office pursuant to Section 3781 of the Elections Code shall include a statement notifying voters that they may call the elections official's office and request that a copy of the proposed amendment or amendments to the charter be mailed to them at no cost.

SEC. 24. Section 23731 of the Government Code is amended to read:

23731. The county clerk shall prepare and mail to each eligible registered voter in the county a sample ballot. In all other respects, every such election shall be held and conducted, the returns canvassed and the result declared by the governing body in the same manner as provided by law for general elections.

SEC. 25. Section 34456 of the Government Code is amended to read:

34456. In any city or city and county with over 50,000 population, the governing body shall cause copies of the charter to be printed in type of not less than 10-point and shall, until the day fixed for the election upon the charter, advertise in one or more newspapers of general circulation in said city or city and county a notice that copies are available upon request at the elections official's office. The text of the proposed charter may show the difference from existing provisions of law by the use of distinguishing type styles.

The impartial analysis prepared by the city attorney's office pursuant to Section 5011 of the Elections Code shall include a statement notifying voters that they may call the elections official's office and request that a copy of the proposed or revised charter be mailed to them at no cost.

SEC. 26. Section 34461 of the Government Code is amended to read:

34461. If the petition is signed by not less than 15 percent of the registered voters of the city, or not less than 10 percent of the registered voters of a city and county, the legislative body shall, within 20 days after it is presented, order an election at which the proposal, without alteration, shall be submitted to a vote of the voters of the city or the city and county. The election shall be held at the next regularly scheduled or established election, at which all the voters of the city or the city and county are eligible to vote, occurring

not less than 90 days after the order of the legislative body. Amendments proposed by the governing body and amendments proposed by petition of the voters may be submitted at the same election. The governing body of the city or city and county shall cause the proposed charter amendments or the proposal for charter repeal to be published once in the official newspaper of the city or city and county and in each edition thereof, during the day of publication, not less than 40, and not more than 60, days prior to the election. In case there is no official newspaper, the proposals for charter amendment or repeal shall be published in a newspaper of general circulation within the city or city and county and in all editions thereof, issued during the day of publication.

SEC. 27. Section 53326 of the Government Code is amended to read:

53326. The legislative body shall then submit the levy of any special taxes to the qualified voters of the proposed community facilities district in the next general election or in a special election to be held, at least 125 days, but not more than 180 days, following the close of the protest hearing, whichever election date occurs first. If 12 or more registered voters reside within the territory of the proposed community facilities district at the time of the close of the protest hearing, and for at least the preceding 125 days, the vote shall be by the registered voters of the proposed district, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district, each landowner having one vote for each acre or portion thereof of land that he or she owns within the proposed community facilities district. Ballots for a special election for this purpose may be distributed to qualified electors by mail with return postage prepaid.

SEC. 28. Section 57144 of the Government Code is amended to read:

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.

Immediately below the impartial analysis there shall be printed in no less than 10-point bold type a legend substantially as follows:

"The above statement is an impartial analysis of Proposition _____. If you desire a copy of the proposition, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

SEC. 29. Section 57148 of the Government Code is amended to read:

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 impartial analysis of the proposition prepared by the commission.

(2) One argument for the proposal, if any.

(3) One rebuttal to the argument for the proposal, if any.

(4) One argument against the proposal, if any.

(5) One rebuttal to the argument against the proposal, if any.

A copy of the complete text of the proposition will be made available by the clerk, to any voter upon request.

(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.

SEC. 30. Section 27 of this bill shall not become operative if SB 1115 of the 1985–86 Regular Session of the Legislature is enacted, amends Section 53326 of the Government Code, and becomes effective on or before January 1, 1987.

SEC. 31. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program on 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 867

An act to amend Sections 2760 and 2762 of the Fish and Game Code, relating to fisheries restoration projects, and making an appropriation therefor.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 2760 of the Fish and Game Code is amended to read:

2760. This chapter shall be known and may be cited as the Keene-Nielsen Fisheries Restoration Act of 1985.

SEC. 2. Section 2762 of the Fish and Game Code is amended to read:

2762. (a) The Fisheries Restoration Account is hereby created in the Fish and Game Preservation Fund. The moneys in the Fisheries Restoration Account are hereby appropriated for each of the 1985–86, 1986–87, and 1987–88 fiscal years to the department for expenditure pursuant to subdivision (b).

(b) The moneys in the Fisheries Restoration Account may be expended for the construction, operation, and administration of projects designed to restore and maintain fishery resources and their habitat that have been damaged by past water diversions and projects and other development activities. Expenditures shall not be authorized for a project to be funded under this subdivision before a date which is 30 days after the department has furnished a copy of the proposal for the project to be funded, together with supporting descriptions, to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee. These projects shall have as their primary objective the restoration of fishery resources. Projects may include, but shall not be limited to, the acquisition of lands, restoration of habitat, restoration or creation of spawning areas, kelp restoration, artificial reef construction, construction of fish screens or fish ladders, stream rehabilitation, and installation of pollution control facilities. Projects for restoration or creation of spawning areas shall utilize natural spawning rather than hatcheries to the extent possible.

Under no circumstances shall any water project be absolved under this subdivision of any mitigation requirements which are placed upon it under existing law.

No land shall be acquired pursuant to this chapter by eminent domain proceedings.

(c) Priority for funding shall be given to projects that employ fishermen, fish processing workers, and others who are unemployed or underemployed due to the elimination of a commercial fishing season as a result of restrictions imposed by federal regulations. This

priority shall remain in effect only as long as those restrictions are in force.

(d) After the initial year of funding, expenditures shall not be authorized for multiyear projects funded under subdivision (b) before a date which is 30 days after the department has submitted an annual progress report on the project and a copy of the work schedule for subsequent year funding of the project to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee.

CHAPTER 868

An act to amend Sections 867 and 868 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 867 of the Penal Code is amended to read:

867. While a witness is under examination, the magistrate shall, upon motion of either party, exclude all potential and actual witness who have not been examined.

The magistrate shall also order the witnesses not to converse with each other until they are all examined. The magistrate may also order, where feasible, that the witnesses be kept separated from each other until they are all examined.

This section does not apply to the investigating officer or the investigator for the defendant, nor does it apply to officers having custody of persons brought before the magistrate.

Either party may challenge the exclusion of any person under this section. Upon motion of either party, the magistrate shall hold a hearing, on the record, to determine if the person sought to be excluded is, in fact, a person excludable under this section.

SEC. 2. Section 868 of the Penal Code is amended to read:

868. The examination shall be open and public. However, upon the request of the defendant and a finding by the magistrate that exclusion of the public is necessary in order to protect the defendant's right to a fair and impartial trial, the magistrate shall exclude from the examination every person except the clerk, court reporter and bailiff, the prosecutor and his or her counsel, the Attorney General, the district attorney of the county, the investigating officer, the officer having custody of a prisoner witness while the prisoner is testifying, the defendant and his or her counsel, the officer having the defendant in custody, and a person chosen by the prosecuting witness who is not himself or herself a witness but who is present to provide the prosecuting witness moral support,

provided that the person so chosen shall not discuss prior to or during the preliminary examination the testimony of the prosecuting witness with any person, other than the prosecuting witness, who is a witness in the examination. Upon motion of the prosecution, members of the alleged victim's family shall be entitled to be present and seated during the examination. The court shall grant the motion unless the magistrate finds that the exclusion is necessary to protect the defendant's right to a fair and impartial trial, or unless information provided by the defendant or noticed by the court establishes that there is a reasonable likelihood that the attendance of members of the alleged victim's family poses a risk of affecting the content of the testimony of the victim or any other witness. The court shall admonish members of the alleged victim's family who are present and seated during the examination not to discuss any testimony with family members, witnesses, or the public. Nothing in this section shall affect the exclusion of witnesses as provided in Section 867 of the Penal Code.

For purposes of this section and Section 867, members of the alleged victim's family shall include the alleged victim's spouse, parents, legal guardian, children, or siblings.

CHAPTER 869

An act relating to state property.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Notwithstanding Section 11011.1 of the Government Code, the Director of General Services, with the consent of the Department of Parks and Recreation, may transfer without charge to the Mount Empire Unified School District approximately 3.46 acres, and may transfer without charge to the Descanso Community Water District approximately 0.51 acres, of real property comprising Cuyamaca Rancho State Park. If the Mount Empire Unified School District or the Descanso Community Water District abandon or have no further need for property transferred pursuant to this section, the property shall revert to the State of California and be included in Cuyamaca Rancho State Park.

CHAPTER 870

An act to add and repeal Section 7073.1 to the Government Code, relating to enterprise zones, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 7073.1 is added to the Government Code, to read:

7073.1. (a) Any city, county, or city and county with an enterprise zone designated by the department may, either by ordinance or resolution, propose an expansion of the designated enterprise zone within its respective jurisdiction if the area proposed fulfills all of the following requirements:

(1) The proposed area is contiguous with the designated zone and contains no more than 5 percent of the population and geographic area of the designated zone.

(2) The proposed area is included in a city, county, or city and county for which the Governor has proclaimed a state of emergency pursuant to the California Emergency Services Act provided for under Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 during the 12 months prior to the ordinance or resolution proposing expansion.

(3) The total value of loss to real and personal property within the proposed area as a result of the disaster exceeds three million dollars ($3,000,000).

(4) The city, county, or city and county makes findings that the area is a depressed area and that its addition to the enterprise zone is necessary in order to assist in attracting private sector investment to the area.

(5) The city, county, or city and county agree that local incentives made available to the designated enterprise zone will be offered to the proposed area as well.

(6) The city, county, or city and county submit documentation to the department evidencing the fulfillment of the requirements set forth in paragraphs (1) to (5), inclusive.

The department shall review the documentation submitted by the city, county, or city and county, and shall approve the proposed expansion if, and only if, the department finds that the conditions established in paragraphs (1) to (5), inclusive, have been met and that the expansion is consistent with the goals of this chapter.

(b) 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 that date, deletes or extends the 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 assist individuals residing in, and to promote the economic development of, depressed areas of this state which have suffered economic losses due to storms and floods occurring during 1986, it is necessary that this act go into immediate effect.

CHAPTER 871

An act to add Article 13 (commencing with Section 25250) to Chapter 6.5 of Division 20 of the Health and Safety Code, and to amend Sections 3460 and 3470 of, to repeal Sections 3467, 3471, and 3472 of, and to repeal and add Sections 3464, 3466, and 3468 to, the Public Resources Code, relating to recycling of oil.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986]

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

SECTION 1. Article 13 (commencing with Section 25250) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 13. Management of Used Oil

25250. (a) The Legislature finds that almost 100 million gallons of used oil is generated each year in the state; that this oil is a valuable petroleum resource which can be recycled; and that, in spite of this potential for recycling, significant quantities of used oil are wastefully disposed of or improperly used by means which pollute the water, land, and air, and endanger the public health, safety, and welfare.

(b) The Legislature also finds that readily available technologies exist to recycle used oil into useful products and that used oil should be collected and recycled, to the maximum extent possible, by means which are economically feasible and environmentally sound, in order to conserve irreplaceable petroleum resources, to protect the environment, and to protect public health, safety, and welfare.

25250.1. As used in this article, the following terms have the following meanings:

(a) "Used oil" means any of the following:

(1) Any oil that has been refined from crude oil, and has been used, and, as a result of use, has been contaminated with physical or chemical impurities.

(2) Any oil that has been refined from crude oil and, as a consequence of extended storage, spillage, or contamination with

nonhazardous impurities such as dirt and water, is no longer useful to the original purchaser.

(3) Spent lubricating fluids which have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine.

(4) Spent industrial oils, including compressor, turbine, and bearing oil, hydraulic oil, metal-working oil, refrigeration oil, and railroad drainings.

(5) Contaminated fuel oil with a flash point greater than 100°F.

"Used oil" does not include oil which has a flash point below 100°F or which has been intentionally mixed with hazardous waste, other than minimal amounts of vehicle fuel. "Used oil" also does not include oil which contains polychlorinated biphenyls (PCBs) at a concentration of 5 ppm or greater.

(b) "Board" means the California Waste Management Board.

(c) "Recycled oil" means any oil, produced from used oil, which has been prepared for reuse and which achieves minimum standards of purity, in liquid form, as established by the department. The following standards of purity are in effect unless the department, by regulation, establishes more stringent standards:

(1) Flash point: minimum standards set by the American Society for Testing and Materials for the recycled products.

(2) Lead: 100 ppm or less prior to January 1, 1988; 50 ppm or less on and after January 1, 1988.

(3) Arsenic: 5 ppm or less.

(4) Chromium: 10 ppm or less.

(5) Cadmium: 2 ppm or less.

(6) Chlorides: 3,000 ppm or less.

(7) Polychlorinated byphenyls (PCBs): 5 ppm or less.

Compliance with these standards shall be determined in accordance with the procedures in Article 11 (commencing with Section 66693) of Chapter 30 of Division 4 of Title 22 of the California Administrative Code.

(d) The standards set in subdivision (c) include the only concentrations allowed above the criteria adopted pursuant to Section 25141.

(e) Used oil which meets the standards set in subdivision (c) and the criteria adopted pursuant to Section 25141 for constituents other than those listed in subdivision (c) is not regulated by the department. Any person who generates used oil and who claims that the oil meets those standards and criteria, shall notify the department of its claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator and user of the used oil to prove that the oil met those standards and criteria.

25250.3. Any virgin oil product or partially refined product, which has not been previously used, which has become

contaminated with nonhazardous impurities such as dirt or water, and which has been returned to bulk storage by the product's manufacturer, transporter, or wholesaler for gravity separation of contaminants, is exempt from this article. Any petroleum product which becomes contaminated with any other petroleum product during refining, transportation by pipeline, or storage and which remains usable as a refinery feed stock or as a refinery fuel is exempt from this article.

25250.4. Used oil regulated by the department shall be managed as a hazardous waste in accordance with the requirements of this chapter until it has been recycled. Used oil which is not recycled shall be disposed of, or transported out of the state, as a hazardous waste in accordance with this chapter.

25250.5. (a) Disposal of used oil by discharge to sewers, drainage systems, surface or groundwaters, watercourses, or marine waters; by incineration or burning as fuel; or by deposit on land, is prohibited, unless authorized under other provisions of law.

(b) The use of used oil as a dust suppressant or weed control agent is prohibited.

25250.7. No person who generates, receives, stores, transfers, transports, treats, or recycles used oil shall intentionally contaminate used oil or knowingly accept used oil which has been contaminated with other hazardous waste, other than minimal amounts of vehicle fuel.

25250.8. Used oil shall be manifested under either one of the following procedures:

(a) The procedures prescribed by Sections 25160 and 25161.

(b) The following modified manifesting procedure, which may be used only by a registered hazardous waste hauler and shall be used only with the consent of the generator:

(1) A separate manifest shall be completed by each vehicle driver, with respect to each transport vehicle operated by that driver for each date.

(2) An Environmental Protection Agency identification number is not required for an individual generator.

(3) The hauler shall complete both the generator's and the hauler's sections of the manifest using the hauler's name. The hauler's section shall be completed prior to commencing each day's used oil collections. The driver shall sign and date the generator's and hauler's sections of the manifest.

(4) The hauler's name, Environmental Protection Agency identification number, and terminal address shall be entered in the generator's name, address, and Environmental Protection Agency identification number spaces of the manifest.

(5) The hauler shall attach to the front of the manifest legible receipts for each quantity of used oil that is received from a generator. The receipts shall be used to determine the total volume of used oil in the vehicle. After the used oil is delivered, the receipts shall be affixed to the hauler's copy of the manifest. The hauler shall

leave a copy of the receipt with the generator of the used oil. The generator shall retain each receipt for at least three years.

(6) All copies of each receipt shall contain all of the following information:

(A) The name, address, and telephone number of the generator, and the signature of the generator or the generator's representative.

(B) The date of the shipment.

(C) The state manifest number.

(D) The volume of the used oil received and its proper shipping description, including the hazardous class and identification number, if applicable.

(E) The address of the permitted facility to which the used oil will be transported.

(F) The hauler's name, address, and Environmental Protection Agency identification number.

(G) The driver's signature.

(7) The hauler shall enter the total volume of used oil transported on the manifest at the change of each date, change of driver, change of transport vehicle, or upon the last delivery of used oil to the designated facility. The total volume shall be the cumulative amount of used oil collected from the generators listed on the individual receipts.

(8) The hauler shall submit the generator copy of the manifest to the department within 30 days of each shipment.

(9) The hauler shall retain a copy of the manifest and all receipts for each manifest for three years.

(10) The hauler shall submit all copies of the manifest to the designated facility. A representative of the designated facility which receives the used oil shall sign and date the manifest, return two copies to the hauler, retain one copy, and send the original to the department within 30 days.

(11) All other manifesting requirements of Sections 25160 and 25161 shall be complied with unless specifically exempted under this subdivision.

25250.10. Every registered hazardous waste hauler who transports used oil shall report to the department the following information as part of the hauler's annual application for renewal of registration:

(a) The shipping descriptions of used oil transported during the preceding year.

(b) The volume of each type of used oil transported, identified by shipping description.

(c) The facilities to which the used oil was transported, identified by name, address, telephone number, and Environmental Protection Agency identification number.

25250.11. (a) Any person who receives used oil from consumers or other used oil generators, is exempt from hazardous waste facility permit requirements imposed pursuant to Article 9 (commencing with Section 25200) of this chapter with respect to any location at

which used oil is received if all of the following conditions are met:

(1) Each shipment of used oil received does not exceed 20 gallons, and the contents of any single container does not exceed five gallons.

(2) No other hazardous wastes are received at the location.

(3) The used oil is transported by the generator of the used oil.

(b) Any person who transports used oil to a location that is exempt from Article 9 (commencing with Section 25200) pursuant to subdivision (a) is exempt from the requirements of subdivisions (a) and (e) of Section 25163 and from the requirements of Section 25160 concerning the possession of a manifest while transporting used oil if all of the following conditions are met:

(1) The contents of any single container do not exceed five gallons.

(2) Each shipment of used oil does not exceed 20 gallons.

(3) The person transporting the used oil had used the oil.

25250.15. Any person operating a refuse removal vehicle or a curbside collection vehicle used to collect or transport used oil which has been generated as a household waste or as part of a curbside recycling program, as defined by the board, is exempt from the requirements of Section 25160 and subdivisions (a) and (e) of Section 25163 of this code and Chapter 2.5 (commencing with Section 2500) of Division 2, Division 14.1 (commencing with Section 32000), and subdivision (g) of Section 34500 of the Vehicle Code.

25250.16. No person may recycle used oil without obtaining a permit from the department.

25250.17. Each used oil recycler who has been issued a permit by the department shall submit a report, on or before March 1 of each year, to the department containing all of the following information:

(a) The total volume of used oil possessed at the beginning and end of the preceding calendar year.

(b) The total volume of used oil received during the preceding calendar year.

(c) The total volume of used oil recycled during the preceding calendar year, itemized as follows:

(1) Prepared for reuse as a petroleum product.

(2) Consumed in the process of preparing for reuse, including wastes generated.

(3) Prepared for reuse other than as a petroleum product, specifying each type of other use.

(4) Not recycled but transported offsite.

(d) Any other information which the department may require.

25250.18. Any person who transports recycled oil shall maintain with each shipment of recycled oil the shipment's destination and a signed and dated form from the recycling facility certifying that the oil being transported has been tested and is in compliance with the standards specified in subdivision (c) of Section 25250.1.

25250.19. A registered used oil recycler shall ensure that all recycled oil transported from the recycling facility has been tested and certified as being in compliance with the standards specified by

subdivision (c) of Section 25250.1. Records of tests performed and a copy of each form completed pursuant to Section 25250.18 shall be maintained for three years and are subject to audit and verification by the department or the board.

25250.20. Any person whose permit or registration has been revoked may not apply for a new or renewed permit or registration for a period of one year after the revocation of the permit or registration.

25250.21. Any person whose permit or registration has been revoked may not serve in the employ of a hazardous waste hauler or used oil recycler during the period of revocation of the permit or registration.

25250.22. All rules and regulations of the department shall be adopted, amended, and repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

25250.23. Any person who transports used oil shall register as a hazardous waste hauler and, unless specifically exempted or unless the used oil is not regulated by the department pursuant to subdivision (e) of Section 25250.1, shall comply with all provisions of this chapter.

25250.24. Any person who generates, receives, stores, transfers, transports, treats, or recycles used oil, unless specifically exempted or unless the used oil is not regulated by the department pursuant to subdivision (e) of Section 25250.1, shall comply with all provisions of this chapter.

SEC. 2. Section 3460 of the Public Resources Code is amended to read:

3460. As used in this article:

(a) "Used oil" has the same meaning as defined in subdivision (a) of Section 25250.1 of the Health and Safety Code.

(b) "Recycle" means to prepare used oil for reuse as a petroleum product by refining, reclaiming, reprocessing, or other means, in order to attain the standards specified by subdivision (c) of Section 25250.1 of the Health and Safety Code. "Recycle" does not include the application of used oil to roads for the purpose of dust control or to the ground for the purpose of weed abatement. "Recycle" does not include incineration or burning of used oil as a fuel or the blending or dilution of used oil with fuel oil or other uncontaminated products in order to achieve the standards specified in subdivision (c) of Section 25250.1 of the Health and Safety Code.

(c) "Board" means the California Waste Management Board.

(d) "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, municipality, political or jurisdictional subdivision, or government agency or instrumentality.

SEC. 3. Section 3464 of the Public Resources Code is repealed.

SEC. 4. Section 3464 is added to the Public Resources Code, to read:

3464. The board shall evaluate the potential for state and local agencies to purchase lubricating and other petroleum products made from recycled oil and make specific recommendations to the Legislature as to the feasibility of the state purchasing those products.

SEC. 4.3. Section 3466 of the Public Resources Code is repealed.

SEC. 4.5. Section 3466 is added to the Public Resources Code, to read:

3466. (a) The board shall prescribe guidelines for providing safe and conveniently located facilities for the deposit of used oil by persons possessing not more than five gallons at one time at no cost to those persons.

(b) The improper disposal of used oil pursuant to Section 25250.5 of the Health and Safety Code is prohibited and is subject to penalties pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code.

SEC. 5. Section 3467 of the Public Resources Code is repealed.

SEC. 6. Section 3468 of the Public Resources Code is repealed.

SEC. 7. Section 3468 is added to the Public Resources Code, to read:

3468. A used oil hauler, transfer facility operator, or recycler, permitted by the department, shall make available to the board, upon request, all records and copies of receipts for purposes of review and audit.

SEC. 8. Section 3470 of the Public Resources Code is amended to read:

3470. (a) All rules and regulations of the board shall be adopted, amended, and repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The board shall coordinate activities and functions with all other state agencies, including, but not limited to, the State Department of Health Services, the Department of Water Resources, and the State Water Resources Control Board, in order to avoid duplication in reporting and information gathering.

(c) The board shall prepare and submit an annual report to the Legislature, based in part on information submitted in accordance with Section 3468 and information submitted to the board by the department in accordance with Article 13 (commencing with Section 25250) of Chapter 6.5 of Division 20 of the Health and Safety Code summarizing information on used oil collection and recycling, analyzing the effectiveness of rules and regulations, and making recommendations for necessary changes in the provisions or their administration.

SEC. 9. Section 3471 of the Public Resources Code is repealed.

SEC. 10. Section 3472 of the Public Resources Code is repealed.

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 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.

CHAPTER 872

An act to amend Sections 5152, 5213, 5256.4, 5276, 5352.6, 5354.5, 5356, and 5358 of, and to add Sections 5008.2 and 5350.2 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 5008.2 is added to the Welfare and Institutions Code, to read:

5008.2. When applying the definition of mental disorder for the purposes of Articles 2 (commencing with Section 5200), 4 (commencing with Section 5250), and 5 (commencing with Section 5275) of Chapter 2 and Chapter 3 (commencing with Section 5350), the historical course of the person's mental disorder, as determined by available relevant information about the course of the person's mental illness shall be considered when it has a direct bearing on the determination of whether the person is a danger to others, or to himself or herself, or gravely disabled, as a result of a mental illness. The hearing officer, court, or jury may exclude evidence it deems to be irrelevant due to remoteness of time or dissimilarity of circumstances. The historical course may include, but is not limited to, evidence presented by persons who have provided, or are providing, mental health or related support services to the patient, or evidence presented by family members, or any other person designated by the patient.

SEC. 1.5. Section 5152 of the Welfare and Institutions Code is amended to read:

5152. (a) Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon after he or she is admitted as possible and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment. If any other professional person who is authorized to release the person, believes the person should be

released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment.

(b) Persons who have been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.

(c) Persons who have been detained for evaluation and treatment, who are receiving medications as a result of their mental illness, shall be given, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication by a person designated by the mental health facility where the person is detained. The State Department of Mental Health shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

(1) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.

(2) The likelihood of improving or not improving without the medications.

(3) Reasonable alternative treatments available.

(4) The name and type, frequency, amount, and method of dispensing the medications, and the probable length of time that the medications will be taken.

The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

SEC. 2. Section 5213 of the Welfare and Institutions Code is amended to read:

5213. (a) If, upon evaluation, the person is found to be in need of treatment because he or she is, as a result of mental disorder, a danger to others, or to himself or herself, or is gravely disabled, he or she may be detained for treatment in a facility for 72-hour treatment and evaluation. Saturdays, Sundays, and holidays may be excluded from the 72-hour period if the State Department of Mental Health certifies for each facility that evaluation and treatment

services cannot reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility can reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

(b) Persons who have been detained for evaluation and treatment, who are receiving medications as a result of their mental illness, shall be given, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication, by a person designated by the mental health facility where the person is detained. The State Department of Mental Health shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

(1) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.

(2) The likelihood of improving or not improving without the medications.

(3) Reasonable alternative treatments available.

(4) The name and type, frequency, amount, and method of dispensing the medications, and the probable length of time that the medications will be taken.

The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

SEC. 3. Section 5256.4 of the Welfare and Institutions Code is amended to read:

5256.4. (a) At the certification review hearing, the person certified shall have the following rights:

(1) Assistance by an attorney or advocate.

(2) To present evidence on his or her own behalf.

(3) To question persons presenting evidence in support of the certification decision.

(4) To make reasonable requests for the attendance of facility employees who have knowledge of, or participated in, the certification decision.

(5) If the person has received medication within 24 hours or such longer period of time as the person conducting the hearing may designate prior to the beginning of the hearing, the person conducting the hearing shall be informed of that fact and of the probable effects of the medication.

(b) The hearing shall be conducted in an impartial and informal

manner in order to encourage free and open discussion by participants. The person conducting the hearing shall not be bound by rules of procedure or evidence applicable in judicial proceedings.

(c) Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient, of the time and place of the certification hearing, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided.

(d) All evidence which is relevant to establishing that the person certified is or is not as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, shall be admitted at the hearing and considered by the hearing officer.

(e) Although resistance to involuntary commitment may be a product of a mental disorder, this resistance shall not, in itself, imply the presence of a mental disorder or constitute evidence that a person meets the criteria of being dangerous to self or others, or gravely disabled.

SEC. 4. Section 5276 of the Welfare and Institutions Code is amended to read:

5276. Judicial review shall be in the superior court for the county in which the facility providing intensive treatment is located or in the county in which the 72-hour evaluation was conducted if the patient or a person acting in his or her behalf informs the professional staff of the evaluation facility (in writing) that judicial review will be sought. No patient shall be transferred from the county providing evaluation services to a different county for intensive treatment if the staff of the evaluation facility has been informed in writing that a judicial review will be sought, until the completion of the judicial review. The person requesting to be released shall be informed of his or her right to counsel by the member of the treatment staff and by the court; and, if he or she so elects, the court shall immediately appoint the public defender or other attorney to assist him or her in preparation of a petition for the writ of habeas corpus and, if he or she so elects, to represent him or her in the proceedings. The person shall pay the costs of the legal service if he or she is able.

Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient, of the time and place of the judicial review, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided.

The court shall either release the person or order an evidentiary hearing to be held within two judicial days after the petition is filed. If the court finds, (a) that the person requesting release is not, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, (b) that

he or she had not been advised of, or had accepted, voluntary treatment, or (c) that the facility providing intensive treatment is not equipped and staffed to provide treatment, or is not designated by the county to provide intensive treatment he or she shall be released immediately.

SEC. 5. Section 5350.2 is added to the Welfare and Institutions Code, to read:

5350.2. Reasonable attempts shall be made by the county mental health program to notify family members or any other person designated by the person for whom conservatorship is sought, of the time and place of the conservatorship hearing. The person for whom the conservatorship is sought shall be advised by the facility treating the person that he or she may request that information about the time and place of the conservatorship hearing not be given to family members, in those circumstances where the proposed conservator is not a family member. The a request shall be honored by the mental health program. Neither this section nor Section 5350 shall be interpreted to allow the proposed conservatee to request that any proposed conservator not be advised of the time and place of the conservatorship hearing.

SEC. 6. Section 5352.6 of the Welfare and Institutions Code is amended to read:

5352.6. Within 10 days after conservatorship of the person has been established under the provisions of this article, there shall be an individualized treatment plan unless treatment is specifically found not to be appropriate by the court. The treatment plan shall be developed by the Short-Doyle Act community mental health service, the staff of a facility operating under a contract to provide such services in the individual's county of residence, or the staff of a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide inpatient psychiatric treatment. The person responsible for developing the treatment plan shall encourage the participation of the client and the client's family members, when appropriate, in the development, implementation, revision, and review of the treatment plan. The individualized treatment plan shall specify goals for the individual's treatment, the criteria by which accomplishment of the goals can be judged, and a plan for review of the progress of treatment. The goals of the treatment plan shall be equivalent to reducing or eliminating the behavioral manifestations of grave disability. If a treatment plan is not developed as provided herein then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the conservator, or the attorney of record for the conservatee.

When the progress review determines that the goals have been reached and the person is no longer gravely disabled, a person designated by the county shall so report to the court and the conservatorship shall be terminated by the court.

If the conservator fails to report to the court that the person is no longer gravely disabled as provided herein, then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the attorney of record for the conservatee.

SEC. 6.5. Section 5354.5 of the Welfare and Institutions Code is amended to read:

5354.5. Except as otherwise provided in this section, the person recommended to serve as conservator shall promptly notify the officer providing conservatorship investigation whether he or she will accept the position if appointed. If notified that the person or agency recommended will not accept the position if appointed, the officer providing conservatorship investigation shall promptly recommend another person to serve as conservator.

The public guardian shall serve as conservator of any person found by a court under this chapter to be gravely disabled, if the court recommends the conservatorship after a conservatorship investigation, and if the court finds that no other person or entity is willing and able to serve as conservator.

SEC. 7. Section 5356 of the Welfare and Institutions Code is amended to read:

5356. The report of the officer providing conservatorship investigation shall contain his or her recommendations concerning the powers to be granted to, and the duties to be imposed upon the conservator, the legal disabilities to be imposed upon the conservatee, and the proper placement for the conservatee pursuant to Section 5358. Except as provided in this section, the report to the court shall also contain an agreement signed by the person or agency recommended to serve as conservator certifying that the person or agency is able and willing to serve as conservator. The public guardian shall serve as conservator of any person found by a court under this chapter to be gravely disabled, if the court recommends the conservatorship after a conservatorship investigation, and if the court finds that no other person or entity is willing and able to serve as conservator.

SEC. 8. Section 5358 of the Welfare and Institutions Code is amended to read:

5358. (a) When ordered by the court after the hearing required by this section, a conservator appointed pursuant to this chapter shall place his or her conservatee in the least restrictive alternative placement, as designated by the court. Such placement may include a medical, psychiatric, nursing, or other state-licensed facility, or a state hospital, county hospital, hospital operated by the Regents of the University of California, a United States government hospital, or other nonmedical facility approved by the State Department of Mental Health or an agency accredited by the State Department of Mental Health, or in addition to any of the foregoing, in cases of chronic alcoholism, to a county alcoholic treatment center.

(b) A conservator shall also have the right, if specified in the court

order, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his or her conservatee to receive other medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled which is necessary for the treatment of an existing or continuing medical condition. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order specifically authorizing such surgery obtained pursuant to Section 5358.2.

(c) If the conservatee is not to be placed in his or her own home or the home of a relative, first priority shall be to placement in a suitable facility as close as possible to his or her home or the home of a relative. For the purposes of this section, suitable facility means the least restrictive residential placement available and necessary to achieve the purposes of treatment. At the time that the court considers the report of the officer providing conservatorship investigation specified in Section 5356, the court shall consider available placement alternatives. After considering all the evidence the court shall determine the least restrictive and most appropriate alternative placement for the conservatee. The court shall also determine those persons to be notified of a change of placement. The fact that a person for whom conservatorship is recommended is not an inpatient shall not be construed by the court as an indication that the person does not meet the criteria of grave disability.

If requested, the local mental health director shall assist the conservator or the court in selecting a placement facility for the conservatee. When a conservatee who is receiving services from the local mental health program is placed, the conservator shall inform the local mental health director of the facility's location and any movement of the conservatee to another facility.

(d) The conservator may transfer his or her conservatee to a less restrictive alternative placement without a further hearing and court approval. In any case in which a conservator has reasonable cause to believe that his or her conservatee is in need of immediate more restrictive placement because the condition of the conservatee has so changed that the conservatee poses an immediate and substantial danger to himself or herself or others, the conservator shall have the right to place his or her conservatee in a more restrictive facility or hospital. Notwithstanding Section 5328, if the change of placement is to a placement more restrictive than the court-determined placement, the conservator shall provide written notice of the change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate and such other persons designated by the court pursuant to subdivision (c).

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 873

An act to amend Section 6402.5 of the Probate Code, relating to decedents' estates.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 6402.5 of the Probate Code is amended to read:

6402.5. (a) For purposes of distributing real property under this section 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 purposes of distributing personal property under this section if the decedent had a predeceased spouse who died not more than five 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.

(c) For purposes of disposing of personal property under subdivision (b), the claimant heir bears the burden of proof to show the exact personal property to be disposed of to the heir.

(d) For purposes of providing notice under any provision of this code with respect to an estate that may include personal property subject to distribution under subdivision (b), if the aggregate fair market value of tangible and intangible personal property with a written record of title or ownership in the estate is believed in good faith by the petitioning party to be less than ten thousand dollars ($10,000), the petitioning party need not give notice to the issue or next of kin of the predeceased spouse. If the personal property is subsequently determined to have an aggregate fair market value in excess of ten thousand dollars ($10,000), notice shall be given to the issue or next of kin of the predeceased spouse as provided by law.

(e) For the purposes of disposing of property pursuant to subdivision (b), "personal property" means that personal property in which there is a written record of title or ownership and the value

of which in the aggregate is ten thousand dollars ($10,000) or more.

(f) 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.

(g) For the purposes of this section, quasi-community property shall be treated the same as community property.

(h) 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.

CHAPTER 874

An act to amend Sections 8571, 8571.5, 8652, 8663, 8665, 8680, 8682, 8683, 9520, 9525, 9538, 9539, 9600, 9604, 9610, 22507, 22526, 22567, 22569, 22572, 22587, 22594, 22605, 22620, and 22662.5 of, to add Chapter 5.5 (commencing with Section 6490) to Part 5 of Division 7 of, and to add Sections 8571.3, 8769, 9518, 9519, 9546, 9547, 9548, 9620, 36505.5, and 36505.7 to, the Streets and Highways Code, relating to improvement acts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986]

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

SECTION 1. Chapter 5.5 (commencing with Section 6490) is added to Part 5 of Division 7 of the Streets and Highways Code, to read:

CHAPTER 5.5. ALTERNATIVE PROCEDURE FOR DIVISION OF LAND AND BOND

6490. This chapter provides an alternative to the procedure for division of land and bond set out in Chapter 5 (commencing with Section 6480).

6490.5. The legislative body may provide in the resolution of intention, along with its determination to issue bonds, that the bonds shall be divisible pursuant to this chapter. This chapter shall apply only if it is clearly stated on the bond that it is divisible pursuant to this chapter.

6491. (a) If any lot or parcel of land upon which there is an unpaid assessment represented by bonds issued under this division and to which this chapter is applicable is subdivided, including a division into condominium interests as defined in Section 783 of the Civil Code, or the ownership of a portion of the lot or parcel of land is transferred to another person, the owner of any interest in any of the lots or parcels into which the original lot or parcel has been divided, may file an application in writing with the legislative body.

(b) The application under subdivision (a) shall indicate how the original lot or parcel has been divided or transferred, and request the legislative body to apportion the amount remaining unpaid on the assessment in accordance with this chapter.

(c) The application shall be accompanied by a fee in an amount to be determined by the legislative body, for each separate part or parcel of land into which the original lot or parcel has been divided or transferred. All application fees shall be deposited in the treasury.

6491.5. Upon receipt of the application and fee, the street superintendent shall determine, or cause to be determined, an apportionment of the unpaid assessment to each separate part of the original lot or parcel of land, as if the lot or parcel of land been so divided at the time the original assessment was made.

6492. After the apportionment has been determined pursuant to Section 6491.5, an application signed by all persons owning an interest in the original lot or parcel of land may be filed with the legislative body, requesting that the assessment as apportioned be adopted.

6492.5. (a) The clerk of the legislative body shall send a notice, by certified or registered mail, to the registered holder of any outstanding bond secured by the assessment to be apportioned, stating that an apportionment of an assessment has been requested, and indicating the numbers and amounts of the proposed apportionment. The notice shall also state that, unless a request for a hearing is received within 45 days from the date of mailing of the notice, the apportioned assessments shall become final and be recorded in the office of the street superintendent.

(b) If a request for a hearing under subdivision (a) is received, the legislative body shall file a report and conduct a hearing pursuant to Part 10 (commencing with Section 8730) of Division 10.

6493. (a) At the time and place set for the hearing pursuant to subdivision (b) of Section 6492.5, and after hearing all protests, the legislative body may determine to divide the bond according to the proposed apportionment, or as amended by the legislative body during the hearing, upon a finding of both of the following:

(1) That the apportionment is in accordance with the proportionate benefits to be received by each of the resulting lots or parcels.

(2) That the apportionment does not impair the value or security of the outstanding bonds secured by the land being apportioned and that the lien-to-value ratio of each apportioned parcel is not less than that ratio for the original parcel based on an appraisal by an individual designated by a nationally recognized appraisal association. The value calculations shall exclude site improvements constructed subsequent to the date of confirmation of the assessment.

(b) The determination of the legislative body pursuant to subdivision (a) is final and conclusive.

(c) Upon that determination, the bond secured by the original parcel shall be returned by the bondholder, canceled on the books of the city, and exchanged for new bonds on the apportioned parcels in the same aggregate principal amount, of the same maturity, and at the same interest rate as the original bond. Thereafter, payment of principal and interest shall be due on the new bonds to the holder thereof in the same manner and on the same dates as were applicable to the original bond.

6493.5. (a) If the clerk of the legislative body ascertains that the application has been signed by all of the necessary persons, and that no request for a hearing has been received, the clerk shall amend, or cause to be amended, the recorded diagram and assessment to conform to the proposed division and apportionment, and assign new assessment numbers to each separate part of the original lot or parcel of land.

(b) The clerk of the legislative body shall file the amended assessment with the treasurer, who shall annually enter upon the assessment roll the installments becoming due on each component part of the original parcel opposite a description of the respective parcels.

6494. If a city is the legislative body proceeding pursuant to this chapter and collections upon the assessments are made by county officials, the street superintendent shall transmit a copy of the amended assessment to the county treasurer.

SEC. 2. Section 8571 of the Streets and Highways Code is amended to read:

8571. If the legislative body determines that serial bonds shall be issued as provided in this division to represent the expense of any proposed work or improvement, it shall, in the resolution of intention to do the work, do all of the following:

(a) Declare that serial bonds shall be issued pursuant to Division

10 (commencing with Section 8500) to represent the expenses of the proposed work or improvement.

(b) Specify the rate or maximum rate of interest which the bonds shall bear.

(c) State the determination of the city pursuant to Section 8769.

SEC. 3. Section 8571.3 is added to the Streets and Highways Code, to read:

8571.3. (a) The legislative body may determine that bonds issued pursuant to this division shall not be subject to refunding pursuant to the procedures of Division 11 (commencing with Section 9000) or Division 11.5 (commencing with Section 9500) until a date specified in the format of the bond pursuant to Section 8652. This date shall not be more than ten years after the issuance date of the bond.

(b) This determination shall not apply to, or in any manner limit, advancement of the maturity of any bond or bonds pursuant to the procedures of Part 8 (commencing with Section 8680), Part 9 (commencing with Section 8700), Part 11 (commencing with Section 8750), or Part 11.1 (commencing with Section 8760).

(c) This determination shall not apply to, or in any manner limit, the redemption and payment of any bonds pursuant to subsequent assessment proceedings which provide for the payment in full of all amounts necessary to eliminate any fixed special assessment liens previously imposed upon any assessment parcel included in the new assessment district.

SEC. 4. Section 8652 of the Streets and Highways Code is amended to read:

8652. The bonds shall be substantially in the following form:

United States of America
State of California
County of _____

REGISTERED	REGISTERED
Number	$

IMPROVEMENT BOND
City (or County) of (naming it)

SERIES NO. _____

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NUMBER
		_____, 19__	

Under and by virtue of the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code (the "Act"), the City (or County) of _____, County of _____, State of California, (the "City" or "County")

will, out of the redemption fund for the payment of the bonds issued upon the unpaid portion of assessments made for the acquisition, work, and improvements more fully described in proceedings taken pursuant to Resolution of Intention No. _____, adopted by the (legislative body) of the City (or County) of _____ on the _____ day of _____, 19__, (as later amended), pay to _____ or registered assigns, on the maturity date stated above, the principal sum of _____, in lawful money of the United States of America and in like manner will pay interest from the interest payment date next preceding the date on which this bond is authenticated, unless this bond is authenticated and registered as of an interest payment date, in which event it shall bear interest from such interest payment date, or unless this bond is authenticated and registered prior to _____, 19__, (first interest payment date) in which event it shall bear interest from its date, until payment of such principal sum shall have been discharged, at the rate per annum stated above, payable semiannually on March 2 and September 2 in each year commencing on _____, 19____. Both the principal hereof and redemption premium hereon are payable at _____ as Transfer Agent, Registrar, and Paying Agent, in _____, California, and the interest hereon is payable by check or draft mailed to the owner hereof at the owner's address as it appears on the records of the _____ (issuing agency or registration agent) or at such address as may have been filed with the _____ (issuing agency or registration agent) for that purpose, as of the 15th day immediately preceding each interest payment date.

This bond will continue to bear interest after maturity at the rate above stated; provided, it is presented at maturity and payment thereof is refused upon the sole ground that there are not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity, interest thereon will run until maturity.

This bond shall not be entitled to any benefit under the Act or the Resolution Authorizing Issuance of Bonds (the "Resolution of Issuance"), or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the _____ (issuing agency or registration agent).

IN WITNESS WHEREOF, said City (or County) of _____ has caused this bond to be signed in facsimile by the Treasurer of said City (or County) and by its Clerk, and has caused its corporate seal to be reproduced in facsimile hereon all as of the _____ day of _____, 19__.

CITY (OR COUNTY) OF _____

_____	_____
Clerk	Treasurer

[SEAL]

Certificate of Authentication and Registration

This is one of the bonds described in the within mentioned Resolution of Issuance, which has been authenticated and registered on

By _____

ADDITIONAL PROVISIONS OF THE BOND

This bond is one of several annual series of bonds of like date, tenor, and effect, but differing in amounts, maturities, and interest rates, issued by the City (or County) of _____ under the Act and the Resolution of Issuance, for the purpose of providing means for paying for the improvements described in the proceedings, and is secured by the moneys in said redemption fund and by the unpaid portion of said assessments made for the payment of said improvements, and, including principal and interest, is payable exclusively out of said fund.

This bond is transferable by the registered owner hereof, in person or by the owner's attorney duly authorized in writing, at the office of _____ (issuing agency or its registration agent), subject to the terms and conditions provided in the Resolution of Issuance, including the payment of certain charges, if any, upon surrender and cancellation of this bond. Upon such transfer, a new registered bond or bonds, of any authorized denomination or denominations, of the same maturity, for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

Bonds shall be registered only in the name of an individual (including joint owners), a corporation, a partnership, or a trust.

Neither the issuing agency nor the registration agent shall be required to make such exchange or registration of transfer of bonds during the 15 days immediately preceding any interest payment date.

The issuing agency and the registration agent may treat the owner hereof as the absolute owner for all purposes, and the issuing agency and the registration agent shall not be affected by any notice to the contrary.

This bond or any portion of it in the amount of five thousand dollars ($5,000), or any integral multiple thereof, may be redeemed and paid in advance of maturity upon the second day of March or September in any year by giving at least 60 days' notice by registered mail to the registered owner hereof at the owner's address as it appears on the registration books of the _____ (issuing agency or registration agent) by paying principal and accrued interest together with a premium equal to _____ percentum of the

principal.

This bond is not subject to refunding pursuant to the procedures of Division 11 (commencing with Section 9000) or Division 11.5 (commencing with Section 9500) of the Streets and Highways Code prior to _____, _____.

I hereby certify that the following is a correct copy of the signed legal opinion of _____

City (or County) Clerk

SEC. 5. Section 8571.5 of the Streets and Highways Code is amended to read:

8571.5. The legislative body may determine that bonds issued pursuant to this division may be refunded under specified conditions. If the legislative body so determines, it shall, in the resolution of intention to do the work, include all of the following:

(a) A declaration that bonds proposed in the resolution may be refunded.

(b) The specific conditions under which the bonds may be refunded, including a maximum interest rate and maximum number of years to maturity of the refunding bonds.

(c) A statement that any adjustment to assessments resulting from the refunding will be done on a pro rata basis.

The refunding shall be accomplished pursuant to Division 11.5 (commencing with Section 9500), except that, if, following the filing of the report specified in Section 9523 and any subsequent modifications of the report, the legislative body finds that each of the conditions specified in the resolution of intention is satisfied and that the adjustments to assessments are on a pro rata basis, the legislative body may approve and confirm the report and may, without further proceedings, authorize, issue, and sell the refunding bonds pursuant to Chapter 3 (commencing with Section 9600) of Division 11.5.

SEC. 6. Section 8663 of the Streets and Highways Code is amended to read:

8663. The unpaid assessments shall be payable in substantially the manner set forth in subdivision (a) of Section 8680, or in substantially the same manner, but at more frequent intervals, as provided by the legislative body by resolution. The legislative body may designate an official, including an official other than the county tax collector, or other agent, to collect and maintain records of the collection of the assessments, including a procedure other than through the property tax collection procedure prescribed in this division. The legislative body may authorize an additional assessment to pay the costs of collection, not to exceed the percentages or amounts set forth in Section 8682, and an additional amount to cover the costs of registration, not to exceed the percentages and amounts set forth in Section 8682.1. The legislative body may authorize an additional assessment to pay for incidental expenses of the financing. The assessments and the interest on the assessments for each pay period are payable at the end of the pay period and are delinquent thereafter, and shall bear the same proportionate penalties and

interest after delinquency as the assessment installments in the subject proceedings.

SEC. 7. Section 8665 of the Streets and Highways Code is amended to read:

8665. The legislative body may, by resolution, specify terms and conditions under which the city agrees to repurchase the bonds. The legislative body may secure a letter of credit or other instrument to secure payment or repurchase of any bonds, and the resulting costs, including costs of initially securing, maintaining, or making any payments arising from the exercise of, a letter of credit or other instrument, may be treated as incidental expenses. The legislative body may engage a remarketing agent and an indexing agent, subject to terms and conditions agreed to by the legislative body, and the resulting costs may be treated as incidental expenses.

SEC. 8. Section 8680 of the Streets and Highways Code is amended to read:

8680. The unpaid assessments shall be payable in annual series corresponding in number to the number of series of bonds issued. An annual proportion of each assessment shall be payable in each year preceding the date of maturity of each of the several series of bonds which have been issued, sufficient to pay the bonds when due. The annual proportion of each assessment coming due in any year, together with the annual interest on the assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the city on real property are payable and the assessment installments and the annual interest on the assessment shall be payable and become delinquent at the same times and in the same proportionate amounts and, except as provided in subdivision (b), shall bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of the city.

(b) The legislative body may provide, in the resolution of intention to do the work, that a penalty of 2 percent per month of the total amount of the delinquent installment shall be added to the delinquent installment after the close of business on the delinquency date and an additional penalty of 2 percent of the amount of the delinqency shall be added at the beginning of business on the 10th day of each succeeding month until that delinquent installment and all penalties thereon are fully paid. This penalty shall be in lieu of all other penalties assessed by other provisions of law. The treasurer or the designated paying agent shall collect the penalties with and as a part of the delinquent installments and all penalties collected shall be deposited in the redemption fund.

SEC. 9. Section 8682 of the Streets and Highways Code is amended to read:

8682. A copy of the order of the legislative body determining the assessments remaining unpaid and upon the security of which bonds are issued shall be filed in the office of the auditor. The auditor shall keep a record in his or her office showing the several installments of

principal and interest on the assessments which are to be collected in each year during the term of the bonds. The auditor shall annually enter in his or her assessment roll on which taxes will next become due, opposite each lot or parcel of land affected in a space marked "public improvement assessment," or by other suitable designation, the several installments of the assessment coming due during the fiscal year covered by the assessment roll, including in each case the interest due on the total unpaid assessments. The auditor shall also add a maximum of 5 percent of the amount of the installments and of the interest so entered, not to exceed the city treasurer's estimate of the expenses of collection, and in any case not to exceed eight dollars ($8) per lot or parcel, except with the landowner's written consent. The expenses of collection shall include necessary administrative expenses of the city incurred in providing the auditor with current information regarding the ownership or division of the affected lots or parcels of land to ensure the proper entry by the auditor in his or her assessment roll of the several installments of the assessment coming due during the fiscal year covered by the assessment roll and the timely collection of the installments. The percentages, and the amount represented by the installments, when collected shall belong to the city and shall cover the expenses and compensation of the city treasurer incurred in the collection of the assessments, and of the interest and penalties added on to the assessments. No other percentage or amount shall be claimed by the legislative body for the collections.

SEC. 10. Section 8683 of the Streets and Highways Code is amended to read:

8683. If the legislative body conducting the proceedings is not a county and collections of assessments are made by county officials, the county auditor shall, within 90 days after each installment becomes delinquent, render to the city a detailed report showing the amounts of the installments, interest, penalties, and percentages so collected on each proceeding and from what property collected, identifying any properties which are delinquent and the amount and length of time in arrears, and also giving a statement of the percentages retained for the expenses of making such collections.

SEC. 11. Section 8769 is added to the Streets and Highways Code, to read:

8769. Before issuing bonds pursuant to this division, the legislative body shall determine, and shall declare in the resolution of intention, one of the following:

(a) The city will obligate itself to advance available funds from the city treasury to cure any deficiency which may occur in the bond redemption fund.

(b) The city will not obligate itself to advance available funds from the city treasury to cure any deficiency which may occur in the bond redemption fund. A determination not to obligate itself shall not prevent the city from, in its sole discretion, so advancing funds.

The determination made pursuant to this section shall be clearly

stated in the title of the bonds issued pursuant to this division.

SEC. 12. Section 9518 is added to the Streets and Highways Code, to read:

9518. Any surplus remaining in the improvement fund for the assessment district, after completion of the improvements and the payment of all claims, may be used as a credit upon the reassessment in the manner provided in Section 10427.1 or as otherwise provided in Section 10427.

SEC. 13. Section 9519 is added to the Streets and Highways Code, to read:

9519. Any balance remaining in the special reserve fund for the bonds to be refunded at the time of the issuance of the refunding bonds shall be used to retire the bonds to be refunded as provided in Section 8885.

SEC. 14. Section 9520 of the Streets and Highways Code is amended to read:

9520. Except as it may otherwise have determined pursuant to Section 8571.3, the legislative body of any city which has issued bonds which are outstanding under the act may, at any time, determine by resolution that the public interest or necessity requires the refunding of the issue of bonds, and declare its intention to refund the bonds and to levy reassessments as security for the refunding bonds.

SEC. 15. Section 9525 of the Streets and Highways Code is amended to read:

9525. If the legislative body finds that all of the following conditions are satisfied, it may approve and confirm the report prepared pursuant to Section 9523 and proceed to authorize, issue, and sell refunding bonds pursuant to Chapter 3 (commencing with Section 9600):

(a) That each estimated annual installment of principal and interest on the reassessment, as set forth pursuant to subdivision (d) of Section 9523, is less than the corresponding annual installment of principal and interest on the portion of the original assessment being superseded and supplanted, as set forth in subdivision (c) of Section 9523, by the same percentage for all subdivisions of land within the district. Any amount added to the annual installments on the reassessment due to a delinquency in payment on the original assessment need not be considered in this calculation.

(b) That the number of years to maturity of all refunding bonds is not more than the number of years to the last maturity of the bonds being refunded.

(c) That the principal amount of the reassessment on each subdivision of land within the district is less than the unpaid principal amount of the portion of the original assessment being superseded and supplanted by the same percentage for each subdivision of land within the district. Any amount added to a reassessment because of a delinquency in payment on the original assessment need not be considered in this calculation.

SEC. 16. Section 9538 of the Streets and Highways Code is

amended to read:

9538. Except as otherwise provided in this section and in Sections 9546, 9547, and 9548, assessments originally levied, and all penalties and interest accrued thereon, which are included within the reassessments, shall be deemed superseded and supplanted by the reassessments. If, and to the extent that, the reassessments do not include unpaid installments of assessments originally levied and the penalties and interest thereon, the lien of the original assessments is not superseded and supplanted.

For purposes of this section and Section 9539, "unpaid installments" means those installments which are delinquent and those which are or may be posted to the tax roll for the fiscal year during which the reassessment is confirmed.

SEC. 17. Section 9539 of the Streets and Highways Code is amended to read:

9539. Except as provided in Section 9548, the lien of the reassessments shall be given superiority and priority as of the date that the original assessments became a lien upon the property reassessed. The lien of unpaid installments of the assessments originally levied and the penalties and interest thereon, and the lien of any remaining portion of the original assessments not securing refunded bonds, are equal in priority to the lien of the reassessments.

SEC. 18. Section 9546 is added to the Streets and Highways Code, to read:

9546. The legislative body of any city which has issued bonds which are outstanding under this division, the original authorized aggregate principal amount of which was less than the aggregate principal amount of the original assessment which was levied as security therefor, and which intends to issue additional bonds to be secured by that original assessment to provide for and finance the construction and installation of further improvements, may, at any time, determine by resolution that the public interest or necessity requires the refunding of the bonds which are outstanding, the levy of a reassessment as security for the refunding bonds, and the continuation of the original assessment as to the unpaid principal amount thereof which shall be security for the additional bonds to be issued, and may declare its intention to so proceed by a resolution adopted pursuant to Section 9520.

The resolution shall, in addition to declaring the intention of the legislative body to refund the bonds which are outstanding and to levy reassessments as security for the refunding bonds, also declare the intention of the legislative body to issue additional bonds on the basis of the original assessment and to continue the original assessment in an amount sufficient to provide security for the additional bonds to be issued. The resolution shall require that the report prepared pursuant to Section 9523 contain the unpaid principal amount of each original assessment in excess of the amount thereof which will be superseded and supplanted by the principal amount of the corresponding reassessment, which shall be security

for the additional bonds to be issued.

SEC. 19. Section 9547 is added to the Streets and Highways Code, to read:

9547. If the legislative body elects to proceed pursuant to Section 9546, Sections 9523 to 9545, inclusive, shall apply to the reassessments to be levied. Upon confirming the reassessment, the legislative body shall, in the resolution adopted pursuant to Section 9535, order that the lien of the original assessment continue as to the portion of the unpaid principal amount thereof which will be security for the additional bonds which are to be issued on the basis thereof.

SEC. 20. Section 9548 is added to the Streets and Highways Code, to read:

9548. If the legislative body elects to proceed pursuant to Section 9546, upon confirmation of the reassessment as provided in Section 9535 and in compliance with Sections 9536 and 9537, the lien of the reassessment supersedes and supplants the lien of the original assessment as to the portion of the unpaid principal amount thereof which was security for the bonds which are to be refunded, but the lien of the original assessment continues as to the portion of the unpaid principal amount thereof which is security for the additional bonds which are to be issued on the basis thereof until the expiration of four years after the due date of the last installment on the reassessment.

The lien of the reassessment and the lien of the continued portion of the original assessment have equal priority as to the date the original assessment became a lien upon the property assessed.

The notice of reassessment filed pursuant to Section 3114 shall be entitled "Notice of Reassessment and Continuation of Assessment" and shall specify the relationship between the reassessment and the continuing amount of the original assessment.

SEC. 21. Section 9600 of the Streets and Highways Code is amended to read:

9600. In this chapter, the following terms are used with the following meanings:

(a) "Costs of issuing refunding bonds" means those of the following costs and expenses which are designated by the legislative body in the resolution providing for the issuance of the bonds.

(1) All expenses incident to the calling, retiring, or paying of the bonds to be refunded and to the issuance of refunding bonds, including, but not limited to, any bond counsel, financial consultants, underwriters, certified public accountants, and rating agency fees, printing and advertising costs, city administrative expenses, and the charges of any escrow agent or trustee in connection with the issuance of the refunding bonds or in connection with the redemption or retirement of the bonds to be refunded.

(2) Interest upon the refunding bonds from the September 2 next preceding the date of sale thereof to not later than the September 2 next succeeding two years from the date.

(3) Any accrued and unpaid interest on the bonds to be refunded.

(4) Any premium necessary in the calling or retiring of the bonds to be refunded.

(5) Any amount that the city pays or transfers, or has previously paid or transferred, either from a special reserve fund or from surplus funds, into the redemption fund securing the bonds to be refunded and the penalties and interest thereon, if the amounts and the penalties and interest thereon are included in and limited to the particular reassessments levied upon those subdivisions of land securing the original assessment installments which are delinquent and for which the payments or transfers are made.

(b) "Designated costs of issuing the refunding bonds" means whichever of the items specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (a) which are designated by the legislative body in the resolution providing for the issuance of refunding bonds.

(c) "Federal securities" means those securities described in Sections 1360 and 1360.1 of the Financial Code and includes United States Treasury notes, bonds, bills, or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

SEC. 22. Section 9604 of the Streets and Highways Code is amended to read:

9604. Refunding bonds issued pursuant to this division shall comply with the following requirements which shall be set forth in the resolution adopted pursuant to Section 9601:

(a) Bonds shall be in the fully registered form and of the denominations as the legislative body may determine.

(b) The bonds shall be dated on or after the date of the recording of the reassessment.

(c) Bonds shall be signed by the treasurer and the clerk, except that the legislative body may, by order, authorize the use of bonds with an engraved, printed, or lithographed signature of the treasurer and the clerk in lieu of a signature by hand. The legislative body may also authorize its seal to be placed on the bonds in a similar manner.

(d) Bonds shall be numbered appropriately and shall bear interest and mature as provided in the contract with the bond purchasers.

SEC. 23. Section 9610 of the Streets and Highways Code is amended to read:

9610. The first interest payment on the bonds shall be March 2 next preceding the second day of September next succeeding 12 months after the date of the bonds, except that, if any portion of the interest is funded, the legislative body may specify that the first payment of interest shall become due on any earlier interest payment date following the date of the bonds.

SEC. 24. Section 9620 is added to the Streets and Highways Code, to read:

9620. The legislative body may provide, in the resolution

authorizing the issuance of the refunding bonds, for the establishment from the proceeds of the sale of the refunding bonds of a special reserve fund for the refunding bonds pursuant to Part 16 (commencing with Section 8880) of Division 10.

If the legislative body elects to establish the reserve fund, it shall provide, in the resolution adopted pursuant to Section 9520, for the inclusion of the amount of the special reserve fund in the reassessment.

SEC. 25. Section 22507 of the Streets and Highways Code is amended to read:

22507. Division 4 (commencing with Section 2800) and Division 4.5 (commencing with Section 3100) do not apply to this part or proceedings taken pursuant to this part, except that Division 4.5 (commencing with Section 3100) does apply to proceedings in which the legislative body determines to issue bonds pursuant to Section 22662.5, and may be applied to any other proceedings pursuant to this part at the discretion of the legislative body.

SEC. 26. Section 22526 of the Streets and Highways Code is amended to read:

22526. "Incidental expenses" include all of the following:

(a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment.

(b) The costs of printing, advertising, and the giving of published, posted, and mailed notices.

(c) Compensation payable to the county for collection of assessments.

(d) Compensation of any engineer or attorney employed to render services in proceedings pursuant to this part.

(e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(f) Any expenses incidental to the issuance of bonds pursuant to Section 22662.5.

SEC. 27. Section 22567 of the Streets and Highways Code is amended to read:

22567. A report shall refer to the assessment district by its distinctive designation, specify the fiscal year to which the report applies, and, with respect to that year, shall contain all of the following:

(a) Plans and specifications for the improvements.

(b) An estimate of the costs of the improvements.

(c) A diagram for the assessment district.

(d) An assessment of the estimated costs of the improvements.

(e) If bonds will be issued pursuant to Section 22662.5, an estimate of their principal amount.

SEC. 28. Section 22569 of the Streets and Highways Code is amended to read:

22569. The estimate of the costs of the improvements for the fiscal year shall contain estimates for all of the following:

(a) The total costs for improvements to be made that year, being

the total costs of constructing or installing all proposed improvements and of maintaining and servicing all existing and proposed improvements, including all incidental expenses.

(b) The amount of any surplus or deficit in the improvement fund to be carried over from a previous fiscal year.

(c) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(d) The amount, if any, of the annual installment for the fiscal year where the legislative body has ordered an assessment for the estimated cost of any improvements to be levied and collected in annual installments.

(e) The net amount to be assessed upon assessable lands within the assessment district, being the total improvement costs, as referred to in subdivision (a), increased or decreased, as the case may be, by any of the amounts referred to in subdivision (b), (c), or (d).

SEC. 29. Section 22572 of the Streets and Highways Code is amended to read:

22572. The assessment shall refer to the fiscal year to which it applies and shall do all of the following:

(a) State the net amount, determined in accordance with Section 22569, to be assessed upon assessable lands within the assessment district, which shall include an amount sufficient to pay the principal and interest due during the fiscal year from each parcel on any bonds issued pursuant to Section 22662.5.

(b) Describe each assessable lot or parcel of land within the district.

(c) Assess the net amount upon all assessable lots or parcels of land within the district by apportioning that amount among the several lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

The assessment may refer to the county assessment roll for a description of the lots or parcels, in which case that roll shall govern for all details concerning the description of the lots or parcels.

SEC. 30. Section 22587 of the Streets and Highways Code is amended to read:

22587. After approval of the report, either as filed or as modified, the legislative body shall adopt a resolution of intention. The resolution shall do all of the following:

(a) Declare the intention of the legislative body to order the formation of an assessment district, to levy and collect assessments, and, if desired, to issue bonds pursuant to this part.

(b) Generally describe the improvements.

(c) Refer to the proposed assessment district by its distinctive designation and indicate the general location of the district.

(d) Refer to the report of the engineer, on file with the clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, any bonds to be issued, and the proposed assessments upon assessable lots and parcels

of land within the district.

(e) Give notice of, and fix a time and place for, a hearing by the legislative body on the question of the formation of the assessment district and the levy of the proposed assessment.

SEC. 31. Section 22594 of the Streets and Highways Code is amended to read:

22594. (a) If a majority protest has not been filed, or, if filed, has been overruled, the legislative body may adopt a resolution ordering the improvements and the formation of the assessment district and confirming the diagram and assessment, either as originally proposed by the legislative body or as changed by it. Except as provided in subdivision (b), the adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the assessment.

(b) If bonds are to be issued pursuant to Section 22662.5, the adoption of the resolution shall constitute the levy of an assessment for a principal amount which may be collected in annual installments. The clerk shall record a notice and map describing the assessment pursuant to Division 4.5 (commencing with Section 3100).

SEC. 32. Section 22605 of the Streets and Highways Code is amended to read:

22605. The legislative body, either in a single proceeding or by separate proceedings, may order one or any combination of the following changes of organization:

(a) The annexation of territory to an existing assessment district formed under this part.

(b) The detachment of territory from an existing assessment district formed under this part.

(c) The dissolution of an existing assessment district formed under this part.

(d) The consolidation into a single assessment district formed under this part of any combination of two or more of any of the following:

(1) An existing assessment district formed pursuant to this part.

(2) An existing lighting, street lighting, maintenance, or tree planting district formed pursuant to Chapter 26 (commencing with Section 5820) of Part 3 of Division 7, Part 1 (commencing with Section 18000), Part 2 (commencing with Section 18300), Part 3 (commencing with Section 18600), or Part 4 (commencing with Section 19000) of Division 14, or Part 1 (commencing with Section 22000) of this division, or pursuant to any procedural ordinance adopted by a charter city.

(e) The legislative body shall not, by annexation, detachment, dissolution, or consolidation, alter the obligation of property owners to pay the principal of, and interest on, bonded debt issued pursuant to Section 22662.5. This section does not prevent the lawful refunding of the bonded debt or the apportionment of assessments upon the division of properties assessed.

SEC. 33. Section 22620 of the Streets and Highways Code is

amended to read:

22620. This chapter applies to all annual assessments levied after the formation of an assessment district, except annual assessments to pay the principal of, and interest on, previously issued bond debt.

SEC. 34. Section 22662.5 of the Streets and Highways Code is amended to read:

22662.5. (a) The legislative body of any local agency may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of the proposed improvements described in subdivision (e) of Section 22525, other than the costs of maintenance and servicing, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)). Division 10 (commencing with Section 8500) shall govern all proceedings relating to the issuance of those bonds. The pertinent provisions of that division which apply to the legislative body of a city shall also apply to the legislative body of a special district formed to provide park and recreational services.

(b) The resolution shall generally describe the proposed improvements specified in subdivision (e) of Section 22525, set forth the estimated cost thereof, specify the number of annual installments and the fiscal years during which they are to be collected, and fix or determine the maximum amount of each annual installment necessary to retire the bonds. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from annual assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal of, and interest on, any bond issued pursuant to this section, shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

SEC. 35. Section 36505.5 is added to the Streets and Highways Code, to read:

36505.5. "City" means a city or county.

SEC. 36. Section 36505.7 is added to the Streets and Highways Code, to read:

36505.7. "City council" means the city council of a city or the board of supervisors of a county.

SEC. 37. 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. 38. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Current low interest rates afford a unique opportunity for local agencies to realize cost savings by refunding outstanding bond issues. In order that changes contained in this act which will clarify existing law and assist in those refundings may be enacted at the earliest

possible time, it is necessary that this act take effect immediately.

CHAPTER 875

An act to amend Sections 69993, 70111, 73483, 73484, 73485, 73487, 73489, 73705, 73706, 73709, 73710, 74134, 74135, 74136, 74137, 74138, 74139, 74141, 74142, 74143, 74144, 74702, 74705, 74708, 74803, 74804, 74805, 74807, 74808, 74922.5, 74923, 74924, and 74924.6 of, and to add Sections 74137.5 and 74703 to, the Government Code, relating to courts.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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, 1986, 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 six hundred dollars ($2,600) 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. Section 70111 of the Government Code is amended to read:

70111. (a) Notwithstanding the provisions of Section 69948, the fee for official court reporters for reporting proceedings shall be one hundred five dollars ($105) a day. All other fees of such reporters shall be as elsewhere provided by law. Rates of compensation of all

regular official reporters and official reporters pro tempore may be adjusted by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall be effective only until January of the second year following the year in which such adjustments are made, unless ratified by the Legislature.

(b) Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the same per diem fee paid regular official reporters of the superior court for the days the pro tempore reporter actually is on duty under order of the court.

(c) This per diem rate shall also apply when a reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

Regular official reporters and pro tempore reporters shall not receive more than one per diem fee a day from the county.

SEC. 3. Section 72483 of the Government Code is amended to read:

73483. The clerk may appoint:

(a) Two municipal courtroom clerks.

(b) Two deputy clerks III.

(c) Three deputy clerks II.

(d) Five deputy clerks I.

SEC. 4. Section 73484 of the Government Code is amended to read:

73484. There shall be one marshal who shall receive the biweekly salary specified in range 61.25 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 5. Section 73485 of the Government Code is amended to read:

73485. The marshal may appoint:

(a) Four deputy marshals.

(b) One clerk-typist II.

(c) On clerk-typist I.

SEC. 6. Section 73487 of the Government Code is amended to read:

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction, then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	44.25
(b) Deputy clerk II	46.25
(c) Deputy clerk III	48.25
(d) Municipal courtroom clerk	51.25
(e) Clerk/Administrator	56.75
(f) Clerk-typist II	44.25
(g) Deputy marshal	55.50
(h) Senior deputy marshal	57.75

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his or her assigned range, until the employee reaches the maximum step on the range assigned for his or her position. Thereafter no additional step increase shall be granted.

SEC. 7. Section 73489 of the Government Code is amended to read:

73489. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I.
(b) Deputy clerk II.
(c) Deputy clerk III.
(d) Municipal courtroom clerk.
(e) Clerk/Administrator.
(f) Clerk-typist II.
(g) Deputy marshal.
(h) Senior deputy marshal.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class or classes deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 8. Section 73705 of the Government Code is amended to read:

73705. The clerk may appoint:

(a) Two chief deputy clerks who shall be assistant administrative officers.
(b) Two deputy clerks III.
(c) Six deputy clerks II.
(d) Ten deputy clerks I.

SEC. 9. Section 73706 of the Government Code is amended to read:

73706. There shall be one marshal who shall receive the biweekly

salary specified in range 61.25 as set forth in the biweekly salary schedule contained in Section 73709. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 10. Section 73709 of the Government Code is amended to read:

73709. Whenever a reference is made to a numbered salary range in any section of this article, the schedule of biweekly salaries found in the salary resolution for the County of San Joaquin in effect shall apply.

SEC. 11. Section 73710 of the Government Code is amended to read:

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	44.25
(b) Deputy clerk II	46.25
(c) Deputy clerk III	48.25
(d) Chief deputy clerk	55.75
(e) Clerk	53.75
(f) Clerk-typist II	44.25
(g) Senior deputy marshal	57.75
(h) Deputy marshal	55.50

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his or her assigned range, until the employee reaches the maximum step on the range assigned for his or her position. Thereafter, no additional step increase shall be granted.

SEC. 12. Section 74134 of the Government Code is amended to read:

74134. In the Riverside Judicial District, the salary of the clerk/administrator-Riverside Judicial District shall be on range 322 and the clerk/administrator may appoint:

(a) One accounting technician on range 190.

(b) One assistant clerk/administrator-Riverside Judicial District on range 258.

(c) One municipal court branch manager on range 223.

(d) Twenty-seven municipal court clerks on range 147.
(e) Three municipal court division supervisors on range 207.
(f) Seven municipal courtroom clerks on range 193.
(g) One secretary I on range 185.
(h) One senior accounting clerk on range 160.
(i) Four senior municipal court clerks on range 168.

SEC. 13. Section 74135 of the Government Code is amended to read:

74135. In the Riverside Judicial District, the salary of the marshal shall be fifty-two thousand eight hundred seventy-three dollars and sixty cents ($52,873.60) per year, and the marshal may appoint:
(a) One correctional officer I on range 142.
(b) Two data terminal operators II on range 130.
(c) Ten deputy marshals I on range 214.
(d) Five deputy marshals II on range 245.
(e) Four investigative assistants on range 152.
(f) Two marshal's captains on range 324.
(g) One marshal's lieutenant on range 296.
(h) Two marshal's sergeants on range 276.
(i) One secretary I on range 185.
(j) One senior accounting clerk on range 160.
(k) Three typist clerks II on range 120.

SEC. 14. Section 74136 of the Government Code is amended to read:

74136. In the Desert Judicial District, the salary of the clerk/administrator - Desert Judicial District shall be on range 322 and the clerk/administrator may appoint:
(a) One accounting clerk on range 129.
(b) One accounting technician on range 190.
(c) One assistant clerk/administrator-Desert Judicial District on range 258.
(d) One court reporter at one thousand two hundred fifty-six dollars ($1,256) biweekly.
(e) Three municipal court branch managers on range 223.
(f) Twenty-seven municipal court clerks on range 147.
(g) Two municipal court division supervisors on range 207.
(h) Six municipal courtroom clerks on range 193.
(i) Two senior accounting clerks on range 160.
(j) Seven senior municipal court clerks on range 168.
(k) One senior stenographer clerk on range 168.

SEC. 15. Section 74137 of the Government Code is amended to read:

74137. In the Desert Judicial District, the salary of the marshal shall be fifty-two thousand eight hundred seventy-three dollars and sixty cents ($52,873.60) per year, and the marshal may appoint:
(a) One accounting clerk on range 129.
(b) One assistant marshal on range 313.
(c) Seven deputy marshals I on range 214.
(d) Eight deputy marshals II on range 245.

(e) One marshal's lieutenant on range 296.
(f) Three marshal's sergeants on range 276.
(g) One senior accounting clerk on range 160.
(h) Five typist clerks II on range 120.

SEC. 16. Section 74137.5 is added to the Government Code, to read:

74137.5. Notwithstanding Section 74132, the assistant marshal shall serve at the pleasure of the marshal; and upon removal by the marshal for any reason other than that which would be cause for the discharge of any other assistant marshal, he or she shall revert to the rank held prior to appointment as assistant marshal pursuant to this section.

SEC. 17. Section 74138 of the Government Code is amended to read:

74138. In the Corona Judicial District, the salary of the clerk/administrator - Corona Judicial District shall be on range 275, and the clerk/administrator may appoint:
(a) One municipal court branch manager on range 223.
(b) Five municipal court clerks on range 147.
(c) Two municipal court division supervisors on range 207.
(d) Two municipal courtroom clerks on range 193.
(e) One senior accounting clerk on range 160.
(f) One seasonal municipal court clerk on range 147.

SEC. 18. Section 74139 of the Government Code is amended to read:

74139. In the Corona Judicial District the marshal may appoint:
(a) One accounting clerk on range 129.
(b) Two deputy marshals I on range 214.
(c) Two deputy marshals II on range 245.
(d) One investigative assistant on range 152.
(e) One marshal's sergeant on range 276.
(f) One typist clerk II on range 120.

SEC. 19. Section 74141 of the Government Code is amended to read:

74141. In the Mt. San Jacinto Judicial District the salary of the clerk/administrator - Mt. San Jacinto Judicial District shall be on range 275, and the clerk/administrator may appoint:
(a) Two accounting clerks on range 129.
(b) One bail clerk on range 144.
(c) Two municipal court branch managers on range 223.
(d) Twelve municipal court clerks on range 147.
(e) One municipal court division supervisor on range 207.
(f) Four municipal courtroom clerks on range 193.
(g) One senior accounting clerk on range 160.
(h) Four senior municipal court clerks on range 168.
(i) One traffic referee-assistant clerk on range 278.

SEC. 20. Section 74142 of the Government Code is amended to read:

74142. In the Mt. San Jacinto Judicial District the marshal may

appoint:

(a) Two accounting clerks on range 129.

(b) Three deputy marshals I on range 214.

(c) Three deputy marshals II on range 245.

(d) One investigative assistant on range 152.

(e) One marshal's lieutenant on range 296.

(f) One marshal's sergeant on range 276.

(g) One senior accounting clerk on range 160.

(h) One typist clerk II on range 120.

SEC. 21. Section 74143 of the Government Code is amended to read:

74143. In the Three Lakes Judicial District the salary of the clerk/administrator - Three Lakes Judicial District shall be on range 275, and the clerk/administrator may appoint:

(a) One municipal court branch manager on range 223.

(b) Eight municipal court clerks on range 147.

(c) Two municipal court division supervisors on range 207.

(d) Two municipal courtroom clerks on range 193.

(e) One senior accounting clerk on range 160.

(f) One senior municipal court clerk on range 168.

SEC. 22. Section 74144 of the Government Code is amended to read:

74144. In the Three Lakes Judicial District, the marshal may appoint:

(a) One accounting clerk on range 129.

(b) One correctional officer I on range 142.

(c) Three deputy marshals I on range 214.

(d) Three deputy marshals II on range 245.

(e) One investigative assistant on range 152.

(f) One marshal's sergeant on range 276.

(g) Two typist clerks II on range 120.

SEC. 23. Section 74702 of the Government Code is amended to read:

74702. There shall be one clerk administrator who shall be the court executive officer and who shall be appointed by the judges of the municipal court. In addition to the duties imposed on this position by law, the judges of the municipal court may prescribe and delegate to the clerk administrator such administrative powers and duties as they deem necessary for the optimal administration of the court.

The salary of the clerk administrator shall be established by joint action of the Sonoma County Board of Supervisors and a majority of the judges of the municipal court at an amount equal to that paid county department heads with comparable experience and responsibility. The clerk administrator shall receive the same privileges with respect to sick leave, vacations, and fringe benefits as provided equivalent department heads employed by the county.

SEC. 24. Section 74703 of the Government Code is added to the Government Code, to read:

74703. The judges of the Sonoma County Municipal Court may appoint the traffic referee, who shall hold office at the pleasure of the judges. The judges may also appoint part-time traffic referees, as needed, to assist in processing traffic caseloads during times of training, illness, or vacation of the traffic referee.

The traffic referee and part-time traffic referees shall have the powers and duties specified in Section 74201 and 74202, as well as the powers of a deputy clerk of the court, and shall perform such other duties as may be assigned by the court.

The traffic referee shall receive a salary equal to 50 percent of the annual salary of a municipal court judge. The traffic referee shall receive sick leave, vacation, and benefits as are provided to those county employees included in the deputy district attorney nonsupervisory bargaining unit.

Part-time traffic referees shall receive a salary identical to that of the traffic referee, except that such compensation shall be prorated as the number of hours actually served relates to a 40-hour workweek. Part-time traffic referees shall not receive sick leave, vacation, or benefits, other than those mandated by state or federal law.

SEC. 25. Section 74705 of the Government Code is amended to read:

74705. Certain classes of employment in the municipal courts are deemed to be equivalent in job responsibility and salary level to certain classes in the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable. Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

Municipal court classification	County classification
Clerk administrator	General services director
Assistant clerk administrator	Assistant county clerk, plus 2.5%
Municipal court reporter	Superior court reporter
Administrative assistant	Administrative assistant
Municipal court services supervisor	Chief deputy county clerk, minus 2.5%
Accountant I	Accountant II/I
Municipal court secretary	Municipal court secre-

	tary
Municipal court clerk IV	Supervising clerk II
Account clerk III	Account clerk III
Municipal courtroom clerk	Superior court clerk
Municipal court clerk III	Supervising clerk I
Accountant clerk II/I	Account clerk II/I
Municipal court clerk II	Clerk typist III
Clerk typist III	Clerk typist III
Municipal court clerk I	Clerk typist II
Telephone operator	Telephone operator
Clerk typist II/I	Clerk typist II/I

SEC. 26. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be six judges who may together appoint:

(1) One court commissioner.

(2) One clerk administrator.

(3) One traffic referee.

(4) Two municipal court secretaries.

(b) The clerk administrator may appoint:

(1) One assistant clerk administrator.

(2) One administrative assistant.

(3) One municipal court services supervisor.

(4) Sixteen municipal court clerk IV.

(5) One account clerk III.

(6) Eighteen municipal court clerks III.

(7) Five account clerks II/I.

(8) Twenty-two municipal court clerks II/I.

(9) One telephone operator.

(10) Five clerk typists II/I.

SEC. 27. Section 74803 of the Government Code is amended to read:

74803. The clerk may appoint:

(a) Four municipal court coordinators.

(b) One calendar coordinator.

(c) Ten municipal courtroom clerks.

(d) Two deputy clerks III.

(e) Two legal stenos.

(f) Seven deputy clerks II.

(g) Twenty-six deputy clerks I.

SEC. 28. Section 74804 of the Government Code is amended to read:

74804. There shall be one marshal who shall receive the biweekly salary specified in range 61.75 as set forth in the biweekly salary schedule contained in Section 74806.

Whenever the salary of a related class, or classes, of San Joaquin

County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 29. Section 74805 of the Government Code is amended to read:

74805. The marshal may appoint:

(a) One senior deputy marshal.

(b) Eight deputy marshals.

(c) Twenty deputies who shall be custodians at a fee allowed by law for the keeping of property.

SEC. 30. Section 74807 of the Government Code is amended to read:

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	44.25
(b) Deputy clerk II	46.25
(c) Deputy clerk III	48.25
(d) Legal steno	49.00
(e) Municipal courtroom clerk	51.25
(f) Municipal court coordinator	51.50
(g) Clerk/Administrator	64.75
(h) Deputy marshal	55.50
(i) Senior deputy marshal	57.75
(j) Calendar coordinator	51.50

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his or her assigned range until the employee reaches the maximum step on the range assigned for his or her position. Thereafter no additional step increase shall be granted.

SEC. 31. Section 74808 of the Government Code is amended to read:

74808. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I.

(b) Deputy clerk II.
(c) Deputy clerk III.
(d) Legal steno.
(e) Municipal Courtroom Clerks.
(f) Clerk/Administrator.
(g) Calendar coordinator.
(h) Municipal court coordinator.
(i) Deputy marshal.
(j) Senior deputy marshal.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class, or classes, deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 32. Section 74922.5 of the Government Code is amended to read:

74922.5. There shall be one marshal for each municipal court who shall receive a biweekly salary of one thousand two hundred four dollars and fifty-six cents ($1,204.56). The marshal of the Visalia Judicial District may appoint four deputy marshals and one account clerk. The marshals of the Porterville and Tulare-Pixley Judicial Districts may each appoint two deputy marshals and one account clerk, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 33. Section 74923 of the Government Code is amended to read:

74923. The biweekly salaries for the following classes of positions shall be 80 times the hourly rate set forth in the following schedule:

TITLE	RANGE	A	B	C	D	E
Clerk municipal court	166	10 229	10 749	11.294	11.868	12.471
Assistant clerk municipal court	156	9 264	9 734	10 229	10.749	11.294
Court clerk III	139	7 830	8 227	8.644	9 083	9.543
Court clerk II	124	6.751	7.093	7 452	7.830	8 227
Court clerk I	109	5 822	6.116	6 426	6.751	7 093
Senior clerk typist	115	6 177	6.490	6 818	7 163	7.526
Account clerk	109	5.822	6 116	6.426	6.751	7 093
Intermediate clerk typist	105	5 542	5 822	6.116	6 426	6 751
Deputy marshal	157	9 356	9.831	10.331	10 856	11.406

SEC. 34. Section 74924 of the Government Code is amended to read:

74924. Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed as follows:

(a) The initial hiring rate for each position shall be at step A. If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the

approval of the board of supervisors, may employ such person at one of the higher salary steps provided for the position.

(b) All step increases shall not be given as a matter of right but only when the presiding judge of the court determines that the officer or employee is properly entitled to receive it. Each person employed in the office of the clerk or marshal, including the clerk, may be advanced from step A to step B of a position after the completion of 13 full pay periods of service in the position. A person may be advanced to steps C, D and E upon completion of 26 full pay periods of service in the same position.

(c) Certain classes of positions in the municipal courts in Tulare County are deemed to be comparable in job and salary level to certain positions in the service of the County of Tulare, or in some instances to such positions with a range adjustment on the salary schedule of the County of Tulare. Whenever the salary of a classification in the service of Tulare County is adjusted by the board of supervisors the salary of the comparable classification in the municipal courts shall be adjusted an equal number of ranges on the currently effective salary schedule established by the board of supervisors. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the county service, but such adjustments shall be effective only until January 1 of the second year following the year in which such adjustments are made, unless ratified by the Legislature. The following table sets forth the municipal court classification with the comparable county classification with appropriate range adjustment, if any, shown opposite thereto:

Municipal court classification	County classification
Clerk of the municipal court	Chief deputy court clerk plus 7 ranges
Assistant clerk, municipal court	Chief deputy court clerk minus 3 ranges
Court clerk III	Courtroom clerk
Court clerk II	Courtroom clerk minus 15 ranges
Court clerk I	Courtroom clerk I minus 30 ranges
Account clerk	Account clerk
Intermediate clerk typist	Intermediate clerk typist
Marshal	Sheriff's sergeant
Deputy marshal	Bailiff plus 2 ranges
Senior clerk typist	Senior clerk typist

SEC. 35. Section 74924.6 of the Government Code is amended to read:

74924.6. (a) Notwithstanding Section 72194, each judge of the municipal court districts in the County of Tulare may appoint a

competent phonographic reporter, to be known as a regular official reporter of the court, and such pro tempore reporters as necessary to report the proceedings of the court. Regular official reporters shall hold office during the pleasure of the appointing judge. The duties of regular official reporters appointed pursuant to this section shall be performed as elsewhere provided by law.

(b) The fee for official court reporters for reporting proceedings shall be one hundred five dollars ($105) a day. All other fees of these reporters shall be as elsewhere provided by law. Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the same per diem fee paid regular official reporters of the municipal courts for the days the pro tempore reporter actually is on duty under order of the court. Regular official reporters and pro tempore reporters shall not receive more than one per diem fee a day from the county. Rates of compensation of all regular official reporters and official reporters pro tempore may be adjusted by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall be effective only until January of the second year following the year in which the adjustments are made, unless ratified by the Legislature.

(c) Regular official reporters may, at the election of each regular official reporter, be members of any retirement system maintained by the county. For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all per diem and transcription fees paid by the county to each regular official reporter up to a maximum of thirty thousand dollars ($30,000) per year. Each regular official reporter performing services for the county on the effective date of this legislation shall make an election whether or not to remain in the Tulare County Retirement Association within 60 days after the effective date of this legislation. Thereafter, each new regular official reporter shall make an election within 60 days of his or her appointment as a regular official reporter. The election shall be an irrevocable decision not subject to later withdrawal, change, or modification.

SEC. 36. 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 876

An act to add Section 6254.10 to the Government Code, and to amend Section 5020.6 of the Public Resources Code, relating to historical resources.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 6254.10 is added to the Government Code, to read:

6254.10. Nothing in this chapter requires disclosure of records that relate to archeological site information maintained by the Department of Parks and Recreation or by the State Historical Resources Commission.

SEC. 2. Section 5020.6 of the Public Resources Code is amended to read:

5020.6. (a) The Governor shall appoint the State Historic Preservation Officer. The director, in consultation with the commission, shall submit to the Governor a list of persons to be considered for the position. The person appointed shall be knowledgeable about historical resources.

(b) The officer shall serve as the executive secretary of the commission and shall be the chief administrative officer of the Office of Historic Preservation in the department.

(c) The officer shall have no responsibilities other than those provided by statute, executive order, and regulation, as well as any other duties the director assigns for the preservation and enhancement of the state's historical resources.

(d) The officer, or the officer's alternate, shall serve as an ex officio member of the Historic State Capitol Commission.

CHAPTER 877

An act to amend Sections 76.3, 80.6, 656, and 668 of, to add Sections 656.1, 656.2, 656.3, 658.5, and 663.1 to, to repeal and add Section 76.9 of, and to repeal Sections 670, 671, and 672 of, the Harbors and Navigation Code, and to amend Section 7 of, and to add Sections 192.5 and 193.5 to, the Penal Code, relating to waterways.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. This act shall be known and may be cited as the

Nielsen-Johnston Boating Act of 1986.

SEC. 1.5. Section 76.3 of the Harbors and Navigation Code is amended to read:

76.3. (a) The department may make loans to private marina owners for not more than 75 percent of the actual direct cost for labor and materials to develop a recreational marina. Loan funds from the department shall be utilized only for berthing facilities, parking, public access facilities, restrooms, utilities, landscaping, and other incidental boating-related amenities.

(b) No loan made by the department to a private marina owner shall exceed 25 percent of the funds annually budgeted for purposes of this article.

(c) The department shall not make a loan to a recreational marina that restricts access or bars the public other than what is consistent with general commercial business practices.

(d) Any private marina owner who purchases facilities previously developed with a department loan is eligible to apply for a new construction loan from the department.

SEC. 2. Section 76.9 of the Harbors and Navigation Code is repealed.

SEC. 2.3. Section 76.9 is added to the Harbors and Navigation Code, to read:

76.9. The department shall prepare and submit to the commission on or before February 1, 1990, a report covering all of the following:

(a) The total amount of loans made pursuant to this article in each of the three fiscal years immediately preceding the preparation and submission of the report.

(b) For each recipient of a loan under this article during each of the three fiscal years immediately preceding the preparation and submission of the report, the recipient's name, the location of the marina for which the loan was made, and the amount of the loan.

(c) The financial status of each loan made pursuant to this article.

(d) Any legislative recommendations concerning this article.

SEC. 2.5. 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.

SEC. 3. Section 656 of the Harbors and Navigation Code is amended to read:

656. (a) It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to his or her own vessel, crew, and passengers, to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be

necessary in order to save them from, or minimize any, danger caused by the collision, accident, or other casualty.

(b) Any person who complies with subdivision (a) or Section 656.1, 656.2, or 656.3 or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection by any person assisted, shall not be held liable for any civil damages sought as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person has acted as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

(c) (1) An individual employee of a public entity engaged in rescue pursuant to this code shall not be a proper party defendant and shall be dismissed on motion, unless the employee has violated a statute other than a statute creating a general obligation to rescue or is guilty of oppression, fraud, malice, or the conscious disregard of the safety of others.

(2) The public entity employing such an individual shall be liable in civil damages where the individual employee has failed to act as a reasonably prudent person would have acted under the same or similar circumstances.

(3) Where a public entity has given a reasonable printed, electronic, or verbal warning of the danger causing the distress which created the necessity for the rescue, and there has been a reasonable opportunity for the party in distress to receive the warning, the public entity shall be liable only for acts or omissions of its employee which were taken in a grossly negligent manner.

(d) The owner, operator, or other person on board a vessel involved in a casualty or accident shall report the casualty or accident in accordance with regulations adopted by the department. The department shall adopt regulations to maintain a uniform casualty and accident reporting system for vessels subject to this code in conformity with federal casualty and accident reporting regulations promulgated by the United States Coast Guard or any successor thereto. Consistent with Public Law 92-75 and the federal regulations contained in Part 173 of Title 33 of the Code of Federal Regulations, a peace officer or harbor policeman, upon receiving an initial report of a casualty involving the death or disappearance of a person as a result of a boating accident, shall immediately forward the report, by quickest means available, to the department.

(e) Neither the report required by this section nor any action taken by the department with regard to the report shall be referred to in any way, or be any evidence of negligence or due care of any party, at the trial of any action at law to recover damages.

(f) All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the department and any peace officer actually engaged in the enforcement of this chapter, except that the department shall disclose the names and addresses of persons

involved in, or witnesses to, an accident, the registration numbers and descriptions of vessels involved, and the date, time, and location of an accident to any person who may have a proper interest therein, including the operators involved or the legal guardian thereof, the parent of a minor operator, the authorized representative of an operator, or any person injured therein and the owners of vessels or property damaged thereby.

(g) This section applies to foreign vessels, military or public recreational-type vessels, vessels owned by a state or subdivision thereof, and ship's lifeboats otherwise exempted from this chapter pursuant to Section 650.1.

SEC. 3.5. Section 656.1 is added to the Harbors and Navigation Code, to read:

656.1. The operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in damage to other property shall, if reasonable to do so under the circumstances, stop at the scene of the accident and shall do either of the following:

(a) Locate and notify the owner or person in charge of the damaged property of the name and address of the operator and owner of the vessel involved, and upon locating the owner or operator of any other vessel involved, or the owner or person in charge of any other property damaged, upon being requested, exhibit the vessel registration and furnish the current residence address of the vessel's owner and operator to the other person.

(b) If the owner or person in charge of the damaged property or the owner or operator of any other vessel involved cannot be located, leave, in a conspicuous place on the property damaged or other vessel involved, a written notice giving the name and address of the operator and of the owner of the vessel involved and a statement of the circumstances of the accident, and, without unnecessary delay, notify the law enforcement agency having jurisdiction over the waterway or, if unknown, the sheriff of the county in which the accident occurred.

SEC. 4. Section 656.2 is added to the Harbors and Navigation Code, to read:

656.2. In addition to the requirements of Section 656.1, the operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in injury to any person shall furnish his or her name, address, and the registration number of the vessel, and the name of the owner, to the person injured, or occupant of any other vessel involved, or shall furnish that information to any peace officer at the scene of the accident, and shall render to any injured person reasonable assistance, including transportation for medical treatment if required or requested by the injured person, so far as the operator can do so without serious danger to the vessel or passengers.

SEC. 5. Section 656.3 is added to the Harbors and Navigation Code, to read:

656.3. In addition to the requirements of Sections 656.1 and 656.2, the operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in the death or disappearance of any person shall, after fulfilling the requirements of this division, and if there is no peace officer at the scene of the accident to whom to furnish the information required by Section 656.2, without delay, report the accident to the law enforcement agency having jurisdiction over the waterway or, if unknown, the sheriff of the county in which the accident occurred.

SEC. 6. Section 658.5 is added to the Harbors and Navigation Code, to read:

658.5. (a) Any person who permits any other person under 12 years of age to operate any of the following is guilty of an infraction:

(1) A motorboat engaged in towing a person on water skis, an aquaplane, or similar device.

(2) A motorboat designed to carry only one person.

(3) A motorboat propelled by machinery having an aggregate of more than 10 horsepower without the supervision of a person 18 years of age or older aboard the motorboat, except for a dinghy used directly between a moored vessel and the shoreline, and return.

(b) Any person under 12 years of age who operates any motorboat, when prohibited under subdivision (a), is guilty of an infraction.

SEC. 7. Section 663.1 is added to the Harbors and Navigation Code, to read:

663.1. Notwithstanding any other provision of law, a peace officer may, without a warrant, arrest a person who is involved in an accident in the waters of this state involving a vessel when the officer has reasonable cause to believe that the person had been operating the vessel while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug.

SEC. 8. Section 668 of the Harbors and Navigation Code is amended to read:

668. (a) Any person who violates Section 652, 654, 654.05, 654.06, 655.2, 655.3, 659, or 663.6, or any regulations adopted by the department pursuant thereto, is guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars ($100) or imprisonment in the county jail for not to exceed five days, or both, for each violation.

(b) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be subject to a fine of not to exceed two hundred dollars ($200) for each violation.

(c) Any person who violates Section 652.5, subdivision (a) of Section 655, Section 656 or 656.1, subdivision (d) or (e) of Section 658, or any special rules and regulations adopted by the department pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be subject to a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not

to exceed six months, or both, for each violation.

(d) Any person convicted of a first violation of subdivision (b), (c), or (d) of Section 655 shall be subject to a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed six months, or both.

(e) Any person convicted of a second or subsequent violation of subdivision (b), (c), or (d) of Section 655 within five years of the first conviction shall be subject to a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed one year, or both.

(f) Any person convicted of a violation of subdivision (e) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(g) If any person is convicted of a violation of subdivision (e) of Section 655 within five years of a prior conviction of a violation of subdivision (b), (c), or (d) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If any person is convicted of a violation of subdivision (e) of Section 655 within five years of a prior conviction of a violation of subdivision (e) of Section 655 or of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, and is granted probation, it shall be a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(h) The court may not absolve a person who is convicted of a violation of subdivision (e) of Section 655 within five years of a prior conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 or of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (i).

(i) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under subdivision (b), (c), (d), or (e) of Section 655 or of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order

shall be reversed if there is no substantial basis in the record for any of those reasons.

(j) Any person convicted of a violation of Section 656.2 or 656.3 is subject to a fine of not to exceed ten thousand dollars ($10,000), or imprisonment in the state prison or in the county jail for not to exceed one year, or both.

(k) Any person convicted of a violation of Section 658.5 is subject to a fine of not to exceed one hundred dollars ($100).

SEC. 9. Section 670 of the Harbors and Navigation Code is repealed.

SEC. 10. Section 671 of the Harbors and Navigation Code is repealed.

SEC. 11. Section 672 of the Harbors and Navigation Code is repealed.

SEC. 12. Section 7 of the Penal Code is amended to read:

7. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; the word "county" includes "city and county"; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose"; signature or subscription includes mark, when the person cannot write, his name being written near it, by a person who writes his own name as a witness; provided, that when a signature is made by mark it must, in order that the same may be acknowledged or serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witnesses thereto.

The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "willfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

2. The words "neglect," "negligence," "negligent," and "negligently" import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

3. The word "corruptly" imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

4. The words "malice" and "maliciously" import a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

5. The word "knowingly" imports only a knowledge that the facts exist which bring the act or omission within the provisions of this

code. It does not require any knowledge of the unlawfulness of such act or omission.

6. The word "bribe" signifies anything of value or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence, unlawfully, the person to whom it is given, in his action, vote, or opinion, in any public or official capacity.

7. The word "vessel," when used with reference to shipping, includes ships of all kinds, steamboats, canalboats, barges, and every structure adapted to be navigated from place to place for the transportation of merchandise or persons, except that, as used in Sections 192 and 193, the word "vessel" means a vessel as defined in subdivision (c) of Section 651 of the Harbors and Navigation Code.

8. The words "peace officer" signify any one of the officers mentioned in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

9. The word "magistrate" signifies any one of the officers mentioned in Section 808.

10. The word "property" includes both real and personal property.

11. The words "real property" are coextensive with lands, tenements, and hereditaments.

12. The words "personal property" include money, goods, chattels, things in action, and evidences of debt.

13. The word "month" means a calendar month, unless otherwise expressed; the word "daytime" means the period between sunrise and sunset, and the word "nighttime" means the period between sunset and sunrise.

14. The word "will" includes codicil.

15. The word "writ" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer, and the word "process" a writ or summons issued in the course of judicial proceedings.

16. Words and phrases must be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, must be construed according to such peculiar and appropriate meaning.

17. Words giving a joint authority to three or more public officers or other persons, are construed as giving such authority to a majority of them, unless it is otherwise expressed in the act giving the authority.

18. When the seal of a court or public officer is required by law to be affixed to any paper, the word "seal" includes an impression of such seal upon the paper alone, or upon any substance attached to the paper capable of receiving a visible impression. The seal of a private person may be made in like manner, or by the scroll of a pen, or by writing the word "seal" against his or her name.

19. The word "state," when applied to the different parts of the

United States, includes the District of Columbia and the territories, and the words "United States" may include the district and territories.

20. The word "section," whenever hereinafter employed, refers to a section of this code, unless some other code or statute is expressly mentioned.

21. To "book" signifies the recordation of an arrest in official police records, and the taking by the police of fingerprints and photographs of the person arrested, or any of these acts following an arrest.

SEC. 13. Section 192.5 is added to the Penal Code, to read:

192.5. Vehicular manslaughter pursuant to subdivision (c) of Section 192 includes:

(a) Except as provided in subdivision (c), operating a vessel in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(b) Except as provided in subdivision (d), operating a vessel in the commission of an unlawful act, not amounting to felony, but without gross negligence; or operating a vessel in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(c) Operating a vessel in violation of subdivisions (b) to (e), inclusive, of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in violation of subdivisions (b) to (e), inclusive, of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(d) Operating a vessel in violation of subdivisions (b) to (e), inclusive, of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or operating a vessel in violation of subdivisions (b) to (e), inclusive, of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

SEC. 14. Section 193.5 is added to the Penal Code, to read:

193.5. Manslaughter committed during the operation of a vessel is punishable as follows:

(a) A violation of subdivision (a) of Section 192.5 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for two, four, or six years.

(b) A violation of subdivision (b) of Section 192.5 is punishable by imprisonment in the county jail for not more than one year.

(c) A violation of subdivision (c) of Section 192.5 is punishable by imprisonment in the state prison for four, six, or eight years.

(d) A violation of subdivision (d) of Section 192.5 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months or two or four

years.

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 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 878

An act to add Article 3.5 (commencing with Section 38221) to Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code, relating to milk.

[Approved by Governor September 16, 1986. Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Article 3.5 (commencing with Section 38221) is added to Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 3.5. High Nutrient Lowfat Milk

38221. (a) High nutrient lowfat milk is a market milk product with added milk solids derived from market milk. It shall contain not less than 1.0 percent milk fat or more than 1.2 percent milk fat and not less than 13.1 percent of total milk solids.

(b) In addition to any other vitamins and minerals which may be added, it shall contain the following vitamins and minerals: vitamin C, niacinamide, pyridoxine hydrochloride, calcium panothenate, magnesium, and zinc. When added, each of the above listed vitamins and minerals shall provide at least 25 percent of the United States Recommended Daily Allowance in an eight ounce serving.

38222. Except as otherwise provided in this article, high nutrient lowfat milk shall meet all standards and requirements which are specified in this division for market milk.

38223. The phrase "1 percent milk fat" shall accompany the name "high nutrient lowfat milk" on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in the name.

38224. High nutrient lowfat milk shall be labeled in accordance with statutes and regulations applicable to vitamin and mineral addition. The phrase "multiple vitamins and minerals added" shall appear with the product on the principal display panel or panels.

38225. This article shall become inoperative 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. 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 879

An act to amend Sections 11346.5, 17522, 17551, 17552, 17556, and 17610 of, to add Sections 17560, 17561, 17562, 17563, 17564, 17565, 17567, 17568, 17570, and 17571 to, and to repeal Section 11349.11 of, the Government Code, and to amend Sections 2240, 2241, 2242, 2243, 2244, and 2246 of, and to repeal Sections 2208.7, 2218, 2218.5, 2219, 2219.5, 2231, 2231.5, 2234, 2236, 2238, 2239, 2245, 2246.1, 2250, 2251, 2252, 2253, 2253.2, 2253.3, 2253.4, 2253.5, 2253.8, 2254, 2255, 2255.1, 2256, 2256.1, 2256.2, 2256.3, 2256.4, 2256.5, and 2256.6 of, the Revenue and Taxation Code, relating to state-mandated local costs.

[Approved by Governor September 16, 1986 Filed with Secretary of State September 17, 1986.]

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

SECTION 1. Section 11346.5 of the Government Code is amended to read:

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

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

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

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

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

(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

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

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

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

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

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

(11) A statement indicating that the full text of a regulation changed pursuant to Section 11346.8 will be available for at least 15 days prior to the date on which the agency adopts, amends, or repeals the resulting regulation.

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

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

SEC. 1.5. Section 11349.11 of the Government Code is repealed.

SEC. 1.7. Section 17522 of the Government Code is amended to read:

17522. (a) "Reimbursement claim" means any claim for costs incurred by a local agency or school district filed with the Controller against an appropriation made for the purpose of paying these claims.

(b) "Approved reimbursement claim" means that amount of a claim filed pursuant to subdivision (a) which is determined by the Controller to be the actual cost of the claim.

(c) "Entitlement claim" means any claim filed by a local agency or school district with the Controller for the sole purpose of establishing or adjusting a base year entitlement. All entitlement claims shall be subject to the provisions of Section 17616.

(d) "Estimated claim" means a claim filed with the Controller, during the fiscal year in which the mandated costs are to be incurred by the local agency or school district, against an appropriation made to the Controller for the purpose of paying those costs.

SEC. 2. Section 17551 of the Government Code is amended to read:

17551. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

SEC. 2.5. Section 17551 of the Government Code is amended to read:

17551. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution or as defined by Section 2207 or 2207.5 of the Revenue and Taxation Code.

(b) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

SEC. 3. Section 17552 of the Government Code is amended to read:

17552. This chapter shall provide the sole and exclusive procedure by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

SEC. 3.5. Section 17552 of the Government Code is amended to read:

17552. This chapter shall provide the sole and exclusive

procedure by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution or as defined by Section 2207 or 2207.5 of the Revenue and Taxation Code.

SEC. 4. Section 17556 of the Government Code is amended to read:

17556. The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

SEC. 5. Section 17560 is added to the Government Code, to read:

17560. Reimbursement for state-mandated costs may be claimed as follows:

(a) A local agency or school district may file an estimated claim by November 30 of the fiscal year in which costs are to be incurred, and, by November 30 following that fiscal year shall file a reimbursement claim which details the costs actually incurred for that fiscal year; or

(b) A local agency or school district shall, by November 30 following the fiscal year in which costs are incurred, file a reimbursement claim which details the costs actually incurred for

that fiscal year.

SEC. 6. Section 17561 is added to the Government Code, to read:

17561. (a) The state shall reimburse each local agency and school district for all "costs mandated by the state," as defined in Section 17514.

(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill which is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 which includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies who would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) When funds are appropriated to reimburse costs mandated by the state for the initial fiscal year during which these costs will be incurred, each local agency or school district to which the mandate is applicable shall submit to the Controller, within 120 days of the operative date of the mandate, or, if the commission is requested to do so pursuant to Section 17571, within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller, whichever is later, a claim for payment of its estimated costs required by the mandate for the current fiscal year. If the local agency or school district does not submit the claim within the 120-day period, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds

appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim which the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) may reduce any claim, which the Controller determines is excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.

(3) When funds are appropriated to the Controller to reimburse costs mandated by the state, not otherwise funded, claims for initial year costs, and subsequent years for which costs have been incurred prior to the enactment of the claims bill, shall be filed within 120 days from the date of notification by the Controller of the enactment of the claims bill. These claims shall be based upon parameters and guidelines issued by the commission and as approved by the Legislature. The Controller shall promptly notify the relevant local agencies or school districts subsequent to enactment of the claims bill of the right to file these claims.

SEC. 7. Section 17562 is added to the Government Code, to read:

17562. (a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of the cumulative effects of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to establish a method for regularly reviewing the costs of state-mandated local programs, by evaluating the benefit of previously enacted mandates.

(b) The Legislative Analyst may review and report to the Legislature with regard to any statute or executive order which creates a state-mandated local program. The Legislative Analyst may recommend that the Legislature continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision.

SEC. 8. Section 17563 is added to the Government Code, to read:

17563. Any funds received by a local agency or school district pursuant to the provisions of this chapter may be used for any public purpose.

SEC. 9. Section 17564 is added to the Government Code, to read:

17564. (a) No claim shall be made pursuant to Sections 17551 and 17561, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, unless these claims exceed two hundred dollars ($200), provided that a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds two hundred dollars ($200) even if the

individual school district's, direct service district's, or special district's claims do not each exceed two hundred dollars ($200). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed by the Controller.

(c) Local agencies and school districts may file estimated claims and reimbursement claims with the Controller for increased costs resulting from any law enacted between January 1, 1973, and January 1, 1975, or an executive order implementing a statute enacted during that period, that resulted in a new program or a higher level of service of an existing program, and for which a specific appropriation has been made. The Controller shall pay these estimated claims, and approved reimbursement claims, from funds appropriated expressly therefor, provided that the Controller (1) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (2) may reduce any claim which the Controller determines is excessive or unreasonable, and (3) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years. The provisions of this chapter relative to estimated and reimbursement claims generally shall also apply to claims filed pursuant to this subdivision.

SEC. 10. Section 17565 is added to the Government Code, to read:

17565. If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.

SEC. 11. Section 17567 is added to the Government Code, to read:

17567. In the event that the amount appropriated for reimbursement purposes pursuant to Section 17561 is not sufficient to pay all of the claims approved by the Controller, the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration. The Controller shall adjust prorated claims if supplementary funds are appropriated for this purpose.

In the event that the Controller finds it necessary to prorate claims as provided by this section, the Controller shall immediately report this action to the Department of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the respective committee in each house of the Legislature which considers appropriations in order to assure appropriation of these funds in the Budget Act. If these funds cannot be appropriated on a timely basis in the Budget Act, the Controller shall transmit this information to the commission which shall include these amounts in

its report to the Legislature pursuant to Section 17600 to assure that an appropriation sufficient to pay the claims is included in the local government claims bills or other appropriation bills. If the local government claims bills required by Section 17612 have been introduced in the Legislature, the Controller shall report directly to the chairperson of the respective committee in each house of the Legislature which considers appropriations to assure inclusion of a sufficient appropriation in the claims bills.

SEC. 12. Section 17568 is added to the Government Code, to read:

17568. If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the deadline specified in Section 17560, the Controller shall pay the reimbursement claim in an amount equal to 80 percent of the amount which would have been allowed had the reimbursement claim been timely filed. In no case shall a reimbursement claim be paid which is submitted more than one year after the deadline specified in Section 17560. Estimated claims which were filed by the deadline specified in that section shall be paid in full before payments are made on estimated claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay the estimated claims approved by the Controller, the Controller shall prorate those claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the commission or the Legislature in the same manner as described in Section 17566 in order to assure appropriation of funds sufficient to pay those claims.

SEC. 13. Section 17570 is added to the Government Code, to read:

17570. On November 30 of each year the Legislative Analyst shall submit a report to the Legislature regarding each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a claims bill during the preceding fiscal year. The Legislative Analyst shall review each such statute or regulation in light of its estimated future costs recoverable through the claims process and recommend, in each case, whether the Legislature should reconsider its original enactment of that statute or the state agency should reconsider its adoption of the regulation to repeal, modify, or make permissive its provisions. The Legislative Analyst shall submit the report to the Joint Legislative Budget Committee, the chairs of the fiscal committees, and the chairs of the policy committees in each house which have jurisdiction over the subject matter of these statutes or regulations.

SEC. 14. Section 17571 is added to the Government Code, to read:

17571. The commission, upon request of a local agency or school district, shall review the claiming instructions issued by the Controller for reimbursement of mandated costs, and may modify these instructions with regard to the inclusion or exclusion of specific cost items.

SEC. 16. Section 17610 of the Government Code is amended to read:

17610. (a) The costs arising from a statute containing a statement that the statute mandates a new program or higher level of service and specifying that reimbursement shall be made from the fund shall, upon certification of the estimated statewide cost by the commission to the Controller, be paid from the fund, provided that the estimated statewide cost of the claim does not exceed five hundred thousand dollars ($500,000). The Controller shall receive, review, and pay claims from the fund as the claims are received. No claim for initial reimbursement shall be filed with the Controller more than 120 days after the close of the first full fiscal year following certification of the estimated statewide cost by the commission.

(b) For purposes of this section, "estimated statewide cost" means the total amount of funds estimated to be necessary to reimburse all eligible local agencies and school districts for costs incurred as a result of the mandate during the first 12-month period following the operative date of the mandate.

(c) For purposes of this section, "costs arising from a statute" means the total amount of funds necessary to reimburse eligible local agencies and school districts for costs incurred as a result of complying with a mandate for the fiscal years specified in the parameters and guidelines in accordance with Section 17557.

SEC. 18. Section 2208.7 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 2218 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 2218.5 of the Revenue and Taxation Code is repealed.

SEC. 21. Section 2219 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 2219.5 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 2231 of the Revenue and Taxation Code is repealed.

SEC. 24. Section 2231.5 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 2234 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 2236 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 2238 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 2239 of the Revenue and Taxation Code is repealed.

SEC. 29. Section 2240 of the Revenue and Taxation Code is amended to read:

2240. Revenues to reimburse local agencies and school districts pursuant to the provisions of Section 2229 or 2230 shall be determined and appropriated as provided in this article.

SEC. 30. Section 2241 of the Revenue and Taxation Code is

amended to read:

2241. When a bill is introduced in the Legislature, and each time a bill is amended, the Legislative Counsel shall determine whether the bill requires state reimbursement to local agencies or school districts pursuant to Section 2229 or 2230. The Legislative Counsel shall make this determination known in the digest of the bill and shall describe in the digest the basis for this determination.

In making any determination required by this section the Legislative Counsel shall disregard any provision in a bill which would make inoperative the reimbursement requirements of Section 2229 or 2230, and shall make his or her determination irrespective of any provision to that effect.

SEC. 31. Section 2242 of the Revenue and Taxation Code is amended to read:

2242. Whenever the Legislative Counsel determines that a bill will require state reimbursement to a local agency or a school district as provided in Section 2229 or 2230, the Department of Finance shall prepare estimates of the amount of reimbursement which will be required. The estimates shall be prepared for the respective committees of each house of the Legislature which consider taxation measures and appropriation measures and shall be prepared prior to any hearing on such a bill by any such committee.

SEC. 32. Section 2243 of the Revenue and Taxation Code is amended to read:

2243. The estimate required by Section 2242 shall be the amount estimated to be required during the first fiscal year of a bill's operation in order to reimburse local agencies and school districts, pursuant to Section 2229 or 2230, for lost revenue mandated by the bill. In the event that the operative date of such a bill does not begin on July 1, the estimate shall also include the amount estimated to be required for reimbursement for the next following full fiscal year.

SEC. 33. Section 2244 of the Revenue and Taxation Code is amended to read:

2244. In the event that a bill is amended on the floor of either house, whether by adoption of the report of a conference committee or otherwise, in such a manner as to require reimbursement pursuant to Section 2229 or 2230, the Legislative Counsel shall immediately inform, respectively, the Speaker of the Assembly and the President of the Senate of this fact. The notification from the Legislative Counsel shall be published in the journal of the respective houses of the Legislature.

SEC. 34. Section 2245 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 2246 of the Revenue and Taxation Code is amended to read:

2246. Before the end of each calendar year the Department of Finance shall review all statutes enacted during that calendar year which contain provisions making inoperative Section 2229 or 2230 or Section 17561 or 17565 of the Government Code that have resulted

in costs or revenue losses mandated by the state which were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the provisions of the statutes. The Department of Finance shall also review all statutes enacted in the calendar year which may result in cost savings authorized by the state. The Department of Finance shall submit to the Legislature an annual report of the review required by this section, together with the recommendations as it may deem appropriate.

SEC. 36. Section 2246.1 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 2250 of the Revenue and Taxation Code is repealed.

SEC. 38. Section 2251 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 2252 of the Revenue and Taxation Code is repealed.

SEC. 40. Section 2253 of the Revenue and Taxation Code is repealed.

SEC. 41. Section 2253.2 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 2253.3 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 2253.4 of the Revenue and Taxation Code is repealed.

SEC. 44. Section 2253.5 of the Revenue and Taxation Code is repealed.

SEC. 45. Section 2253.8 of the Revenue and Taxation Code is repealed.

SEC. 46. Section 2254 of the Revenue and Taxation Code is repealed.

SEC. 47. Section 2255 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 2255.1 of the Revenue and Taxation Code is repealed.

SEC. 49. Section 2256 of the Revenue and Taxation Code is repealed.

SEC. 50. Section 2256.1 of the Revenue and Taxation Code is repealed.

SEC. 51. Section 2256.2 of the Revenue and Taxation Code is repealed.

SEC. 52. Section 2256.3 of the Revenue and Taxation Code is repealed.

SEC. 53. Section 2256.4 of the Revenue and Taxation Code is repealed.

SEC. 54. Section 2256.5 of the Revenue and Taxation Code is repealed.

SEC. 55. Section 2256.6 of the Revenue and Taxation Code is repealed.

SEC. 56. Section 2.5 of this bill incorporates amendments to Section 17551 of the Government Code proposed by both this bill and AB 3864. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 17551 of the Government Code, and (3) this bill is enacted after AB 3864, in which case Section 2 of this bill shall not become operative.

SEC. 57. Section 3.5 of this bill incorporates amendments to Section 17552 of the Government Code proposed by both this bill and AB 3864. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 17552 of the Government Code, and (3) this bill is enacted after AB 3864, in which case Section 3 of this bill shall not become operative.

CHAPTER 880

An act to add Section 7124.6 to the Business and Professions Code, relating to contractors.

[Approved by Governor September 17, 1986. Filed with Secretary of State September 18, 1986.]

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

SECTION 1. Section 7124.6 is added to the Business and Professions Code, to read:

7124.6. (a) The registrar shall make available to members of the public the nature and disposition of all complaints on file against a licensee which have been referred for legal action.

(b) Any complaints which were resolved in favor of the contractor shall not be subject to disclosure under subdivision (a).

CHAPTER 881

An act to amend Section 654.2 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 17, 1986. Filed with Secretary of State September 18, 1986.]

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

SECTION 1. Section 654.2 of the Business and Professions Code is amended to read:

654.2. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to

charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient, that there is such an interest and advises the patient that the patient may choose any organization for the purpose of obtaining the services ordered or requested by the licensee.

(b) The disclosure requirements of subdivision (a) may be met by posting a conspicuous sign in an area which is likely to be seen by all patients who use the facility or by providing those patients with a written disclosure statement. Where referrals, billings, or other solicitations are between licensees who contract with multispecialty clinics pursuant to subdivision (*l*) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of subdivision (a) may be met by posting a conspicuous disclosure statement at a single location which is a common area or registration area or by providing those patients with a written disclosure statement.

(c) On and after July 1, 1987, persons licensed under this division or under any initiative act referred to in this division shall disclose in writing to any third-party payer for the patient, when requested by the payer, organizations in which the licensee, or any member of the licensee's immediate family, has a significant beneficial interest and to which patients are referred. The third-party payer shall not request this information from the provider more than once a year.

Nothing in this section shall be construed to serve as the sole basis for the denial or delay of payment of claims by third party payers.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Immediate family" includes the spouse and children of the licensee, the parents of the licensee and licensee's spouse, and the spouses of the children of the licensee.

(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).

(3) A third-party payer includes any health care service plan, self-insured employee welfare benefit plan, disability insurer, nonprofit hospital service plan, or private group or indemnification insurance program.

A third party payer does not include a prepaid capitated plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 or Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) This section shall not apply to a "significant beneficial interest" which is limited to ownership of a building where the space

is leased to the organization at the prevailing rate under a straight lease agreement or to any interest held in publicly traded stocks.

(f) (1) This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, if the report indicates clearly the name of the laboratory performing the test.

(2) This section shall not apply to relationships governed by other provisions of this article nor is this section to be construed as permitting relationships or interests that are prohibited by existing law on the effective date of this section.

(3) The disclosure requirements of this section shall not be required to be given to any patient, customer, or his or her representative, if the licensee, organization, or entity is providing or arranging for health care services pursuant to a prepaid capitated contract with the State Department of Health Services.

SEC. 2. In enacting this act, the Legislature intends to make available to third party payers essential data concerning provider investment and financial interest in the facilities or health care businesses to which providers refer their patients for services, and not to create undue administrative burdens on those providers.

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 882

An act to amend Sections 18990 and 20742 of the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1986. Filed with Secretary of State September 18, 1986.]

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

SECTION 1. Section 18990 of the Government Code is amended to read:

18990. (a) Notwithstanding any other provision of law or rule, persons employed by the Legislature for two or more consecutive years shall be eligible to apply for promotional civil service examinations including examinations for career executive assignments for which they meet the minimum qualifications as

prescribed by the class specification. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related legislative experience shall be considered state civil service experience in a class deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

(b) In cases where promotional examinations are given by more than one department for the same classification, the employee shall select one department in which to compete. Once this selection is made, it cannot be changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

(c) Employees who meet the requirements of this section and resign from the employment of the Legislature shall have the same rights and eligibility to take promotional civil service examinations and maintain promotional list eligibility as is provided to permanent civil service employees who resign from civil service.

(d) Notwithstanding subdivision (c), this section shall also apply to former employees of the Legislature with at least two or more consecutive years of service who terminated their employment with the Legislature not more than three years prior to January 1, 1986.

SEC. 2. Section 20742 of the Government Code is amended to read:

20742. Notwithstanding any other provision of this part, the state's contribution to the Public Employees' Retirement Fund during fiscal year 1986–87 is a sum equal to the percentages of compensation paid the following categories:

(a) 15.450 percent with respect to state miscellaneous members.

(b) 16.638 percent with respect to state industrial members.

(c) 22.522 percent with respect to state safety members.

(d) 22.150 percent with respect to state patrol members.

(e) 20.578 percent with respect to state peace officer/firefighter members.

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 state's employers' rates of contribution to the Public Employees' Retirement Fund for fiscal year 1986–87 may be expressed in the statutes on or before the commencement of fiscal year 1986–87, and so facilitate the orderly administration of the system, and in order that legislative employees be treated in an equitable manner concerning the right to take civil service examinations, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 883

An act to add Section 1202.3 to the Elections Code, relating to absentee voting.

[Approved by Governor September 17, 1986. Filed with Secretary of State September 18, 1986.]

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

SECTION 1. Section 1202.3 is added to the Elections Code, to read:

1202.3. Any absentee voter ballot application by a qualified special absentee voter, as defined in subdivision (c) of Section 1000, for a primary election shall also be deemed an application for a special absentee ballot for the subsequent general election.

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 884

An act to add Section 1717.5 to the Civil Code, relating to attorney's fees.

[Approved by Governor September 17, 1986. Filed with Secretary of State September 18, 1986.]

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

SECTION 1. Section 1717.5 is added to the Civil Code, to read:

1717.5. Except as otherwise provided by law or where waived by the parties to an agreement, in any action on a contract based on a book account, as defined in Section 337a of the Code of Civil Procedure, entered into on or after January 1, 1987, which does not provide for attorney's fees and costs as provided in Section 1717, the party who is determined to be the party prevailing on the contract shall be entitled to reasonable attorney's fees in addition to other costs.

Reasonable attorney's fees awarded pursuant to this section shall be fixed by the court in an amount that shall not exceed the lesser of five hundred dollars ($500) or 25 percent of the principal obligation owing under the contract. If a party is found to have no obligation owing on a book account, the court shall award that party

reasonable attorney's fees not to exceed five hundred dollars ($500). These attorney's fees shall be an element of the costs of the suit.

If there is a written agreement between the parties signed by the person to be charged, the fees provided by this section shall not be imposed unless that agreement contains a statement that the prevailing party in any action between the parties is entitled to the fees provided by this section.

This section does not apply to any action in which an insurance company is a party, nor shall an insurance company, surety, or guarantor be liable under this section, in the absence of a specific contractual provision, for the attorney's fees and costs awarded a prevailing party against its insured.

This section does not apply to any action in which a bank, a bank holding company, a subsidiary of a bank or holding company, a savings association, federal association, a subsidiary of an association, or a holding company of an association is a party.

CHAPTER 885

An act to add Article 4.5 (commencing with Section 1385) to Chapter 4 of Division 2 of, and to add and repeal Chapter 4.5 (commencing with Section 1400) of Division 2 of, the Fish and Game Code, relating to the Upper Sacramento River Fisheries and Riparian Habitat, and making an appropriation therefor.

[Approved by Governor September 18, 1986. Filed with Secretary of State September 18, 1986]

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

SECTION 1. Article 4.5 (commencing with Section 1385) is added to Chapter 4 of Division 2 of the Fish and Game Code, to read:

Article 4.5. Lands Inventory

1385. For the purposes of this article, "upper Sacramento River" means the Sacramento River upstream from the confluence with the Feather River and downstream from Keswick Dam.

1386. The board shall, not later than January 1, 1988, inventory, or cause to be inventoried, the lands along the upper Sacramento River to identify and determine the priority of those lands that are valuable to fish and wildlife. The inventory shall be conducted so as to provide information needed to make evaluations pursuant to this chapter.

1387. The inventory made under this article shall take special efforts to identify lands that provide any of the following:

(a) A source of salmon spawning gravels, or lands that are otherwise important to anadromous and resident fisheries.

(b) Habitat for rare, threatened, and endangered species.

(c) Riparian habitat or an opportunity for reestablishment of riparian habitat.

1388. The board shall also make a preliminary identification of potential willing sellers in the inventory made under this article.

SEC. 2. Chapter 4.5 (commencing with Section 1400) is added to Division 2 of the Fish and Game Code, to read:

CHAPTER 4.5. UPPER SACRAMENTO RIVER FISHERIES AND RIPARIAN HABITAT MANAGEMENT PLAN

1400. The Legislature hereby finds and declares as follows:

(a) The Sacramento River system has tremendous social, environmental, and economic value to the people of California for many consumptive and nonconsumptive beneficial purposes. The Sacramento River system provides water for agricultural, municipal, and industrial uses, and for hydroelectric power, recreation, and navigation.

(b) The Sacramento River system is the state's largest producer of salmon, striped bass, sturgeon, and shad. It is also a major source of steelhead and other game fish and the source of water for much of the migratory bird population of the Pacific Flyway. It is essential that these values be protected.

(c) Various human and natural causes have contributed to substantial reductions in various anadromous fish populations in the Sacramento River system.

(d) Lack of a comprehensive management plan for the Sacramento River Basin has resulted in independent actions that pit some beneficial uses of water against others, thereby causing strong competition among competing water users.

(e) A comprehensive Upper Sacramento River Fisheries and Riparian Habitat Management Plan is needed to develop information to provide for the protection, enhancement, and restoration of fish and riparian habitat and associated wildlife, as part of the orderly development of the water resources of the Sacramento River Basin for all beneficial purposes.

1401. As used in the chapter:

(a) "Advisory council" means the Upper Sacramento River Fisheries and Riparian Habitat Advisory Council created pursuant to Section 1402.

(b) "Action team" means the Upper Sacramento River Fisheries and Riparian Habitat Action Team created pursuant to Section 1403.

(c) "Management plan" means the Upper Sacramento River Fisheries and Riparian Habitat Management Plan prepared pursuant to this chapter.

1402. The Upper Sacramento River Fisheries and Riparian Habitat Advisory Council is hereby created consisting of the following members:

(a) The Director of Fish and Game, the Director of Water

Resources, a designee of the State Lands Commission, a designee of the Chairperson of the State Water Resources Control Board, a designee of the Wildlife Conservation Board, and a designee of the Chairperson of the State Reclamation Board.

(b) The Director of the Mid-Pacific Region of the United States Bureau of Reclamation; the Sacramento District Engineer for the United States Army Corps of Engineers; the Regional Director, Region 1, for the United States Fish and Wildlife Service; the Regional Forester, Region 5, for the United States Forest Service; the State Director, California State Office, United States Bureau of Land Management; and the Regional Director, Region 3, for the National Marine Fisheries Service; provided that the foregoing federal officials agree to serve on the advisory council.

(c) One member of the board of supervisors, selected by the board of supervisors, from each of the following counties: Butte, Colusa, Glenn, Shasta, Sutter, and Tehama, provided that the county designates a board member to serve on the advisory council.

(d) Three persons, appointed by the Director of Fish and Game, who shall represent, respectively, commercial fishermen, recreational fishermen, and general wildlife and conservation interests. The Director of Fish and Game shall also appoint a representative of county government from a county not represented pursuant to subdivision (c) which contains a commercial fishing industry dependent on the upper Sacramento River. This person shall represent the commercial fishing industry interests of the San Francisco Bay area and north coast.

(e) One person, appointed by the Director of Forestry, who shall represent commercial timber operators.

(f) One person, appointed by the Director of Food and Agriculture, who shall represent agricultural interests and is a riparian landowner.

(g) A representative of the Sacramento River Water Contractors Association, provided that the representative agrees to serve on the advisory council.

1403. The Upper Sacramento River Fisheries and Riparian Habitat Action Team shall consist of one person designated by each member of the advisory council, except that the Chairperson of the California Regional Water Quality Control Board for the Central Valley Region shall designate one member and the Chairperson of the State Water Resources Control Board shall not designate a member and except that the members of the advisory council appointed pursuant to subdivisions (d), (e), and (f) of Section 1402 shall themselves serve on the action team.

1404. The advisory council and the action team shall each select a chairperson from its members by majority vote.

1405. Members of the advisory council and the action team shall serve without compensation.

1406. The advisory council shall develop the Upper Sacramento River Fisheries and Riparian Habitat Management Plan, including a

proposed implementation program, for submission to the Legislature. The management plan shall provide for the protection, restoration, and enhancement of fish and riparian habitat and associated wildlife. The management plan shall establish a series of priority actions with specified time frames, estimated costs and benefits, and proposed funding sources.

The action team and the advisory council shall consider and may incorporate into the management plan, where feasible, the findings and recommendations of studies conducted by the Department of Water Resources pursuant to Section 238 of the Water Code.

1407. The area of study of the management plan shall be the Sacramento River and tributary streams, and associated riparian habitat, upstream from the confluence with the Feather River and downstream from Keswick Dam.

1408. The action team shall serve as a working group to develop proposed plan elements. The action team shall submit its recommendations to the advisory council for its review and approval. The advisory council shall be responsible for the management plan submitted to the Legislature.

1409. The Secretary of the Resources Agency shall appoint a project manager to supervise plan preparation and to coordinate activities of the advisory council and the action team.

1410. The advisory council shall hold at least two public hearings in separate counties within the area of study prior to final approval of the management plan. The action team shall hold at least one workshop, open to the public, in each of the counties represented on the advisory council pursuant to subdivision (c) of Section 1402.

1411. The advisory council shall submit the management plan, including a proposed implementation program, to the Legislature not later than January 1, 1989.

1412. This chapter shall not delay or preclude any current, pending, planned, or proposed fisheries and wildlife protection enhancement, restoration, or acquisition activities or bank protection, flood control, irrigation, or other management activities along the upper Sacramento River.

1413. This chapter shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, repeals or extends that date.

SEC. 3. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the California Environmental License Plate Fund for expenditure in accordance with the following schedule:

(a) One hundred fifty thousand dollars ($150,000) to the Wildlife Conservation Board for the purposes of Article 4.5 (commencing with Section 1385) of Chapter 4 of Division 2 of the Fish and Game Code.

(b) One hundred thousand dollars ($100,000) to the Secretary of the Resources Agency for preparation of the Upper Sacramento River Fisheries and Riparian Habitat Management Plan pursuant to

Chapter 4.5 (commencing with Section 1400) of Division 2 of the Fish and Game Code.

CHAPTER 886

An act to amend Sections 17708, 17714, 17736, 17740, 17742, 17742.5, 17747, 39015, 39140, 39246, 39305, and 39381, of, to amend and renumber Sections 17717.6 and 17717.7 of, to add Sections 17708.3, 17719.5, 17721.3, 17722.7, 17740.1, 17740.3, 17742.2, 17742.3, 17742.7, 17746.7, 17788.5, 39619.2, and 42250.3 to, to repeal Chapter 23 (commencing with Section 17760) of Part 10 of, and to repeal and add Section 17749 of, the Education Code, to add Section 33445.5 to the Health and Safety Code, and to add Section 20111.5 to the Public Contract Code, relating to school facilities, and making an appropriation therefor.

[Approved by Governor September 18, 1986. Filed with Secretary of State September 18, 1986]

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

SECTION 1. This act shall be known and may be cited as the Greene-Hughes School Facilities Act of 1986.

SEC. 2. Section 17708 of the Education Code is amended to read:

17708. A fund is hereby created in the State Treasury to be known as the State School Building Lease-Purchase Fund. All money in the State School Building Lease-Purchase Fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated for expenditure pursuant to this chapter.

The State Allocation Board may apportion funds to school districts for the purposes of this chapter from funds transferred to the State School Building Lease-Purchase Fund from any source.

SEC. 3. Section 17708.3 is added to the Education Code, to read:

17708.3. (a) The board may establish a revolving loan account within the State School Building Lease-Purchase Fund, and may allocate from the fund to that account those amounts it determines to be necessary for the purposes of this section.

(b) The board may apportion to any school district that submits to the board a statement of its intent to subsequently file a project application under this chapter, a loan for the purpose of advance planning and related administrative costs pursuant to the preparation of that application. The loan amount shall not exceed 3 percent of the estimated project cost, as determined pursuant to the building cost standards established under this chapter.

(c) If, within a period of 24 months following the receipt of any loan amounts under this section, the project for which those advance planning funds were provided has not been found by the board to

be qualified for funding under this chapter, the board shall so notify the Controller, who shall reduce the apportionments to which the district is otherwise entitled under Section 42238 as necessary to repay the amount of all loans provided under this section, over such period of time as the board finds to be reasonable. The Controller shall transfer the amount of all apportionment reductions imposed under this subdivision to the revolving loan account established under this section.

(d) The repayment of loan amounts received under this section by school districts other than those described under subdivision (c) shall be accomplished by the withholding, as determined by the board, of apportionment funds that would be available to the district for purposes of the project for which the district received funding approval under this chapter.

SEC. 4. Section 17714 of the Education Code is amended to read:

17714. (a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose will be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and encourage applicants to maintain all buildings under their control, the board shall require the applicant to do all of the following prior to the approval of a project:

(1) Establish a restricted fund for the exclusive purpose of providing moneys for regular maintenance and routine repair of school buildings, according the highest priority to funding for the purpose set forth in subdivision (a).

(2) Agree to deposit into the fund established pursuant to paragraph (1), in each fiscal year for the term of the lease agreements of all projects constructed under this chapter, a minimum amount equal to or greater than 2 percent of the applicant's General Fund budget for that fiscal year. This paragraph is applicable only to the following districts:

(A) High school districts with average daily attendance greater than 300.

(B) Elementary school districts with average daily attendance greater than 900.

(C) Unified school districts with average daily attendance greater than 1200.

SEC. 5. Section 17717.6 of the Education Code is amended and renumbered to read:

42250.1. (a) From funds appropriated by the Legislature for this purpose for any fiscal year, the board shall allocate to school districts selected by the board pursuant to this section, funding for the expenses of air conditioning equipment and insulation materials, and for the costs of installing the equipment and materials, for schools operating on a year-round or continuous basis pursuant to Chapter 3 (commencing with Section 37400), Chapter 4 (commencing with

Section 37500), or Chapter 5 (commencing with Section 37600) of Part 22.

(b) The State Allocation Board shall allocate the funds appropriated under subdivision (a) only to those school districts in which a high percentage of the pupils, or a significant number of the pupils, are enrolled in year-round or continuous schools as described in subdivision (a). The board shall grant preference in the allocation of those funds to those year-round or continuous schools that are both situated in climates that require air-conditioning and insulation during June, July, and August, and have a high percentage of overcrowding of pupils.

SEC. 6. Section 17717.7 of the Education Code is amended and renumbered to read:

42250.2. (a) The board shall notify school districts that applicant school districts are encouraged to use facilities on a year-round basis.

(b) The board shall determine, for each applicant school district which is eligible for funding for new construction, the number of pupils enrolled in facilities which are operated on a year-round basis because of overcrowding.

(c) The board shall certify the number determined pursuant to subdivision (b) to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall allow to the district the amount computed pursuant to Section 42250.

SEC. 7. Section 17719.5 is added to the Education Code, to read:

17719.5. For a school district having an average daily attendance of 2,500 or less for the prior fiscal year, the board may approve, subject to the building cost standards established under this chapter, a supplemental apportionment up to five thousand dollars ($5,000) for any new construction project, and up to one thousand two hundred dollars ($1,200) for any other project approved under this chapter, as reimbursement for administrative expenses incurred by the district in filing the application for the project.

SEC. 8. Section 17721.3 is added to the Education Code, to read:

17721.3. (a) For purposes of this chapter, "modernization" or "renovation" means any modification of an existing structure, the costs of which do not exceed 25 percent of the replacement cost of that structure.

(b) No project shall be approved for the modernization of any school facility unless and until both of the following are demonstrated to the satisfaction of the board:

(1) The project will enhance the capacity of the facility to achieve one or more educational purposes.

(2) The resulting pupil capacity of the facility, as measured in units of average daily attendance, will equal or exceed 80 percent of the facility's maximum capacity as determined under the board standards established under this chapter.

(c) No project shall be approved for the modernization of any school facility that was constructed less than 30 years prior to the date of the approval of the project applied for under this chapter.

SEC. 9. Section 17722.7 is added to the Education Code, to read:

17722.7. (a) The funding for any reconstruction project approved by the board pursuant to this chapter that meets the requirements set forth in subdivision (b) shall include all of the following, not to exceed the total cost of the reconstruction project or 75 percent of the replacement cost of the facility to be reconstructed, whichever is less:

(1) Twenty-five percent of the replacement cost of the facility.

(2) A funding entitlement to the extent that the reconstruction will result in an increased capacity of the facility to house pupils, calculated pursuant to the cost standards for new construction established by the board under Section 17717.

(3) Any costs incurred by the district as required to ensure that the facility, as reconstructed, complies with applicable structural safety standards for school buildings pursuant to Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of Chapter 2 of Part 23, and Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of Chapter 1 of Part 49.

(b) In order to qualify for the funding entitlement set forth in subdivision (a), a school district reconstruction project shall be required to meet all of the following conditions:

(1) The facility to be reconstructed is at least 30 years old as of the date the application is filed.

(2) The cost of the reconstruction project exceeds 25 percent of the replacement cost of the facility.

(3) The reconstruction will result in an increased capacity of the facility to house pupils.

(c) No reconstruction project shall be approved under this chapter for which the total cost exceeds 75 percent of the replacement cost of the facility to be reconstructed.

SEC. 10. Section 17736 of the Education Code is amended to read:

17736. (a) Except as provided in subdivision (b), funds may be expended from the county school lease-purchase fund by the applicant school district only when specifically authorized by the board for either direct project costs or reimbursements.

(b) Upon specific authorization by the board, applicant school districts may be reimbursed from the county school lease-purchase fund for expenditures, or commitments therefor, made prior to the approval of a project by the board, subject to all of the following conditions:

(1) The expenditures or commitments were made in accordance with the terms of the approval of a project.

(2) The expenditures or commitments were made not more than four years prior to the approval of a project.

(3) The expenditures or commitments do not include any cost incurred for construction of a project.

SEC. 11. Section 17740 of the Education Code is amended to read:

17740. Except as provided in Section 17741, no project shall be

approved, the building area of which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of estimated average daily attendance in excess of that computed in accordance with Sections 17743, 17744, 17745, and 17746.

As used in Sections 17741.5, 17743, 17744, 17745, and 17746, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance.

As used in this section and Sections 17745 and 17746, "attendance center" means a school maintained or to be maintained at a given location within a district. Enrollment projections shall be made for the third fiscal year beyond the fiscal year in which the application is made for a project for kindergarten or any of grades 1 through 6, and for the fourth fiscal year beyond the fiscal year in which the application is made for a junior high school or high school project. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter, pupils attending grades 7 and 8 in an elementary district, but residing in a high school district that maintains one or more junior high schools, shall not be considered in determining or estimating the average daily attendance of the elementary district, unless one of the following conditions is met:

(a) The elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1975.

(b) The elementary district, by a vote of the electorate at an election held on June 2, 1981, withdrew its 7th and 8th grade pupils from the high school district.

(c) The elementary district, by a vote of the electorate at an election held on November 4, 1980, withdrew its 7th and 8th grade pupils from the high school district and the high school district continues to qualify for a project, other than a project pursuant to Section 17741, on the basis of the remaining 7th and 8th grade pupils. In no event shall a facility be constructed for the withdrawn 7th and 8th grade pupils at a distance less than one and one-half miles from the nearest proposed or existing junior high facility.

When these pupils are so considered in determining or estimating the average daily attendance of the elementary district, they shall not be considered in determining or estimating average daily attendance of the high school district for junior high school purposes.

SEC. 12. Section 11740.1 is added to the Education Code, to read:

17740.1. The allowable building area of any project, as calculated under this article, may be increased by any applicant school district,

where the increase is funded exclusively from sources other than any state programs administered by the State Allocation Board. Any increase in building area pursuant to this section in a project for which construction commenced on or after January 1, 1987, not to exceed 110 percent of the area that would be allowed under applicable state standards, shall be excluded from the calculation of the area of adequate school construction for the purposes of all subsequent project applications by the district under this chapter.

SEC. 13. Section 17740.3 is added to the Education Code, to read:

17740.3. Notwithstanding any other provision of this part, the estimate of average daily attendance for an applicant school district shall be calculated for up to and including two years longer than the period of time permitted by Section 17740, as requested by the district, where 50 percent or more of the cost of the project is provided by the district from funding sources other than any state program administered by the State Allocation Board or the California School Finance Authority. For the purposes of any subsequent project application from that district based upon additional growth in pupil enrollment, the estimate of average daily attendance shall be based on enrollment projections for any period of time, as requested by the district, up to and including that permitted by Section 17740.

SEC. 14. Section 17742 of the Education Code is amended to read:

17742. (a) The board, by the adoption of rules, shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. Those rules shall define and provide for the method of determining building areas that are to be included in, in whole or in part, or to be excluded from, the area of existing adequate school construction. Any building to which Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3 of Title 2 does not apply shall not be considered adequate school construction for the purpose of determining the maximum total building area per attendance unit.

The board may make exception to the provisions of this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

(b) For the purposes of this chapter, the area of adequate school construction existing in an applicant school district does not include, in any school operated on a year-round schedule, any building area that has been in continuous use during the preceding five-year period primarily for the operation of any preschool program or programs.

SEC. 15. Section 17742.2 is added to the Education Code, to read:

17742.2. The area of any nonclassroom space constructed by a school district after September 11, 1957, with funds given or bequeathed to the district after that date, and the area of any nonclassroom space given, devised, or bequeathed to a school district after that date, including any nonclassroom space given to a district by any city, county, or political subdivision of this state, shall not be

included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

For the purposes of this section, any nonclassroom space leased to a school district for a term exceeding 24 years and for an annual rental of not more than five dollars ($5), shall be construed as constituting a gift to the district.

SEC. 16. Section 17742.3 is added to the Education Code, to read:

17742.3. In determining the area of adequate school construction in an applicant district, the board, by a unanimous vote of all members present, may exclude the square footage of any facility no longer usable for school purposes.

SEC. 17. Section 17742.5 of the Education Code is amended to read:

17742.5. For purposes of determining the area of adequate school construction existing in an applicant school district pursuant to Section 17742, all portable classrooms, whether owned or leased, shall be included, except as otherwise provided in subdivisions (a), (b), (c), and (d).

(a) Leased portable classrooms acquired by a school district shall not be included in the area of existing adequate school construction until January 1, 1991.

(b) Portable classrooms leased pursuant to Chapter 25 (commencing with Section 17785) shall be excluded from the area of adequate school construction.

(c) The total area of portable classrooms that is in excess of 10 percent of the district's total area and that have been leased or owned by the district for 20 years or more, and 75 percent of all portable classrooms 20 years old or older, shall be excluded from the area of adequate school construction.

(d) Leased portable classrooms shall not be included in the area of adequate school construction for a period of five years from the date first leased by the district. That exclusion shall be extended by the board for one additional five-year period where the board finds that their continued use of the leased portable classrooms for classroom purposes is justified by additional growth in average daily attendance pursuant to the standards established by this part. If the board finds continued use to no longer be justified, it may extend the exclusion for a period of up to two years as necessary to maintain the eligibility of the applicant district for project funding pursuant to this chapter if the board finds that the district has made a good faith effort to obtain that funding in a timely manner.

For purposes of this section, the definition of "portable classrooms" is the definition for "interim facilities" set forth in Section 65980 of the Government Code.

SEC. 18. Section 17742.7 is added to the Education Code, to read:

17742.7. (a) For any project application filed or amended on or after January 1, 1987, the area of adequate school construction existing in the applicant school district or, where appropriate, in the

attendance area, at the time of application shall be calculated as otherwise provided by this article or, at the request of the district, pursuant to the following formula:

(1) Identify by grade level all teaching stations existing in the school district or, where appropriate, the attendance area, as of January 1, 1986. For the purposes of this section, "teaching station" means any space that was constructed or reconstructed to serve as an area in which to provide pupil instruction.

(2) Determine the maximum pupil loading figure for each grade level pursuant to the district pupil loading standards in effect on January 1, 1986. In no event may this figure be more than the maximum pupil loading standards established by the board, or less than three pupil units lower than those maximum pupil loading standards.

(3) Multiply the figure determined under subdivision (b) for each grade level by the number of teaching stations for the particular grade level, as determined under subdivision (a).

(4) Multiply the product determined under subdivision (c) by the maximum area allowance established for that grade level under this article.

(5) The sum of these computations for each grade level, as determined under subdivision (d), in addition to the area of existing adequate school construction as calculated under Section 17740 for all school construction completed after January 1, 1986, in the district or, where appropriate, the attendance area, shall be the total area of adequate school construction existing in the district or attendance area pursuant to this formula.

(b) For purposes of this section, a school district that is participating in a class size reduction program set forth in this code shall use the pupil loading standard established pursuant to that program.

SEC. 19. Section 17746.7 is added to the Education Code, to read:

17746.7. Notwithstanding any other provision of law, the determination of allowable building area for an applicant school district under Sections 17742.7, 17743, 17744, 17745, and 17746, shall be made on the basis of 107 percent of the square footage allowances set forth in those sections, calculated to the nearest whole number.

SEC. 20. Section 17747 of the Education Code is amended to read:

17747. (a) The allowable new building area for the purpose of providing special day class and Resource Specialist Program Facilities for special education pupils shall be negotiated and approved by the State Allocation Board, with any necessary assistance to be provided by the Special Education Division of the State Department of Education. The square footage allowances shall be computed within the maximum square footage set forth in the following schedule:

Special Day Class Basic Need	Grade Levels	Loading*	Square Footage
Nonsevere Handicap			
—Specific Learning Disability	All	12	1080
—Mildly Mentally Retarded	All	12	1080
—Severe Disorder of Language	All	10	1080
Severe Handicap			
—Deaf and Hard of Hearing	All	10	1080
—Visually Handicapped	All	10	1330 (1080 + 250 storage)
—Orthopedically and Other Health Impaired	All	12	2000 (1080 + 400 toilets + 250 storage + 270 daily living skills + 3000 therapy + 75 therapy per additional classroom)
—Autistic	All	6	1160 (1080 + 80 toilets)
—Severely Emotionally Disturbed	All	6	1160 (1080 + 80 toilets)
—Severely Mentally Retarded	Elem.	12	1750 (1080 + 400 toilets + 270 daily living skills)
	Secon.		2150 (1080 + 400 toilets + 270 daily living skills + 400 vocational)
—Developmentally Handicapped	All	10	2000 (1080 + 400 toi-

				lets + 250 storage + 270 daily living skills + 3000 therapy ** + 750 therapy per additional CR)
—Deaf-Blind/Multi	All	5		1400 (1080 + 200 storage + 150 toilets)

			Pupils	Square Feet
Resource Specialist Program for those pupils with handicapping conditions whose needs have been identified by the Individualized Education Program (IEP) Team, who require special education for a portion of the day, and who are assigned to a regular classroom for a majority of the school day***.	All	Maximum caseload for RS is 28, not all served at same time	1—8	240
			9—28	480
			29—37	720
			38—56	960
			57—65	1200
			66—85	1440
			86—94	1680
			95—112	1920

* Special pupils may usually be grouped without accordance to type, especially in smaller districts or where attendance zones may indicate, to maximize loadings per classroom where there are children with similar educational need (Sec. 56364).

** Therapy add-ons not to be provided if on same site as orthopedically handicapped.

*** To a maximum of 4 percent of the unhoused average daily attendance of the district, per new school or addition, to a maximum of 1920 square feet.

(b) The allowable new building area shall be computed by dividing the number of eligible pupils by the minimum required loading per classroom for special day classes for the type of pupils to be enrolled. No new or additional facility shall be provided for special day classes unless the number of additional eligible pupils equals one-third or more of the minimum required loading.

SEC. 21. Section 17749 of the Education Code is repealed.

SEC. 22. Section 17749 is added to the Education Code, to read:

17749. (a) The board shall require, as a condition of providing funding for any project under this chapter, that, for any facilities for kindergarten or any of grades 1 to 12, inclusive, or for any facilities for special education or continuation high school purposes, at least 30 percent of allowable new building construction for classrooms under

the project be utilized for relocatable structures:

(b) The board may reduce the percentage requirement set forth in subdivision (a), as to any applicant, in the event that the quantity of relocatable structures necessary to comply with those requirements is unavailable from the manufacturers of those structures.

(c) The board may reduce or eliminate the percentage requirements set forth in subdivision (a), as to any applicant, where the board finds that special conditions of terrain, climate, or unavailability of space within the attendance area make the use of relocatable structures impractical or inappropriate.

(d) Relocatable structures acquired by an applicant school district up to two years preceding the final approval by the board of the project application submitted by the district shall apply to the percentage requirements set forth in subdivision (a). The cost of acquiring those structures shall apply to fulfilling the district's funding requirement under Section 17705.5.

SEC. 23. Chapter 23 (commencing with Section 17760) of Part 10 of the Education Code is repealed.

SEC. 24. Section 17788.5 is added to the Education Code, to read:

17788.5. The board may empower any lessee to act as its agent in the performance of acts authorized under this chapter with regard to portable classrooms to be made available to that lessee, including, but not necessarily limited to, contracting for architectural and construction services and purchasing furniture and equipment.

SEC. 25. Section 39015 of the Education Code, as amended by Chapter 70 of the Statutes of 1986, is amended to read:

39015. (a) Whenever a school district acquires or has acquired a site for school purposes, as determined by the State Allocation Board, and does not use the site within (1) five years of the date of acquisition for the kindergarten, if any, and any of grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or, (2) seven years of the date of acquisition for any of grades 7 to 12, inclusive, maintained by a high school district or a unified school district, or if a school district has a site at any grade level that has previously been used but has not been used for school purposes within the preceding five years, the school district shall be subject to nonuse payments, unless the State Allocation Board, from time to time, makes a determination that the school district will utilize the property for the purpose for which it was intended within a reasonable period of time, in a specific amount for each additional year in which the site is retained and not used by the district beyond the foregoing specified periods, except the first additional year shall be deemed to end not earlier than April 30, 1973.

(b) Payment shall not be required under this section as to any site having a value of twenty thousand dollars ($20,000) or less. Commencing on January 1, 1988, and annually thereafter, the State Allocation Board shall increase this exemption figure by the amount of the current fiscal year inflation adjustment specified in Section

42238.1, if any.

(c) The payments required shall be computed by the Executive Officer of the State Allocation Board and certified to the Controller, and payments shall be equal to one one-hundredth ($\frac{1}{100}$) of the original purchase price of the site modified by either a factor reflecting the change in assessed value of all lands in the state from the date of purchase of the site to the current date or any other factor that in the determination of the State Allocation Board is applicable to the site under consideration.

(d) Whenever the State Allocation Board has determined that a school district in good faith has, within the preceding year, advertised the school site for sale to the highest bidder pursuant to the provisions of Article 4 (commencing with Section 39360) of Chapter 3 of Part 23 and has received no bids that in the judgment of the State Allocation Board reflect the fair market value of the property, the Executive Officer of the State Allocation Board shall not compute any nonuse payments for the site for a period of one year beyond the date of the determination.

(e) Nonuse payments shall not be required for any year with respect to a school site that for one-half or more of the number of days of that year has been utilized (1) by the school district, or by any other governmental entity pursuant to agreement with the school district, for school or community playground, playing field, or other outdoor recreational purposes, or (2) by the State Allocation Board, pursuant to agreement with the school district, for the storage of emergency portable classrooms.

Nonuse payments shall not be required for any year with respect to a school site which was leased at least one-half of the days in that year in a manner that subjected the site to property taxes equal to the taxes which would have been paid if the site had been sold.

SEC. 26. Section 39140 of the Education Code is amended to read:

39140. (a) The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds twenty thousand dollars ($20,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Administrative Code, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 39640 and 39649.

(b) Whenever repairs due to fire damage, not including any damage caused by wind or earthquake, must be made to any school building previously approved by the Department of General Services, the approved plans and specifications used in the original work under then existing rules, regulations, and building standards

may be used without modification, providing all other provisions of this article are carried out.

(c) Notwithstanding any other provision of law, no school district shall be authorized to construct or reconstruct any school building, regardless of the source of funding, unless and until one of the following criteria has been met:

(1) The district architect has certified that the project satisfies the construction cost and allowable area standards prescribed by Chapter 22 (commencing with Section 17700) of Part 10.

(2) The governing board of the district has, by resolution, indicated the agreement of the district that any school building construction or reconstruction that exceeds those construction cost and allowable area standards or any allowable building area computed for an attendance area pursuant to Section 17741 shall, in the event of the district's subsequent application for state funding for school facility construction, be deducted from the allowable building area for which the district would otherwise have been eligible, which restriction shall not be subject to waiver or exception, as may otherwise be provided by law, including, but not limited to, Section 17742.

If it is determined that, for any reason, a school district failed to comply with the requirement of this section, the district shall not be eligible for any additional building area pursuant to Section 17749 and may be denied any time priority established for the particular project pursuant to Section 17716.

SEC. 27. Section 39246 of the Education Code is amended to read:

39246. (a) The governing board of any school district may lease relocatable structures for a term extending to the expected duration of use by the school district, but not to exceed 20 years, or permanent school facilities for a term extending to the expected duration of use by the school district, but not to exceed 30 years.

(b) Notwithstanding subdivision (a), the governing board of any school district that has entered into a joint powers agreement pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purpose of leasing relocatable structures to participating school districts, may lease the relocatable structures for a term extending to the expected duration of use by the school district, but not to exceed 15 years.

(c) Any lease agreement or contract entered into pursuant to this section shall be initiated by resolution authorizing the action and prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

SEC. 28. Section 39305 of the Education Code is amended to read:

39305. (a) Notwithstanding Section 39314, the governing board of a school district, without advertising for bids, may let, for a minimum rental of one dollar ($1) a year, to any person, firm, or corporation any real property that belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction

thereon of, a building or buildings for the use of the school district during the term thereof, and provides that title to that building shall vest in the school district at the expiration of that term. The instrument may provide for the means or methods by which that title shall vest in the school district prior to the expiration of that term, and shall contain such other terms and conditions as the governing board may deem to be in the best interest of the school district.

(b) Any rental of property that complies with subdivision (a) shall be deemed to have thereby required the payment of adequate consideration for purposes of Section 6 of Article XVI of the California Constitution.

SEC. 29. Section 39381 of the Education Code is amended to read:

39381. The governing board of a school district may, with the approval of the county board of supervisors, sell or lease any building of the district together with the site upon which the building is located, without complying with any other provisions of this article, provided that the county board of supervisors finds that all of the following conditions exist:

(a) The sale or lease is to be made to an incorporated nonprofit tax-exempt community or civic organization with a membership comprised predominantly of persons residing in the community in which the building and site are situated.

(b) The building is not suitable for school purposes.

(c) The building has an historic value and its preservation and utilization for the benefit of the community will best be ensured by sale or lease to an organization specified in subdivision (a).

(d) The sale or lease is to be executed for a consideration to enure to the school district reflecting the fair market value of the property, or its fair rental value, as the case may be, except that the sale may be executed for a consideration that is less than the fair market value of the property if all of the following conditions exist:

(1) More than 50 percent of the buildings on the site have been designated as historically significant by the State Historical Resources Commission.

(2) For a period of 25 years, commencing with the date that possession of the property is transferred, the building or buildings designated pursuant to paragraph (1) shall be used and maintained for public benefit as an historical resource, and the site shall otherwise be available for public access and use, including, but not limited to, park and recreational uses. Any violation of this condition shall result in the automatic reversion of title to the property so transferred, without remuneration, to the transferor school district. The condition set forth in this paragraph does not prohibit any use of the site that is necessary or appropriate to its use and maintenance for historical purposes.

(3) The consideration paid is equal to or greater than the sum of the actual cost of the acquisition of the property by the school district and the actual cost of any capital improvements made to the property.

(e) Adequate provision has been made in connection with the sale or lease transaction to protect the district against all civil liabilities which might arise in connection with any use of the building and site.

SEC. 30. Section 39619.2 is added to the Education Code, to read:

39619.2. (a) School districts may submit applications to the State Allocation Board for deferred maintenance funding in addition to the amounts specified in Section 39619. In order to be eligible for an additional apportionment, a school district shall do all of the following:

(1) Certify that if an additional apportionment is provided, the district will have matched the additional apportionment amount with an equal amount of district funds that have not been previously used as a match for state aid.

(2) Certify an additional claim of not greater than 1 percent of the total general funds and adult education funds budgeted by the district for the fiscal year, excluding any amounts budgeted for capital outlay or debt service, but including adult education funds.

(3) Certify that any additional funds will be used to meet deferred maintenance identified in the district's five-year deferred maintenance plan.

(b) The State Allocation Board shall establish rules and regulations regarding the formulas used to apportion additional funds pursuant to this section.

(c) It is the intent of the Legislature that state funds for deferred maintenance be drawn first from excess bond repayments by school districts, revenues pursuant to subdivision (f) of Section 6217 of the Public Resources Code, and proceeds from existing general obligation bonds.

SEC. 31. Section 42250.3 is added to the Education Code, to read:

42250.3. (a) A school district may apply for year-round education incentive payments in excess of those provided for in Section 42250 if the school district demonstrates to the State Allocation Board all of the following:

(1) There is substantial overcrowding in the school district or high school attendance areas as demonstrated by current enrollment, capacity of facilities, and growth projections allowed under law.

(2) The district will use the year-round education configuration to increase the capacity of its facilities and thereby reduce the need for new facilities or more costly alternatives.

(3) The district intends to reach a minimum goal of 15 percent more pupils enrolled in its facilities beyond capacity established for those facilities.

(4) Other educationally sound remedies commonly used to relieve overcrowding have been examined and used where appropriate.

(5) The district would be allowed to construct new facilities pursuant to state law absent the use of year-round education.

(b) A school district that meets all the criteria described in subdivision (a) shall have its year-round education incentive

payments calculated as follows:

(1) The school district shall certify the number of pupils in year-round education in excess of the capacity of the school or schools, as determined by required state or court-mandated pupil loading standards.

(2) The Office of Local Assistance shall multiply the number of pupils determined in paragraph (1) by the allowable square feet of new construction for the grade levels of the excess pupils.

(3) The Office of Local Assistance shall multiply the amount determined in paragraph (2) by the average cost of new construction that would be allowed for schools of that grade level in that locale.

(4) The State Department of Education shall certify to the State Allocation Board the amount of land that would be necessary for an educationally adequate facility for the number and grade level of pupils determined in paragraph (1) above.

(5) The Office of Local Assistance shall multiply the amount determined in paragraph (4) above by the cost of land in the area where a new school would be built, if the pupils were not participating in year-round education.

(6) The Office of Local Assistance shall reduce the value of land in this calculation starting in the second year after the state has purchased the land for the new school that would be built, if the pupils were not participating in year-round education. This reduction shall be one-third per year of the value of the land purchased.

(7) The Office of Local Assistance shall add the amounts determined in paragraphs (3) and (5) and multiply the result by .10.

(8) The Office of Local Assistance shall divide the amount determined by paragraph (7) by the sum of the capacity and excess students in the facility or facilities used for year-round education.

(9) The Office of Local Assistance shall report to the State Allocation Board the total and the amount per pupil determined by paragraphs (7) and (8).

(10) The State Allocation Board shall certify to the Controller the amount determined in paragraph (7), not to exceed one hundred twenty-five dollars ($125) per pupil in year-round education facilities, increased annually for inflation for the prior calendar year on the basis of the cost index for Class B construction as determined in the January meeting of the State Allocation Board.

SEC. 32. Section 33445.5 is added to the Health and Safety Code, to read:

33445.5. (a) If the governing board of a school district finds that conditions of overcrowding, as defined by subdivision (a) of Section 65973 of the Government Code, exist in one or more attendance areas within the district that serve pupils who reside in housing, located within or adjacent to a project area, and that the conditions of overcrowding result from actions taken by the redevelopment agency in implementing the redevelopment plan, the governing

board may transmit a written copy of those findings, together with supporting information, materials, and documents, to the redevelopment agency. The redevelopment agency shall conduct a public hearing within 45 days after receiving the findings to receive public testimony identifying the effects of the redevelopment plan on the impacted attendance area or areas and suggesting revisions to the plan as adopted or amended by the legislative body that would alleviate or eliminate the overcrowding in the attendance area or areas caused by the implementation of the redevelopment plan. The redevelopment agency shall send written notice of the public hearing to, and at the hearing receive public testimony from, any affected taxing entity. After receiving that testimony at the hearing, the agency shall consider amendments of the plan necessary to alleviate or eliminate that overcrowding and may recommend those amendments for adoption by the legislative body.

(b) Section 33353 does not apply to an amendment of the plan proposed pursuant to subdivision (a) when both of the following occur:

(1) The amendment proposes only to add significant additional capital improvement projects to alleviate or eliminate the overcrowding in the attendance area or areas caused by the implementation of the plan.

(2) The amendment will delete capital improvement projects that are equivalent in financial impact on any affected taxing entity or otherwise modify the plan in a way that the agency finds there will be no additional financial impact or any affected taxing entity as a result of the amendment.

(c) Any funds received by a school district from a redevelopment agency to alleviate or eliminate the overcrowding in the attendance area or areas caused by implementation of a redevelopment plan as the result of a public hearing conducted pursuant to subdivision (a) shall be used only for capital expenditures.

(d) The governing body of a school district shall not make the findings permitted by subdivision (a) with respect to any project area more than once.

(e) This section applies only to redevelopment plans adopted prior to January 1, 1984.

SEC. 33. Section 20111.5 is added to the Public Contract Code, to read:

20111.5. The following procedures shall apply to any contracts entered into by any school district pursuant to the funding approval of any district project under Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code:

(a) The governing board of the district may require that each prospective bidder for a contract, as described under Section 20111, complete and submit to the district a standardized questionnaire and financial statement in a form specified by the district, including a complete statement of the prospective bidder's financial ability and experience in performing public works. The questionnaire and

financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection.

(b) Any school district requiring prospective bidders to complete and submit questionnaires and financial statements, as described in subdivision (a), shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine the size of the contracts upon which each bidder shall be deemed qualified to bid.

(c) Each prospective bidder on any contract described under Section 20111 for a project funded under Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code shall be furnished by the school district letting the contract with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be disregarded. A proposal form shall not be accepted from any person or other entity who is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (a), but has not done so at least five days prior to the date fixed for the public opening of sealed bids or has not been prequalified, pursuant to subdivision (b), for at least one day prior to that date.

SEC. 34. The Legislative Analyst shall report to the Legislature on or before January 1, 1990, regarding the value of year-round education incentive funding pursuant to this act in reducing the need for school facility construction.

SEC. 35. The amendments to Section 39305 of the Education Code set forth in Section 28 do not constitute a change in, but are declaratory of the existing law.

SEC. 36. The State Allocation Board shall review the funding priorities it has established pursuant to Chapter 22 (commencing with Section 17700) to reflect the changes to that chapter by this act.

Applications for state funding filed with the State Allocation Board on or before January 1, 1987, shall take priority over applications submitted after that date under revised standards.

SEC. 37. (a) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the State School Building Lease-Purchase Fund to the Department of General Services, Office of Local Assistance, for the purpose of contracting with the Office of the Legislative Analyst. The Office of the Legislative Analyst, in consultation with the Office of Local Assistance and the State Department of Education, shall contract with an individual, group of individuals, firm or organization deemed qualified and competent to study and develop recommendations to simplify and shorten the time to complete the administrative processes related to state funding for school facilities. The study shall include, but need not be limited to, an assessment of the feasibility and desirability of all of the following:

(1) Allocating funding with less state involvement and eligibility has been determined.

(2) Allocating funding on the basis of availability of teaching spaces as opposed to total square footage.

(3) Exploring the possibility of the use of self-certification on documents submitted by applicant districts with the intent of limiting steps in the current process.

(4) Improving enrollment project methods, including more efficient and timely use of California Basic Education Data System (CBEDS) information.

(5) Establishing regional school facility planning units through the county offices of education.

(6) Such other recommendations as the contractor may suggest to improve the efficiency of the administrative processes related to state funding for school facilities.

(7) Making greater use of automation in the application process.

For any improvements to the current process determined to be both feasible and desirable, the contractor shall propose specific implementation methods, time tables, and costs or savings. The contractor shall submit a preliminary report on or before August 1, 1987, and a final report on or before January 10, 1988.

The Department of General Services, Office of Local Assistance, shall report to the Office of the Legislative Analyst on or before November 1, 1988, on the status of implementation of the recommendations made by the study contractor.

SEC. 38. Sections 1 to 37, inclusive, of this act shall become operative only if Assembly Bill 2926 is enacted and becomes effective on January 1, 1987.

SEC. 39. 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 887

An act to amend Sections Sections 17739.2, 17788, and 33051 of, and to add Sections 17705.5 and 39015.5 to, the Education Code, to amend Section 65974, and to add Sections 53080 and 53081 and Chapter 4.9 (commencing with Section 65995) to Division 1 of Title 7 of, the Government Code, and to amend Section 6217 of the Public Resources Code, relating to school facilities, and making an appropriation therefor.

[Approved by Governor September 18, 1986. Filed with Secretary of State September 18, 1986.]

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

SECTION 1. It is the intent of the Legislature that the state share with local governmental entities the financial burden of school facilities construction, of which the state's share is to be funded from such revenue sources as general obligation bond proceeds and specified tidelands moneys and other revenues as specified in Assembly Bill 2926 of the 1985–86 Regular Session. Subject to the approval by the electorate of state general obligation bond measures, the state intends to stand behind that funding commitment.

SEC. 2. Section 17705.5 is added to the Education Code, to read:

17705.5. (a) The total building cost portion of any state funding for any project approved under this chapter for the new construction or rehabilitation of one or more school facilities shall be reduced by the amount of the local matching share requirement computed under subdivision (b).

(b) Each school district to which funds are allocated pursuant to this chapter for the new construction or rehabilitation of one or more school facilities shall provide, as its share of the cost of the project, an amount equal to the following:

(1) The product of the applicable maximum fee set forth in subdivision (b) of Section 65995 of the Government Code times the number of square feet of new residential, commercial, and industrial construction, as appropriate, for which building permits are issued within the boundaries of the school district from the date on which the board approves the district's application for project funding under this chapter to the date upon which the notice of completion for the project is issued, except that this period shall not exceed the time reasonably necessary for the final apportionment to be issued where the district meets its obligations as an applicant under this chapter. This amount is reduced by the sum of the following:

(A) Any amounts expended by the district during the described period of time for the acquisition of interim classroom facilities pursuant to Chapter 4.9 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code from the proceeds of the fee levied by the district during that period. This amount is limited to the acquisition of interim classroom facilities necessary to temporarily house that number of pupils calculated, under state pupil loading standards, by subtracting the average daily attendance of the district based on a three-year enrollment projection from the average daily attendance of the district based on a five-year enrollment project. Enrollment projections for this purpose shall be made in accordance with this chapter.

(B) Any amounts expended by the district during the described period of time for the local matching share of any project funded under this chapter from the proceeds of the fee levied by the district

during that period.

(C) An amount reflecting the extent to which the district is precluded from collecting those fees by reason of the levy and collection of developer fees by another school district having common territorial jurisdiction.

(c) For purposes of establishing an estimate of the state project costs pursuant to subdivision (a), the board may estimate the local matching share by using the product of the annual average of the amount that would have resulted from the application of the maximum fee to the square footage of all new construction within the district over the three calendar years preceding the district's project application times the number of years over which the board estimates the fee will be collected by the district pursuant to the project to be funded.

(d) Only those project applications for which, prior to January 1, 1987, the board had made the apportionment for site acquisition and working drawings or the final apportionment for construction of the project shall be subject to the provisions of this chapter in effect prior to that date.

(e) The board may provide a loan to any applicant district in an amount equal to all or a part of the district's obligation under subdivision (b), subject to the requirement that the district pay each month to the board, as reimbursement, an amount equal to the proceeds that would be received by the district from the imposition of the fee described under subdivision (b) until the total amount of the loan has been repaid, together with interest computed pursuant to Section 16065.

(f) The board may make the loan specified in subdivision (e) from any funds available from any source, including, but not limited to, those amounts made available pursuant to Section 16065.

(g) All loan and interest amounts paid to the state pursuant to this section shall be available for the use of the board in the funding of projects as otherwise provided under this chapter, including, but not limited to, additional loans.

(h) This section shall remain in effect only until such date as any state general obligation bond measure submitted to the voters of this state for their ratification, which measure includes within its purposes the funding of school facilities construction, fails to receive that ratification, and as of that date is repealed.

SEC. 3. Section 17739.2 of the Education Code is amended to read:

17739.2. Of the moneys reserved for the rehabilitation or modernization of facilities pursuant to Section 17739.1, the board may reserve not more than twenty-five million dollars ($25,000,000) for apportionments to school districts that the board has determined to be in severe need of the apportionment. In addition, of the moneys reserved for the reconstruction or modernization of facilities pursuant to Section 17696.96, the board may reserve up to and including 10 percent for this purpose. In either event, the

apportionment shall be for purposes of site acquisition and the construction of school facilities for school sites that meet one or more of the conditions established by the board, which shall include, but are not limited to, the following:

(a) The school site is not less than 30 years of age.

(b) The school site has accommodated a significant increase in enrollment during the last 10-year period.

(c) Enrollment increases have been accommodated by placing relocatable structures on the school site without expanding the school site.

(d) The school site has inadequate playground space for its enrollment.

(e) The school site has inadequate meal facilities, and those facilities are used for more than three times the number of pupils for which the facilities were originally designed.

SEC. 4. Section 17788 of the Education Code is amended to read:

17788. In addition to any other powers and duties as are granted the board by this chapter, other statutes, or the State Constitution, the board has the power to do each of the following:

(a) Establish any qualifications not in conflict with other provisions of this chapter, as it deems will best serve the purposes of this chapter, for determining the eligibility of school districts and county superintendents of schools to lease portable classrooms under this chapter.

(b) Establish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter requiring such procedure, forms, and information, as it may deem necessary.

(d) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place, portable classrooms on school sites where needed.

(e) Own, have maintained, and lease portable classrooms to qualifying school districts and county superintendents of schools.

(f) From any moneys in the State School Building Aid Fund available for purposes of this chapter, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

(g) Notwithstanding any other provision of law, the board may make available to the Director of General Services up to fifteen million dollars ($15,000,000) annually from any funds available to the board. These funds shall be utilized to purchase portable classrooms for the purposes of this section.

SEC. 5. 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.

(4) In the event that the school district enters into a long-term lease during the period of the waiver or any extension thereof, the school district shall be exempt from the requirements of Article 5 (commencing with Section 39390) of Chapter 3 of Part 33, for the duration of the lease term for that site.

(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, except that a waiver approved pursuant to subdivision (b) may be for up to three years.

SEC. 6. Section 39015.5 is added to the Education Code, to read:

39015.5. The amount of any nonuse payments required of any school district under Section 39015 shall be reduced, without regard

to fiscal year, by the amount of the proceeds, resulting from the lease of district property that is subject to that section, that are expended by the district for the purposes of subdivision (a) or (b) of Section 17705.5, or for the payment of bond debt service costs that are directly related to the actual construction of school facilities.

SEC. 7. The Legislature finds and declares as follows:

(a) Many areas of this state are experiencing substantial development and population growth, resulting in serious overcrowding in school facilities.

(b) Continued economic development requires the availability of the school facilities needed to educate the state's young citizens.

(c) In growing areas of this state, the lack of availability of the public revenues needed to construct school facilities is a serious problem, undermining both the education of the state's children and the continued economic prosperity of California.

(d) For these reasons, a comprehensive school facilities finance program based upon a partnership of state and local governments and the private sector is required to ensure the availability of school facilities to serve the population growth generated by new development.

(e) The Legislature therefore finds that the levying of appropriate fees by school district governing boards at the rates authorized by this act is a reasonable method of financing the expansion and construction of school facilities resulting from new economic development within the district.

SEC. 8. Section 53080 is added to the Government Code, to read:

53080. (a) The governing board of any school district is authorized to levy a fee, charge, dedication, or other form of requirement against any development project, as defined in Section 65928, for new construction within the boundaries of the district, for the construction or reconstruction of school facilities, subject to any limitations set forth in Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7.

(b) No city or county, whether general law or chartered, may issue a building permit for any development absent certification by the appropriate school district of compliance by that development project with any fee, charge, dedication, or other form of requirement levied by the governing board of that school district pursuant to subdivision (a).

(c) In the case of the sale of a manufactured home or mobilehome, the payment of fees to either the school district or other entity shall occur at the time of occupancy pursuant to the sale or lease of the manufactured home or mobilehome pursuant to Section 18080.5 of the Health and Safety Code.

SEC. 9. Section 53081 is added to the Government Code, to read:

53081. A school district that imposes any fees on construction within the school district may use those fees to pay any bonds, notes, loans, leases or other installment agreements including, but not limited to, bonds issued by the authority or loans, leases or other

installment agreements that secure bonds issued by the authority. The authority may issue bonds, in accordance with Section 17883, to finance projects for one or more participating school districts that have imposed fees on construction within the district, which bonds may be payable from and secured by those fees in whole or in part. For this purpose, participating school districts may pledge and assign all or any part of those fees to the authority, and the fees so pledged and assigned to the authority, and any income thereon, may be pledged and assigned by the authority to the payment of bonds issued by the authority to finance projects for those participating school districts. While it is the intent of the Legislature that the amount of financing provided to a participating school district pursuant to this section shall be reasonably related, in the judgment of the authority, to the amount of fees on construction expected by the authority to be derived from or attributable to that participating school district, nothing in this section or any other provision of law shall be deemed to require a proportionate or other relationship between the amount of the financing actually provided to a participating school district pursuant to this section and the amount of fees on construction actually derived from or attributable to that participating school district pursuant to this section or used by the authority to secure or pay any bonds of the authority issued pursuant to this section.

SEC. 10. Section 65974 of the Government Code is amended to read:

65974. (a) For the purpose of establishing an interim method of providing classroom facilities where overcrowded conditions exist, as determined necessary pursuant to Section 65971, and notwithstanding Section 66478, a city, county, or city and county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a combination of both, for classroom and related facilities for elementary or high schools as a condition to the approval of a residential development, if all of the following occur:

(1) The general plan provides for the location of public schools.

(2) The ordinance has been in effect for a period of 30 days prior to the implementation of the dedication or fee requirement.

(3) The land or fees, or both, transferred to a school district shall be used only for the purpose of providing interim elementary or high school classroom and related facilities. If fees are paid in lieu of the dedication of land and those fees are utilized to purchase land, no more land shall be purchased than is necessary for the placement thereon of interim facilities.

(4) The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and be limited to the needs of the community for interim elementary or high school facilities and shall be reasonably related and limited to the need for schools caused by the development. However, the value of the land to be dedicated or the amount of fees to be paid, or both, shall not exceed the amount

necessary to pay five annual lease payments for the interim facilities. In lieu of the dedication of land or the payment of fees, or both, the builder of a residential development may, at his or her option and at his or her expense, provide interim facilities, owned or controlled by the builder, at the place designated by the school district, and at the conclusion of the fifth school year the builder shall, at the builder's expense, remove the interim facilities from that place.

(5) A finding is made by the city council or board of supervisors that the facilities to be constructed from the fees or the land to be dedicated, or both, is consistent with the general plan.

(b) The ordinance may specify the methods for mitigating the conditions of overcrowding which the school district shall consider when making the finding required by paragraph (2) of subdivision (a) of Section 65971.

(c) If the payment of fees is required, the payment shall be made at the time the building permit is issued or at a later time as may be specified in the ordinance.

(d) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

(e) Notwithstanding any other provision of this chapter, contracts entered into or contracts to be entered into pursuant to a School Facilities Master Plan administered by a Joint Powers Authority created under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for a designated community plan area adopted by a city, county, or city and county, whether general law or chartered, on or before September 1, 1986, that requires the payment of a fee, charge, or dedication for the construction of school facilities as a condition to the approval of residential development shall not be subject to the provisions of subdivision (b) of Section 65995. Provided, however, that in determining developer fees under that school facilities master plan, the cost and maximum building area standards for school buildings prescribed by Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code shall apply, and the school district or districts involved are required to have on file with the Office of Local Assistance, and actively pursue in good faith, an application for preliminary determination of eligibility for project funding under that chapter, and shall actively pursue in good faith the establishment of a community capital facilities district or other permanent financing mechanisms to reduce or eliminate developer fees.

Any fees collected or land dedicated after September 1, 1986, pursuant to this section, and not used to avoid overcrowding of the facilities to be built pursuant to the school facilities master plan, shall be subject to disposition in accordance with subdivision (b) of Section 65979.

Fees collected in excess of the limitations set forth in subdivision (b) of Section 65995 for schools constructed under that school facilities master plan shall neither advantage nor disadvantage a

school district's application for project funding under Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code.

SEC. 11. Chapter 4.9 (commencing with Section 65995) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.9. PAYMENT OF FEES, CHARGES, DEDICATIONS, OR OTHER REQUIREMENTS AGAINST A DEVELOPMENT PROJECT

65995. (a) Except for a dedication or fee, or both, required under Section 53080, or pursuant to Chapter 4.7 (commencing with Section 65970), no fee, charge, dedication, or other form of requirement shall be levied by the legislative body of a local agency against a development project, as defined by Section 65928, for the construction or reconstruction of school facilities.

(b) In no event shall the amount of any fee, charge, dedication, or other form of requirement, as described in subdivision (a), including the amount of fees to be paid or the value of land to be dedicated, or both, under Chapter 4.7 (commencing with Section 65970), exceed the following:

(1) One dollar and fifty cents ($1.50) per square foot of covered or enclosed space, in the case of any residential development.

(2) Twenty-five cents ($0.25) per square foot of covered or enclosed space, in the case of any commercial or industrial development. No fee, charge, dedication, or other form of the requirement may be levied by any school district governing board upon any commercial or industrial development unless and until the governing board has first made the finding that the location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and be limited to the needs of the community for elementary or high school facilities and shall be reasonably related and limited to the need for schools caused by the development.

(3) The amount of the limits set forth in paragraphs (1) and (2) shall be annually increased according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting.

(c) Subdivision (a) does not apply during the term of any contract entered into between a subdivider or builder and a school district, city, county, or city and county, whether general law or chartered, on or before the effective date of this chapter that requires the payment of a fee, charge, or dedication for the construction of school facilities as a condition to the approval of residential development. In addition, any development project for which a final map was approved and construction had commenced on or before September 1, 1986, is subject to only the fee, charge, dedication, or other form of requirement prescribed in any local ordinance in existence on that date and applicable to the project.

(d) The Legislature finds and declares that the subject of the financing of school facilities with development fees is a matter of

statewide concern. For this reason the Legislature hereby occupies the subject matter of mandatory development fees and other development requirements for school facilities finance to the exclusion of all local measures on the subject.

(e) Nothing in this section shall be interpreted to limit or prohibit the use of Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 to finance the construction or reconstruction of school facilities.

65996. The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project, as defined by Section 65928 of the Government Code pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code:

(a) Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code.

(b) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code.

(c) Chapter 4.5 (commencing with Section 15450) of Part 10 of the Education Code.

(d) Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code.

(e) Chapter 28 (commencing with Section 17870) of Part 10 of the Education Code.

(f) Chapter 25 (commencing with Section 17785) of Part 10 of the Education Code.

(g) Article 2.5 (commencing with Section 39327) of Chapter 3 of Part 23 of the Education Code.

(h) Article 3 (commencing with Section 42260) of Chapter 7 of Part 24 of the Education Code.

No public agency shall, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code or Division 2 (commencing with Section 66410) of this code, deny approval of a project on the basis of the adequacy of school facilities.

65997. This chapter shall remain in effect only until such date as any state general obligation bond measure submitted to the voters of this state for their ratification, which measure includes within its purposes the funding of school facilities construction, fails to receive that ratification, and as of that date is repealed.

SEC. 12. Section 6217 of the Public Resources Code, as amended by Chapter 1749 of the Statutes of 1984, is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary

Session, and these sums shall be applied to the following obligations in the following order:

(a) To the General Fund the revenue necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for such purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for each of the fiscal years 1984–85, 1985–86, 1986–87, 1987–88, and 1988–89 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this section, by the Secretary of the Resources Agency or his or her designee. During the 1988–89 fiscal year, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

There shall be an advisory panel to the Secretary of the Resources Agency consisting of 13 members, which shall do all of the following:

(1) Identify state needs that might be met through Sea Grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination, establish priorities for those needs, and transmit those needs and priorities to the Legislature not later than January 1 of each year and include them in all announcements of proposals for grants in the following fiscal year.

(2) Review all applications for funding under this section and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on Sea Grant research projects subsequent to their approval and funding under this section.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this section.

The Secretary of the Resources Agency shall appoint the following members of the advisory panel, who shall serve at the pleasure of the secretary:

(A) A representative of the Department of Boating and Waterways.

(B) A representative of the Department of Conservation.

(C) A representative of the Department of Fish and Game.

(D) The Executive Director of the California Coastal Commission or his or her designee.

(E) A representative of the fish industry.

(F) A representative of the aquaculture industry.

(G) A representative of the ocean engineering industry.

(H) A representative of the University of California.

(I) A representative of the California State University.

(10)

(J) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(K) A representative of the State Lands Commission.

The Senate Committee on Rules shall appoint one Member of the Senate to the panel, who shall serve at the pleasure of the Senate Committee on Rules.

The Speaker of the Assembly shall appoint one Member of the Assembly to the panel, who shall serve at the pleasure of the Speaker. This member shall not be of the same political party as the member appointed by the Senate Committee on Rules.

The Secretary of the Resources Agency shall designate one member of the panel to serve as its chairman. Panel members shall serve without compensation.

The Sea Grant research projects selected for state support under this section shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this section is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this section shall be construed to preclude the application for funding of any project that would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the 1984–85 fiscal year the amount of one hundred two million one hundred sixty-eight thousand dollars ($102,168,000), and for each fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each fiscal year of one hundred twenty-five million dollars ($125,000,000).

(f) (1) To the State School Building Lease-Purchase Fund, for each of the fiscal years 1985–86, 1986–87, 1987–88, and 1988–89, the amount of one hundred fifty million dollars ($150,000,000).

(2) For the fiscal years 1984–85, 1985–86, 1986–87, 1987–88, 1988–89, 1989–90, and 1990–91, up to 5 percent of the amounts deposited in the State School Building Lease-Purchase Fund pursuant to this section

or any other provision of law may be spent in accordance with Sections 17785 to 17795, inclusive, of the Education Code (Emergency School Classroom Law of 1979).

(g) To the Energy and Resources Fund each fiscal year, commencing with the 1985–86 fiscal year, the amount of sixty-five million dollars ($65,000,000).

(h) To the Special Account for Capital Outlay, the balance of all revenues in excess of the amount distributed under subdivisions (a), (b), (c), (d), (e), (f), and (g).

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be filed with the Controller and the Controller shall draw his or her warrant against the General Fund in payment of the refund from any appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

SEC. 13. Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of thirty million dollars ($30,000,000) is hereby appropriated to the State Allocation Board from funds in the Federal Trust Fund, created pursuant to Section 16360 of the Government Code, received by the state either from federal oil overcharge funds in the Petroleum Violations Escrow Account, as defined by either Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or by any other federal law, or from federal oil overcharge funds available pursuant to court judgments, for allocation without regard to fiscal year to school districts for the expenses of air-conditioning equipment and insulation materials pursuant to Section 42250.1 of the Education Code.

SEC. 14. (a) Sections 1 to 21, inclusive, of this act shall become operative only if Senate Bill 327 is enacted and becomes effective on January 1, 1987.

(b) As an additional condition, Sections 2 and 19 of this act shall become operative only if the Greene-Hughes School Building Lease Purchase Bond Law of 1986 was ratified by the voters of this state at the general election of November 4, 1986.

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.

CHAPTER 888

An act to amend Sections 17732, 17742, 17742.5, 17749, and 39619.2 of the Education Code, to amend Section 53080 of the Government Code, to amend Section 6217 of the Public Resources Code, and to amend Section 14 of AB 2926 of the 1985–86 Regular Session, relating to school facilities financing, and making an appropriation therefor.

[Approved by Governor September 18, 1986. Filed with Secretary of State September 18, 1986]

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

SECTION 1. Section 17732 of the Education Code is amended to read:

17732. The board shall fix rents for all projects acquired and may change the rents from time to time as may be needed provided the rents shall not in any year exceed the sum of the following:

(a) One dollar ($1).

(b) Any interest earned on funds in the county school lease-purchase fund for the district.

(c) Any unencumbered bond funds of the district.

(d) The net proceeds from the sale or lease of any school buildings or land no longer needed for school purposes, exclusive of proceeds that are used for capital outlay expenditures for school construction that conforms to building area standards established under this chapter, or for the district funding requirement under subdivision (b) of Section 17705.5.

SEC. 2. Section 17742 of the Education Code is amended to read:

17742. (a) The board, by the adoption of rules, shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. Those rules shall define and provide for the method of determining building areas that are to be included in, in whole or in part, or to be excluded from, the area of existing adequate school construction. Any building to which Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3 of Title 2 does not apply shall not be considered adequate school construction for the purpose of determining the maximum total building area per attendance unit.

The board may make exceptions to the provisions of this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

(b) For the purposes of this chapter, the area of adequate school construction existing in an applicant school district does not include, in any school operated on a year-round schedule, any building area that has been in continuous use during the preceding five-year period primarily for the operation of any preschool program or programs.

(c) The board shall provide that building area for covered

unenclosed space shall be counted as one-third of the actual area. For purposes of this subdivision, "covered unenclosed space" includes, but is not limited to, all of the following:

(1) Open-ended or open-sided covered passages, arcades, shelters, porches, and planting areas.

(2) Open-ended or open-sided covered areas that provide shelter between buildings that are 20 feet or more apart.

(3) Overhangs and sun control devices designed and located to function in lieu of covered walks or other shelters.

(4) Mezzanines used for storage purposes.

(d) The board may make exceptions to this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

SEC. 3. Section 17742.5 of the Education Code is amended to read:

17742.5. For purposes of determining the area of adequate school construction existing in an applicant school district pursuant to Section 17742, all portable classrooms, whether owned or leased, shall be included, except as otherwise provided in subdivisions (a), (b), (c), and (d).

(a) Leased portable classrooms acquired by a school district shall not be included in the area of existing adequate school construction until January 1, 1991.

(b) Portable classrooms leased pursuant to Chapter 25 (commencing with Section 17785) shall be excluded from the area of adequate school construction.

(c) The total area of portable classrooms that is in excess of 10 percent of the district's total area and that have been leased or owned by the district for 20 years or more shall be excluded from the area of adequate school construction. At the option of the applicant district, the area calculation may refer instead to the total area of portable classrooms in the attendance area in which the project is located, as of July 1, 1986, that exceeded, as of that date, 10 percent of the total attendance area.

(d) Leased portable classrooms shall not be included in the area of adequate school construction for a period of five years from the date first leased by the district. That exclusion shall be extended by the board for one additional five-year period where the board finds that their continued use of the leased portable classrooms for classroom purposes is justified by additional growth in average daily attendance pursuant to the standards established by this part.

SEC. 4. Section 17749 of the Education Code, as added by Section 22 of SB 327 of the 1985–86 Regular Session, is amended to read:

17749. (a) The board shall require, as a condition of providing funding for any project under this chapter, that, for any facilities for kindergarten or any of grades 1 to 12, inclusive, or for any facilities for special education or continuation high school purposes, at least 30 percent of allowable new building construction for classrooms under the project be utilized for relocatable structures.

(b) The board may reduce the percentage requirement set forth in subdivision (a), as to any applicant, in the event that the quantity of relocatable structures necessary to comply with those requirements is unavailable from the manufacturers of those structures.

(c) The board may reduce or eliminate the percentage requirements set forth in subdivision (a), as to any applicant, where the board finds that special conditions of terrain, climate, or unavailability of space within the attendance area make the use of relocatable structures impractical or inappropriate.

(d) Relocatable structures acquired by an applicant school district up to two years preceding the final approval by the board of the project application submitted by the district shall apply to the percentage requirements set forth in subdivision (a). The cost of acquiring those structures shall apply to fulfilling the district's funding requirement under Section 17705.5.

(e) Whenever at least 10 percent of the allowable new building construction contained in an application is to be utilized for relocatable structures, an additional three square feet of building area shall be allowed.

SEC. 5. Section 39619.2 of the Education Code, as added by Section 30 of SB 327 of the 1985–86 Regular Session, is amended to read:

39619.2. (a) School districts may submit applications to the State Allocation Board for deferred maintenance funding in addition to the amounts specified in Section 39619. In order to be eligible for an additional apportionment, a school district shall do all of the following:

(1) Certify that if an additional apportionment is provided, the district will have matched the additional apportionment amount with an equal amount of district funds that have not been previously used as a match for state aid.

(2) Certify an additional claim of not greater than one-half of 1 percent of the total general funds and adult education funds budgeted by the district for the fiscal year, excluding any amounts budgeted for capital outlay or debt service, but including adult education funds.

(3) Certify that any additional funds will be used to meet deferred maintenance identified in the district's five-year deferred maintenance plan.

(b) The State Allocation Board shall establish rules and regulations regarding the formulas used to apportion additional funds pursuant to this section.

(c) It is the intent of the Legislature that state funds for deferred maintenance be drawn first from excess bond repayments by school districts, revenues pursuant to subdivision (f) of Section 6217 of the Public Resources Code, and proceeds from existing general obligation bonds.

SEC. 6. Section 53080 of the Government Code, as added by

Section 8 of AB 2926 of the 1985–86 Regular Session, is amended to read:

53080. (a) The governing board of any school district is authorized to levy a fee, charge, dedication, or other form of requirement against any development project, as defined in Section 65928, within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities, subject to any limitations set forth in Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7. This fee, charge, dedication, or other form of requirement may be applied only to new commercial and industrial construction, and, as to residential development, to new construction, and other construction to the extent of the resulting increase in habitable area.

(b) No city or county, whether general law or chartered, may issue a building permit for any development absent certification by the appropriate school district of compliance by that development project with any fee, charge, dedication, or other form of requirement levied by the governing board of that school district pursuant to subdivision (a).

(c) In the case of the sale of a manufactured home or mobilehome, the payment of fees to either the school district or other entity shall occur at the time of occupancy pursuant to the sale or lease of the manufactured home or mobilehome pursuant to Section 18080.5 of the Health and Safety Code.

SEC. 7. Section 6217 of the Public Resources Code, as amended by Chapter 1749 of the Statutes of 1984, is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and these sums shall be applied to the following obligations in the following order:

(a) To the General Fund the revenue necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for such purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of

twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for each of the fiscal years 1984–85, 1985–86, 1986–87, 1987–88, and 1988–89 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this section, by the Secretary of the Resources Agency or his or her designee. During the 1988–89 fiscal year, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

There shall be an advisory panel to the Secretary of the Resources Agency consisting of 13 members, which shall do all of the following:

(1) Identify state needs that might be met through Sea Grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination, establish priorities for those needs, and transmit those needs and priorities to the Legislature not later than January 1 of each year and include them in all announcements of proposals for grants in the following fiscal year.

(2) Review all applications for funding under this section and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on Sea Grant research projects subsequent to their approval and funding under this section.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this section.

The Secretary of the Resources Agency shall appoint the following members of the advisory panel, who shall serve at the pleasure of the secretary:

(A) A representative of the Department of Boating and Waterways.

(B) A representative of the Department of Conservation.

(C) A representative of the Department of Fish and Game.

(D) The executive director of the California Coastal Commission or his or her designee.

(E) A representative of the fish industry.

(F) A representative of the aquaculture industry.

(G) A representative of the ocean engineering industry.

(H) A representative of the University of California.

(I) A representative of the California State University.

(J) A representative of a private California institution of higher

education which is participating in the National Sea Grant Program.

(K) A representative of the State Lands Commission.

The Senate Committee on Rules shall appoint one Member of the Senate to the panel, who shall serve at the pleasure of the Senate Committee on Rules.

The Speaker of the Assembly shall appoint one Member of the Assembly to the panel, who shall serve at the pleasure of the Speaker. This member shall not be of the same political party as the member appointed by the Senate Committee on Rules.

The Secretary of the Resources Agency shall designate one member of the panel to serve as its chairman. Panel members shall serve without compensation.

The Sea Grant research projects selected for state support under this section shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this section is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this section shall be construed to preclude the application for funding of any project that would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the 1984–85 fiscal year the amount of one hundred two million one hundred sixty-eight thousand dollars ($102,168,000), and for each fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each fiscal year of one hundred twenty-five million dollars ($125,000,000).

(f) (1) To the State School Building Lease-Purchase Fund, for each of the fiscal years 1985–86, 1986–87, 1987–88, 1988–89, 1989–90, and 1990–91, the amount of one hundred fifty million dollars ($150,000,000).

(2) For the fiscal years 1984–85, 1985–86, 1986–87, 1987–88, 1988–89, 1989–90, and 1990–91, up to 5 percent of the amounts deposited in the State School Building Lease-Purchase Fund pursuant to this section or any other provision of law may be spent in accordance with Sections 17785 to 17795, inclusive, of the Education Code (Emergency School Classroom Law of 1979).

(g) To the Energy and Resources Fund each fiscal year, commencing with the 1985–86 fiscal year, the amount of sixty-five million dollars ($65,000,000).

(h) To the Special Account for Capital Outlay, the balance of all revenues in excess of the amount distributed under subdivisions (a), (b), (c), (d), (e), (f), and (g).

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be filed with the Controller and the Controller shall draw his or her warrant against the General Fund in payment of the refund from any

appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

SEC. 8. Section 14 of AB 2926 of the 1985–86 Regular Session is amended to read:

Sec. 14. (a) Section 1 to 13 inclusive of this act shall become operative only if Senate Bill 327 is enacted and becomes effective on January 1, 1987.

(b) As and additional condition, Sections 2 and 11 of this act shall become operative only if the Greene-Hughes School Building Lease Purchase Bond Law of 1986 was ratified by the voters of this state at the general election of November 4, 1986.

SEC. 9. Sections 6, 7, and 8 of this act shall become operative only if AB 2926 of the 1985-86 Regular Session is enacted and becomes effective January 1, 1987.

SEC. 10. Sections 1, 2, 3, 4, and 5 of this act shall become operative only if SB 327 of the 1985-86 Regular Session is enacted and becomes effective January 1, 1987.

CHAPTER 889

An act to amend Section 17742.5 of the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1986. Filed with Secretary of State September 18, 1986]

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

SECTION 1. Section 17742.5 of the Education Code is amended to read:

17742.5. For purposes of determining the area of adequate school construction existing in an applicant school district pursuant to Section 17742, all portable classrooms, whether owned or leased, shall be included, except as otherwise provided in subdivisions (a), (b), (c), and (d).

(a) Leased portable classrooms acquired by a school district shall not be included in the area of existing adequate school construction until January 1, 1991.

(b) Portable classrooms leased pursuant to Chapter 25 (commencing with Section 17785) shall be excluded from the area of adequate school construction.

(c) The total area of portable classrooms that is in excess of 10 percent of the district's total area and that have been leased or owned by the district for 20 years or more shall be excluded from the area of adequate school construction. At the option of the applicant district, the area calculation may refer instead to the total area of

portable classrooms in the high school attendance area in which the project is located, as of July 1, 1986, that exceeded, as of that date, 10 percent of the total area of the high school attendance area. In the alternative, 75 percent of all portable classrooms in the district that have been leased or owned by the district for 20 years or more shall be excluded from the area of adequate school construction.

(d) Leased portable classrooms shall not be included in the area of adequate school construction for a period of five years from the date first leased by the district. That exclusion shall be extended by the board for one additional five-year period where the board finds that the continued use of the leased portable classrooms for classroom purposes is justified by additional growth in average daily attendance pursuant to the standards established by this part. If the board finds continued use to no longer be justified, it may extend the exclusion for a period of up to two years as necessary to maintain the eligibility of the applicant district for project funding pursuant to this chapter if the board finds that the district has made a good faith effort to obtain that funding in a timely manner.

SEC. 2. Section 1 of this act shall become operative on January 1, 1987. Section 1 shall not become operative, however, in any event, unless Senate Bill 327 is enacted and becomes effective on January 1, 1987.

SEC. 3. It is the intent of the Legislature that Section 1 of this act prevail over any section of Senate Bill 327 or Senate Bill 2068 that amends Section 17742.5 of the Education 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 permit the State Allocation Board to revise administrative criteria and procedures regarding the computation of portable classroom area under the Leroy F. Greene State School Building Lease-Purchase Law of 1976 in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 890

An act to amend Items 2660-101-042 and 2660-101-046 of Section 2.00 of the Budget Act of 1986, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1986. Filed with Secretary of State September 19, 1986]

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

SECTION 1. Item 2660-101-042 of Section 2.00 of the Budget Act of 1986 is amended to read:

2660-101-042—For local assistance, Department of Transportation, payable from the State Highway Account, State Transportation Fund 63,920,000

Schedule:

(a)	10-Aeronautics	200,000
(b)	20-Highway Transportation	286,250,000
(1)	20.30-Local Assistance	(32,000,000)
(2)	Bicycle Lane Account	(750,000)
(3)	Federal Trust Fund	(253,500,000)
(c)	30-Mass Transportation	85,469,000
(d)	40-Transportation Planning	10,932,000
(e)	Amount payable from the Aeronautics Account, State Transportation Fund (Item 2660-101-041)	-200,000
(f)	Amount payable from the Bicycle Lane Account, State Transportation Fund (Item 2660-101-045)	-750,000
(g)	Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-101-046)	-40,997,000
(h)	Amount payable from the Federal Trust Fund (Item 2660-101-890)	-276,984,000

Provisions:

1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of any amounts scheduled within Item 2660-101-042 may be transferred to Item 2660-001-042 or Item 2660-301-042 only under emergency situtations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 30—Mass Transportation. The amount allocated in the 1986–87 fiscal year by the California Transportation Commission for Article XIX, Transit Guideways shall be available for expenditure or reallocation by the California Transportation Commission during the 1986–87, 1987–88 and 1988–89 fiscal years.

SEC. 2. Item 2660-101-046 of Section 2.00 of the Budget Act of 1986 is amended to read:

2660-101-046—For local assistance, Department of Transportation, for transfer to Item 2660-101-042, payable from the Transportation Planning and Development Account, State Transportation Fund 40,997,000

Provisions:

1. For Program 30—Mass Transportation. The amount allocated in the 1986–87 fiscal year by the California Transportation Commission for Transit Capital Improvements shall be available for expenditure or reallocation by the California Transportation Commission during the 1986–87, 1987–88 and 1988–89 fiscal years.

SEC. 3. From funds received by the state from the court judgment in the decision of the United States District Court for the District of Kansas, Case Number MDL-378, dated July 7, 1986, the sum of thirty-five million dollars ($35,000,000) is hereby appropriated to the State Energy Resources Conservation and Development Commission for allocation by the Controller to the Transportation Planning and Development Account in the State Transportation 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:

This act makes an appropriation for the support of state government in augmentation of the Budget Act of 1986. In order that the program funded by this act may be carried out with maximum efficiency, it is necessary that this act take effect immediately.

CHAPTER 891

An act relating to education, and making an appropriation therefor, to take effect immediately.

[Approved by Governor September 19, 1986. Filed with Secretary of State September 19, 1986.]

I am reducing the appropriation contained in Section 1 of Senate Bill No. 759 from $106,725,000 to $53,362,500.

This reduction will provide one-half of full funding for the fiscal year. When the 1987 Legislative Session convenes, it is my intention to seek the remaining one-half of these funds I have always supported full funding for these items and included them in my 1986–87 budget. However, because of the Legislature's failure to complete their own budget process, I am obligated to make these reductions in order to protect California's fiscal integrity. When the Legislature sent me their budget in June, they relied upon an additional $302 million in income. I set aside funding for these programs, awaiting the necessary legislation implementing the Legislature's budget

action. Unfortunately, the Legislature has failed to send me a bill fully funding these programs, thus requiring this action.

With this reduction, I approve Senate Bill No. 759

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of one hundred six million seven hundred twenty-five thousand dollars ($106,725,000) is hereby appropriated from the General Fund to Section A of the State School Fund for allocation by the Superintendent of Public Instruction to school districts, on the basis of the prior year's entitlements plus 1 percent, for any allocation entitlement that can be applied by the districts as unrestricted General Fund income, other than base revenue limits.

SEC. 2. This act makes an appropriation for the usual current expenses of the state within the meaning of Section 8 of Article IV of the California Constitution and shall go into immediate effect.

CHAPTER 892

An act relating to public assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1986. Filed with Secretary of State September 19, 1986.]

I am reducing the appropriation contained in Section 1 of Assembly Bill No. 3216 from $67,637,000 to $33,818,500

The reductions are reflected as follows:

Section 1(a)	$17,637,000 to $8,818,500
	Schedule of Adjustments
Section 1(1)	$10,088,000 to $5,044,000
Section 1(2)	$ 7,549,000 to $3,774,500
Section 1(b)	$50,000,000 to $25,000,000

This reduction will provide one-half of full funding for the fiscal year. When the 1987 Legislative Session convenes, it is my intention to seek the remaining one-half of these funds. I have always supported full funding for these items and included them in my 1986–87 budget. However, because of the Legislature's failure to complete their own budget process, I am obligated to make these reductions in order to protect California's fiscal integrity. When the Legislature sent me their budget in June, they relied upon an additional $302 million in income. I set aside funding for these programs, awaiting the necessary legislation implementing the Legislature's budget action. Unfortunately, the Legislature has failed to send me a bill fully funding these programs, thus requiring this action.

With this reduction, I approve Assembly Bill No. 3216.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of sixty-seven million six hundred thirty-seven thousand dollars ($67,637,000) is hereby appropriated from the General Fund, as follows:

(a) Seventeen million six hundred thirty-seven thousand dollars ($17,637,000) to the State Department of Social Services in augmentation of Item 5180-151-001 of the Budget Act of 1986 (Chapter 186, Statutes of 1986) for local assistance for social services programs in accordance with the following schedule:

(1) Other county social services: 20.30.010-Child Welfare Services Grant: Ten million eighty-eight thousand dollars ($10,088,000).

(2) Specialized adult services: 20.35.220-in-home supportive services: Seven million five hundred forty-nine thousand dollars ($7,549,000).

(b) Fifty million dollars ($50,000,000) to the State Department of Health Services for the 1986–87 fiscal year in augmentation of category (c) of Item 4260-111-001 of Section 2.00 of the Budget Act of 1986 for the medically indigent services program.

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 assure that there is no delay in providing necessary public social services to eligible applicants and recipients, it is necessary that the act go into effect immediately.

CHAPTER 893

An act to amend Section 311 of the Public Utilities Code, relating to the Public Utilities Commission, and making an appropriation therefor.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 311 of the Public Utilities Code is amended to read:

311. (a) The commission, each commissioner, the executive director, and the assistant executive directors may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.

(b) The administrative law judges may administer oaths, examine witnesses, issue subpoenas, and receive evidence, under rules that the commission adopts. The commission, upon scheduling hearings and specifying the scope of issues to be heard in any proceeding involving an electrical, gas, telephone, railroad, or water corporation, or a highway carrier, shall assign an administrative law judge to preside over the hearings, either sitting alone or assisting the commissioner or commissioners who will hear the case.

(c) The evidence in any hearing shall be taken by the administrative law judge designated for that purpose. The administrative law judge may receive and exclude evidence offered in the hearing in accordance with the rules of practice and procedure of the commission.

(d) The administrative law judge shall prepare and file an opinion setting forth recommendations, findings, and conclusions. The opinion of the administratrive law judge shall become the proposed decision and a part of the public record in the proceeding. The proposed decision of the administrative law judge shall be filed with the commission and served upon all parties to the action or proceeding without undue delay, not later than 90 days after the matter has been submitted for decision. The commission shall issue its decision not sooner than 30 days following filing and service of the proposed decision by the administrative law judge. The commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part thereof. Every finding, opinion, and order made in the proposed decision and approved or confirmed by the commission shall, upon that approval or confirmation, be the finding, opinion, and order of the commission.

(e) The commission may specify that the administrative law judge assigned to a proceeding involving an electrical, gas, telephone, railroad, or water corporation, or a highway carrier, initiated by customer or subscriber complaint need not prepare, file, and serve an opinion, unless the commission finds this is required in the public interest in a particular case.

SEC. 2. The sum of eighty-five thousand dollars ($85,000) is hereby appropriated to the Public Utilities Commission for the employment of two additional administrative law judges and one additional clerk during the 1986–87 fiscal year, as follows:

(a) Seventy-two thousand two hundred fifty dollars ($72,250) from the Public Utilities Commission Utilities Reimbursement Account in the General Fund.

(b) Ten thousand two hundred dollars ($10,200) from the Public Utilities Commission Transportation Reimbursement Account in the General Fund.

(c) Two thousand five hundred fifty dollars ($2,550) from the Transportation Rate Fund.

CHAPTER 894

An act to amend Sections 5093.54, 5093.55, and 5093.56 of, and to add Sections 5093.547 and 5093.548 to, the Public Resources Code, relating to wild and scenic rivers.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 5093.54 of the Public Resources Code is amended to read:

5093.54. The following rivers and segments thereof are designated as components of the system:

(a) Klamath River. The main stem from 100 yards below Iron Gate Dam to the Pacific Ocean; the Scott River from the mouth of Shackleford Creek west of Fort Jones to the river mouth near Hamburg; the Salmon River from Cecilville Bridge to the river mouth near Somesbar; the North Fork of the Salmon River from the intersection of the river with the south boundary of the Marble Mountain Wilderness Area to the river mouth; Wooley Creek from the western boundary of the Marble Mountain Wilderness Area to its confluence with the Salmon River.

(b) Trinity River. The main stem from 100 yards below Lewiston Dam to the river mouth at Weitchpec; the North Fork of the Trinity from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth at Helena; New River from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth near Burnt Ranch; South Fork of the Trinity from the junction of the river with State Highway Route 36 to the river mouth near Salver.

(c) Smith River. The main stem from the confluence of the Middle and South Forks to its mouth at the Pacific Ocean; the Middle Fork from its source about three miles south of Sanger Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to the middle of Section 7 T17N R5E; the Middle Fork from the middle of Section 7 T17N R5E to the middle of Section 6 T17N R5E; the Middle Fork from the middle of Section 6 T17N R5E to one-half mile upstream from the confluence with Knopki Creek; the Middle Fork from one-half mile upstream from the confluence with Knopki Creek to the confluence with the South Fork; Myrtle Creek from its source in Section 9 T17N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to the middle of Section 28 T17N R1E; Myrtle Creek, from the middle of Section 28 T17N R1E to the confluence with the Middle Fork; Shelly Creek from its source in Section 1 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Patrick Creek; Kelly Creek

from its source in Section 32 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the Middle Fork; Packsaddle Creek from its source about 0.8 miles southwest of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to the eastern boundary of Section 3 T17N R1E; Packsaddle Creek from the eastern boundary of Section 3 T17N R4E to the northern boundary of Section 3 T17N R4E; Packsaddle Creek from the northern boundary of Section 3 T17N R4E to the confluence with the Middle Fork; East Fork Patrick Creek from its source in Section 10 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with West Fork Patrick Creek; West Fork Patrick Creek from its source in Section 18 T18N R3E as depicted on 1951 15' "Gasquet" topographic map to the confluence with East Fork Patrick Creek; Griffin Creek from its source about 0.2 miles southwest of Hazel View Summit as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the Middle Fork; Knopki Creek from its source about 0.4 miles west of Sanger Peak as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with Middle Fork; Monkey Creek from its source in the northeast quadrant of Section 12 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the northern boundary of Section 26 T18N R3E; Monkey Creek from the northern boundary of Section 26 T18N R3E to the confluence with the Middle Fork; Patrick Creek from the junction of the East and West Forks of Patrick Creek to the confluence with Middle Fork; the North Fork from the California-Oregon boundary to the confluence with an unnamed tributary in the northern quarter Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map; the North Fork from the confluence with an unnamed tributary in northern quarter of Section 5 T18N R2E to the southern-most intersection of eastern boundary Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map; the North Fork from the southern-most intersection of the eastern boundary Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Stony Creek; the North Fork from the confluence with Stony Creek to the confluence with the Middle Fork; Diamond Creek from the California-Oregon state boundary to the confluence with High Plateau Creek; Diamond Creek from the confluence with High Plateau Creek to the confluence with the North Fork; Bear Creek from its source in Section 24 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with Diamond Creek; Still Creek from its source in Section 11 T18N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to the confluence with the North Fork Smith River; North Fork Diamond Creek from the California-Oregon state boundary to the confluence with Diamond Creek; High Plateau Creek from its source in Section 26 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to northern boundary Section 23 T18N R2E; High Plateau Creek from the northern boundary Section 23 T18N R2E to the confluence

with Diamond Creek; the Siskiyou Fork from its source about 0.7 miles southeast of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the South Siskiyou Fork; the Siskiyou Fork from its confluence with the South Siskiyou Fork to the confluence with the Middle Fork; the South Siskiyou Fork from its source about 0.6 miles southwest of Buck Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the Siskiyou Fork; the South Fork from its source about 0.5 miles southwest of Bear Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to Blackhawk Bar; the South Fork from Blackhawk Bar to the confluence with the Middle Fork; Williams Creek from its source in Section 31 T14N R4E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with Eight Mile Creek; Eight Mile Creek from its source in Section 29 T14N R4E as depicted on 1955 USGS 15' "Dillon Mountain" topographic map to the confluence with the South Fork; the Prescott Fork from its source about 0.5 miles southeast of Island Lake as depicted on 1955 USGS 15' "Dillon Mountain" topographic map to the confluence with the South Fork; Quartz Creek from its source in Section 31 T16N R4E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with the South Fork; Jones Creek from its source in Section 36 T16N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the middle of Section 5 T15N R3E; Jones Creek from the middle of Section 5 T15N R3E to the confluence with the South Fork; Hurdygurdy Creek from its source about 0.4 miles southwest of Bear Basin Butte as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the South Fork; Gordon Creek from its source in Section 18 T16N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the South Fork; Coon Creek from the junction of the two-source tributaries in the southwest quadrant of Section 31 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the western boundary Section 14 T16N R2E; Coon Creek from the western boundary Section 14 T16N R2E to the confluence with the South Fork; Craigs Creek from its source in Section 36 T17N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the South Fork; Buck Creek from its source at Cedar Camp Spring as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with the South Fork; Muzzleloader Creek from its source in Section 2 T15N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with Jones Creek; Canthook Creek from its source in Section 2 T15N R2E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to the confluence with South Fork.

(d) Eel River. The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness

Area to the river mouth at Dos Rios; North Fork of the Eel from the Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna.

(e) American River. The North Fork from its source to the Iowa Hill Bridge; the Lower American from Nimbus Dam to its junction with the Sacramento River.

(f) Other rivers which qualify for inclusion in the system may be recommended to the Legislature by the secretary.

SEC. 2. Section 5093.547 is added to the Public Resources Code, to read:

5093.547. (a) (1) The secretary shall study and submit to the Governor and the Legislature reports on the suitability or nonsuitability for addition to the system of rivers or segments thereof which are designated by the Legislature as potential additions to the system. The secretary shall report to the Legislature his or her recommendations and proposals with respect to the designation of a river or segment.

(2) With respect to the rivers and segments thereof designated in Section 5093.548, the secretary shall complete the studies and submit the reports to the Governor and the Legislature not later than January 1, 1989.

(b) Each report, including maps and illustrations, shall show, among other things, the area included within the report, the characteristics which do or do not make the area a worthy addition to the system, the current status of land ownership and use in the immediate environment, and the reasonably foreseeable potential uses of the land and water which will be enhanced, foreclosed, or curtailed if the river or river segment were included in the system.

SEC. 3. Section 5093.548 is added to the Public Resources Code, to read:

5093.548. The following rivers and segments thereof are hereby designated for potential addition to the system:

(a) Carson River. The East Fork from the Hangman's Bridge crossing of State Highway Route 89 to the California-Nevada border.

(b) West Walker River. The main stem from its source to the confluence with Rock Creek near the town of Walker; Leavitt Creek from its source to the confluence with the main stem of the West Walker River.

(c) McCloud River. The main stem from Algoma to the confluence with Lake McCloud; the main stem from McCloud Dam to Shasta Lake; Squaw Valley Creek from the northern boundary of Section 14 T38N R3W to its confluence with the main stem of the McCloud River; except that nothing in this chapter shall prejudice, alter, affect in any way, or interfere with the construction, maintenance, repair, or operation by the Pacific Gas and Electric Company of the existing McCloud-Pit development (FERC 2106) under its license, or prevent Pacific Gas and Electric from constructing a hydroelectric generating facility by retrofitting the

existing McCloud Dam if the operation of the facility does not alter the existing flow regime below the dam.

SEC. 4. Section 5093.55 of the Public Resources Code is amended to read:

5093.55. (a) Other than temporary flood storage facilities permitted pursuant to Section 5093.57, no dam, reservoir, diversion, or other water impoundment facility shall be constructed on any river and segment thereof designated in Section 5093.54; nor shall any water diversion facility be constructed on any such river and segment unless and until the secretary determines that the facility is needed to supply domestic water to the residents of the county or counties through which the river and segment flows, and unless and until the secretary determines that the facility will not adversely affect the free-flowing condition and natural character of the river and segment.

(b) No dam, reservoir, diversion, or other water impoundment facility shall be contructed on any river and segment thereof designated in Section 5093.548 for study by the secretary as a potential addition to the system until January 1, 1990.

SEC. 5. Section 5093.56 of the Public Resources Code is amended to read:

5093.56. No department or agency of the state shall assist or cooperate, whether by loan, grant, license, or otherwise, with any department or agency of the federal, state, or local government, in the planning or construction of any dam, reservoir, diversion, or other water impoundment facility that could have an adverse effect on the free-flowing condition and natural character of (1) the river and segments thereof designated in Section 5093.54 as included in the system, and (2) the rivers and segments thereof designated in Section 5093.548 for study by the secretary as potential additions to the system until January 1, 1990.

CHAPTER 895

An act to amend Section 15715 of, and to add Section 15730.3 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 15715 of the Welfare and Institutions Code is amended to read:

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.

(l) "Multidisciplinary personnel team" means any team of three or more persons who are trained in the prevention, identification and treatment of abuse of elderly or dependent persons and who are qualified to provide a broad range of services related to abuse of elderly persons. The team may include, but shall not be limited to:

(A) Psychiatrists, psychologists, or other trained counseling personnel.

(B) Police officers or other law enforcement agents.

(C) Medical personnel with sufficient training to provide health services.

(D) Social workers with experience or training in prevention of abuse of elderly persons.

SEC. 2. Section 15730.3 is added to the Welfare and Institutions Code, to read:

15730.3. Notwithstanding any provision of law, governing the disclosure of information and records, persons who are trained and qualified to serve on multidisciplinary personnel teams may disclose to one another information and records which are relevant to the prevention, identification, and treatment of abuse of elderly or dependent persons.

Any personnel of the multidisciplinary team that receives such information pursuant to this chapter, shall be under the same obligations and subject to the same confidentiality penalties as the person disclosing or providing that information. All such obtained information shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

CHAPTER 896

An act to amend Section 19702 of the Government Code, relating to state employees.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 19702 of the Government Code is amended to read:

19702. (a) A person shall not be discriminated against under this part because of sex, race, religious creed, color, national origin, ancestry, marital status, or physical handicap unless it can be shown that the particular handicap is job related. For purposes of this article, "discrimination" includes harassment. This subdivision is declaratory of existing law.

(b) As used in this section, "physical handicap" includes, but is not limited to, 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.

(c) As used in this section, "physical handicap" shall not include obesity or any other health impairment caused by such person's obesity.

(d) If the board finds that a person has engaged in discrimination under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 286, 288, 288a, or 289 of the Penal Code, the board, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

(e) If the board finds that discrimination has occurred in violation of this part, the board shall issue and cause to be served on the appointing authority an order requiring the appointing authority to cause the discrimination to cease and desist and to take such action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, and compensatory damages, which, in the judgment of the board, will effectuate the purposes of this part. Consistent with this authority, the board may establish rules governing the award of compensatory damages. The order shall include a requirement of reporting the manner of compliance.

(f) Any person claiming discrimination within the state civil service may submit a complaint which shall be in writing and set forth the particulars of the alleged discrimination, the name of the appointing authority, the persons alleged to have committed the unlawful discrimination and any other information that may be required by the board. The complaint shall be filed with the appointing authority or, in accordance with board rules, with the

board itself.

(g) Complaints must be filed within one year of the alleged unlawful discrimination or the refusal to act in accordance with this section, except that this period may be extended for not to exceed 90 days following the expiration of that year, if a person allegedly aggrieved by unlawful discrimination first obtained knowledge of the facts of the alleged unlawful discrimination after the expiration of one year from the date of its occurrence. Complaints of discrimination in adverse actions or rejections on probation shall be filed in accordance with Sections 19175 and 19575.

(h) When an employee of the appointing authority refuses, or threatens to refuse, to cooperate in the investigation of a complaint of discrimination, the appointing authority may seek assistance from the board. The board may provide for direct investigation or hearing of the complaint, the use of subpoenas or any other action which will effect the purposes of this section.

CHAPTER 897

An act to amend Sections 17240 and 18520 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 17240 of the Revenue and Taxation Code 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.

(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. 2. Section 18520 of the Revenue and Taxation Code is amended to read:

18520. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the tax liability, if any, shown thereon, the return shall be treated as though no designation had been made. If no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund. The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) If a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled "Rare and Endangered Species Preservation Program" 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. 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 be applied in the computation of taxes for taxable years beginning on or after January 1, 1986.

CHAPTER 898

An act to amend Section 20017.97 of the Government Code, and to amend Section 830.3 of the Penal Code, relating to the Public Employees' Retirement Law, and making an appropriation therefor.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 20017.97 of the Government Code, as amended by Chapter 352 of the Statutes of 1986, is amended to read:

20017.97. "State peace officer/firefighter member" also means:

(a) All persons in the Department of Corporations, office of the Controller, and the Public Employees' Retirement System employed on a full-time permanent basis with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), Investigator Trainee (Class Code 8555) and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons employed on a full-time permanent basis with the class title of Sergeant State Fair Police (Class Code 1946), State Fair Police Officer (Class Code 1945), Lottery Agent (Class Code 8602), Senior Investigator, Structural Pest Control Board (Class Code 8821), Investigator Structural Pest Control Board (Class Code 8802), District Representative I and II, Division of Codes and Standards (Class Codes 8960 and 8958), Deputy Registrar of Contractors I and II (Class Codes 8793 and 8792), Polygraph Examiners, California Youth Authority (Class Code 8542), Community Services Consultant I (Class Code 9717), or Parole Service Associate (Class Code 9776) who have been designated as peace officers as defined in Sections 830.2, 830.3, and 830.5 of the Penal Code.

(c) All persons employed on a full-time permanent basis with the class title of Deputy State Fire Marshal Intern (Class Code 8980).

(d) All persons employed on a full-time permanent basis with the class title of Forester I (Class Code 1054).

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date that this section is applicable to the member by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

This section shall not become applicable to any member so designated until such time as a ruling or regulation authorizing the inclusion of persons so designated within the definition of "policeman or fireman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 2. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(g) Inspectors of the food and drug section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(j) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair, pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officer shall be the enforcement of the law as prescribed in that section.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of Section 556 of the Insurance Code.

(*l*) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(m) Investigators of the office of the Controller, provided that the primary duty of any such investigator shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(n) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(o) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(p) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(q) Investigators of the office of the Secretary of State, designated by the Secretary of State, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The Deputy Director for Security, as designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

CHAPTER 899

An act to add Sections 11511.5 and 11513.5 to, the Government Code, relating to administrative law.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 11511.5 is added to the Government Code, to read:

11511.5. (a) On motion of a party or by order of an administrative law judge, the administrative law judge may conduct a prehearing conference. The administrative law judge shall set the time and place for the prehearing conference, and the agency shall give reasonable written notice to all parties.

(b) The prehearing conference may deal with one or more of the following matters:

(1) Exploration of settlement possibilities.

(2) Preparation of stipulations.

(3) Clarification of issues.

(4) Rulings on identity and limitation of the number of witnesses.

(5) Objections to proffers of evidence.

(6) Order of presentation of evidence and cross-examination.

(7) Rulings regarding issuance of subpoenas and protective orders.

(8) Schedules for the submission of written briefs and schedules for the commencement and conduct of the hearing.

(9) Any other matters as shall promote the orderly and prompt conduct of the hearing.

(c) The administrative law judge shall issue a prehearing order incorporating the matters determined at the prehearing conference. The administrative law judge may direct one or more of the parties to prepare a prehearing order.

SEC. 2. Section 11513.5 is added to the Government Code, to read:

11513.5. (a) Except as required for the disposition of ex parte matters specifically authorized by statute, a presiding officer serving in an adjudicative proceeding may not communicate, directly or indirectly, upon the merits of a contested matter while the proceeding is pending, with any party, including employees of the agency that filed the accusation, with any person who has a direct or indirect interest in the outcome of the proceeding, or with any person who presided at a previous stage of the proceeding, without notice and opportunity for all parties to participate in the communication.

(b) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to an adjudicative proceeding, including employees of the agency that filed the accusation, and no person who has a direct or indirect interest in the outcome of the proceeding or who presided at a previous stage of the proceeding, may communicate directly or indirectly, upon the merits of a contested matter while the proceeding is pending, with any person serving as administrative law judge, without notice and opportunity for all parties to participate in the communication.

(c) If, before serving as administrative law judge in an adjudicative proceeding, a person receives an ex parte communication of a type that could not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subdivision (d).

(d) An administrative law judge who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any person desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within 10 days after notice of the communication.

(e) The receipt by an administrative law judge of an ex parte communication in violation of this section may provide the basis for disqualification of that administrative law judge pursuant to subdivision (c) of Section 11512. If the administrative law judge is disqualified, the portion of the record pertaining to the ex parte communication may be sealed by protective order by the disqualified administrative law judge.

CHAPTER 900

An act to add Section 22309 to the Education Code and to amend Sections 12320, 19849.11, and 20202 of, and to add Section 19849.14 to, the Government Code, relating to state government, and making an appropriation therefor.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 22309 is added to the Education Code, to read:

22309. Notwithstanding any other provision of law, the board may retain a bank or trust company to serve as custodian for safekeeping, delivery, securities valuation, investment performance reporting, and other services in connection with investment of the Teachers' Retirement Fund.

SEC. 2. Section 12320 of the Government Code is amended to read:

12320. The Treasurer shall receive and keep in the vaults of the State Treasury or deposit in banks all moneys belonging to the state, not required to be received and kept by some other person. Bonds, and other securities or investments belonging to the state, except those of the Public Employees' Retirement System and the State Teachers' Retirement System, shall be received by the Treasurer and kept in the vaults of the State Treasury or may be deposited by the State Treasurer for safekeeping with any federal reserve bank or any branch thereof, or with any trust company, or the trust department of any state or national bank located in a city designated as a reserve or central reserve city by the Board of Governors of the Federal Reserve System.

SEC. 3. Section 19849.11 of the Government Code is amended to read:

19849.11. The Department of Personnel Administration, subject to such conditions as it may establish, subject to existing statutes governing health benefits and group term life insurance offered through the Public Employees' Retirement System, and subject to all other applicable provisions of state law, may enter into contracts for the purchase of employee benefits with respect to managerial and confidential employees as defined by subdivisions (e) and (f) of Section 3513, and employees excluded from the definition of state employee in subdivision (c) of Section 3513, and officers or employees of the executive branch of government who are not members of the civil service, and supervisory employees as defined in Section 3522.1. Benefits shall include, but not be limited to, group life insurance, group disability insurance, long-term disability insurance, group automobile liability and physical damage insurance,

and homeowners' and renters' insurance.

The department may self-insure the long-term disability insurance program if it is cost-effective to do so.

If it is determined that a self-insured long-term disability insurance program will be established, the department shall provide its cost analysis to the Joint Legislative Budget Committee at least 30 days prior to initiating the establishment of the program.

SEC. 4. Section 19849.14 is added to the Government Code, to read:

19849.14. Effective July 1, 1987, there is hereby established in the State Treasury the Nonrepresented State Employee Long-Term Disability Insurance Fund for the purpose of funding nonrepresented state employee long-term disability insurance benefits. Premiums derived from contributions by the employer or employee shall be credited to the fund. Income of whatever nature, earned on the Nonrepresented State Employee Long-Term Disability Insurance Fund during any fiscal year, shall be credited to the fund. Moneys in this fund are continuously appropriated without regard to fiscal year, notwithstanding Section 13340 of the Government Code. The fund shall be used by the Department of Personnel Administration to pay long-term disability claims and administrative costs.

SEC. 5. Section 20202 of the Government Code is amended to read:

20202. Notwithstanding any other provision of law, the board may retain a bank or trust company to serve as custodian for safekeeping, delivery, securities valuation, investment performance reporting, and other services in connection with investment of the Public Employees' Retirement Fund. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated, without regard to fiscal years, for payments which shall be made upon warrants drawn by the Controller upon demands made by the board. Upon demand of the board, warrants shall be drawn for the purpose of making payments by electronic fund transfers.

SEC. 6. It is the finding of the Legislature that specific changes to the current custody services provided by the Treasurer are necessary. This finding is a result of the study required by Chapter 1755 of the Statutes of 1984, which mandated a review of custody services provided to the Public Employees' Retirement System and State Teachers' Retirement System. The study reviewed current custody services and identified methods to improve those services. It documented the need to make comprehensive changes to meet the changing custodial service needs of the funds resulting from the significant changes in their investment environment. The study recommended the services be provided by a private sector agent custodian, rather than the state making a major investment in the development of its own system.

CHAPTER 901

An act to amend, add, and repeal Section 21602 of, and to add Section 21207 to, the Public Utilities Code, relating to aviation, and making an appropriation therefor.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 21207 is added to the Public Utilities Code, to read:

21207. Whenever a political subdivision owning and operating an airport constructs or implements a noise mitigation project at the airport, including, but not limited to, the installation of noise monitoring equipment at any time after the project has been included within the aeronautics program in the state transportation improvement program and prior to funding of the project, the department shall, when funding for the project becomes available, reimburse the political subdivision for the eligible costs of the project, without interest, not to exceed the amount of the funds made available to the department or the political subdivision's actual eligible costs, whichever is lower. Reimbursement under this section shall be made only if the political subdivision completes the project to the standards approved by the department including, but not limited to, bidding and contracting procedures and the project is approved by the commission. This section does not apply to any project for which state funding is not specifically made available.

SEC. 2. Section 21602 of the Public Utilities Code is amended to read:

21602. (a) Subject to the terms and within the limits of special appropriations made by the Legislature, the department may render financial assistance by grant or loan, or both, to any political subdivision or political subdivisions jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by the political subdivision or subdivisions, if the financial assistance has been shown by public hearing to be essential to the proper development or maintenance of a statewide system of airports. Financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

(b) The department shall establish within the Special Deposit Fund an account or accounts pursuant to Section 16370 of the Government Code for the management of funds for grants and loans to political subdivisions pursuant to this chapter and may transfer funds from the Aeronautics Account in the State Transportation Fund to the account or accounts for these purposes.

(c) This section shall remain in effect only until July 1, 1987, and

as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 3. Section 21602 is added to the Public Utilities Code, to read:

21602. (a) Subject to the terms and within the limits of special appropriations made by the Legislature, the department may render financial assistance by grant or loan, or both, to any political subdivision or political subdivisions jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by the political subdivision or subdivisions, if the financial assistance has been shown by public hearing to be appropriate to the proper development or maintenance of a statewide system of airports. Financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

(b) There is, in the Aeronautics Account in the State Transportation Fund, a subaccount for the management of funds for loans to local entities pursuant to this chapter. All funds for airport loans in the Special Deposit Fund are hereby transferred to the subaccount. With the approval of the Department of Finance, the department shall deposit in the subaccount all money received by the department from repayments of and interest on existing and future airport loans including, but not limited to, the sums of five hundred forty thousand dollars ($540,000) in repayments from the General Fund due in July 1987, and July 1988, and may, upon appropriation, transfer additional funds from the Aeronautics Account in the State Transportation Fund to the subaccount as the department deems appropriate. Interest on money in the subaccount shall be credited to the subaccount as it accrues.

(c) Notwithstanding Section 13340 of the Government Code, the money in the subaccount created by subdivision (b) is hereby continuously appropriated to the department without regard to fiscal years for purposes of loans to political subdivisions for airport purposes.

(d) This section shall become operative on July 1, 1987.

CHAPTER 902

An act to add Chapter 15 (commencing with Section 67360) to Part 40 of Division 5 of Title 3 of the Education Code, relating to student athletes.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Chapter 15 (commencing with Section 67360) is added to Part 40 of Division 5 of Title 3 of the Education Code, to read:

CHAPTER 15. STUDENT ATHLETES

67360. (a) Except as provided in subdivision (b), no person shall give, offer, promise, or attempt to give any money or other thing of value to any particular student athlete or member of the immediate family of the student athlete for either of the following purposes:

(1) To induce, encourage, or reward the student athlete's application, enrollment, or attendance, at a public or private institution of postsecondary education in order to have the athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution.

(2) To induce, encourage, or reward the student athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

No person shall aid and abet any act described in this subdivision.

(b) This section does not apply to any public or private institution of postsecondary education or to any officer or employee of that institution when the institution, officer, or employee is acting in accordance with an official written policy of that institution which is in compliance with the bylaws of the National Collegiate Athletic Association; or to any intercollegiate athletic awards approved or administered by the student athlete's institution; or to any other student of that institution; or to any member of the immediate family of the student athlete.

(c) For purposes of this section, the following definitions apply:

(1) "Immediate family" means the student athlete's spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any of those persons, or guardian of any of those persons.

(2) "Student athlete" means a student at a public or private institution of postsecondary education who engages in, is eligible to engage, or may be eligible to engage, in, any intercollegiate sporting event, contest, exhibition, or program, or an individual who has applied, is eligible to apply, or may be eligible to apply in the future to a public or private institution of postsecondary education.

(d) Except as provided in subdivision (b), any person who engages in conduct knowing or having reason to know that such conduct is in violation of subdivision (a) shall be subject to a civil penalty not to exceed ten thousand dollars ($10,000), or three times the amount given, offered, or promised to the student athlete or immediate family member of the athlete, whichever is greater. The district attorney of any county in which a violation occurs shall

enforce this chapter.

67361. (a) Except as provided in subdivision (b), no student athlete or member of his or her immediate family, as defined by subdivision (c) of Section 67360, shall solicit or accept any money or other thing of value as an inducement, encouragement, or reward, the giving of which is in violation of subdivision (a) of Section 67360.

No person shall aid and abet any act described in this subdivision.

(b) This section does not apply to any student athlete who receives any money or other thing of value from a public or private institution or officers or employees of that institution, offered in accordance with an official written policy of that institution, which is in compliance with the bylaws of the National Collegiate Athletic Association; or from any other student of that institution; or from any member of the immediate family of the student athlete; nor shall this section apply to any student athlete who receives any intercollegiate athletic award approved or administered by that institution.

(c) Except as provided in subdivision (b), any person who engages in conduct knowing or having reason to know that such conduct is in violation of subdivision (a) shall be subject to a civil penalty not to exceed one thousand dollars ($1,000) or an amount equal to the amount accepted by the student athlete or immediate family member, whichever is greater. The district attorney of any county in which a violation occurs shall enforce this chapter.

SEC. 2. No reimbursement is required 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 903

An act to add Section 99232.6 to the Public Utilities Code, relating to transportation.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 99232.6 is added to the Public Utilities Code, to read:

99232.6. Notwithstanding Section 99232, the County of San Diego may also file claims under Article 8 (commencing with Section 99400) for an unincorporated area not served by the San Diego Metropolitan Transit Development Board or the North San Diego County Transit Development Board if all of the following conditions

are met:

(a) The San Diego Association of Governments, at a public hearing for which 15 days' notice has been given pursuant to Section 6061 of the Government Code, finds that the transit needs of that unincorporated area can be met by using an amount less than the apportionment for that unincorporated area.

(b) The county board of supervisors concurs in that finding.

(c) An equal amount from the apportionment for the unincorporated area served by the San Diego Metropolitan Transit Development Board has been claimed for transit capital projects that are mutually agreed upon by the county and San Diego Metropolitan Transit Development Board.

A claim for a transit capital project pursuant to subdivision (c) may be made by the county or the San Diego Metropolitan Transit Development Board, or jointly, as specified by mutual agreement.

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 904

An act to amend Section 1280.7 of the Insurance Code, relating to cooperative corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 1280.7 of the Insurance Code is amended to read:

1280.7. This chapter and the other provisions of this code, except as set forth in this paragraph, shall not apply to or affect unincorporated interindemnity or reciprocal or interinsurance contracts between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code whose members consist solely of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration. The provisions of Chapter 3 (commencing with Section 330) of Part 1 of Division 1 shall apply to unincorporated interindemnity or reciprocal or interinsurance contracts. Such unincorporated

interindemnity or reciprocal or interinsurance contracts shall comply with all of the following requirements:

(a) Each participating member shall enter into and, concurrently therewith, receive an executed copy of a trust agreement, which shall govern the collection and disposition of all funds of the interindemnity arrangement.

The trust agreement shall, as a minimum, contain provision for all the following matters:

(1) An initial trust corpus of not less than ten million dollars ($10,000,000), which corpus shall be a trust fund to secure enforcement of the interindemnity arrangement. The average initial contribution to such corpus shall be not less than twenty thousand dollars ($20,000) per member participating in the interindemnity arrangement. No such interindemnity arrangement shall become operative until the requisite minimum reserve trust fund has been established by such participating members.

(2) The reserve trust fund created by such trust agreement shall be administered by a board of trustees of three or more members, all of whom shall be physicians and surgeons licensed in California, participating members in the interindemnity arrangement, and elected biennially or more frequently by at least a majority of all members participating in the interindemnity arrangement.

(3) The board of trustees shall be the custodian of all funds of the interindemnity arrangement, and all such funds shall be deposited in such bank or banks and savings and loan associations in California as the board may designate, and each such account shall require two or more signatories for withdrawal of funds. The authorized signatories shall be appointed by the board and shall be physicians and surgeons licensed in California and participating members in the interindemnity arrangement. Each signatory on such accounts shall maintain, at all times while empowered to draw on such funds, for the benefit of the interindemnity arrangement, a bond against loss suffered through embezzlement, mysterious disappearance, holdup or burglary or other loss issued by a bonding company licensed to do business in California in a penal sum of not less than one hundred thousand dollars ($100,000).

(4) All funds held in trust which are in excess of current financial needs shall be invested and reinvested from time to time, under the direction of the board of trustees, in eligible securities, as defined in Section 16430 of the Government Code, in portfolios of eligible securities, in exchange traded financial futures contracts or exchange traded options contracts to hedge investment in those eligible securities, or in certificates of deposits or time deposits issued by banks and savings and loan associations in California duly insured by instrumentalities of the United States government.

Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made by, or forbearances

of, any trust established by a cooperative corporation providing indemnity pursuant to this section.

(5) The income earned on the corpus of the trust fund shall be the source for the payment of the claims, costs, judgments, settlements, and costs of administration contemplated by such interindemnity arrangement, and to the extent such income is insufficient for such purposes, the board of trustees shall have the power and authority to assess participating members for all amounts necessary to meet the obligations of such interindemnity arrangement in accordance with the terms thereof. Where necessary in the best interests of the interindemnity arrangement, the board of trustees may make assessments to increase the corpus of the trust fund in accordance with the terms of such interindemnity arrangement. Any assessment levied against a member shall be the personal obligation of such member. Any person who obtains a final judgment of recovery for medical malpractice against a member of such interindemnity arrangement shall have, in addition to any other remedy, the right to assert directly all rights to indemnification which the judgment debtor has under the interindemnity arrangement. Such final judgment shall be a lien on the reserve trust fund to secure payment of such judgment, limited to the extent of the judgment debtor's rights to indemnification.

Any change in the assessment agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by certified mail. Within 45 days after the posted date on the certified letter containing the ballot, each member who decides to vote on the assessment change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballots. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the assessment agreement.

If a change in the assessment agreement is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed assessment change by certified mail posted at least 45 days prior to the meeting. Seventy-five percent of those present in person or by proxy at the meeting shall be required to effectuate any change in the assessment agreement.

(6) Each participating member shall be covered by such interindemnity arrangement for not less than one million dollars ($1,000,000) for each occurrence of professional negligence, with the terms and conditions of such coverage to be specified in the trust agreement, except that such interindemnity arrangement may provide participating members with an aggregate limit for all payments on behalf of such member and may provide participating members with less than one million dollars ($1,000,000) of such coverage for each occurrence of professional negligence if the interindemnity arrangement obtains for the benefit of such

members reinsurance of excess limits coverage in an amount which when added to the coverage provided by such interindemnity arrangement would equal not less than one million dollars ($1,000,000) for each occurrence of professional negligence.

Any change in the coverage provided for professional negligence by the trust agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by certified mail. Within 45 days after the posted date on the certified letter containing the ballot, each member who decides to vote on the coverage change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballot. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the coverage provided for professional negligence by the trust agreement.

If any such change is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed coverage change by certified mail posted at least 45 days prior to the meeting. An affirmative vote of 75 percent of the membership present at the meeting, in person or by proxy, shall be required to effectuate any such change, except that at least 50 percent of the entire membership must agree to any such change.

(7) Withdrawal of all, or any portion of, the corpus of the reserve trust fund shall be upon the written authorization signed by at least two-thirds of the members of the board of trustees.

(8) The board of trustees shall cause both of the following to be furnished to each member participating in such interindemnity arrangement, and to be filed with the Commissioner of Corporations:

(A) Within 90 days after the end of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such year, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for such year, in each case accompanied by a certificate signed by a firm of independent certified public accountants selected by the board of trustees indicating that such firm has conducted an audit of such statements in accordance with generally accepted auditing standards and indicating the results of such audit.

(B) Within 45 days after the end of each of the first three quarterly periods of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such quarterly period, a statement of the revenue and expenditures of the interindemnity arrangement and a statement of the changes in corpus of the reserve trust for such period, in each case accompanied by a certificate signed by a majority of the members of the board of trustees to the effect that such statements were prepared from the official books and records of the interindemnity arrangement.

(C) In addition to the statements required to be filed pursuant to this paragraph, the board of trustees shall annually file with the

Commissioner of Corporations an authorization for disclosure to the commissioner of all financial records pertaining to the interindemnity arrangement. For the purpose of this clause, the authorization for disclosure shall also include the financial records of any association, partnership, or corporation that has management or control of the funds or the operation of the interindemnity arrangement.

(9) The trust agreement shall also provide for all the following:

(A) In the event a participating member who is in full compliance with the trust agreement, including the payment of all outstanding dues and assessments, dies, the initial contribution made by the decedent shall be returned to such member's estate or designated beneficiary; the indemnity coverage shall continue for the benefit of the decedent's estate in respect of occurrences during the time the decedent was a participating member; and neither the person receiving the repayment of the initial contribution nor the decedent's estate shall be responsible for any assessments levied following the death of the member.

(B) A participating member who is then in full compliance with the trust agreement and who has reached the age of 65 and who has retired completely from the practice of medicine may elect to retire from the interindemnity arrangement, in which case such member shall not be responsible for assessments levied following the date notice of retirement is given to the trust. Following such retirement, the indemnity coverage shall continue for the benefit of such member in respect of occurrences prior to the time such member retired from the interindemnity arrangement. Such retired member's initial contribution shall be repaid 10 years from the date the notice of retirement is received by the trust, or such earlier date as specified in the trust agreement.

(C) During any period in which a participating member, who is then in full compliance with the trust agreement, has, in the judgment of the board of trustees, become unable to perform any and every duty of his or her regular professional occupation, such participating member may request disability status in accordance with the terms of the interindemnity arrangement. During any period of disability status, such member shall not be responsible for assessments levied during such period and, where so provided in the interindemnity arrangement, all indemnity coverage, both as to defense and payment of claims, shall terminate as to occurrences arising out of the actions of such participating member during the period of disability status.

(D) In the event a participating member fails to pay any assessment when the same is due, the board of trustees may terminate such person's membership status if such failure to pay is not cured within 30 days from the date the assessment was due. Upon such termination the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate

as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(E) In the event a participating member fails to comply with any provision of the trust agreement (other than a failure to pay assessments when due), the board of trustees may terminate such person's membership status if such failure to comply is not cured within 60 days from the date such person is notified of the failure; provided that before such membership status may be terminated such person shall be given the right to call for a hearing before the board of trustees (to be held before the expiration of such 60-day period), at which hearing such person shall be given the opportunity to demonstrate to the board of trustees that no failure to comply has occurred or, if it has occurred, that it has been cured. Upon such termination, the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(F) A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate his or her membership in the interindemnity arrangement. Upon such voluntary termination, such person may further elect to cease being responsible for future assessments, or to continue to pay such assessments until such time as such person's initial contribution is repaid. In the event such person elects to cease being responsible for future assessments, the indemnity coverage shall thereupon terminate and such person shall either be responsible for his or her own exposure for acts committed while a participating member in the interindemnity arrangement, or he or she may request the interindemnity arrangement to purchase or provide, at the cost of such person, coverage for such exposure. The initial contribution of such person shall be repaid on the 10th anniversary of the date such contribution was made. In the event such person elects to continue to be responsible for assessments, the indemnity coverage shall continue in respect of occurrences prior to the date of such voluntary termination, and the initial contribution of such person shall be repaid at such time as the board of trustees is satisfied that (i) there are no claims pending against such person in respect of occurrences during the time such person was a participating member, and (ii) the statute of limitations has run on all claims which might be asserted against such person in respect of occurrences during such time. In

no event shall such repayment be made earlier than the 10th anniversary of the date such contribution was made.

Any person whose membership in an interindemnity arrangement is involuntarily terminated for failure to pay assessments or who voluntarily terminates that membership and elects to be responsible for his or her own exposure for acts committed while a participating member, shall not be eligible to become a member of any other interindemnity arrangement for a period of five years after the termination unless, on the effective date of the act which amended this section during the 1985–86 Regular Session, the person had on file with the Department of Corporations a copy of a subscription agreement signifying the person's agreement to transfer membership or had paid a minimum of ten thousand dollars ($10,000) to another interindemnity arrangement which was granted a permit to organize prior to January 1, 1985.

(G) The board of trustees shall have the right to terminate the membership of a participating member where the board of trustees determines that such termination is in the best interests of the interindemnity arrangement even though such person has complied with all of the provisions of the trust agreement. Such a termination may be effected only if at least two-thirds of the members of the board of trustees indicate in writing their decision so to terminate. If the board of trustees proposes so to terminate a member, such member shall have the right to call a special meeting of all participating members in accordance with the rules established by the board of trustees for the purpose of voting on whether or not such member shall be so terminated. Such member shall not be so terminated if at least two-thirds of the participating members present, in person or by proxy, indicate that such member should not be so terminated. In the event a member is so terminated, such person shall elect either: (i) to request the return of his or her initial contribution, in which case the same shall be repaid and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 30 days to enable such person to assume his or her own defense; or (ii) to release all rights to the return of such initial contribution, in which case the indemnity coverage shall continue for the benefit of such member in respect of occurrences during the time such person was a participating member and such person shall have no responsibility for assessments levied following such termination. The interindemnity arrangement may provide that if a member is so terminated and fails to make the election set forth herein within 45 days of the date of notification of termination of membership, such participating member shall be deemed to have elected to release all rights to a return of his or her initial contribution, in which case

indemnity coverage shall apply for the benefit of the member with respect to occurrences occurring prior to the termination.

(10) Each member participating in such interindemnity arrangement shall have the right of access to, and the inspection of, the books and records of the interindemnity arrangement, which rights shall be similar to the corporate shareholders pursuant to Section 3003 of the Corporations Code, or, commencing January 1, 1977, Sections 1600 to 1605, inclusive, of the Corporations Code.

(11) There shall be a meeting of all members participating in the interindemnity arrangement, at least annually, after not less than 10 days' written notice has been given, at a location reasonably convenient to such participating members and on a date which is within a reasonable period of time following the distribution of the annual financial statements.

(12) Notwithstanding Sections 12453 and 12703 of the Corporations Code, on any matter to be voted upon by the membership at either a regular or special meeting, a member shall have the right to vote in person or by written proxy filed with the corporate secretary prior to such meeting. No such proxy shall be made irrevocable, nor be valid beyond the earliest of the following dates:

(A) The date of expiration set forth in the proxy; or

(B) The date of termination of membership; or

(C) Eleven months from the date of execution of the proxy; or

(D) Such time as may be specified in the bylaws, not to exceed 11 months.

(13) The interindemnity arrangement, and the reserve trust fund incident thereto, shall be subject to termination at any time by the vote or written consent of not less than three-fourths of the participating members.

(b) The board of trustees shall cause to be recorded with the office of the county recorder of the county of the principal place of business of the interindemnity arrangement within 90 days following the end of each fiscal year, a written statement, executed by a majority of the board of trustees under penalty of perjury, reciting that each member participating in such interindemnity arrangement was mailed a copy of the annual financial statement and quarterly audit certificates by first-class mail, postage prepaid, required pursuant to paragraph (8) of subdivision (a).

(c) Each person solicited to become a participating member in such an interindemnity arrangement shall receive in writing, at least 48 hours prior to the execution by the prospective participating member of the trust agreement, and at least 48 hours prior to the payment by such prospective participating member of any consideration in connection with such interindemnity arrangements, the following information:

(1) A copy of the articles of incorporation and bylaws of the cooperative corporation and a copy of the form of trust agreement to be executed by such prospective participating member.

(2) A disclosure statement regarding the interindemnity arrangement. The disclosure statement shall contain on the first or cover page a legend in boldface type reading substantially as follows:

"THE INTERINDEMNITY ARRANGEMENT CONTEMPLATED HEREIN PROVIDES THAT PARTICIPATING MEMBERS HAVE UNLIMITED PERSONAL LIABILITY FOR ASSESSMENTS WHICH MAY BE LEVIED TO PAY FOR THE PROFESSIONAL NEGLIGENCE LIABILITIES COVERED BY THIS ARRANGEMENT. NO ASSURANCES CAN BE GIVEN REGARDING THE AMOUNT OR FREQUENCY OF ASSESSMENTS WHICH MAY BE SO LEVIED, OR THAT ALL PARTICIPATING MEMBERS WILL MAKE TIMELY PAYMENT OF THEIR ASSESSMENTS TO COVER THE PROFESSIONAL NEGLIGENCE LIABILITY OF A PARTICIPATING MEMBER."

(3) The disclosure statement shall further contain all of the following information:

(A) The amount, nature and terms and conditions of the professional negligence coverage available under the interindemnity arrangement.

(B) The amount of the initial contribution required of each participating member and a statement of the minimum number of members and aggregate contributions required for the interindemnity arrangement to commence.

(C) The names, addresses and professional experience of each member of the board of trustees.

(D) The requirements for admission as a participating member.

(E) A statement of the services to be provided under the interindemnity arrangement to each participating member.

(F) A statement regarding the obligation of each member to pay assessments and the consequences for failure to do so.

(G) A statement of the rights and obligations of a participating member in the event such member dies, retires, becomes disabled or terminates participation for any reason, or the interindemnity arrangement terminates for any reason.

(H) A statement regarding the claims administration services to be provided, indicating whether these services will be delegated to others pursuant to a contractual arrangement.

(I) A statement of the voting rights of the members and the circumstances under which participation of such a member may be terminated and under which the interindemnity arrangement may be terminated.

(J) If any statement of estimated or projected financial information for the interindemnity arrangement is used, a statement of such estimation or projection and a summary of the data and assumptions upon which it is based.

(4) A list with the names and addresses of all then current participating members of the interindemnity arrangement.

(d) No officer, director, trustee, employee or member of the interindemnity arrangement or the cooperative corporation shall

receive, or be entitled to receive, any payment, bonus, salary, income, compensation or other benefit whatsoever, either from the reserve trust fund or the income therefrom or from any other funds of the interindemnity arrangement or the members thereof based on the number of participating members, or the amount of the reserve trust fund or other funds of the interindemnity arrangement.

(e) A peer review committee or committees shall be established by the trust agreement to review the qualifications of any physician and surgeon to participate or continue to participate in such interindemnity arrangement, and to review the quality of medical services rendered by any participating member, as well as the validity of medical malpractice claims made against participating members. Any physician and surgeon, prior to becoming a participating member of such interindemnity arrangement, shall be reviewed and approved by a majority of the members of such peer review committee. No peer review committee, or any of its members, shall be liable for any action taken by such committee in reviewing the qualifications of a physician and surgeon to participate or continue to participate, or the quality of medical services rendered, or the validity of a medical malpractice claim, unless it is alleged and proved that such action was taken with actual malice.

(f) The following are hereby defined as unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements provided for in this section.

(1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised thereby, or making any misleading representation or any misrepresentation as to the financial condition of such interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce such member to lapse, forfeit, or surrender his or her rights to indemnification under such interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(2) Making or disseminating or causing to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to such cooperative corporations or interindemnity arrangements, or with respect to any person in the conduct of such cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue,

deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(3) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, such cooperative corporations or interindemnity arrangements.

(4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before the public any false statement of financial condition of such a cooperative corporation or interindemnity arrangement with intent to deceive.

(5) Making any false entry in any book, report, or statement of such a cooperative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such a cooperative corporation or interindemnity arrangement is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to such a cooperative corporation or interindemnity arrangement in any book, report, or statement of such a cooperative corporation or interindemnity arrangement.

(6) Making or disseminating, or causing to be made or disseminated, before the public in this state, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that such a cooperative corporation or interindemnity arrangement is a member of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This paragraph shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or of the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of Chapter 1 of this part.

(7) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.

(B) Failing to acknowledge and act promptly upon communications with respect to claims arising under such interindemnity arrangements.

(C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under such

interindemnity arrangements.

(D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.

(E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(F) Compelling participating members to institute litigation to recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by such participating members when such participating members have made claims under such interindemnity arrangements for amounts reasonably similar to the amounts ultimately recovered.

(G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application for membership in such an interindemnity arrangement.

(H) Attempting to settle claims on the basis of an interindemnity arrangement which was altered without notice to the participating member.

(I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.

(J) Making known to claimants a practice of such cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(K) Delaying the investigation or payment of claims by requiring a claimant, or his or her physician, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.

(M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, for the denial of a claim or for the offer of a compromise settlement.

(N) Directly advising a claimant not to obtain the services of an attorney.

(O) Misleading a claimant as to the applicable statute of limitations.

(g) Notwithstanding any contrary provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the

Corporations Code, it shall not be necessary to hold a meeting of members of such cooperative corporation for the purpose of electing directors if the bylaws provide such election may be held by certified mail balloting. Mail balloting may also be used in conjunction with a meeting at which directors are to be elected and all mail ballots shall count toward establishing a quorum for such meeting for the limited purpose of the issues set forth in the mail ballot. Directors shall be elected as follows:

(1) The candidates receiving the highest number of votes, up to the number of directors to be elected, by a specified date at least 45 days but not later than 60 days after the ballots are first mailed to the members (or the date of a meeting of members held in conjunction therewith) shall be elected.

(2) In the event that no candidate receives a majority of the votes cast for a vacant office, a runoff election shall be held between the two candidates receiving the highest number of votes cast. The runoff election shall be held at least 45 days but not more than 60 days after the ballots for such election are mailed. In the event that there is more than one office for which no candidate receives a majority of the votes cast, the candidates for the runoff shall be twice the number of vacant offices, and shall be those persons who received the highest number of votes therefor.

Such certified mail ballots shall be kept on file for a period of three months after all vacant board positions have been filled, and shall be subject to inspection at any reasonable time by any members of the cooperative corporation.

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

The enactment of impending federal tax legislation which may disrupt the stability of existing interindemnity arrangements makes it necessary that this act, which will help the situation, take effect immediately.

CHAPTER 905

An act to amend Sections 82038.5, 86104, 86107, 86114, 86116, and 90002 of, and to add Section 86118 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 82038.5 of the Government Code is amended to read:

82038.5. (a) "Lobbying firm" means any business entity, including an individual contract lobbyist, which meets either of the following criteria:

(1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

(2) The business entity receives or becomes entitled to receive any compensation, 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 on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action.

(b) No business entity is a lobbying firm by reason of activities described in Section 86300.

SEC. 1.5. Section 86104 of the Government Code is amended to read:

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 lobbying services, the following:

(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.

SEC. 2. Section 86107 of the Government Code is amended to read:

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 20 days after ceasing all activity which required registration.

(b) If any change occurs in any of the information contained in a lobbyist certification or if the lobbyist terminates all 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.

SEC. 3. Section 86114 of the Government Code is amended to read:

86114. (a) Lobbying firms shall file periodic reports containing all of the following:

(1) The full name, address, and telephone number of the lobbying firm.

(2) 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.

(3) The total amount of payments received for lobbying services during the period.

(4) A periodic report completed and verified by each lobbyist in the lobbying firm pursuant to Section 86113.

(5) 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.

(6) If the lobbying firm subcontracts with another lobbying firm for lobbying services:

(A) The full name, address, and telephone number of the subcontractor.

(B) The name of the person for whom the subcontractor was retained to lobby.

(C) The total amount of all payments made to the subcontractor.

(7) 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.

(8) Any other information required by the commission consistent with the purposes and provisions of this chapter.

(b) In addition to the information required by subdivision (a), lobbying firms which qualify pursuant to paragraph (2) of subdivision (a) of Section 82038.5 shall also report the name and title of each partner, owner, officer, and employee of the lobbying firm who, on at least five separate occasions during the reporting period, 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.

SEC. 4. Section 86116 of the Government Code is amended to read:

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, in the first report and in any subsequent periodic report as necessary to reflect changes in the information previously reported, 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.

(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) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113.

(g) Each activity expense of the filer. A total of all activity

expenses of the filer shall be included.

(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, 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.

(i) 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.

(j) Any other information required by the commission consistent with the purposes and provisions of this chapter.

SEC. 5. Section 86118 is added to the Government Code, to read:

86118. The original and one copy of each report required by Sections 86114 and 86116 of the Government Code shall be filed with the Secretary of State.

SEC. 6. 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 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. 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 906

An act to amend Sections 1596.865 and 1597.59 of, and to add Section 1597.44 to, the Health and Safety Code, relating to care facilities.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 1597.44 is added to the Health and Safety Code, to read:

1597.44. (a) Subject to the conditions in subdivision (b), a small family day care home may provide care to six or fewer infants at one time. Whenever more than four infants are being provided care at one time, each of the following conditions must be met:

(1) One assistant 18 years or older is present in addition to the licensee.

(2) The licensee has completed 2 units in the study of preventive health care practices that reduce the spread of infectious diseases, provided the course of study, as approved by the State Director of Social Services, is available within a reasonable distance, as determined by the director.

(3) The facility meets fire safety standards applicable to large family day care homes pursuant to Section 1597.46 and subdivision (a) of Section 13143, except that the standard for the ratio of caregivers to infants for purposes of this section shall be one to three.

(b) The State Director of Social Services shall authorize the County of San Diego to operate a pilot project, pursuant to subdivision (a), not to extend beyond January 1, 1991. By September 30, 1989, the department shall submit a report to the Legislature on

the operation of the pilot project. The report shall include, but not be limited to, data on the number of small family day care homes that provide care to more than four infants and a recommendation whether to expand subdivision (a) statewide.

SEC. 2. Section 1596.865 of the Health and Safety Code is amended to read:

1596.865. (a) It is the intent of the Legislature to encourage any person who provides child care in a child day care facility licensed pursuant to this chapter, Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) to have the following elementary health care training:

(1) Cardiopulmonary resuscitation.

(2) Pediatric first aid.

(3) Preventive health practices, including food preparation and sanitation practices, that reduce the spread of infectious diseases.

(b) The State Department of Education shall convene a task force composed of representatives of the following: three representatives of the American Academy of Pediatrics, one public health nurse, one county director of maternal and child health, one health educator, one representative of the child resource and referral programs, two representatives of family day care operators, one representative of publicly funded child care centers, two representatives of major regional associations representing privately operated child care centers, two representatives of parents with children in child care facilities, one representative of the Governors' Child Development Programs Advisory Committee, and one representative of the State Department of Social Services. The task force members shall be appointed by the Superintendent of Public Instruction.

The task force shall, by September 30, 1987, survey existing child health care training curricula, materials, and dissemination efforts, develop a child health care curriculum and materials to meet the intent of subdivision (a), and determine the most efficient cost-effective method of delivering this training in a readily accessible manner to licensed child care providers across the state, the feasibility of requiring this training as a condition of licensure for child day care facilities licensed as described in subdivision (a), reasonable time periods in which the training shall be acquired by persons who are in licensed facilities, how often child care providers shall update their training, the type of other coursework which may substitute for this training, and the feasibility of requiring this training for family day care operators.

(f) The State Department of Education may contract with an independent consultant to coordinate the efforts of this task force and shall provide secretarial support.

(g) The State Department of Education may contract with an independent consultant for the period of October 1, 1987, to March 31, 1988, to make the training program operational.

SEC. 3. Section 1597.59 of the Health and Safety Code is amended 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 traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code.

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. 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 907

An act to add Sections 11011.11, 11011.13, 11011.15, 11011.17, and 11011.19 to the Government Code, relating to state property.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 11011.11 is added to the Government Code, to read:

11011.11. (a) The Legislature finds and declares as follows:

(1) There is no complete inventory of all state real property holdings containing information on present use, characteristics of the holding, or its value.

(2) Both the Auditor General and the California Commission on State Government Organization and Economy have found that there is state-owned real property which is presently unused and should be declared surplus, and that there is little or no internal or external review to determine if lands could be declared surplus.

(3) The Auditor General, in a report entitled "California Could Earn Millions of Dollars from Better Management of its Excess Land," also found that the state is losing money by retaining property which is not being used. This deprives the General Fund of revenues which could be generated by the sale or transfer of surplus land.

(b) It is the intent of the Legislature to improve the state's management of its real property holdings by delegating to the Department of General Services the responsibility for maintaining a central inventory of the state's real property holdings.

(c) It is also the intent of the Legislature that the staff of the Office of Space and Real Estate Services of the Department of General Services be utilized for the implementation of Section 11011.15.

SEC. 2. Section 11011.13 is added to the Government Code, to read:

11011.13. As used in Section 11011.15, "agency" means any state agency, department, division, bureau, board, commission, and the California State University. "Agency" does not mean the Legislature, the University of California, or the Department of Transportation.

SEC. 3. Section 11011.15 is added to the Government Code, to read:

11011.15. (a) The Department of General Services shall maintain a complete and accurate statewide inventory of all real property held by the state and categorize that inventory by agency and geographical location. The inventory shall include all information furnished by agencies pursuant to subdivision (b) and the University of California pursuant to Section 11011.17. The initial inventory shall be completed by January 1, 1989, and shall be updated annually.

(b) Each agency, by July 1, 1988, shall furnish the department, in the format specified by the department, a record of each parcel of real property which it possesses. Each agency shall update its real property holdings, reflecting any changes, by July 1 of each year. This record shall include, but is not limited to, all of the following information:

(1) The location of the property within the state and the county, the size of the property, including its acreage, and any other relevant property data which the department deems necessary. This latter requirement shall be uniformly applied to all agencies.

(2) The date of the acquisition of the real property, if available.

(3) The manner in which the property was acquired and the purchase price, if available.

(4) A description of the current uses of the property and any projected future uses during the next three years. In the case of land held for state park use whose projected use would exceed a

three-year period, the projected use and estimated date of construction or use shall be furnished.

(5) A concise description of each major structure located on the property.

(6) The estimated value of real property declared surplus by the agency and real property where the agency has not identified a current or potential use.

(c) The department shall prepare a separate report by January 1, 1989, and shall update the report annually of all properties declared surplus or properties with no identified current or projected use. The report shall be made available upon request.

SEC. 4. Section 11011.17 is added to the Government Code, to read:

11011.17. (a) The University of California, by July 1, 1988, shall furnish the department, in a uniform format specified by the department, a record of each parcel of real property which it possesses. The University of California shall update its record of real property holdings, reflecting any changes, by July 1 of each year. This record shall include the following information:

(1) The location of the property within the state and the county, the size of the property, including its acreage and any other relevant property data.

(2) The date of acquisition of the real property, if available.

(3) The manner in which the property was acquired and the purchase price, if available.

(4) A description of the current uses of the property and any projected future uses.

(5) A concise description of each major structure on the property.

(6) The estimated value of real property declared surplus by the University of California. Where an actual appraisal is available it may be used, but it is not required.

(b) For property used or possessed by the University of California as a campus, medical center, agricultural experiment station, part of the Natural Reserve System or government owned national laboratory, the record shall only include information required by paragraphs (1), (4), (5), and (6).

SEC. 5. Section 11011.19 is added to the Government Code, to read:

11011.19. (a) The Auditor General shall conduct a review of the department to ensure full compliance with Section 11011.15. The Auditor General shall prepare a report of the review by January 1, 1990.

(b) The report prepared by the Auditor General pursuant to subdivision (a) shall be provided to each chairperson and committee member of the appropriate committees of the Legislature, as determined by the Chief Clerk of the Assembly and the Secretary of the Senate. The Auditor General shall provide the appropriate number of copies as specified by the Chief Clerk of the Assembly and the Secretary of the Senate for their distribution.

CHAPTER 908

An act to amend Section 22952 of, and to add Sections 22952.1 and 22952.2 to, the Government Code, relating to state employees.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 22952 of the Government Code is amended to read:

22952. The State of California, through the Department of Personnel Administration, and the Trustees of the California State University and the Regents of the University of California, directly or through the Department of Personnel Administration, may contract, upon negotiations with employee organizations, with carriers for dental care plans for employees and annuitants, provided the carriers have operated successfully in the area of dental care benefits for a reasonable period prior to contracting for such plans, or have a contract to provide benefit plans under Section 22790 of the Government Code, as amended by Chapter 403 of the Statutes of 1979. Dental care plans provided under this authority may be self-funded by the employer if it is cost-effective to do so.

No contract for any dental care plan may be entered into unless funds for a dental care plan contract are appropriated by the Legislature in a subsequently enacted statute. Notwithstanding Section 13340, where a dental-care plan is self-funded, funds used for that plan shall be considered continuously appropriated.

SEC. 2. Section 22952.1 is added to the Government Code, to read:

22952.1. Funds appropriated for self-funded dental care plans for state employees other than employees of the California State University, shall be maintained in the State Employees' Dental Care Fund which is hereby created in the State Treasury. Moneys in this fund shall be used by the Department of Personnel Administration to pay dental claims and other administrative costs. Income of whatever nature earned on the moneys in the State Employees' Dental Care Fund during any fiscal year shall be credited to the fund. Notwithstanding Section 13340, moneys in this fund are continuously appropriated in accordance with this section and Section 22952.

SEC. 3. Section 22952.2 is added to the Government Code, to read:

22952.2. Funds appropriated for self-funded dental care plans for employees of the California State University, shall be maintained in the California State University Employees' Dental Care Fund, which is hereby created in the State Treasury. Moneys in this fund shall be used by the Trustees of the California State University to pay dental claims and other administrative costs.

Income of whatever nature earned on the moneys in the California State University Employees' Dental Care Fund during any fiscal year shall be credited to the fund. Notwithstanding Section 13340, moneys in this fund are continuously appropriated in accordance with this section and Section 22952.

CHAPTER 909

An act to add Section 25503.7 to the Health and Safety Code, relating to railroads.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 25503.7 is added to the Health and Safety Code, to read:

25503.7. (a) When any railroad car containing any hazardous material or hazardous substance remains within the same railroad facility or business facility for more than 30 days, or a business knows or has reason to know that any railroad car containing any hazardous material or hazardous substance will remain at the same railroad facility or business facility for more than 30 days, the hazardous material or hazardous substance is deemed stored at that location and subject to the requirements of this chapter.

(b) Notwithstanding Section 25510, a business handling hazardous materials or hazardous substances which are stored in a manner subject to subdivision (a) shall immediately notify the administering agency whenever a hazardous material or hazardous substance is stored in a railroad car.

CHAPTER 910

An act to amend Sections 8606 and 8664.5 of, and to add Article 1.5 (commencing with Section 8612) to Chapter 3 of Part 3 of Division 6 of, the Fish and Game Code, to add Section 15335.1 to the Government Code, and to add Sections 31125, 31125.5, 31125.6, 31126, 31127 to the Public Resources Code, relating to commercial fishing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. This act shall be known and may be cited as the Nearshore Gill and Trammel Net Fishery Mitigation Act.

SEC. 2. The Legislature finds that the use of gill and trammel nets to take fish in shallow nearshore waters in certain areas north of Point Conception has and is adversely impacting nontarget marine bird and mammal populations and has resulted in conflicts with other fisheries.

The Legislature further finds that existing and future restrictions on the use of these nets has an adverse economic impact on the fishermen involved.

The Legislature declares its intent to provide further necessary protections for marine bird and mammal populations north of Point Conception while establishing programs for the development of alternative fishing gear, monitoring activities, conducting studies, and making low-interest loans to enable affected gill and trammel net fishermen to continue to fish in a manner which will reduce or eliminate impacts on nontarget species and other fisheries.

The Legislature further finds and declares that the State Coastal Conservancy, working with the Department of Fish and Game and the Department of Commerce, has the necessary resources to establish a low-interest loan program for the purchase of alternative fishing gear. The State Coastal Conservancy's mandate and experience in mediating conflicts among competing interests within California's coastal zone will be extremely beneficial to the development of a program that will assist California's commercial fishing industry, which is a priority coastal dependent use, and protect California's unique marine resources, which enhance coastal tourism and recreational industries of this state.

SEC. 3. Section 8606 of the Fish and Game Code is amended to read:

8606. (a) The commission shall encourage the development of new types of commercial fishing gear and new methods of using existing commercial fishing gear by approving permits to be issued by the department for that development or use, subject to the following restrictions:

(1) A permit is subject to those conditions that the commission deems necessary to ensure the proper utilization and protection of the marine resources.

(2) A permit is valid for a period of not more than one year, but may be renewed until the Legislature approves or disapproves the permanent use or type of gear.

(3) A permit shall be revoked if the continued use would have an adverse impact on any resource.

(b) A permit may authorize the use of new types of commercial

fishing gear and new methods of using existing gear otherwise prohibited by this code and may authorize that use or the use of existing gear in areas otherwise closed to that use by this code.

SEC. 3.5. Article 1.5 (commencing with Section 8612) is added to Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 1.5. Development of Alternative Fishing Gear

8612. (a) Consistent with Section 8606 and subdivision (f) of Section 8664.5, the department shall develop a program for developing and monitoring the use of alternative fishing methods and gear in those nearshore areas where gill and trammel net closures exist in order to protect marine birds and mammals.

(b) On or before 30 days after the effective date of the act adding this section, the department, the State Coastal Conservancy, and the Department of Commerce shall meet with representatives of the commercial fishing organizations selected by the director that have been affected by restrictions on the use of gill and trammel nets within nearshore waters to assist the fishing industry in developing alternative fishing gear proposals and monitoring the use of alternative fishing gear in those nearshore areas where gill and trammel net closures exist. The agencies shall explain the necessary permit requirements, loan application procedures, employment training opportunities, and any other requirements and available funding sources that may be necessary to carry out a program for developing and monitoring the use of alternative fishing methods and gear in those nearshore areas where gill and trammel net closures exist. The agencies shall seek comments and recommendations from the fishing industry representatives in order to develop a program that is not only effective and efficient, but also meaningful to the fishing industry.

8613. (a) The department shall review proposals on new types of commercial fishing gear and new methods of using existing commercial fishing gear within those areas where gill and trammel net closures exist and within 30 days recommend an experimental gear permit be approved by the commission pursuant to Section 8606 for those applicants that can demonstrate that they are able to meet any conditions of the permit that ensure the proper utilization and protection of marine resources. The department shall determine the level of monitoring that will be required and the amount of funding necessary.

(b) If more than one experimental gear permit is issued for use within a given nearshore area or port, the department shall work with the affected fishermen, the department's regional staff, the University of California Sea Grant marine advisory program, the National Marine Fisheries Services, and any interested persons in developing the most cost-effective and efficient monitoring program for these experimental permits that will ensure protection for nontarget species, including marine birds and mammals, without

frustrating the purposes for the experimental permit.

(c) If the commission does not approve the permit, the department shall return the application to the applicant with an explanation of any necessary steps to be taken in order to reapply for an experimental gear permit.

(d) If the application requests a loan for the alternative method or gear that is proposed to be used, the department shall forward the application, if it is approved by the commission and a permit is issued by the department, to the State Coastal Conservancy. The State Coastal Conservancy shall review the application pursuant to Section 31125.5 of the Public Resources Code.

8614. (a) Notwithstanding subdivision (b) of Section 8606, an experimental permit for new types of commercial fishing gear and new methods of using existing commercial fishing gear within those areas where gill and trammel net closures exist shall be renewed annually unless any of the following occur:

(1) The Legislature approves or disapproves the permanent use or type of gear.

(2) The permit is revoked pursuant to subdivision (c) of Section 8606.

(3) The permit has been suspended or revoked for violation of any of the terms or conditions of the permit.

(b) If an experimental permit is revoked and the permittee has an outstanding loan with the State Coastal Conservancy under Section 31125 of the Public Resources Code for the purchase of alternative fishing gear, the unpaid balance of the loan shall be excused from the date of revocation if the permittee returns the collateral fishing gear to the department, in which case the department shall take possession of the alternative fishing gear for the State Coastal Conservancy. Any alternative gear received by the department due to a revocation of an experimental permit may be resold by the State Coastal Conservancy at fair market value to other experimental permit applicants or holders under this article.

(c) If the Legislature approves the permanent use or type of gear and the commercial fishing permit or the license for the permanent use or type of gear is revoked, the permittee shall be responsible for any remaining balance on any outstanding loan with the State Coastal Conservancy for the purchase of alternative fishing gear.

8615. (a) (1) Within the first six months of operation pursuant to an experimental permit and after a reasonable and concerted effort to utilize a new type of commercial fishing gear, the permittee may request that the experimental permit be terminated if it is economically infeasible to harvest the target species or the alternative gear is impractical, inefficient, or ineffective within the fishery or regional area selected. The permittee shall submit copies of all landing receipts, a financial statement setting forth the expenses and any revenue generated by the operation of the alternative fishing gear, and a brief summary from any observers, monitors, and employees regarding the operation of the alternative

fishing gear to the department. The department shall review the permittee's submitted material.

(2) If the submitted material supports the claim that the new type of commercial fishing gear utilized by the permittee was either inefficient, impractical, or ineffective, or that it was not economically feasible for the permittee to harvest the target species, the department shall terminate the experimental permit and submit its findings to the State Coastal Conservancy. Upon receiving the department's report, the State Coastal Conservancy may terminate the permittee's loan. If the permittee returns the collateral fishing gear to the department, the State Coastal Conservancy shall reimburse the permittee from the loan fund for the principal amount of the loan repaid by the permittee. The department shall take possession of the fishing gear for the State Coastal Conservancy, which may resell the gear as set forth in subdivision (b) of Section 8615.

(3) If the information does not support the claim made by the permittee, the department may still terminate the experimental permit. The State Coastal Conservancy may terminate the remaining balance on the loan if the permittee returns the collateral fishing gear to the department, but the State Coastal Conservancy shall not reimburse the permittee for previous loan payments.

(b) After six months of operation pursuant to an experimental permit, any request to terminate the permit for the reasons set forth in subdivision (a) shall include, in addition to the information required by paragraph (1) of subdivision (a), an explanantion of the changed circumstances or reasons that cause the new type of gear to become inefficient, impractical, or ineffective or economically infeasible to harvest the target species after the initial six-month operating period. The department shall review the request and make its recommendation to the State Coastal Conservancy following the procedures set forth in subdivision (a). If the department terminates the experimental gear permit, the State Coastal Conservancy may terminate the remaining balance on the loan if the permittee returns the collateral fishing gear to the department, but it shall not reimburse the permittee for any loan payments received. The department shall take possession of the alternative fishing gear for the State Coastal Conservancy, which may resell the gear as set forth in subdivision (b) of Section 8615.

SEC. 4. Section 8664.5 of the Fish and Game Code is amended to read:

8664.5. (a) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in those portions of District 17 between a line extending 220° magnetic from the mouth of Waddel Creek in Santa Cruz County and a line extending due west from Yankee Point, Carmel Highlands, in Monterey County in waters 15 fathoms or less in depth at mean lower low water and between a line extending 225° magnetic from Franklin Point in San Mateo County and a line extending 220° magnetic from the mouth of Waddel Creek

in Santa Cruz County in waters 25 fathoms or less in depth at mean lower low water.

(b) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in that portion of District 18 north of a line extending due west from Point Sal in Santa Barbara County in waters 15 fathoms or less in depth at mean lower low water. However, the director may issue an order allowing the use of gill or trammel nets in all, or any part, of the area of District 18 south of Point San Luis in San Luis Obispo County for a specified period if the director determines, on the basis of written findings, that the use of those nets will not result in any accidental take of sea otters. The director shall immediately rescind any order issued pursuant to this subdivision if the director determines that further use of those nets may result in the accidental entanglement or take of sea otters.

(c) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in any of the following portions of District 18:

(1) Between a line extending 180° magnetic from the mouth of Pico Creek in San Luis Obispo County to a line extending due west from Cape San Martin in Monterey County (within the California Sea Otter Game Refuge) in waters 20 fathoms or less in depth at mean lower low water.

(2) Between a line extending 180° magnetic from Pfeiffer Point in Monterey County to a line extending due west from Point Sur in Monterey County (within the California Sea Otter Game Refuge) in waters 20 fathoms or less in depth at mean lower low water.

(d) Notwithstanding Sections 8693 and 8724, any person using gill nets or trammel nets in those portions of District 17 from a line extending 220° magnetic from the mouth of Waddel Creek in Santa Cruz County to a line extending due west from Yankee Point, Carmel Highlands (within the California Sea Otter Game Refuge) in Monterey County in waters between 15 fathoms and 20 fathoms in depth at mean lower low water shall comply with the following requirements in order to ensure adequate monitoring of the fishing effort to protect sea otters:

(1) Prior to the use, the person shall notify the department that gill nets and trammel nets will be set in the area.

(2) The person shall give adequate notification, as determined by the department, to the department at its office in Monterey or Morro Bay at least 24 hours prior to each fishing trip to ensure full compliance and cooperation with the monitoring program. The department may require that an authorized monitor be on board the vessel. The department shall determine whether on board, at sea, or shoreside monitoring is appropriate. If the authorized monitor is not on board the fishing vessel, the fishing vessel operator and the authorized monitor shall make every effort to remain in radio contact if the radio equipment is made available to the monitor.

(3) To ensure the effectiveness of the monitoring program, gill nets and trammel nets may be set or pulled only between one-half hour after sunrise and one-half hour before sunset.

(4) A permit may be revoked and canceled pursuant to Section 8681 for failure to comply with the department's notification and monitoring requirements.

(e) Notwithstanding Sections 8693 and 8724, any person using gill nets or trammel nets in those portions of District 18 north of a line extending due west from the mouth of Santa Rosa Creek in San Luis Obispo County (within the California Sea Otter Game Refuge) in waters between 15 fathoms and 20 fathoms in depth at mean lower low water shall comply with the following requirements in order to ensure adequate monitoring of the fishing effort to protect sea otters:

(1) Prior to the use, the person shall notify the department that gill nets and trammel nets will be set in the area.

(2) The person shall give adequate notification, as determined by the department, to the department at its offices in Monterey or Morro Bay at least 24 hours prior to each fishing trip to ensure full compliance and cooperation with the monitoring program. The department may require that an authorized monitor be on board the vessel. The department shall determine whether on board, at sea, or shoreside monitoring is appropriate. If the authorized monitor is not on board the fishing vessel, the fishing vessel operator and the authorized monitor shall make every effort to remain in radio contact if radio equipment is made available to the monitor.

(3) To ensure the effectiveness of the monitoring program, gill nets and trammel nets may be set or pulled only between one-half hour after sunrise and one-half hour before sunset.

(4) A permit may be revoked and canceled pursuant to Section 8681 for failure to comply with the department's notification and monitoring requirements.

(f) (1) If the director determines that the use of gill or trammel nets is having an adverse impact on any population of any species of seabird, marine mammal, or fish, the director shall issue an order prohibiting or restricting the use, method of use, size, or materials used in the construction of either or both types of those nets in all or any part of District 10 or 17, or in all or any part of District 18 north of a line extending due west from Point Conception in Santa Barbara County for a specified period. The order shall take effect no later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary.

(2) Within one year of the effective date of the act amending this section enacted in the 1986 portion of the 1985–86 Regular Session of the Legislature, the director shall report to the Legislature on the effectiveness of the department's monitoring program in protecting sea otters within the California Sea Otter Game Refuge. Following the submission of the report the director may permanently prohibit the use of gill nets and trammel nets within any portion or within the entire area of the California Sea Otter Game Refuge designated in

subdivisions (d) and (e) if the director determines the use of gill or trammel nets is having an adverse impact on sea otters as provided in paragraph (1).

(g) For purposes of this section, "adverse impact" means either of the following:

(1) The danger of irreparable injury to, or mortality in, any population of any species of seabird, marine mammal, or fish which is occurring at a rate that threatens the viability of the population as a direct result of the use of gill nets or trammel nets.

(2) The impairment of the recovery of a species listed as an endangered species or threatened species pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3) or a species of seabird, marine mammal, or fish designated as fully protected under this code, as a direct result of the use of gill nets or trammel nets.

(h) This section does not apply to any gill net with meshes 3½ inches or less in length in any portion of District 18 between Yankee Point in Monterey County and Point Sal in Santa Barbara County.

(i) The department shall explore, as alternatives to the use of gill and trammel nets, what fishing gear and methods may be used to take California halibut in areas closed pursuant to this section. The department shall consider issuing experimental gear permits pursuant to Section 8606 for authorizing the use of the alternative fishing gear and methods in the California halibut fishery in those areas.

SEC. 5. Section 15335.1 is added to the Government Code, to read:

15335.1. (a) The Department of Commerce and the Small Business Advocate of the Business, Transportation and Housing Agency shall work with the Department of Fish and Game and the commercial fishing industry on available state and federal economic development loan programs, community block grant programs, loan guarantee programs, and federal Small Business Administration loan programs to determine their applicability to the financing of alternative fishing gear where restrictions or closures on the use of gill and trammel nets exist.

(b) The State Coastal Conservancy and the Department of Fish and Game shall coordinate with the Department of Commerce, the Small Business Advocate, and the commercial fishing industry on the implementation of the alternative fishing method and gear program set forth in Article 1.5 (commencing with Section 8612) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code.

(c) The Department of Commerce and the Department of Fish and Game shall assist small business fishing operations, local marketing associations, and representative commercial fishing organizations in determining what existing state and federal loan programs may be available to assist in the financing of alternative fishing gear.

SEC. 6. Section 31125 is added to the Public Resources Code, to read:

31125. (a) The conservancy shall allocate four hundred fifty thousand dollars ($450,000) from moneys available to or received by it to carry out the alternative fishing gear loan program in Article 1.5 (commencing with Section 8612) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code and Section 31125.5.

(b) On and after the effective date of the act adding this section and before January 1, 1988, the money allocated by subdivision (a) shall be allocated in the order prescribed in the following schedule:

(1) At least one hundred fifty thousand dollars ($150,000) shall be allocated for loans for experimental fishing gear to permittees within nearshore areas north of a line due west from Point Sur in Monterey County where gill nets and trammel nets are restricted in order to protect marine birds and mammals.

(2) After the allocation in paragraph (1) is made, at least two hundred thousand dollars ($200,000) shall be allocated for loans for experimental fishing gear to permittees within nearshore areas between a line due west from Point Sal in Santa Barbara County to a line due west from Point Sur in Monterey County where gill nets and trammel nets are restricted in order to protect marine birds and mammals.

(3) After the allocations in paragraphs (1) and (2) are made, at least one hundred thousand dollars ($100,000) shall be allocated for loans for experimental fishing gear to permittees within nearshore areas north of a line due west of Point Conception in Santa Barbara County where gill nets and trammel nets cannot be used in order to protect marine birds and mammals.

(c) On or after January 1, 1988, the allocation schedule in subdivision (b) is inoperative, and that subdivision has no force or effect.

(d) No new loans shall be executed under the loan program on or after January 1, 1989.

SEC. 7. Section 31125.5 is added to the Public Resources Code, to read:

31125.5. The conservancy may finance the purchase of any alternative fishing gear that is necessary for an experimental gear permit approved by the Fish and Game Commission pursuant to Section 8606 of the Fish and Game Code. The funds appropriated for this purpose shall be used exclusively to finance the development and operation of alternative fishing gear for use in nearshore waters within the coastal zone, as defined by Section 30103, north of Point Conception where restrictions or closures on the use of gill and trammel nets exist.

(b) Loan applications received by the conservancy shall have proof of an experimental gear permit approved by the Fish and Game Commission.

(c) (1) Funds appropriated for the program under this section shall be used as part of a low-interest loan program to encourage the

development and operation of alternative fishing gear for gill and trammel net fishing operators who have been precluded from fishing in nearshore waters due to restrictions or closures on the use of gill and trammel nets.

(2) An applicant for a loan under this section from funds allocated under paragraph (2) of subdivision (b) of Section 31125 for experimental gear use in District 18, where there are restrictions on the use of gill nets and trammel nets under Section 8664.5 of the Fish and Game Code, shall submit with the application proof of issuance of an experimental gear permit for use within an area north of a line due west of Point Sal in Santa Barbara County and proof of landing of halibut taken in an area between a line due west of Point Sal in Santa Barbara County to a line due west of Point Sur in Monterey County between January 1, 1981, and June 1, 1986. Proof of halibut landings shall be made by submission by the applicant of landing receipts issued under Section 8011 of the Fish and Game Code.

(3) The Legislature finds that, since the alternative fishing gear and methods may be unfamiliar to and untested in California fisheries, the information derived from the use of alternative fishing gear and methods is extremely beneficial to the protection of marine and fishery resources and the development of an economically viable fishing industry. The Legislature further finds that the applicant commercial fishing operator will be assuming some risks in utilizing an unproven and untested fishing method in order to eliminate or restrict impacts on other nontarget marine and fishery resources.

(4) The annual interest on the loan shall not exceed 6 percent per annum, and the term of the loan shall not exceed seven years. The conservancy, with input from the Department of Fish and Game regarding the type of gear that will be used, its familiarity to California fisheries, and the amount of new information the operation of the gear will provide to the management of the fishery and the protection of other marine resources, shall balance the public benefits to be gained from the implementation of an experimental fishing gear permit against the economic risks to the commercial fishing operator in determining the interest payments, period of the loan, and the assurance of repayment or collateral.

(5) The conservancy shall review the loan application and notify the applicant that the conservancy is reviewing the alternative fishing gear loan request. The notification shall include the terms of the proposed loan. The conservancy shall negotiate the final terms and conditions of the loan with the applicant.

(6) The loan application may include a request that the loan include all reasonable and necessary administrative costs that the conservancy incurs in processing and administering the loan application.

SEC. 8. Section 31125.6 is added to the Public Resources Code, to read:

31125.6. (a) On or before 60 days after the effective date of the act adding this section, the conservancy shall enter into a two-agency

agreement with the Department of Fish and Game on the assignment, storage, possession, and selling of collateral fishing gear pursuant to Article 1.5 (commencing with Secion 8612) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code.

(b) On or before 60 days after the effective date of the act adding this section, the Department of Commerce shall enter into a two-agency agreement with the conservancy to provide technical assistance on the implementation of the loan program in Section 31125.5.

(c) On or before 90 days after the effective date of the act adding this section, the conservancy shall adopt emergency regulations for the purposes of administering the alternative fishing gear loan program in Section 31125.5 pertaining to interest rates, loan durations, loan conditions, payback requirements, and procedures with respect to defaulted loan collections. For purposes of the Administrative Procedure Act, as described in Section 11370 of the Government Code, the adoption of these regulations is an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare and shall become effective upon adoption as provided in subdivision (a) of Section 11346.2 of the Government Code. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations are not subject to review, approval, or repeal by the Office of Administrative Law.

SEC. 9. Section 31126 is added to the Public Resources Code, to read:

31126. The conservancy shall review the status and effectiveness of the alternative fishing gear loan program and report its findings and recommendations to the Legislature on or before January 1, 1988. The report shall include all of the following:

(a) Information from the Department of Fish and Game on the number of experimental fishing gear permits that have been approved; the areas of the state where operations under the permits have occurred; the number in operation; the number revoked; and the number terminated.

(b) Information from the Department of Fish and Game, or its designee, on the effectiveness of the experimental fishing gear permits in protecting marine resources while providing a commercial harvest for the fishing industry.

(c) Information on the number of loans issued; interest earned; the number of defaults, terminations, or revocations; and the number of outstanding loans.

SEC. 10. Section 31127 is added to the Public Resources Code, to read:

31127. Notwithstanding Section 31126, if, after its review of the alternative fishing gear loan program, and submittal of its report to the Legislature, there appears to be a lack of interest in continuing the alternative fishing gear loan program, the conservancy may elect to terminate the loan program for the calendar year beginning on

January 1, 1988. However, if the conservancy continues the program, it shall submit a final report containing the information required in Section 31126 to the Legislature on or before February 14, 1989.

SEC. 11. It is the intent of the Legislature that the State Coastal Conservancy concentrate its efforts in the restoration of the state's urban waterfronts on those projects provided for pursuant to Chapter 7 (commencing with Section 31300) of Division 21 of the Public Resources Code, including those projects which assist the commercial fishing industry in California. It is further the intent of the Legislature that, if it is consistent with other conservancy program needs, the current staffing level now working on the restoration of urban waterfronts be retained and that the work of this staff be redirected to the extent feasible from those projects which may be funded through the sale of revenue bonds pursuant to Division 22 (commencing with Section 32000) of the Public Resources Code to those projects which may be developed pursuant to Division 21 (commencing with Section 31000) of the Public Resources Code.

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. The sum of five hundred fifty thousand dollars ($550,000) is hereby appropriated for experimental fishing gear programs for apportionment as follows:

(a) One hundred thousand dollars ($100,000) from the Environmental License Plate Fund to the Department of Fish and Game to implement the monitoring program when experimental gear permits are issued pursuant to Sections 8612 and 8613 of the Fish and Game Code.

(b) Four hundred fifty thousand dollars ($450,000) from the State Coastal Conservancy Fund to the State Coastal Conservancy for allocation in accordance with Section 31125 of the Public Resources Code for the purposes of Section 31125.5 of the Public Resources Code.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expedite the protection of the southern sea otter, a federally listed threatened species under the Federal Endangered Species Act, from entanglement in set gill and trammel nets and to develop alternative fishing gear and a low-interest loan program prior to the 1987 fishing season, it is necessary that this act take effect immediately.

CHAPTER 911

An act to amend Section 5090.33 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 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 5090.33 of the Public Resources Code is amended to read:

5090.33. The division has all of 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.

(g) The auditing of grants, and the performance of any applicant in expending a grant, made pursuant to Article 5 (commencing with Section 5090.50).

SEC. 2. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the Off-Highway Vehicle Fund to the Department of Parks and Recreation for disbursement as a local assistance grant to the East Bay Regional Park District for the restoration, rehabilitation, and conversion to alternative public use, of the area known as "Redwood Motorcycle Hill." None of the funds appropriated may be disbursed to the district until the district submits to the department an application for a grant for planning an off-highway motor vehicle facility to be constructed within its jurisdiction.

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 funds to prevent degradation of domestic water supplies threatened by accelerated erosion of lands under the jurisdiction of the East Bay Regional Park District as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 912

An act to amend Sections 9902, 9941, 9972, 9974, 9975, and 9984 of, and to repeal and add Sections 9902.6 and 9902.7 of, the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 9902 of the Business and Professions Code is amended to read:

9902. As used in this chapter, "employment agency" or "agency" means any of the following:

(a) The business of conducting, in any capacity, an intelligence office, employment agency, registry, or any agency, business, or office which procures, offers, promises, or attempts to procure employment or engagements for others or employees for employers, or for the registration of persons seeking to procure or retain employment or engagement, or for giving information as to where and from whom this help, employment, or engagement may be procured, or for providing employment or engagements where a fee or other valuable consideration is exacted, or attempted to be collected, directly or indirectly, from the applicant for these services, regardless of where the business is conducted.

(b) Any person, service, bureau, organization, club, or résumé service, which by advertisement or otherwise offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition, or membership or registration fees of any sort, where the main object of the person paying the same is to secure employment.

(c) Any person who acts as a labor contractor.

(1) A labor contractor is any person, who, for a fee or other compensation, employs an individual to render personal services to, for, or under the direction of, a third person.

(2) "Bona fide employees" or "employees," when used with reference to the employees of a labor contractor, refers to the employees rendering services to the labor contractor and not to the individuals employed by the labor contractor to render personal services to, for, or under the direction of, a third person.

(3) A central hiring establishment, intelligence office, registry, agency, or place maintained without cost to applicants for employment by groups of employers or groups of employers and employees, or a person licensed under Chapter 9 (commencing with Section 7000) of Division 3, does not constitute a labor contractor within the meaning of this chapter.

(4) A person employing individuals to render personal services to, for, or under the direction of, a third person is not a labor contractor

within the meaning of this chapter if the person employing the individuals, in addition to wages or salaries, pays federal social security taxes, state and federal unemployment insurance, carries workers' compensation insurance as required by state law, and sustains responsibility for the acts of his or her employees while rendering services to, for, or under the direction of, a third person, and has no applicant-paid liquidated damage clause. The person employing individuals to render personal services shall not send the employees to any place where a strike, lockout, or labor dispute exists.

(d) Any employment counseling service, as defined in Section 9909.5.

SEC. 2. Section 9902.6 of the Business and Professions Code is repealed.

SEC. 3. Section 9902.6 is added to the Business and Professions Code, to read:

9902.6. On and after July 1, 1987, this chapter does not apply to any person who provides any of the services described in subdivision (a), (b), or (c) of Section 9902 and who charges fees exclusively to employers for those services. The exemption from licensure and regulation provided by this section does not apply to any person who provides babysitting or domestic employment for others.

This section does not apply to any employment counseling service, as defined in Section 9909.5.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed.

SEC. 4. Section 9902.6 is added to the Business and Professions Code, to read:

9902.6. (a) This chapter does not apply to any person who is engaged in the business of management consulting and who in the course of that business acts solely on behalf of, and is compensated solely by, an employer to identify, appraise, or recommend an individual or individuals for consideration for a management position, provided that the following conditions are satisfied:

(1) The minimum first-year starting salary for each position is at the rate of not less than twenty-five thousand dollars ($25,000) per year.

(2) In no instance is the individual who is identified, appraised, or recommended for consideration for a position charged a deposit, retainer, or fee directly or indirectly in connection with the identification, appraisal, or recommendation, or for registration or for preparation of any résumé, or on account of any other personal service performed by the person who is engaged in the business of management consulting and who in the course of that business is retained by the employer to identify, appraise, or recommend individuals for a management position.

(3) In no instance does the person engaged in management consulting advertise positions for which the minimum first-year starting salary is at the rate of less than twenty-five thousand dollars

($25,000) per year, or that any of the fees mentioned in paragraph (2) are charged by that person.

(b) This section shall become operative on January 1, 1991.

SEC. 5. Section 9902.7 of the Business and Professions Code is repealed.

SEC. 6. Section 9902.7 is added to the Business and Professions Code, to read:

9902.7. (a) This chapter does not apply to any person licensed as a certified public accountant pursuant to Chapter 1 (commencing with Section 5000) of Division 3 so long as he or she is engaged in the practice of public accounting.

(b) This section shall become operative on January 1, 1991.

SEC. 7. Section 9941 of the Business and Professions Code is amended to read:

9941. (a) The bureau shall issue two types of licenses:

(1) An employment agency license.

(2) An interim employment agency license.

(b) The bureau may, when issuing a license under this chapter, restrict the type of employment agency business which may be conducted under the license to one or more of the following categories:

(1) General. This category authorizes the licensee to engage in the business of finding all types of employment for others and charging a fee to either applicants or employers or both applicants and employers for such service.

(2) Babysitting. This category authorizes the licensee to engage exclusively in the business of providing babysitting employment for others.

(3) Domestic. This category authorizes the licensee to engage exclusively in the business of procuring domestic employment for others.

(4) Modeling. This category authorizes the licensee to engage exclusively in the business of procuring modeling employment for others.

(5) Farm labor. This category authorizes the licensee to engage exclusively in the business of procuring farm labor employment for others.

(6) Nurses' registry. This category authorizes the licensee to engage exclusively in the business of a nurses' registry.

(c) In restricting the license to one or more of these categories, the bureau shall consider all of the following:

(1) The applicant's experience.

(2) The type of employment agency business which the applicant proposes to conduct.

SEC. 8. Section 9972 of the Business and Professions Code is amended to read:

9972. No employment agency shall knowingly issue a contract for employment 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. 9. Section 9974 of the Business and Professions Code is amended to read:

9974. A copy of the schedule in effect with the changes noted thereon shall be kept posted in the employment agency in a conspicuous place, and the posted schedule and the changes therein shall be in lettering or printing of not less than standard pica capitals. The date of the taking effect of the schedule and of each change therein shall appear on the posted copies.

SEC. 10. Section 9975 of the Business and Professions Code is amended to read:

9975. Should an employment agency send an applicant for employment and should the applicant accept employment other than that position specified in the bona fide order for employment to which the applicant was sent, but with the same employer, then the agency shall be entitled to a fee for the employment of the applicant, payable by the applicant, computed under the terms of the fee schedule in effect in the agency at the time of referral, provided that the applicant accepts employment within 180 days of the date of referral. The expiration date of the referral shall be stated in the contract.

In interagency disputes concerning the earning of a fee for placement of an applicant, the fee shall be earned by the agency responsible for the applicant being placed. A reasonable effort shall be made by the billing agency to determine that it is entitled to the fee. The applicant shall be responsible for only one full fee for any single placement, and this fact shall be so stated in the contract.

SEC. 11. Section 9984 of the Business and Professions Code is amended to read:

9984. (a) Every employment agency shall give to every applicant for employment from whom a fee or deposit is to be received a contract or receipt, in which is stated all of the following:

(1) The name, address, and telephone number of the employment agency.

(2) The name and address of the person giving the order for help, the date and consecutive number of the receipt of the order by the agency, and its manner of transmission.

(3) The date and consecutive number of issuing the contract.

(4) The name of the applicant, the name and address of the person to whom the applicant is sent for employment, and the address where the applicant is to report for employment.

(5) The amount of the fee to be charged and to be collected from the applicant and the amount of the fee paid or advanced by the prospective employer and by whom paid or advanced.

(6) The kind of work or employment.

(7) The daily hours of work; the wages or salary, including any consideration or privilege.

(8) If any labor trouble exists at the place of employment, that fact shall be stated in the contract.

(9) Any other term, condition, or understanding agreed upon between the agency and the applicant.

(b) There shall be printed on the face of all contracts in type no smaller than 10-point bold the following: "This agency is licensed by the Bureau of Personnel Services of the State of California, (current address of the bureau). Inquiries concerning your contract may be sent to this address." At the bottom of the contract there shall appear a notice to the effect that the contract is the property of the applicant and shall not be taken from him or her.

(c) The employment agency shall in the contract undertake to repay the applicant the fee in the event the applicant fails to accept employment.

(d) All contracts or receipts shall be made and numbered consecutively in original and duplicate, both to be signed by the applicant and the person acting for the employment agency. The original shall be given to the applicant and the duplicate shall be kept on file at the agency.

(e) This section does not apply to nurses' registries, prepaid computer agencies, and job listing services, or employment counseling services.

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.

CHAPTER 913

An act to add Section 926.17 to the Government Code, relating to state agencies.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 926.17 is added to the Government Code, to read:

926.17. (a) (1) A state agency which acquires property or services pursuant to a contract, including any approved change order, with a business shall pay for each complete delivered item of property or service on the date required by contract between the business and agency or, if no date for payment is specified by contract, within 50 calendar days after the postmark date of the invoice by the state agency covering the delivered items or services. The state agency shall pay the contractor directly, if authorized to do so, or forward the invoice for payment to the Controller, within 35

calendar days after the postmark date of the invoice. The Controller shall pay the contractor within 15 calendar days of receipt of the invoice from the state agency.

(2) If, due to insufficient funds, a state agency is unable to meet the payment deadlines provided for in paragraph (1) under a contract for goods or services needed due to a natural disaster, including, but not limited to, fires, floods, or earthquakes, payment under the contract shall not be due until 30 calendar days after the agency has received sufficient funds to pay the contractor.

(3) If, by applying paragraphs (1) and (2), a payment under a contract with the Department of Forestry would become due during the annually declared fire season, as declared by the Director of Forestry, the payment shall not be due until 30 calendar days after the date upon which it would otherwise have been due.

(4) The acquisition of property includes the rental of real or personal property.

(b) (1) Interest shall accrue and be charged on payments overdue under subdivision (a) at a rate of 1 percent above the rate accrued on June 30th of the prior year by the Pooled Money Investment Account, but not to exceed 15 percent.

The interest penalty fee shall begin on the day after payment is due, if the payment due date is specified by contract. If no payment date is specified by contract, the interest shall begin to accrue on the 36th calendar day after the postmark date of the invoice and shall be paid for out of the contracting state agency's funds.

If the invoice is forwarded to the Controller's office from the contracting state agency, interest shall also begin to accrue on the 16th calendar day after receipt of a properly submitted invoice by the Controller's office and shall be paid for out of the Controller's funds. Interest ceases to accrue on the date payment is made, except that when an invoice is forwarded to the Controller for payment, the forwarding state agency's liability ends on the date a properly submitted invoice is received by the Controller.

(2) A state agency shall not seek additional appropriations to pay interest which accrues as a result of an agency's failure to make payments as required by subdivision (a).

(3) 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 written report on the actions taken to correct the problem.

(c) A court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section where it is found that the state agency has violated this section. The costs and fees shall be paid by the state agency at fault and shall not become a personal economic liability of any public officer or employee thereof.

(d) If the agency's failure to timely pay interest as required by subdivision (b) is the result of a dispute between the agency and the

business over the amount due or over compliance with the contract, the provisions of this section are inapplicable. A state agency may dispute an invoice without incurring the penalties provided for in subdivision (b), if the state agency so notifies the contractor within 15 calendar days of receipt of the invoice.

If it is determined by the state agency that an invoice was improperly executed or that additional evidence of the validity of the invoice is required, the required payment date shall be 30 calendar days from the date the corrected invoice is received by the state agency or is approved by both contracting parties.

(e) For the purposes of this section, "invoice" means a document seeking payment on a contract and which contains a detailed list of goods shipped or services rendered, with an accounting of all costs.

(f) This section shall not apply to claims for reimbursement for health care services provided under the Medi-Cal program, as established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(g) Section 926.10 shall not apply to any contract covered by this section.

(h) This section shall not apply to any contract covered by Section 926.15.

CHAPTER 914

An act to add Section 340.1 to the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 340.1 is added to the Code of Civil Procedure, to read:

340.1. (a) In any civil action for injury or illness based upon lewd or lascivious acts with a child under the age of 14 years, fornication, sodomy, oral copulation, or penetration of genital or anal openings of another with a foreign object, in which this conduct is alleged to have occurred between a household or family member and a child where the act upon which the action is based occurred before the plaintiff attained the age of 18 years, the time for commencement of the action shall be three years.

(b) "Injury or illness" as used in this section includes psychological injury or illness, whether or not accompanied by physical injury or illness.

(c) "Household or family member" as used in this section includes a parent, stepparent, former stepparent, sibling, stepsibling, any other person related by consanguinity or affinity within the second

degree, or any other person who regularly resided in the household at the time of the act, or who six months prior to the act regularly resided in the household.

(d) Nothing in this bill is intended to preclude the courts from applying delayed discovery exceptions to the accrual of a cause of action for sexual molestation of a minor.

(e) This section shall apply to both of the following:

(1) Any action commenced on or after January 1, 1987, including any action which would be barred by application of the period of limitation applicable prior to January 1, 1987.

(2) Any action commenced prior to January 1, 1987, and pending on January 1, 1987.

CHAPTER 915

An act relating to the Veterans' Home of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Pursuant to Section 1015 of the Military and Veterans Code, the Department of Veterans Affairs established and submitted a revised Master Plan for the Veterans' Home of California construction schedule. However, onsite conditions for Domiciliary Section C have been discovered to be different from the conditions originally contemplated in the revised master plan for the remodeling of Section C.

(b) These different conditions will increase the costs for the remodeling of Section C beyond the level of funds available and will thereby delay completion of the remodeling project. A delay in completion of Section C will delay completion of other master plan projects, including installation of air-conditioning at that hospital and other related buildings at the home, and will result in further increases in cost.

(c) It is necessary to augment the construction funds available for Section C to enable that project and other projects to proceed in accordance with the revised master plan schedule and to avoid the delays and further increases in costs which would otherwise result.

(d) It is therefore the intent of the Legislature to make an appropriation to augment the funds for completion of Section C for the purpose of avoiding delays and further increases in costs.

SEC. 2. (a) The sum of four hundred seventy-five thousand dollars ($475,000) is hereby appropriated from the Special Account

for Capital Outlay in the General Fund to the department for expenditure during the 1986–87 fiscal year for construction of Domiciliary Section C of the Veterans' Home of California.

(b) The department shall apply to the United States Veterans' Administration for federal grant funds for the increased costs of this project. Any federal grant funds received by the department shall be deposited in the Special Account for Capital Outlay in the General Fund as a reimbursement of the advance for the federal share of this project cost, regardless of the year in which the federal funds are received.

SEC. 3. The Office of the State Architect of the Department of General Services shall investigate and determine the cause or causes of the differences in onsite conditions referred to in Section 1 of this act, including the liability or responsibility of any third party or parties. If any third party or parties is determined to be responsible, it shall recommend appropriate action to the Director of General Services, including legal action or actions for damages as may be indicated. Any recovery of damages in any action shall be deposited in the Special Account for Capital Outlay in the General Fund as a reimbursement of the appropriation made by Section 2 of this act, regardless of the year in which the recovery is received.

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

In order to avoid delays in the construction project at the Veterans' Home of California, it is necessary that this act take effect immediately.

CHAPTER 916

An act to amend Sections 44065 and 44068 of, and to add Section 44068.5 to, the Education Code, relating to education.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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) Except as provided in subdivision (d), 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 or her 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 on Teacher Credentialing, 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) Research connected with the evaluation and efficiency of the instructional program.

(7) The school health program.

(8) 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.

(9) The school library services.

(10) The preparation and distribution of instructional materials.

(11) The in-service training of teachers, principals, or other certificated personnel.

(12) The interpretation and evaluation of the school instructional program.

(13) The examination, selection, or assignment of teachers, principals, or other certificated personnel involved in the 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 on Teacher Credentialing 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.

(d) Notwithstanding subdivision (a), a school district or county superintendent of schools may hire persons who do not hold valid teaching or service credentials to perform the examination, selection or assignment of teachers, principals, or certificated personnel involved in the instructional program.

SEC. 2. Section 44068 of the Education Code is amended to read:

44068. Any person who, on June 30, 1965, was serving in a position requiring certification qualifications pursuant to the provisions of subdivisions (m), (n), and (o) of Section 13055 as amended by Chapter 840 of the Statutes of 1963, shall be deemed to be an employee in a position requiring certification qualifications for as long as he or she holds that position after January 1, 1987, and that position shall be deemed to be a certificated position for as long as this person holds that position.

SEC. 3. Section 44068.5 is added to the Education Code, to read:

44068.5. Any person who, on July 1, 1986, was serving in a position requiring certification qualifications pursuant to the provisions of paragraph (6) of subdivision (a) of Section 44065 as amended by Chapter 905 of the Statutes of 1985, shall be deemed to be an employee in a position requiring certification qualifications for as long as he or she holds that position after January 1, 1987, and that position shall be deemed to be a certificated position for as long as this person holds that position.

CHAPTER 917

An act to amend Sections 8901, 8901.5, and 22817 of, and to add Section 8901.6 to, the Government Code, relating to salaries and compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 8901 of the Government Code is amended to read:

8901. Commencing at noon on January 2, 1967, each Member of the Legislature shall receive, as a salary for his or her services, the amount of sixteen thousand dollars ($16,000) per year, during the term for which he or she was elected, payable in equal monthly amounts.

Commencing at noon on January 4, 1971, the annual salary provided by this section shall be increased to nineteen thousand two hundred dollars ($19,200).

Commencing at noon on December 2, 1974, the annual salary provided by this section shall be increased to twenty-one thousand one hundred twenty dollars ($21,120).

Commencing at noon on December 6, 1976, the annual salary provided by this section shall be increased to twenty-three thousand two hundred thirty-two dollars ($23,232).

Commencing at noon on December 4, 1978, the annual salary provided by this section shall be increased to twenty-five thousand five hundred fifty-five dollars ($25,555).

Commencing at noon on December 1, 1980, the annual salary provided by this section shall be increased to twenty-eight thousand one hundred ten dollars ($28,110).

Commencing at noon on December 3, 1984, the annual salary provided by this section shall be increased to thirty-three thousand seven hundred thirty-two dollars ($33,732).

Commencing at noon on December 1, 1986, the annual salary provided by this section shall be increased to thirty-seven thousand one hundred five dollars ($37,105).

SEC. 2. Section 8901.5 of the Government Code is amended to read:

8901.5. Each Member of the Legislature may elect to receive one or more employee benefits, as prescribed by concurrent resolution heretofore or hereafter adopted, in lieu of a portion of the salary provided by Section 8901. The portion of the salary allocated to the payment of the benefits shall be deemed to be "compensation" for the purposes of Section 9350.6.

SEC. 3. Section 8901.6 is added to the Government Code, to read:

8901.6. Notwithstanding Section 8901.5, each Member of the Legislature shall be entitled to receive the same health care, dental care, and other similar benefits which are available to other state officers and employees.

SEC. 4. Section 22817 of the Government Code is amended to read:

22817. A member of the Legislature may enroll in a health benefits plan. The contributions of the member shall be the total cost of his or her coverage and the coverage of any family members enrolled by him or her, exclusive of contributions to the State Employees' Contingency Reserve Fund and the amount contributed pursuant to Section 8901.6 by the state.

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:

So that this act may be operative during the 1986 calendar year, it is necessary that this act take effect immediately.

CHAPTER 918

An act to add Article 4 (commencing with Section 1810) to Chapter 11 of Part 2 of Division 2 of the Water Code, relating to water.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) There has been a severe downturn in the state's agricultural economy which has made it difficult for many farmers to meet their financial obligations to the state or, regional or local public agencies for water facilities already in place.

(b) In addition, many agricultural operations and public agencies experiencing financial difficulties or facing default may desire to sell, lease, or exchange water as a means of obtaining financial relief or augmenting their income.

(c) Since the sale, lease, or exchange of conserved water does not result in the forfeiture of an appropriative right to water, the marketing of water may provide financial relief or supplemental income during periods of economic hardship.

(d) It is the policy of the state to facilitate the voluntary sale, lease, or exchange of water or water rights in order to promote efficient use.

(e) The sales, leases, or exchanges of water are to be made without injuring any legal user of water and without unreasonably affecting fish, wildlife, or other instream beneficial uses and without unreasonably affecting the overall economy of the area from which the water is being transferred.

SEC. 2. Article 4 (commencing with Section 1810) is added to Chapter 11 of Part 2 of Division 2 of the Water Code, to read:

Article 4. Joint Use of Capacity in Water Conveyance Facilities

1810. Notwithstanding any other provision of law, neither the state, nor any regional or local public agency may deny a bona fide transferor of water the use of a water conveyance facility which has unused capacity, for the period of time for which that capacity is available, if fair compensation is paid for that use, subject to the following:

(a) Any person or public agency that has a long-term water service contract with or the right to receive water from the owner of the conveyance facility shall have the right to use any unused capacity prior to any bona fide transferor.

(b) The commingling of transferred water does not result in a

diminution of the beneficial uses or quality of the water in the facility, except that the transferor may, at the transferor's own expense, provide for treatment to prevent the diminution, and the transferred water is of substantially the same quality as the water in the facility.

(c) Any person or public agency that has a water service contract with or the right to receive water from the owner of the conveyance facility who has an emergency need may utilize the unused capacity that was made available pursuant to this section for the duration of the emergency.

(d) This use of a water conveyance facility is to be made without injuring any legal user of water and without unreasonably affecting fish, wildlife, or other instream beneficial uses and without unreasonably affecting the overall economy or the environment of the county from which the water is being transferred.

1811. As used in this article, the following terms shall have the following meanings:

(a) "Bona fide transferor" means a person or public agency as defined in Section 20009 of the Government Code with a contract for sale of water which may be conditioned upon the acquisition of conveyance facility capacity to convey the water that is the subject of the contract.

(b) "Emergency" means a sudden occurrence such as a storm, flood, fire, or an unexpected equipment outage impairing the ability of a person or public agency to make water deliveries.

(c) "Fair compensation" means the reasonable charges incurred by the owner of the conveyance system, including capital, operation, maintenance, and replacement costs, increased costs from any necessitated purchase of supplemental power, and including reasonable credit for any offsetting benefits for the use of the conveyance system.

(d) "Replacement costs" mean the reasonable portion of costs associated with material acquisition for the correction of unrepairable wear or other deterioration of conveyance facility parts which have an anticipated life which is less than the conveyance facility repayment period and which costs are attributable to the proposed use.

(e) "Unused capacity" means space that is available within the operational limits of the conveyance system and which the owner is not using during the period for which the transfer is proposed and which space is sufficient to convey the quantity of water proposed to be transferred.

1812. The state, regional, or local public agency owning the water conveyance facility shall in a timely manner determine the following:

(a) The amount and availability of unused capacity.

(b) The terms and conditions, including operation and maintenance requirements and scheduling, quality requirements, term or use, priorities, and fair compensation.

1813. In making the determinations required by this article, the respective public agency shall act in a reasonable manner consistent with the requirements of law to facilitate the voluntary sale, lease, or exchange of water and shall support its determinations by written findings. In any judicial action challenging any determination made under this article the court shall consider all relevant evidence, and the court shall give due consideration to the purposes and policies of this article. In any such case the court shall sustain the determination of the public agency if it finds that the determination is supported by substantial evidence.

1814. This article shall apply to only 70 percent of the unused capacity.

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 919

An act to amend Section 69623 of, and to add Section 69623.5 to, the Education Code, relating to student financial aid.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 69623 of the Education Code is amended to read:

69623. Grants awarded pursuant to this chapter shall be in an amount sufficient to pay the costs of a student, during his or her course of study, for tuition, books, and room and board in accordance with his or her needs as shall be determined by the trustees. No student shall be awarded a grant in excess of two thousand dollars ($2,000) per academic year. The trustees shall require that each applicant for a grant pursuant to this chapter also make prior or concurrent application for a federal basic educational opportunity grant, unless the trustees are satisfied that the applicant is not eligible for that federal grant.

SEC. 2. Section 69623.5 is added to the Education Code, to read:

69623.5. Commencing in the 1987–88 fiscal year, the amount of the grant awarded pursuant to Section 69623 may be increased above the maximum amount specified in that section to the extent that the Legislature expressly makes funds available for purposes of this section in the budget for that fiscal year.

CHAPTER 920

An act to add Sections 35 and 225.5 to the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 35 is added to the Streets and Highways Code, to read:

35. "Vista point" means any signed roadside area on the state highway system developed and maintained by the department for the purpose of providing the motorist with a place to stop to view the scenic panorama or points of visual interest.

SEC. 2. Section 225.5 is added to the Streets and Highways Code, to read:

225.5. (a) Notwithstanding Section 22520.5 or 22520.6 of the Vehicle Code, and except as specifically authorized by this article, no person shall display, sell, offer for sale, or otherwise vend or attempt to vend any merchandise, foodstuff, or service within any vista point or safety roadside rest area.

(b) When requested by a uniformed member of the Department of the California Highway Patrol, or other peace officer, any person or persons and any property may be relocated to a specified area of a vista point or rest area, or may be required to quit the premises, as directed by that officer, if, in the opinion of the officer, the person's presence or activity or the presence of the property, creates, or may reasonably be expected to create, a safety problem or hazard, either on or near the vista point or safety roadside rest area.

(c) To the extent the provisions of any regulations adopted by the department conflict with this section, those provisions are void, and permission given pursuant to those provisions for a person to engage in activities prohibited by subdivision (a) of this section is revoked.

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 to control congestion and major traffic hazards on the highways near, and in, safety roadside rest areas and vista points at the earliest possible time, it is necessary that this act take effect

immediately.

CHAPTER 921

An act to add Section 2692 to the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 2692 is added to the Penal Code, to read:

2692. The Director of Corrections may enter into contracts with public or private agencies located either within or outside of the state for the housing, care, and treatment of inmates afflicted with acquired immune deficiency syndrome (AIDS) or AIDS-related complex (ARC).

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

In order that the Department of Corrections may take advantage of all available resources to protect the health and safety of both inmates and staff, it is necessary that this act go into immediate effect.

CHAPTER 922

An act to amend Sections 20017.79 and 22013.8 of the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Board of Prison Terms, Department of Corrections or the Department of the Youth Authority in the following classifications:

Classification Code	Classification
0617	Farm Manager
0648	Crops Farmer
0679	Dairy Manager
0682	Dairy Supervisor
0683	Assistant Dairy Operator
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
2384	Supervisor of Commercial Diver Training
2311	Youth Authority Teacher
2429	Vocational Instructor (fire science) (correctional facility)
2433	Vocational Instructor (heavy equipment repair) (correctional facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Production Manager III, Correctional Industries
7157	Production Manager II, Correctional Industries
7156	Production Manager I, Correctional Industries
7154	Industrial Maintenance Superintendent
7163	Production Manager II, Prison Industries (wood products)
7164	Production Manager II, Prison Industries (metal products)
7165	Production Manager II, Prison Industries (textile products)
7170	Detergent Plant Superintendent
7172	Wood Products Factory Superintendent
7175	Assistant Wood Products Factory Superintendent
7178	Wood Products Factory Supervisor
7179	Upholstery Supervisor
7190	Metal Products Factory Superintendent
7189	Assistant Metal Products Factory Superintendent
7191	Metal Products Factory Supervisor
7192	Tool and Die Making Supervisor
7195	Textile Products Factory Superin-

	tendent
7196	Bedding Factory Superintendent
7198	Textile Products Factory Supervisor
7201	Tobacco Factory Superintendent
7205	Shoe Factory Superintendent
7206	Shoe Factory Supervisor (lasting through packing)
7207	Shoe Factory Supervisor (cutting and fitting)
7209	Knitting Mill Superintendent
7210	Knitting Mill Supervisor
7211	Knit Goods Finishing Supervisor
7214	Printing Superintendent, Correctional Industries
7215	Industrial Maintenance Supervisor
7216	Printing Supervisor, Correctional Industries
7218	Book repair and Bindery Supervisor, Correctional Industries
2108	Laundry Superintendent, Correctional Industries
2109	Laundry Supervisor, Correctional Industries
8215	Senior Medical Technical Assistant
9908	Supervising Social Worker II, Youth Authority
9910	Supervising Social Worker I, Youth Authority
9911	Social Worker, Youth Authority
0716	Supervising Groundskeeper II (correctional facility)
0718	Supervising Groundskeeper I (correctional facility)
0720	Lead Groundskeeper (correctional facility)
0743	Groundskeeper (correctional facility)
2004	Janitor Supervisor II (correctional facility)
2005	Janitor Supervisor I (correctional facility)
2006	Janitor (correctional facility)
2044	Supervising Housekeeper I (correctional facility)
2046	Housekeeper (correctional facility)
2068	Shoemaker (correctional facility)
2077	Seamer (correctional facility)
2080	Assistant Seamer (correctional facility)
2084	Barbershop Manager (correctional fa-

	cility)
2086	Barber (correctional facility)
2111	Laundry Supervisor II (correctional facility)
2114	Laundry Supervisor I (correctional facility)
2117	Laundry Worker (correctional facility)
2120	Laundry Finisher (correctional facility)
2150	Food Manager (correctional facility)
2147	Food Administrator II (correctional facility)
2153	Food Administrator I (correctional facility)
2182	Supervising Cook II (correctional facility)
2183	Supervising Cook I (correctional facility)
2186	Cook II (correctional facility)
2187	Cook I (correctional facility)
2221	Baker II (correctional facility)
2224	Baker I (correctional facility)
2245	Butcher—Meat Cutter II (correctional facility)
2195	Food Service Assistant II (correctional facility)
2196	Food Service Assistant I (correctional facility)
2305	Supervisor of Academic Instruction (correctional facility)
2284	Teacher (arts and crafts) (correctional facility)
2285	Teacher (business education) (correctional facility)
2287	Teacher (elementary education) (correctional facility)
2290	Teacher (high school education) (correctional facility)
2297	Teacher (ethnic studies) (correctional facility)
2291	Teacher (home economics) (correctional facility)
2298	Teacher (librarian) (correctional facility)
2286	Teacher (cerebral palsied children) (correctional facility)
2295	Teacher (recreation and physical education) (correctional facility)

2294	Teacher (music) (correctional facility)
2371	Teacher (speech development and correction) (correctional facility)
2373	Teacher (mentally retarded deaf children) (correctional facility)
2292	Teacher (mentally retarded children) (correctional facility)
2288	Teacher (emotionally/learning handicapped) (correctional facility)
2289	Teacher (family life education) (correctional facility)
2423	Vocational Instructor (dog grooming and handling) (correctional facility)
2665	Vocational Instructor (powerplant mechanics) (correctional facility)
2387	Vocational Instructor (airframe mechanics) (correctional facility)
2396	Vocational Instructor (auto body and fender repair) (correctional facility)
2398	Vocational Instructor (auto mechanics) (correctional facility)
2399	Vocational Instructor (baking) (correctional facility)
2400	Vocational Instructor (bookbinding) (correctional facility)
2417	Vocational Instructor (carpentry) (correctional facility)
2420	Vocational Instructor (cosmetology) (correctional facility)
2422	Vocational Instructor (culinary arts) (correctional facility)
2628	Vocational Instructor (merchandising) (correctional facility)
2425	Vocational Instructor (drycleaning works) (correctional facility)
2426	Vocational Instructor (electrical work) (correctional facility)
2428	Vocational Instructor (electronics) (correctional facility)
2431	Vocational Instructor (furniture refinishing and repair) (correctional facility)
2432	Vocational Instructor (garment making) (correctional facility)
2597	Vocational Instructor (household appliance repair) (correctional facil-

	ity)
2598	Vocational Instructor (industrial arts) (correctional facility)
2599	Vocational Instructor (instrument repair) (correctional facility)
2600	Vocational Instructor (janitorial service) (correctional facility)
2601	Vocational Instructor (landscape gardening) (correctional facility)
2611	Vocational Instructor (laundry work) (correctional facility)
2614	Vocational Instructor (machine shop practice) (correctional facility)
2615	Vocational Instructor (masonry) (correctional facility)
2619	Vocational Instructor (meat cutting) (correctional facility)
2627	Vocational Instructor (mechanical drawing) (correctional facility)
2630	Vocational Instructor (mill and cabinet work) (correctional facility)
2640	Vocational Instructor (offset printing) (correctional facility)
2644	Vocational Instructor (painting) (correctional facility)
2661	Vocational Instructor (plumbing) (correctional facility)
2666	Vocational Instructor (printing) (correctional facility)
2667	Vocational Instructor (radiologic technology) (correctional facility)
2668	Vocational Instructor (refrigeration and air-conditioning repair) (correctional facility)
2669	Vocational Instructor (sewing machine repair) (correctional facility)
2670	Vocational Instructor (sheet metal work) (correctional facility)
2671	Vocational Instructor (shoemaking) (correctional facility)
2672	Vocational Instructor (silk screening process) (correctional facility)
2673	Vocational Instructor (storekeeping and warehousing) (correctional facility)
2674	Vocational Instructor (typewriter repair) (correctional facility)

2675	Vocational Instructor (upholstering) (correctional facility)
2419	Vocational Instructor (commercial diver training) (correctional facility)
2677	Vocational Instructor (welding) (correctional facility)
2676	Vocational Instructor (vocational nursing) (correctional facility)
2853	Vocational Instructor (animal husbandry) (correctional facility)
2854	Vocational Instructor (building maintenance) (correctional facility)
2855	Vocational Instructor (computer and related technologies) (correctional facility)
2856	Vocational Instructor (diesel mechanics) (correctional facility)
2857	Vocational Instructor (drywall installer/taper) (correctional facility)
2858	Vocational Instructor (floor cover layer) (correctional facility)
2847	Vocational Instructor (glazier) (correctional facility)
2848	Vocational Instructor (insulation installer, building and pipes) (correctional facility)
2849	Vocational Instructor (office services and related technologies) (correctional facility)
2850	Vocational Instructor (roofer) (correctional facility)
2851	Vocational Instructor (small engine repair) (correctional facility)
2945	Senior Librarian (correctional facility)
6216	Building Maintenance Worker (correctional facility)
6221	Warehouse Worker (correctional facility)
1502	Warehouse Manager II (correctional facility)
1504	Warehouse Manager I (correctional facility)
1505	Materials and Stores Supervisor II (correctional facility)
1508	Materials and Stores Supervisor I (correctional facility)
6379	Heavy Truck Driver (correctional fa-

	cility)
6382	Truck Driver (correctional facility)
6392	Automotive Equipment Operator II (correctional facility)
6394	Automotive Equipment Operator I (correctional facility)
6471	Carpenter Supervisor (correctional facility)
6483	Carpenter I (correctional facility)
6521	Painter Supervisor (correctional facility)
6524	Painter II (correctional facility)
6474	Carpenter II (correctional facility)
6528	Painter I (correctional facility)
6534	Electrician Supervisor (correctional facility)
6538	Electrician II (correctional facility)
6544	Electrician I (correctional facility)
6545	Plumber Supervisor (correctional facility)
6550	Plumber I (correctional facility)
6557	Steamfitter Supervisor (correctional facility)
6559	Steamfitter (correctional facility)
6617	Mason (correctional facility)
6941	Maintenance Mechanic (correctional facility)
6643	Locksmith (correctional facility)
6699	Chief Engineer I (correctional facility)
6705	Stationary Engineer Supervisor (correctional facility)
6708	Stationary Engineer II (correctional facility)
6697	Stationary Engineer I (correctional facility)
6709	Boilerroom Tender (correctional facility)
6715	Refrigeration Engineer (correctional facility)
6724	Water and Sewage Plant Supervisor (correctional facility)
6748	Chief of Plant Operation III (correctional facility)
6751	Chief of Plant Operation II (correctional facility)
6754	Chief of Plant Operation I (correctional facility)
6763	Supervisor of Building Trades (cor-

	rectional facility)
6865	Equipment Maintenance Supervisor (correctional facility)
6867	Lead Automobile Mechanic (correctional facility)
6868	Automobile Mechanic (correctional facility)
6893	Automotive Pool Manager I (correctional facility)
6916	Electronics Technician (correctional facility)
8217	Medical Technical Assistant (correctional facilities)
2645	Vocational Instructor (Plastering) (correctional facility)
7200	Dry Cleaning Plant Supervisor
6772	Utility Shops Supervisor (correctional facility)
6801	Machinist (correctional facility)
6826	Heavy Equipment Mechanic (correctional facility)
2688	Vocational Instructor (Eyewear Manufacturing) (correctional facility)
2940	Supervising Librarian (correctional facility)
6504	Plumber II (correctional facility)
7194	Assistant Textile Products Factory Superintendent
7197	Bedding Factory Supervisor
7217	Book Repair and Bindery Superintendent, Correctional Industries
6696	Chief Engineer II (correctional facility)
2000	Janitor Supervisor III (correctional facility)
6222	Laborer (correctional facility)
6955	Fusion Welder (correctional facility)
6213	Skilled Laborer (correctional facility)

In addition, "state safety member" shall also include officers and employees of the Department of Corrections or the Department of the Youth Authority in any classification of vocational instructor, industrial supervisor, industrial superintendent, assistant industrial superintendent, or production manager II (prison industries) which is established on or after January 1, 1984, if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classification.

Any such officer or employee in employment on the operative

date of the amendment made in 1986 to this section and who becomes a state safety member as a result of that amendment, may elect by a writing filed with the board prior to 90 days after notification by the board, to be restored to his or her previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his or her rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 2. Section 22013.8 of the Government Code is amended to read:

22013.8. "Policeman" as used in this part also includes persons employed in classifications listed in Section 20017.79, if that designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

CHAPTER 923

An act to amend Sections 11105 and 13300 of the Penal Code, relating to criminal history information.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or

exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this

paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee

which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other provisions of law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other provision of law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks which are authorized by law.

SEC. 2. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 of the Penal Code pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history

information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, subdivisions (a), (b), and (c) of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the local summary criminal history information.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the local agency supplies such data, it shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the local agency supplies the data pursuant to this paragraph, it shall furnish a copy of the data to the person to whom the data relate.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out

on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) A local agency taking fingerprints of a person who is an applicant for licensing, employment, or certification may charge a fee not to exceed ten dollars ($10) in order to cover the cost of taking the fingerprints and processing the required documents.

(f) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing such information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer, or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense.

(g) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(h) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(i) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a

court, statute, or decisional law.

(j) Notwithstanding any other provision of law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks which are authorized by law.

CHAPTER 924

An act to amend Sections 1256.5, 1755, and 4552 of the Unemployment Insurance Code, relating to unemployment.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 1256.5 of the Unemployment Insurance Code is amended to read:

1256.5. (a) An individual is disqualified for unemployment compensation benefits if either of the following occur:

(1) The director finds that he or she was discharged from his or her most recent work for chronic absenteeism due to intoxication or reporting to work while intoxicated or using intoxicants on the job, or gross neglect of duty while intoxicated, when any of these incidents is caused by an irresistible compulsion to use or consume intoxicants, including alcoholic beverages.

(2) He or she otherwise left his or her most recent employment for reasons caused by an irresistible compulsion to use or consume intoxicants, including alcoholic beverages.

(b) An individual disqualified under this section, under a determination transmitted to him or her by the department, is ineligible to receive unemployment compensation benefits under this part for the week in which the separation occurs, and continuing until he or she has performed service in bona fide employment for which remuneration is received equal to or in excess of five times his or her weekly benefit amount, or until a physician or authorized treatment program administrator certifies that the individual has entered into and is continuing in, or has completed, a treatment program for his or her condition and is able to return to employment.

(c) The department shall advise each individual disqualified under this section of the benefits available under Part 2 (commencing with Section 2601), and, if assistance in locating an appropriate treatment program is requested, refer the individual to the appropriate county drug or alcohol program administrator.

SEC. 2. Section 1755 of the Unemployment Insurance Code is amended to read:

1755. If any person or employing unit is delinquent in the

payment of any contributions, penalties or interest provided for in this division, the director may, not later than three years after the payment became delinquent or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, collect the delinquency or enforce any liens by levy served either personally or by certified mail, to all persons having in their possession or under their control any credits or personal property belonging to the delinquent person or employing unit, or owing any debts to the person or employing unit at the time of the receipt of the notice of levy or coming into their possession or under their control for the period of one year from the time of receipt of the notice of levy. Any person upon whom a levy has been served having in his or her possession or under his or her control any credits or personal property belonging to the delinquent person or employing unit or owing any debts to the person or employing unit at the time of the receipt of the levy or coming into his or her possession or under his or her control for the period of one year from the time of receipt of the notice of levy, shall surrender the credits or personal property to the director or pay to the director the amount of any debt owing the delinquent employer within five days of service of the levy, and shall surrender the credits or personal property, or the amount of any debt owing to the delinquent employer coming into his or her possession or under his or her control within one year of receipt of the notice of levy within five days of the date of coming into possession or control of the credits or personal property, or the amount of any debt owing to the delinquent employer is incurred. Any person in possession of any credits or personal property or owing any debts to the delinquent person or employing unit who surrenders the credits or personal property or pays the debts owing the delinquent person or employing unit shall be discharged from any obligation or liability to the delinquent person or employing unit with respect to the credits or personal property surrendered or debts paid to the director. If the levy is made on a deposit or credits or personal property in the possession or under the control of a bank or savings and loan association, the notice of levy shall be delivered or mailed to the branch or office of the bank or savings and loan association at which the deposit is carried or at which credits or personal property is held . If the levy is made on a bank or savings and loan association it will apply to all credits or personal property as provided in this section, except that it will apply to credits and personal property in a deposit account, as defined in Section 9105 of the Commercial Code, only at the time the notice of levy is received by the bank or savings and loan association.

SEC. 3. Section 4552 of the Unemployment Insurance Code is amended to read:

4552. An unemployed individual is eligible to receive federal-state extended benefits with respect to any week only if the

director finds that:

(a) An extended compensation claim has been established for him or her.

(b) The week is within an extended benefit period and his or her eligibility period.

(c) He or she meets the eligibility requirements of Part 1 (commencing with Section 100), except those excluded under subdivision (b) of Section 4002.

(d) He or she is not subject to disqualification for normal benefits under any provision of Part 1 (commencing with Section 100). If the individual has been subject to disqualification under subdivision (b) of Section 1257, he or she has satisfied subdivision (b) of Section 1260 and, during a week following the first week of disqualification, has done either of the following:

(1) Performed service in bona fide employment during a week on a full-time basis.

(2) Performed service in bona fide employment during a week from which service he or she earned remuneration at least equal to his or her weekly benefit amount.

(e) With respect to compensation payable to any individual for any week beginning after September 25, 1982, he or she had earnings from employment subject to the provisions of this division which exceed 40 times his or her most recent weekly benefit amount in the base period in which he or she exhausted all rights to regular compensation.

(f) An individual subject to disqualification under subdivision (a) of Section 1256.5 has satisfied subdivision (a) of Section 1260.

CHAPTER 925

An act to add Section 18693 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 18693 is added to the Revenue and Taxation Code, to read:

18693. Interest may be waived for any period for which the Franchise Tax Board determines that a taxpayer demonstrates inability to pay that interest solely because of extreme financial hardship caused by significant disability or other catastrophic circumstance. Any waiver under this section shall be withdrawn retroactively if made because of fraud, malfeasance, misrepresentation, or omission of any material fact. This section shall apply only to interest accruing on and after the effective date of the

act adding this section.

CHAPTER 926

An act to amend and renumber the heading of Chapter 11 (commencing with Section 8855) of Division 1 of Title 2 of, to amend Sections 8855, 91502.1, and 91503 of, and to add Chapter 11.8 (commencing with Section 8869.80) to Division 1 of Title 2 of, the Government Code, and to repeal Section 2 of Chapter 1088 of the Statutes of 1981, relating to state government.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. The heading of Chapter 11 (commencing with Section 8855) of Division 1 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 11.5. CALIFORNIA DEBT ADVISORY COMMISSION

SEC. 2. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt Advisory Commission, consisting of nine members, selected as follows:

(1) The Treasurer, or his or her designate.

(2) The Governor or the Director of Finance.

(3) The Controller, or his or her designate.

(4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Committee on Rules.

(b) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative

committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission. The commission, on or after January 1, 1982, and annually thereafter, shall elect from its members a vice chairperson and a secretary who shall hold office until the next ensuing December 31 and shall continue to serve until their respective successors are elected.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission shall do all of the following:

(1) Assist the Housing Bond Credit Committee and all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide information on state and local debt authorization, sold and outstanding, and serve as a statistical center for all state and local debt issues.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(f) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(g) The issuer of any proposed new debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid. This subdivision shall also apply to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans.

(h) The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount thereof. Failure to give this notice shall not affect the validity of the sale.

(i) The commission shall publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(j) The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the

Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(k) All administrative and clerical assistance required by the commission shall be furnished by the office of the Treasurer.

SEC. 3. Chapter 11.8 (commencing with Section 8869.80) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 11.8. CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

8869.80. (a) There is in state government the California Debt Limit Allocation Committee, consisting of three members as follows:

(1) The Treasurer, or his or her designee.

(2) The Controller, or his or her designee.

(3) The Governor or the Director of Finance, or a designee of either.

(b) The Treasurer shall serve as chairperson of the committee and the office of the Treasurer shall provide any administrative assistance and support staff which is needed for the committee to operate. The chairperson shall keep, or cause to be kept, minutes and other records and documents of the committee.

(c) Members of the committee shall serve without compensation.

(d) Two members of the committee shall constitute a quorum. The affirmative vote of two members of the committee shall be necessary for any action taken by the committee. However, the committee may, by unanimous vote, delegate to its chairperson the authority to carry out any acts empowered to it under this chapter.

SEC. 4. Section 91502.1 of the Government Code is amended to read:

91502.1. (a) The Legislature declares that it is the policy of this state, consistent with environmental, resource conservation, and other policies, to facilitate for and on behalf of private enterprise the acquisition of property, either suitable for or evidencing an obligation respecting any one or more of the activities or uses set forth in Section 91503, through the issuance of revenue bonds by authorities in accordance with the criteria set forth in subdivision (b), and that such additional method of financing when made available in accordance with such policy serves a public purpose and will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) The Legislature declares that the criteria to be utilized to determine whether such method of financing may be made available shall include the following:

(1) Whether employment benefits arising out of the use of the facilities may ensue by securing or increasing (A) the number of employees of the company and any other direct users of the facilities or (B) compensation for such employment, the value of which may be expressed in terms of aggregate direct employment earnings.

(2) Whether energy, mineral or natural or cultivated resource

conservation benefits arising out of the use of the facilities may ensue by the reduction of waste, improvement of recovery or intensification of utilization of resources that otherwise would be less intensively utilized, or wasted, or not recovered, the value of which may be expressed in terms of the price and amount of the energy, minerals, or other resources saved or recovered, or the price and amount of equivalent energy, minerals, or other resources which would be utilized were the resources not utilized as intensively.

(3) Whether consumer benefits arising out of the use of the facilities may ensue by any of the following:

(A) Improvement of the quantity or quality or reduction in the price of products, energy, or related services or facilities, the value of which may be expressed in terms of quantity and price differentials.

(B) Production of new or improved products, or related services or facilities, the value of which may be expressed in terms of quantity and price.

(C) The transfer of ownership of a business or place of work which has closed or is in danger of closing, to its employees for the purpose of formation of an employee-owned corporation, as defined by subdivision (c).

(4) Whether employment, resource conservation and consumer benefits may ensue by the conversion of an abandoned plant site or of a site that has been prepared for use by means of an Urban Development Action Grant into an industrial park, making available a productive use of land or facilities capable of generating new economic activity.

(5) Whether employment benefits may ensue by the increased availability of centers providing day care to children of working parents.

(c) For purposes of this section, "employee-owned corporation" means a corporation which is under employee ownership. "Employee ownership" means the majority ownership of a business in this state by a majority of its employees under either of the following methods:

(1) Establishment of an Employee Stock Ownership Plan (ESOP) pursuant to the federal Employee Retirement Income and Security Act (ERISA). All stock initially issued at the time of formation of the employee-owned corporation shall be allocated to the employees and become fully vested within five years of the date the employee-owned corporation begins operation. Voting rights of the employees are established in accordance with Section 409A(e) of the Internal Revenue Code as effective on January 1, 1983.

(2) Establishment of a worker-owned cooperative.

SEC. 5. 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.

(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. 6. Section 2 of Chapter 1088 of the Statutes of 1981 is repealed.

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 927

An act to amend and repeal Sections 1522 and 1596.871 of, to add Section 1522.5 to, and to add and repeal Section 1522.6 of, the Health and Safety Code, and to add Section 11112 to the Penal Code, relating to fingerprints, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. The Legislature finds and declares that the elapsed time between the submission of fingerprints of new employees of community care and child day care facilities and the notice to the employer that the employee is clear of a criminal record is excessive. Unwarranted delay unnecessarily endangers the safety of the children placed in these facilities. In order to reduce the time that uncleared personnel are employed and to protect the safety of children, it is necessary that fingerprint clearances for these applicants and employees be greatly expedited.

SEC. 2. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state

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 state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the 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 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 on site supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) 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 community care facility, 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 four calendar days following employment, residence, or initial presence in the community care facility. These fingerprints may be

on a card provided by the State Department of Social Services or by a local law enforcement office for the purpose of obtaining a permanent set of fingerprints. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the licensee of the criminal convictions, as provided in this subdivision. Upon request of the licensee, the department shall, within 10 working days of receipt of information from the Department of Justice showing the absence of a record of criminal convictions, verify the absence of a record of criminal convictions. The licensee shall enclose a self-addressed stamped postcard for this purpose at the time of submission of the fingerprints to the department. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible. 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 243.4, 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 community care facility, or bar the person from entering the community care facility. 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 community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (e). The State Department of Social Services 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 state 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 the provisions of 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 community 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). 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, Sections 273d, 288, or 289 of the Penal Code, or was a conviction of another crime against an individual specified in paragraph (3), (4), (5), or (6) of subdivision (c) of Section 667.5 of the Penal Code. However, the director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

SEC. 2.5. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state 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 state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the 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 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) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) 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 community care facility, 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 four calendar days following employment, residence, or initial presence in the community care facility. These fingerprints may be on a card provided by the State Department of Social Services or by a local law enforcement office for the purpose of obtaining a

permanent set of fingerprints. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice.

Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the licensee of the criminal convictions, as provided in this subdivision. If no convictions are recorded, the department shall provide the licensee with a statement of the fact that there are no convictions within 10 working days of receipt of this information from the Department of Justice. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible. 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 243.4, 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 community care facility, or bar the person from entering the community care facility. 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 community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (e). The Department of Social Services 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 state 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 the provisions of 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 community 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). 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, Sections 273d, 288, or 289 of the Penal Code, or was a conviction of another crime against an individual specified in paragraph (3), (4), (5), or (6) of subdivision (c) of Section 667.5 of the Penal Code. However, the director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

SEC. 3. Section 1522.5 is added to the Health and Safety Code, to read:

1522.5. The State Department of Social Services, in processing fingerprint clearances, shall give expeditious treatment to employees of, and applicants for employment with, community care facilities, as defined in Section 1502, which provide services to children, and child day care facilities, as defined in Section 1596.750.

SEC. 4. Section 1522.6 is added to the Health and Safety Code, to read:

1522.6. The State Department of Social Services shall create an advisory committee, including, but not limited to, representatives of the Department of Justice and community and child day care facilities which serve children, for the purpose of assisting the

department to develop ways to expedite fingerprint clearances and to otherwise protect children placed in community and child day care facilities. This section shall remain in effect until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends that date.

SEC. 5. Section 1596.871 of the Health and Safety Code 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 who will serve six or fewer children, or any family day care applicant for a license, or for obtaining a criminal record of 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 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.

(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 Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission. The 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 four calendar days following employment, residence, or initial presence in the child day care facility.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the licensee of the criminal convictions, as provided in this subdivision. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible.

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 State 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 State Department of Social Services, act immediately to either (1) 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; 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 licensee, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

For fingerprints submitted pursuant to subdivision (c), upon request of the licensee, the department shall, within 10 working days of receipt of information from the Department of Justice showing the absence of a record of criminal convictions, verify the absence of a record of criminal convictions. The licensee shall enclose a self-addressed stamped postcard for this purpose at the time of submission of the fingerprints to the department.

(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. 5.5. Section 1596.871 of the Health and Safety Code, as amended by Section 18.5 of Chapter 1064 of the Statutes of 1985, 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 who will serve six or fewer children or any family day care applicant for a license, 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 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.

(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 Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission. The 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 four calendar days following employment, residence, or initial presence in the child day care facility.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the licensee of the criminal convictions, as provided in this subdivision. If no convictions are recorded, the department shall provide the licensee with a statement of the fact that there are no convictions within 10 working days of receipt of this information from the Department of Justice. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible.

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 State 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 State Department of Social Services, act immediately to either (1) 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; 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 licensee, 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. 6. Section 11112 is added to the Penal Code, to read:

11112. The Department of Justice, in providing fingerprint clearances for employment purposes, shall facilitate the processing of fingerprint cards of employees of, and applicants for employment with, community care facilities, as defined in Section 1502 of the Health and Safety Code, which provide services to children, and child day care facilities, as defined in Section 1596.750 of the Health and Safety Code.

SEC. 7. The State Department of Social Services shall report its progress in expediting fingerprint clearances and in implementing other strategies to protect children placed in community child care or child day care facilities to the Legislature no later than July 1, 1987.

SEC. 8. It is the intent of the Legislature that the requirement of notifying licensees of the absence of convictions within 10 days shall become mandatory on the State Department of Social Services upon the capability of the Licensing Information System, as required by Section 1538.2 of the Health and Safety Code, but no later than July 1, 1987. Sections 2 and 5 of this act shall remain in effect until July 1, 1987, and on that date are repealed. On July 1, 1987, Sections 2.5 and 5.5 of this act shall become operative.

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.

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 ensure that children placed in community care facilities and child day care facilities do not come in contact with persons with criminal backgrounds, it is necessary that this act take effect immediately.

CHAPTER 928

An act to amend Sections 318, 341, 343, 360, 366, 370, 374, 388, 389, 403, 425, 468, 548, 566, 624, 2104, and 2107 of, to add Section 632 to, and to repeal Sections 322.1, 355.1, 417, and 622.2 of, the Streets and Highways Code, relating to state highways.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 318 of the Streets and Highways Code is amended to read:

318. Route 18 is from:

(a) Route 10 near San Bernardino to Route 15 in Victorville via Big Bear Lake.

(b) Route 15 near Victorville to Route 138 near Pearblossom.

SEC. 2. Section 322.1 of the Streets and Highways Code is repealed.

SEC. 3. Section 341 of the Streets and Highways Code is amended to read:

341. Route 41 is from:

(a) Route 1 near Morro Bay to Route 46.

(b) Route 46 to Route 99 near Fresno.

(c) Route 99 in Fresno to Yosemite National Park.

SEC. 4. Section 343 of the Streets and Highways Code is amended to read:

343. Route 43 is from:

(a) Route 119 to Route 46 in Wasco.

(b) Route 46 in Wasco to Route 99 near Selma.

SEC. 5. Section 355.1 of the Streets and Highways Code is repealed.

SEC. 6. Section 360 of the Streets and Highways Code is amended to read:

360. Route 60 is from:

(a) Route 10 near the Los Angeles River in Los Angeles to Route 215 in Riverside via Pomona.

(b) Route 215 east of Riverside to Route 10 near Beaumont.

SEC. 7. Section 366 of the Streets and Highways Code is amended to read:

366. Route 66 is from Route 30 near San Dimas to Route 215 in San Bernardino.

SEC. 8. Section 370 of the Streets and Highways Code is amended to read:

370. Route 70 is from:

(a) Route 99 near Catlett Road to Route 20 in Marysville.

(b) Route 20 in Marysville to Route 395 near Hallelujah Junction via Quincy and Beckwourth Pass.

SEC. 9. Section 374 of the Streets and Highways Code is amended to read:

374. Route 74 is from:

(a) Route 5 near San Juan Capistrano to Route 15 near Lake Elsinore.

(b) Route 15 near Lake Elsinore to Route 215 near Perris.

(c) Route 215 near Perris to Route 10 near Thousand Palms via Hemet and Palm Desert.

SEC. 10. Section 388 of the Streets and Highways Code is amended to read:

388. Route 88 is from:

(a) Route 99 near Stockton to Route 49 passing south of Ione.

(b) Route 49 in Jackson to the Nevada state line via Pine Grove, Silver Lake, and Kirkwood.

SEC. 11. Section 389 of the Streets and Highways Code is amended to read:

389. Route 89 is from:

(a) Route 395 near Coleville to Route 88 via the vicinity of Markleeville.

(b) Route 88 near Picketts Junction to Route 50 near Meyers.

(c) Route 50 near May's Junction to Route 80 via Tallac, Emerald Bay, McKinney's, Tahoe City, and the Truckee River.

(d) Route 80 near Truckee to Route 70 near Blairsden.

(e) Route 70 near Indian Falls to Route 36 near Deer Creek Pass.

(f) Route 36 near Morgan Summit to Lassen Volcanic National Park.

(g) Route 44 to Route 5 near Mt. Shasta.

SEC. 12. Section 403 of the Streets and Highways Code is amended to read:

403. Route 103 is from Route 47 in Los Angeles to Route 1.

SEC. 13. Section 417 of the Streets and Highways Code is repealed.

SEC. 14. Section 425 of the Streets and Highways Code is amended to read:

425. Route 125 is from:

(a) Route 905 near Brown Field to Route 54.

(b) Route 54 to Route 94 near La Mesa.

(c) Route 94 near La Mesa to Route 56.

SEC. 15. Section 468 of the Streets and Highways Code is amended to read:

468. Route 168 is from:

(a) Fresno to Huntington Lake.

(b) Camp Sabrina to Route 395.

(c) Route 395 at Big Pine to Route 266 at Oasis.

SEC. 16. Section 548 of the Streets and Highways Code is amended to read:

548. Route 248 is from the east city limit of the City of Pasadena to Route 210 near Monrovia.

This route will cease to be a state highway when Interstate Route 210 freeway is completed and the commission relinquishes that portion of present Route 210 in the County of Los Angeles and the Cities of Pasadena, Arcadia, and Monrovia.

SEC. 17. Section 566 of the Streets and Highways Code is amended to read:

566. Route 266 is from the Nevada state line easterly of Oasis to the Nevada state line northerly of Oasis.

SEC. 18. Section 622.2 of the Streets and Highways Code is repealed.

SEC. 19. Section 624 of the Streets and Highways Code is

amended to read:

624. Route 980 is from Route 880 in Oakland to Route 580.

SEC. 20. Section 632 is added to the Streets and Highways Code, to read:

632. Route 905 is from:

(a) The International Boundary near Border Field northeasterly to Route 5.

(b) Route 5 near the south end of San Diego Bay to the International Boundary southerly of Brown Field.

SEC. 21. Section 2104 of the Streets and Highways Code is amended to read:

2104. A sum equal to the net revenue derived from a per gallon tax of 2.035 cents ($0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), and 1.80 cents ($0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of that division), shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or three million dollars ($3,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last Friday of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last Friday of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars ($60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing

apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

SEC. 22. Section 2107 of the Streets and Highways Code is amended to read:

2107. A sum equal to the net revenues derived from a per gallon tax of 1.315 cents ($0.01315) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), and 2.59 cents ($0.0259) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of that division), shall be apportioned monthly to the cities and cities and counties of this state from the Highway Users Tax Account in the Transportation Tax Fund as provided in this section.

From that sum, the Controller shall allocate annually to each city which has filed a report containing the information prescribed by subdivision (c) of Section 2152, and which had expenditures in excess of five thousand dollars ($5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars ($5,000) during that fiscal year.

The balance of that sum from the Highway Users Tax Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

For the purpose of this section, the population in each city is that determined by the last preceding federal census or a subsequent census validated by the Population Research Unit of the Department of Finance. In the case of a city incorporated subsequent to the last census, or in the case of inhabited unincorporated territory being annexed to a city subsequent to the last census, the Controller shall ascertain the population of the city, or of the annexed territory, by multiplying the number of registered electors therein by three or, at the election of the city, the population of annexed territory may be ascertained pursuant to Section 2107.2. In the case of uninhabited unincorporated territory being annexed to a city subsequent to the last census, the Controller shall ascertain the population of the annexed territory, by the use of any federal decennial or special census or an estimate pursuant to Section 2107.2 by which the population of the annexed territory was counted, or, if no such other estimate or census was made, by multiplying the number of registered electors therein by three, two years after the completion of annexation proceedings or at such earlier time as the legislative body may request.

CHAPTER 929

An act to amend Section 13826.1 of, to repeal and add Section 13826 of, and to add Section 13826.65 to, the Penal Code, relating to gang violence suppression.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 13826 of the Penal Code is repealed.

SEC. 2. Section 13826 is added to the Penal Code, to read:

13826. The Legislature finds and declares all of the following:

(a) That violent activity by gangs is a serious and growing problem in the State of California.

(b) There is an increasing percentage of school age pupils involved in gang activity.

(c) There are many schools that serve a disproportionate number of youth involved in gang activity which are unable to effectively implement programs designed to prevent youth from becoming involved in gang activity. There is no statewide funded educational program developed for this purpose.

(d) There is evidence that gang involvement among youth begins at an early age.

(e) There is evidence that the parents of gang members lack appropriate parenting skills.

(f) There is evidence that drug activity is increasing among youth involved in gang activity.

(g) There is evidence that gang members have no contact with positive role models.

(h) There is evidence that most gang members lack basic educational skills.

In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute the perpetrators of gang violence, support increased efforts by local law enforcement agencies to identify, investigate, and apprehend perpetrators of gang violence, support increased efforts by county probation departments to intensively supervise gang members who are on court-ordered probation, support gang violence prevention and intervention efforts by school districts and county offices of education, and support gang violence suppression efforts by community-based organizations.

SEC. 3. Section 13826.1 of the Penal Code is amended to read:

13826.1. (a) There is hereby established in the Office of Criminal Justice Planning, the Gang Violence Suppression Program, a program of financial and technical assistance for district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any

consortium thereof, and community-based organizations which are primarily engaged in the suppression of gang violence. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to cities, counties, school districts, county offices of education, or any consortium thereof, and community-based organizations in which gang violence suppression programs are established in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made on the application of the district attorney, chief law enforcement officer or chief probation officer of the applicant unit of government and approved by the legislative body, on the application of school districts, county offices of education, or any consortium thereof, or on the application of the chief executive of a community-based organization. All programs funded pursuant to this chapter shall work cooperatively to ensure the highest quality provision of services and to reduce unnecessary duplication. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Gang Violence Suppression Program, be made available to support the activities set forth in this chapter. Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 14780 of the Government Code.

(d) The executive director shall prepare and issue written program and administrative guidelines and procedures for the Gang Violence Suppression Program, consistent with this chapter. These guidelines shall set forth the terms and conditions upon which the Office of Criminal Justice Planning is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders, or standards of general application.

(e) Annually, commencing November 1, 1984, the executive director shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained by district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations receiving funds under this chapter and under comparable federally financed awards.

(f) Criteria for selection of district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations to receive gang violence suppression funding shall be developed in consultation with the

Gang Violence Suppression Advisory Committee whose members shall be appointed by the Executive Director of the Office of Criminal Justice Planning, unless otherwise designated.

(g) The Gang Violence Suppression Advisory Committee shall be composed of five district attorneys; two chief probation officers; two representatives of community-based organizations; three attorneys primarily engaged in the practice of juvenile criminal defense; three law enforcement officials with expertise in gang-related investigations; one member from the California Youth Authority Gang Task Force nominated by the Director of the California Youth Authority; one member of the Department of Corrections Law Enforcement Liaison Unit nominated by the Director of the Department of Corrections; one member from the Department of Justice nominated by the Attorney General; the Superintendent of Public Instruction, or his or her designee; one member of the California School Boards Association; and one representative of a school program specializing in the education of the target population identified in this chapter.

SEC. 4. Section 13826.65 is added to the Penal Code, to read:

13826.65. School districts, county offices of education, or any consortium thereof, receiving funding under this chapter shall develop or adopt and implement a gang violence prevention curriculum, provide gang violence prevention and intervention services for school-aged children, and shall be encouraged to do all of the following:

(a) Establish a local steering committee comprised of representatives of each local program funded under this chapter, corporations, small businesses, and other appropriate local, county, and community organization knowledgeable in the area of youth gang violence.

(b) Develop and distribute information concerning parent education and parenting classes, including methods whereby parents may recognize youth gang involvement.

(c) Identify and utilize the resources of appropriate community-based organizations involved in the coordination of after school activities for school-aged youth.

(d) Establish contact between positive role models and youth involved in gang activity through adopt-a-youth programs and similar programs.

(e) Incorporate into gang prevention activities references to the relationship between drug abuse and gang violence.

(f) Develop partnerships between schools and businesses for the purpose of enhancing pupil achievement through such methods as tutorial services, field trips, role modeling, and other supportive services.

(g) Develop methods of assuring followup services for children receiving the initial gang violence prevention and intervention services.

CHAPTER 930

An act to add Section 1367.11 to the Health and Safety Code, and to add Sections 10178.5, 10352, and 11512.08 to the Insurance Code, relating to insurance.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 1367.11 is added to the Health and Safety Code, to read:

1367.11. (a) Every health care service plan issued, amended, or renewed on or after January 1, 1987, that offers coverage for medical transportation services, shall contain a provision providing for direct reimbursement to any provider of covered medical transportation services if the provider has not received payment for those services from any other source.

(b) Subdivision (a) shall not apply to any transaction between a provider of medical transportation services and a health care service plan if the parties have entered into a contract providing for direct payment.

(c) For purposes of this subdivision, "direct reimbursement" means the following:

The enrollee shall file a claim for the medical transportation service with the plan; the plan shall pay the medical transportation provider directly; and the medical transportation provider shall not demand payment from the enrollee until having received payment from the plan, at which time the medical transportation provider may demand payment from the enrollee for any unpaid portion of the provider's fee.

SEC. 2. Section 10178.5 is added to the Insurance Code, to read:

10178.5. (a) Every self-insured employee welfare benefit plan issued, amended, or renewed on and after January 1, 1987, that offers coverage for medical transportation services, shall contain a provision providing for direct reimbursement to any provider of covered medical transportation services if the provider has not received payment for those services from any other source.

(b) Subdivision (a) shall not apply to any transaction between a provider of medical transportation services and a self-insured employee welfare benefit plan if the parties have entered into a contract providing for direct payment.

(c) For purposes of this subdivision, "direct reimbursement" means the following:

The insured shall file a claim for the medical transportation service with the plan; the plan shall pay the medical transportation provider directly; and the medical transportation provider shall not demand payment from the insured until having received payment from the

plan, at which time the medical transportation provider may demand payment from the insured for any unpaid portion of the provider's fee.

SEC. 3. Section 10352 is added to the Insurance Code, to read:

10352. (a) Every policy of disability insurance issued, amended, or renewed on and after January 1, 1987, that offers coverage for medical transportation services, shall contain a provision providing for direct reimbursement to any provider of covered medical transportation services if the provider has not received payment for those services from any other source.

(b) Subdivision (a) shall not apply to any transaction between a provider of medical transportation services and the insurer under a disability insurance policy if the parties have entered into a contract providing for direct payment.

(c) For purposes of this subdivision, "direct reimbursement" means the following:

The insured shall file a claim for the medical transportation service with the insurer; the insurer shall pay the medical transportation provider directly; and the medical transportation provider shall not demand payment from the insured until having received payment from the insurer, at which time the medical transportation provider may demand payment from the insured for any unpaid portion of the provider's fee.

SEC. 4. Section 11512.08 is added to the Insurance Code, to read:

11512.08. (a) Every nonprofit hospital service plan issued, amended, or renewed on or after January 1, 1987, that offers coverage for medical transportation services, shall contain a provision providing for direct reimbursement to any provider of covered medical transportation services if the provider has not received payment for those services from any other source.

(b) Subdivision (a) shall not apply to any transaction between a nonprofit hospital service plan if the parties have entered into a contract providing for direct payment.

(c) For purposes of this subdivision, "direct reimbursement" means the following:

The subscriber shall file a claim for the medical transportation service with the plan; the plan shall pay the medical transportation provider directly; and the medical transportation provider shall not demand payment from the subscriber until having received payment from the plan, at which time the medical transportation provider may demand payment from the subscriber for any unpaid portion of the provider's fee.

CHAPTER 931

An act to amend Sections 17270, 18036, 18682, 19055, and 26074 of, and to add Section 19290 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 17270 of the Revenue and Taxation Code is amended to read:

17270. (a) For purposes of Section 162(a)(2) of the Internal Revenue Code, relating to travel expenses, all of the following shall apply:

(1) The place of residence of a member of the Legislature within the district represented shall be considered the tax home.

(2) The provisions of Section 162(h) of the Internal Revenue Code, relating to state legislators' travel expenses away from home, shall not be applied.

(3) The provisions of Section 274(h)(6) of the Internal Revenue Code, relating to treatment of conventions in certain Caribbean countries shall not be applied.

(b) The denial of deductions for expenses and interest relating to tax-exempt income shall be determined in accordance with Section 17280, in lieu of Section 265 of the Internal Revenue Code.

(c) The expenditures to remove architectural and transportation barriers shall be determined in accordance with Section 17262, in lieu of Section 190 of the Internal Revenue Code.

(d) The provisions of Section 280C of the Internal Revenue Code (relating to certain expenses for which credits are allowable) shall not be applicable.

(e) The provisions of Section 280D of the Internal Revenue Code (relating to credits for windfall profits tax) shall not be applicable.

SEC. 1.5. Section 17270 of the Revenue and Taxation Code is amended to read:

17270. (a) For purposes of Section 162(a)(2) of the Internal Revenue Code, relating to travel expenses, both of the following shall apply:

(1) The place of residence of a member of the Legislature within the district represented shall be considered the tax home.

(2) The provisions of Section 162(h) of the Internal Revenue Code, relating to state legislators' travel expenses away from home, shall not be applied.

(3) The provisions of Section 274(h)(6) of the Internal Revenue Code, relating to treatment of conventions in certain Caribbean countries shall not be applied.

(b) For purposes of Section 162 of the Internal Revenue Code,

relating to ordinary and necessary business expenses, the deduction of hazardous waste at the source, or the treatment of hazardous waste prior to its disposal in an appropriate land disposal facility, shall be reduced by the amount of the credit allowed in subdivision (a) of Section 17052.14.

(c) The denial of deductions for expenses and interest relating to tax-exempt income shall be determined in accordance with Section 17280, in lieu of Section 265 of the Internal Revenue Code.

(d) The expenditures to remove architectural and transportation barriers shall be determined in accordance with Section 17262, in lieu of Section 190 of the Internal Revenue Code.

(e) The provisions of Section 280C of the Internal Revenue Code (relating to certain expenses for which credits are allowable) shall not be applicable.

(f) The provisions of Section 280D of the Internal Revenue Code (relating to credits for windfall profits tax) shall not be applicable.

SEC. 2. Section 18036 of the Revenue and Taxation Code is amended to read:

18036. (a) In addition to the adjustments to basis provided by Section 1016(a) of the Internal Revenue Code, a proper adjustment shall also be made for amounts allowed as deductions as deferred expenses under subdivision (b) of former Section 17689 or Section 17689.5 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under that section for the taxable year and prior years. A proper adjustment shall also be made for amounts deducted under Sections 17252.5 and 17265.

(b) Notwithstanding the provisions of Section 1016(a) of the Internal Revenue Code, no adjustment to basis shall be made for either of the following:

(1) Abandonment fees paid in respect of property on which the open-space easement is terminated under Section 51061 or 51093 of the Government Code.

(2) Tax recoupment fees paid under Section 51142 of the Government Code.

(c) The provisions of Section 1016(c) of the Internal Revenue Code, relating to increase in basis of property on which additional estate tax is imposed, shall be applicable.

SEC. 3. Section 18682 of the Revenue and Taxation Code is amended to read:

18682. (a) An amount shall be added to the tax imposed under Section 17041 or 17048 for any underpayment of estimated tax. The amount shall be determined in accordance with Section 6654 of the Internal Revenue Code, except as otherwise provided in this section.

(b) The applicable annual rate specified in Section 6654(a)(1) of the Internal Revenue Code shall be the rate determined under Section 19269.

(c) The annualized income installment, determined under Section 6654(d)(2) of the Internal Revenue Code, shall not include

"alternative minimum taxable income" or "adjusted self-employment income."

(d) Section 6654(e) of the Internal Revenue Code is modified as follows:

(1) Paragraph (1) shall not be applicable.

(2) No addition to the tax shall be imposed under this section if:

(A) The tax—

(i) Imposed under Section 17041 or 17048 for the preceeding taxable year, minus the sum of any credits against the tax provided by this part, or

(ii) Computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by this part—is less than one hundred dollars ($100), except in the case of a separate return filed by a married person the amount shall be less than fifty dollars ($50); or

(B) Eighty percent or more of the tax imposed under Section 17041 or 17048 for the preceding taxable year, less any credits against the tax other than the credit allowed under Section 18551.1 for tax withheld on wages pursuant to Section 13020 of the Unemployment Insurance Code, was paid by withholding of tax on wages, as provided by Section 13020 of the Unemployment Insurance Code; or

(C) Eighty percent or more of the estimated tax for the taxable year will be paid by withholding of tax on wages, as provided by Section 13020 of the Unemployment Insurance Code; or

(D) Eighty percent or more of the adjusted gross income for the taxable year consists of wages subject to withholding pursuant to Section 13020 of the Unemployment Insurance Code. However, this paragraph shall not apply if the employee files a false or fraudulent withholding exemption certificate for the taxable year.

(e) Section 6654(f) of the Internal Revenue Code shall not apply and for purposes of this section the term "tax" means the tax imposed under Section 17041 or 17048, less any credits against the tax provided by this part, other than the credit provided by Section 18551.1 (relating to tax withheld on wages).

(f) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under Section 18551.1.

(g) This section shall apply to a nonresident individual.

SEC. 4. Section 19055 of the Revenue and Taxation Code is amended to read:

19055. Every claim for refund shall be in writing, shall be signed by the taxpayer or the taxpayer's authorized representative, and shall state the specific grounds upon which it is founded. A claim filed for or on behalf of a class of taxpayers shall do all of the following:

(a) Be accompanied by written authorization from each taxpayer sought to be included in the class.

(b) Be signed by each taxpayer or taxpayer's authorized representative.

(c) State the specific grounds on which the claim is founded.

SEC. 5. Section 19290 is added to the Revenue and Taxation Code, to read:

19290. The Franchise Tax Board shall conduct a feasibility study of accounting for, maintaining the accounts of, and notifying taxpayers of, both of the following:

(a) The basis accumulated in each taxpayer individual retirement account.

(b) The amount of the pension plans established by self-employed individuals that were not deductible on state income tax returns.

No later than January 1, 1988, the Franchise Tax Board shall submit a report to the Legislature of the results of the feasibility study conducted pursuant to this section.

It is the intent of the Legislature in enacting this section to utilize the results of the study in the determination of whether a system should be designed and implemented by the Franchise Tax Board to account for and retain information regarding taxpayers individual retirement accounts and pension plans, and, if so, the type of system.

SEC. 6. Section 26074 of the Revenue and Taxation Code is amended to read:

26074. Every claim for refund shall be in writing, shall be signed by the taxpayer or the taxpayer's authorized representative, and state the specific grounds upon which it is founded. A claim filed for or on behalf of a class of taxpayers shall do all of the following:

(a) Be accompanied by written authorization from each taxpayer sought to be included in the class.

(b) Be signed by each taxpayer or taxpayer's authorized representative.

(c) State the specific grounds on which the claim is founded.

SEC. 7. The amendment to Section 18682 of the Revenue and Taxation Code made by Section 3 of this act does not constitute a change in, but is declaratory of, the existing law.

SEC. 8. Section 1.5 of this bill incorporates amendments to Section 17270 of the Revenue and Taxation Code proposed by both this bill and AB 4377. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 17270 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 4377, in which case Section 17270 of the Revenue and Taxation Code, as amended by AB 4377, 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.

SEC. 9. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 932

An act to amend Sections 221, 12976, 14512, and 14516 of, and to add Section 58582 to, 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 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 221 of the Food and Agricultural Code is amended to read:

221. The "Department of Food and Agriculture Fund," which is a special fund, is continued in existence. Any money which is directed by law to be paid into the fund shall be paid into it and, unless otherwise specifically provided, shall be expended solely for the enforcement of the law under which the money was derived. The expenditure from the fund for the enforcement of any law shall not, unless otherwise specifically provided, exceed the amount of money which is credited to the fund pursuant to the law.

Notwithstanding Section 13340 of the Government Code, all money deposited in the fund under the provisions enumerated below is hereby continuously appropriated to the department without regard to fiscal years for expenditure in carrying out the purposes for which the money was deposited and for making the refunds authorized by Section 302.

All money deposited in the fund under the provisions enumerated below is hereby exempted from Sections 13320 to 13324, inclusive, of the Government Code.

(a) Article 7 (commencing with Section 5821) of Chapter 8 of Part 1 of Division 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, and Chapter 5 (commencing with Section 53301) of Division 18.

(b) Article 5 (commencing with Section 6001) of Chapter 9 of Part 1 of Division 4.

(c) Chapter 4 (commencing with Section 14200), Chapter 5 (commencing with Section 14501), and Chapter 6 (commencing with Section 14901) of Division 7.

(d) Part 1 (commencing with Section 16301) and Part 2 (commencing with Section 17401) of Division 9.

(e) Division 10 (commencing with Section 20001).

(f) Division 11 (commencing with Section 23001).

(g) Part 4 (commencing with Section 27501) of Division 12.

(h) Division 16 (commencing with Section 40501).

(i) Chapter 9 (commencing with Section 44971) of Division 17.

(j) Chapter 1 (commencing with Section 52001) of Division 18.

(k) Chapter 2 (commencing with Section 52251) of Division 18.

(*l*) Chapter 3 (commencing with Section 52651) of Division 18.

(m) Chapter 6 (commencing with Section 55401), Chapter 7 (commencing with Section 56101), and Chapter 7.5 (commencing with Section 56701) of Division 20.

(n) Section 58582.

(o) Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700) of Part 3 of Division 21.

(p) Chapter 5.5 (commencing with Section 12531) of Division 5 of the Business and Professions Code.

(q) Chapter 7 (commencing with Section 12700), Chapter 7.3 (commencing with Section 12740), and Chapter 7.7 (commencing with Section 12770) of Division 5 of the Business and Professions Code.

(r) Chapter 14 (commencing with Section 13400), Chapter 15 (commencing with Section 13700), Chapter 16 (commencing with Section 13800), and Chapter 17 (commencing with Section 13900) of Division 5 of the Business and Professions Code.

SEC. 1.5. Section 12976 of the Food and Agricultural Code is amended to read:

12976. Except as provided in Section 11346.1 of the Government Code, the director may, after investigation and hearing, adopt regulations to govern the possession, sale, or use of any pesticide which the director finds necessary to carry out the purposes of Division 6 (commencing with Section 11401) or this division.

SEC. 2. 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 which is distributed for farm use, or any substance 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, wood fly ash, 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.

SEC. 3. Section 14516 of the Food and Agricultural Code is amended to read:

14516. "Commercial fertilizer" means any substance which contains 5 percent or more of nitrogen (N), available phosphoric acid (P_2O_5), or soluble potash (K_2O), singly or collectively, which is distributed in this state for promoting or stimulating plant growth. It does not include untreated animal or vegetable manures.

"Commercial fertilizer" also includes products which are

distributed in packages for nonfarm use only and contain total nitrogen (N), available phosphoric acid (P_2O_5), or soluble potash (K_2O), singly or collectively, in amounts of less than 5 percent which can be detected by approved chemical methods. In addition, the label shall include adequate directions for use and an approved statement of purpose.

SEC. 4. Section 58582 is added to the Food and Agricultural Code, to read:

58582. (a) The California Agricultural Export Promotion Account is hereby created in the Department of Food and Agriculture Fund. Notwithstanding Section 13340 of the Government Code, the money in the account is continuously appropriated to the director to support export promotional and public relations activities conducted generally and pursuant to this chapter.

(b) The account shall consist exclusively of funds received for the purpose of subdivision (a) from private industry sources, marketing order advisory boards established pursuant to Chapter 1 (commencing with Section 58601) of Part 2, and agricultural councils and agricultural commissions established pursuant to Division 22 (commencing with Section 64001).

(c) Funds expended from the account shall be used exclusively for activities which directly benefit the industry sources from which the funds are derived.

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:

In order to ensure efficient regulation of agricultural products and to better promote the export of agricultural commodities produced in this state in as timely a manner as possible, it is necessary that this act take effect immediately.

CHAPTER 933

An act to amend Sections 4107, 5352.5 and 5709.8 of, to add Section 4027 to, and to repeal Section 5369.1 of, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 4027 is added to the Welfare and Institutions Code, to read:

4027. The State Department of Mental Health may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders receiving treatment pursuant to Sections 1026, 1026.2, 1364, 1370, 1610, and 2684 of the Penal Code, Section 1756 of the Welfare and Institutions Code, persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.

SEC. 2. Section 5352.5 of the Welfare and Institutions Code is amended to read:

5352.5. Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the Penal Code upon recommendation of the medical director of the state hospital, or a designee, or professional person in charge of the local mental health facility, or a designee, or the local mental health director, or a designee, to the conservatorship investigator of the county of residence of the person prior to his or her admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person convicted of a felony who has been transferred to a state hospital under the jurisdiction of the State Department of Mental Health pursuant to Section 2684 of the Penal Code by the recommendation of the medical director of the state hospital to the conservatorship investigator of the county of residence of the person or of the county in which the state hospital is located.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person committed to the Youth Authority, or on parole from a facility of the Youth Authority, by the Director of the Department of the Youth Authority or a designee, to the conservatorship investigator of the county of residence of the person or of the county in which the facility is situated.

The county mental health program providing conservatorship investigation services and conservatorship case management services for any persons except those transferred pursuant to Section 4011.6 of the Penal Code shall be reimbursed for the expenditures made by it for the services pursuant to the Short-Doyle Act (commencing with Section 5600) at 100 percent of the expenditures. Each county Short-Doyle plan shall include provision for the services in the plan.

SEC. 3. Section 5369.1 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 4107 of the Welfare and Institutions Code, as added by Section 12 of Senate Bill 1648, is amended to read:

4107. (a) The security of patients committed pursuant to Section 1026 of, and Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of, the Penal Code, and former Sections 6316 and 6321 of the Welfare and Institutions Code, at Patton State Hospital shall be the responsibility of the Director of the Department of Corrections.

(b) The Department of Corrections and the State Department of Mental Health shall jointly develop a plan to transfer all patients committed to Patton State Hospital pursuant to the provisions in subdivision (a) from Patton State Hospital no later than January 1, 1986, and shall transmit this plan to the Senate Committee on Judiciary and to the Assembly Committee on Criminal Justice, and to the Senate Health and Welfare Committee and Assembly Health Committee by June 30, 1983. The plan shall address whether the transferred patients shall be moved to other state hospitals or to correctional facilities, or both, for commitment and treatment.

(c) Notwithstanding any other provision of law, the State Department of Mental Health shall house no more than 1,336 patients at Patton State Hospital.

(d) This section shall remain in effect only until all patients committed, pursuant to the provisions enumerated in subdivision (a), have been removed from Patton State Hospital and shall have no force or effect on or after that date.

SEC. 5. Section 5709.8 of the Welfare and Institutions Code is amended to read:

5709.8. The department shall provide care, treatment, and supervision in the community for judicially committed persons. The program established and administered by the department under this section to provide these services shall be known as the Conditional Release Program and may be used by the department in accordance with this section to provide services in the community to other patient populations for which the department has direct responsibility.

Subject to the exemptions contained in Section 5707.1, the department may provide directly, or through contract with private providers or counties, for these services, including administrative and ancillary services related to the provision of direct services. Subject to approval by the department, a county may provide these

services directly, or may contract with private providers, for such services.

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 934

An act to amend Section 8254 of, and to add Section 8259 to, the Fish and Game Code, relating to lobster, and making an appropriation therefor.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 8254 of the Fish and Game Code is amended to read:

8254. Lobsters may not be taken for commercial purposes except under a revocable, nontransferable permit subject to regulations adopted by the commission.

Every person who takes, assists in taking, possesses, or transports lobsters while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters, shall have a valid lobster permit issued to that person and shall have that permit in his or her possession while engaged in any of those activities.

Lobster permits may be issued annually by the department and shall be valid for the period of the commercial lobster season. The permit fee is two hundred dollars ($200). However, any person who has had a lobster permit revoked may be required by the commission to appear before it, and no new lobster permit may be issued to such a person unless the commission finds that the issuance will be in the best interests of lobster fishing.

The department shall file an annual report with the Legislature not later than the fifth calendar day of each session of the Legislature on the use made of the revenue received in accordance with this section.

SEC. 2. Section 8259 is added to the Fish and Game Code, to read:

8259. Whenever it is necessary to prevent overutilization or to ensure efficient and economic operation of the fishery, the commission may limit the number of permits that may be issued pursuant to this article. As it determines appropriate to protect the

resource, the commission may limit the number of permits on a statewide basis or within selected geographical areas.

CHAPTER 935

An act to amend Sections 25281, 25287, and 25292 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 25281 of the Health and Safety Code is amended to read:

25281. For purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board. "Regional board" means a California Regional Water Quality Control Board.

(b) "Department" means the State Department of Health Services.

(c) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(d) "Hazardous substance" means all of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(1) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(2) Hazardous substances, as defined in Section 25316.

(3) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(e) "Local agency" means the department, office, or other agency of a county or city designated pursuant to Section 25283.

(f) "Operator" means the operator of an underground storage tank.

(g) "Owner" means the owner of an underground storage tank.

(h) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, or association. "Person" also includes any city, county, district, the state, any department or agency thereof, or the United States to the extent authorized by federal law.

(i) "Pipe" means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or

intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

(j) "Primary containment" means the first level of containment, such as the portion of a tank which comes into immediate contact on its inner surface with the hazardous substance being contained.

(k) "Product-tight" means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.

(*l*) "Secondary containment" means the level of containment external to, and separate from, the primary containment.

(m) "Single-walled" means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials are considered single-walled.

(n) "Special inspector" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground storage tanks.

(o) "Storage" or "store" means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.

(p) "Tank" means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthen materials (e.g. wood, concrete, steel, plastic) which provides structural support.

(q) "Unauthorized release" means any release or emission of any hazardous substance which does not conform to this chapter, unless this release is authorized by the board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(r) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

(1) A tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the county agricultural commissioner if the county agricultural commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to that required by Section 25291, if the tank was installed after June 30, 1984, or protection equivalent to that provided by Section 25292, if

the tank was installed on or before June 30, 1984.

(2) A tank which is located on a farm, which stores motor vehicle or heating fuel used primarily for agricultural purposes, and which holds 1,100 gallons or less.

(3) A tank which holds 1,100 gallons or less, is located at a residence of a person, and stores home heating fuel used exclusively for personal and nonincome producing purposes.

(4) A tank which is used for aviation or motor vehicle fuel, which tank is located within one mile of a farm and used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code, who is primarily involved in agricultural pest control activities.

(5) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25291 or 25292 are not exempted by this section. Structures identified in this paragraph may be regulated by the board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

SEC. 2. Section 25281 of the Health and Safety Code is amended to read:

25281. For purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board. "Regional board" means a California Regional Water Quality Control Board.

(b) "Department" means the State Department of Health Services.

(c) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(d) "Hazardous substance" means all of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(1) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(2) Hazardous substances, as defined in Section 25316.

(3) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(e) "Local agency" means the department, office, or other agency of a county or city designated pursuant to Section 25283.

(f) "Operator" means the operator of an underground storage tank.

(g) "Owner" means the owner of an underground storage tank.

(h) "Person" means an individual, trust, firm, joint stock

company, corporation, including a government corporation, partnership, or association. "Person" also includes any city, county, district, the state, any department or agency thereof, or the United States to the extent authorized by federal law.

(i) "Pipe" means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

(j) "Primary containment" means the first level of containment, such as the portion of a tank which comes into immediate contact on its inner surface with the hazardous substance being contained.

(k) "Product-tight" means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.

(*l*) "Secondary containment" means the level of containment external to, and separate from, the primary containment.

(m) "Single-walled" means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials are considered single-walled.

(n) "Special inspector" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground storage tanks.

(o) "Storage" or "store" means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.

(p) "SWEEPS" means the Statewide Environmental Evaluation and Planning System administered by the California Association of Environmental Health Administrators.

(q) "Tank" means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthen materials (e.g. wood, concrete, steel, plastic) which provides structural support.

(r) "Unauthorized release" means any release or emission of any hazardous substance which does not conform to this chapter, unless this release is authorized by the board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(s) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, which is used for the

storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

(1) A tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the county agricultural commissioner if the county agricultural commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to that required by Section 25291, if the tank was installed after June 30, 1984, or protection equivalent to that provided by Section 25292, if the tank was installed on or before June 30, 1984.

(2) A tank which is located on a farm, which stores motor vehicle or heating fuel used primarily for agricultural purposes, and which holds 1,100 gallons or less.

(3) A tank which holds 1,100 gallons or less, is located at a residence of a person, and stores home heating fuel used exclusively for personal and nonincome producing purposes.

(4) A tank which is used for aviation or motor vehicle fuel, which tank is located within one mile of a farm and used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code, who is primarily involved in agricultural pest control activities.

(5) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25291 or 25292 are not exempted by this section. Structures identified in this paragraph may be regulated by the board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

SEC. 3. Section 25287 of the Health and Safety Code is amended to read:

25287. (a) Except as provided in subdivision (c), a fee shall be paid to the local agency by each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. The governing body of the county, or a city which assumes enforcement jurisdiction, shall establish the amount of the fees at a level sufficient to pay the necessary and reasonable costs incurred in administering this chapter, including, but not limited to, permitting and inspection responsibilities. The governing body may provide for the waiver of fees when a public agency makes an application for a permit to operate or an application to renew a permit.

(b) This fee shall include a surcharge, the amount of which shall be determined by the Legislature annually to cover the costs of the board in carrying out its responsibilities under this chapter. The surcharge shall be transmitted to the board and deposited in the Underground Storage Tank Fund hereby created in the General

Fund. The money in this account is available, upon appropriation by the Legislature, to the board for the purposes of implementing this chapter.

(c) A local agency may waive the fee required by subdivision (a) for an underground storage tank which has a capacity of 5,000 gallons or less, which is located on a farm, and which contains motor vehicle or heating fuel used primarily for agricultural purposes, if the local agency finds that the fee will impose undue economic hardship upon the person applying for the permit. However, the local agency shall not waive the surcharge required under subdivision (b).

SEC. 4. Section 25287 of the Health and Safety Code is amended to read:

25287. (a) Except as provided in subdivision (c), fee shall be paid to the local agency by each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. The governing body of the county, or a city which assumes enforcement jurisdiction, shall establish the amount of the fees at a level sufficient to pay the necessary and reasonable costs incurred in administering this chapter, including, but not limited to, permitting and inspection responsibilities. The governing body may provide for the waiver of fees when a public agency makes an application for a permit to operate or an application to renew a permit.

(b) This fee shall include a surcharge, the amount of which shall be determined by the Legislature annually to cover the costs of the board in carrying out its responsibilities under this chapter. The local agency may retain 6 percent of any surcharge collected for costs incurred in its collection. Each local agency shall transmit the surcharge monthly to the board, which shall deposit the surcharge in the Underground Storage Tank Fund hereby created in the General Fund. The money in this account is available, upon appropriation by the Legislature, to the board for the purposes of implementing this chapter.

(c) A local agency may waive the fee required by subdivision (a) for an underground storage tank which has a capacity of 5,000 gallons or less, which is located on a farm, and which contains motor vehicle fuel used primarily for agricultural purposes, if the local agency finds that the fee will impose undue economic hardship upon the person applying for the permit. However, the local agency shall not waive the surcharge required under subdivision (b).

(d) The local agency shall establish annual billing procedures to collect the fee and surcharge specified in this section.

SEC. 5. Section 25292 of the Health and Safety Code is amended to read:

25292. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, the following actions shall be taken:

(a) On or before July 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases

of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Precision testing as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank and piping system at time intervals specified by the board.

(2) A groundwater monitoring well or wells which are downgradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well.

(3) A continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the local agency.

(4) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if all of the following requirements are met:

(A) Inventory records are kept on file for one year and are reviewed quarterly.

(B) The tank is tested, using the precision test as defined by the National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Solids," as amended, for proving the integrity of an underground storage tank at time intervals specified by the board and whenever there is a shortage greater than the amount which the board shall specify by regulation.

(C) If a pressurized pump system is connected to the tank system, the system has a leak detection device to monitor for leaks in the piping.

(5) For monitoring underground storage tanks which are located on farms and which store motor vehicle or heating fuels used primarily for agricultural purposes, alternative monitoring methods include the following:

(A) If the tank has a capacity of greater than 1,100 gallons but of 5,000 gallons or less, the tank shall be tested using the precision test, as defined by the National Fire Protection Association Pamphlet 329, at least once every three years, and the owner shall utilize tank gauging on a monthly or more frequent basis, as required by the local agency, subject to the specifications provided in paragraph (7) of subdivision (c) of Section 2641 of Title 23 of the California Administrative Code, as that section read on August 13, 1985.

(B) If the tank has a capacity of more than 5,000 gallons, the tank shall be monitored pursuant to the methods for all other tanks specified in this subdivision.

(c) The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

SEC. 6. Section 2 of this bill incorporates amendments to Section 25281 of the Health and Safety Code proposed by both this bill and AB 2920. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 25281 of the Health and Safety Code, and (3) this bill is enacted after AB 2920, in which case Section 25281 of the Health and Safety Code, as amended by AB 2920, 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.

SEC. 7. Section 4 of this bill incorporates amendments to Section 25287 of the Health and Safety Code proposed by both this bill and AB 2920. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 25287 of the Health and Safety Code, and (3) this bill is enacted after AB 2920, in which case Section 25287 of the Health and Safety Code, as amended by AB 2920, shall remain operative only until the operative date of this bill, at which time Section 4 of this bill shall become operative, and Section 3 of this bill shall not become operative.

CHAPTER 936

An act relating to harbor improvements, and to convey certain tide and submerged lands to the City of Trinidad.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. (a) There is hereby granted to the City of Trinidad, hereinafter referred to as the "trustee", all of the right, title, and interest of the State of California held by the state by virtue of its sovereignty in and to all tide and submerged lands, whether filled or unfilled, situated in the City of Trinidad and as described in Section 13. The lands shall be held by the trustee and its successors in trust for the benefit of all the people of the state for purposes of commerce, navigation, and fisheries, and for other public purposes, including, but not limited to, preservation of the lands in their

natural state for scientific study, open space, wildlife habitat, and recreational uses, as more particularly provided in this act.

(b) This grant is subject to the following express conditions:

(1) The granted lands shall be used by the trustee and its successors for purposes in which there is a general statewide interest. The use of the lands shall be in conformity with a general use proposal adopted by the trustee and reviewed and approved by the State Lands Commission, hereafter referred to as the "commission." Changes or amendments to the general use proposal shall be reviewed and approved by the commission as provided under Section 3.

(2) The trustee or its successors shall not at any time grant, convey, give, or alienate the granted lands, or any part thereof, to any individual, firm, or corporation for any purposes whatsoever; except that the trustee or its successors may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, may lease the lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which the lands are held, and may collect and retain rents and other revenues from those leases, franchises, and privileges under rules and regulations adopted in accordance with Section 5.

Nothing contained in this paragraph affects the validity or terms of any franchise granted by the trustee under Division 3 (commencing with Section 6001) of the Public Utilities Code, and any such franchise shall be effective with respect to the affected lands when title thereto passes to the trustee under this act.

(3) In the management, conduct, operation, and control of the granted lands or any improvement, betterments, or structures thereon, the trustee or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(4) The state shall have the right to use, without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the granted lands for any vessel or other watercraft or railroad owned or operated by the state.

(5) There is reserved to the people of the State of California the absolute right to fish in the waters over the granted lands, with the right of convenient access to those waters over the lands for that purpose.

(6) There is excepted and reserved to the state all remains of archaeological and historical significance and all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the granted lands, and the right to prospect for, mine, and remove those deposits from the lands.

(7) The trustee shall not authorize a capital outlay project, lease, or agreement for port facilities, such as marine terminals, pipelines, or other related energy facilities, on the granted lands without first requesting and receiving the approval, in writing, of the commission. Prior to approving any such capital outlay project, lease, or agreement, the commission shall consult with other governmental

agencies and shall determine that the project is in and for the best interest of the people of the state and consistent with provisions of law.

SEC. 2. (a) On or before September 30 of every succeeding fifth year, commencing on September 30, 1991, the trustee shall submit a report of its utilization of the granted lands for each immediately preceding five-calendar-year period ending with June 30 of the calendar year in which the report is required to be submitted.

(b) The report required by this section shall include all of the following:

(1) A general description of the uses to which the granted lands have been placed during the period covered by the report.

(2) A list of the owners and holders of leases, permits, and franchises granted or issued by the trustee, which list shall specify, as to each such owner or holder:

(A) The use to which the granted lands have been placed by the owner or holder.

(B) The consideration provided for in each such lease, permit, or franchise and the consideration actually received by the trustee for the lease, permit, or franchise granted or issued.

(C) An enumeration of the restrictions which the trustee has placed on the use of the granted lands and each area thereof for the period covered by the report.

SEC. 3. (a) On or before January 1, 1989, the trustee shall submit to the commission a general use proposal indicating details of intended development, preservation, or other use of the granted lands, and covering a period of not less than five years.

(b) The general use proposal may consist of any plan, program, or other document which includes all of the following:

(1) A general description of the type of uses planned or proposed for the granted lands. The location of these land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefit to be derived from the planned or proposed uses of the granted lands, including, but not limited to, the financial benefit, the benefit to commerce, navigation, and fisheries, and the recreational, educational, or industrial benefit.

(3) The proposed method of financing the planned or proposed uses of the granted lands, including estimated capital costs, annual operating costs, and anticipated annual revenues.

(4) Estimated timetable for implementation of the general use proposal or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and manmade resources in connection with the use of the granted lands.

(c) The trustee shall submit to the commission all changes and amendments to the general use proposal.

(d) The commission shall review with reasonable promptness the general use proposal submitted by the trustee, and any changes or amendments, to determine that they are in accordance with the

public trust obligation and the requirements of this act. On the basis of that review, the commission shall furnish the trustee with its formal recommendations.

SEC. 4. The trustee shall demonstrate good faith in carrying out the provisions of its general use proposal and amending it when necessary in accordance with Section 3. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the granted lands, as required by the general use proposal, or has unreasonably delayed adopting that proposal, all right, title, and interest of the trustee in and to the granted lands shall revert to the state. All improvements, restoration, preservation, or maintenance of the granted lands shall be effected in accordance with the general use proposal.

SEC. 5. (a) The governing body of the trustee shall, within 180 days of the effective date of this act, submit to the commission for its approval, procedures, rules, and regulations to govern the issuance, renewal, or renegotiation of any lease of the granted lands, or any development thereon. These rules and regulations shall specify lease rates, the bases upon which the rates are established, lease terms and conditions, provision for renegotiation of rates and terms and assignments, and such other information as may be required by the commission.

(b) All leases, franchises, or agreements proposed, or entered into, by any trustee after the effective date of this section shall be consistent with the general use proposal submitted by the trustee.

(c) Upon request, the trustee shall submit to the commission a copy of all leases, franchises, and agreements entered into, renewed, or renegotiated.

SEC. 6. (a) The trustee shall, with the approval of the commission, 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.

(b) All revenues received from trust lands and trust assets shall be expended only for uses and purposes consistent with the public trust for commerce, navigation, and fisheries and with subdivision (a) of Section 1.

SEC. 7. Property acquired with those revenues shall be considered an asset of the trust and subject to the terms and conditions of this act.

SEC. 8. On or before October 1 of each year, the trustee 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. This statement shall be prepared according to generally accepted accounting principles and may take the form of an annual audit prepared by or for the trust grantee.

SEC. 9. As to the expenditure of revenues for any single capital

improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars ($250,000) in the aggregate, the trustee shall file with the commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith. Within 90 days after the time of that filing, the commission shall determine, whether the capital improvement is in the statewide interest and benefit and is consistent with the conditions of this act. The commission may request the opinion of the Attorney General on the matter; and if it does so, a copy of that opinion shall be delivered to the trustee with the notice of its determination. In the event the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any revenue for, or in connection with, the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The trustee is authorized to bring suit against the state for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters. Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in that suit. If judgment is given against the state in the suit, no costs may be recovered.

SEC. 10. On June 30, 1989, and at the end of every third fiscal year thereafter, that portion of the trustee's tidelands trust revenues in excess of two hundred fifty thousand dollars ($250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of tidelands trust activities shall be deemed excess revenues; except that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining excess revenues.

The excess revenues, as determined pursuant to this section, shall be allocated as follows: 85 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury; and 15 percent to the trustee for expenditures consistent with this act.

SEC. 11. The commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning the granted lands are being complied with in good faith.

SEC. 12. Section 6359 of the Public Resources Code does not apply to this act.

SEC. 13. The land granted in Section 1 is all that portion of Trinidad Bay adjacent to Fractional Section 26, Township 8 North, Range 1 West, Humboldt Meridian, described as follows:

Beginning at Monument 2 at the intersection of East Street and

View Avenue, as shown on the Map of the City of Trinidad prepared by Larson and MacMillan in 1961 and on file with the City Engineer for the City of Trinidad, California, the monument being 535.69 feet north and 786.95 feet west from the northeast corner of Section 26 and running thence south 4 degrees 28 minutes 30 seconds east along the southerly extension of the centerline of View Avenue 730 feet more or less to the ordinary high water mark of Trinidad Bay and the true point of beginning of the area herein described; thence from the true point of beginning westerly and southerly following the ordinary high water mark to its southernmost point on Trinidad Head; thence northeasterly along a straight line 1,600 feet more or less to the ordinary high water mark on the southernmost point on Prisoner Rock; thence east 1,850 feet more or less to the southerly extension of the east line of Fractional Section 26; thence north along the east line 1,350 feet more or less to the ordinary high water mark of Trinidad Bay; thence northwesterly along the ordinary high water mark 800 feet more or less to the true point of beginning, containing 100 acres more or less.

SEC. 14. (a) Notwithstanding Section 6084 of the Harbors and Navigation Code, the Crescent City Harbor District is exempt from the five-year loan limit specified in that section for the purposes of borrowing money to make improvements to accommodate the plan of the United States Coast Guard to station a new patrol boat in the Crescent City Harbor in January 1987.

(b) In order to protect the lives of Del Norte County residents and visitors, additional Coast Guard presence is vital. For the purposes of accommodating the Coast Guard's new 110-foot Island Class Cutter, numerous improvements to the harbor are necessary. A five-year loan term would force the district to charge prohibitively high rent to the Coast Guard. Therefore, a special exemption from Section 6084 of the Harbors and Navigation Code is granted to the district to allow up to a 20-year payback on loans necessary for these specific improvements.

SEC. 15. 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 937

An act to amend Sections 11105.2, 12027, and 12031 of the Penal Code, relating to firearms.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 11105.2 of the Penal Code is amended to read:

11105.2. (a) The Department of Justice may provide subsequent arrest notification to any agency authorized by Section 11105 to receive state summary criminal history information to assist in fulfilling employment, licensing, or certification duties upon the arrest of any person whose fingerprints are maintained on file at the Department of Justice as the result of an application for licensing, employment, or certification. Such notification shall consist of a current copy of the person's state summary criminal history transcript.

(b) Any agency, other than a law enforcement agency employing peace officers as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31, shall enter into a contract with the Department of Justice in order to receive notification of subsequent arrests for licensing, employment, or certification purposes.

(c) Any agency which submits the fingerprints of applicants for licensing, employment, or certification to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent arrests shall immediately notify the department when the employment of such applicant is terminated, when the applicant's license or certificate is revoked, or when the applicant may no longer renew or reinstate the license or certificate. The Department of Justice shall terminate subsequent arrest notification on any applicant upon the request of the licensing, employment, or certifying authority.

(d) Any agency receiving a notification of subsequent arrest for a person unknown to the agency, or for a person no longer employed by the agency, or no longer eligible to renew the certificate or license for which subsequent arrest notification service was established shall immediately return such subsequent arrest notification to the Department of Justice, informing the department that the agency is no longer interested in the applicant. The agency shall not record or otherwise retain any information received as a result of such subsequent arrest notice.

(e) Any agency which submits the fingerprints of an applicant for employment, licensing, or certification to the Department of Justice

for the purpose of establishing a record at the department to receive notification of subsequent arrest shall immediately notify the department if the applicant is not subsequently employed, or if the applicant is denied licensing or certification.

(f) An agency which fails to provide the Department of Justice with notification as set forth in subdivisions (c), (d), and (e) may be denied further subsequent arrest notification service.

(g) Notwithstanding subdivisions (c), (d), and (f), subsequent arrest notification by the Department of Justice and retention by the employing agency shall continue as to retired peace officers listed in subdivision (c) of Section 830.5.

SEC. 1.5. Section 11105.2 of the Penal Code is amended to read:

11105.2. (a) The Department of Justice may provide subsequent arrest notification to any agency authorized by Section 11105 or employer authorized by Section 11105.3 to receive state summary criminal history information to assist in fulfilling employment, licensing, or certification duties upon the arrest of any person whose fingerprints are maintained on file at the Department of Justice as the result of an application for licensing, employment, or certification. The subsequent arrest information shall be issued when there is an arrest and a conviction, or an arrest pending final adjudication for the commission or the attempted commission of a crime.

(b) Any agency, other than a law enforcement agency employing peace officers as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31, shall enter into a contract with the Department of Justice in order to receive notification of subsequent arrests for licensing, employment, or certification purposes.

(c) Any agency which submits the fingerprints of applicants for licensing, employment, or certification to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent arrests shall immediately notify the department when the employment of that applicant is terminated, when the applicant's license or certificate is revoked, or when the applicant may no longer renew or reinstate the license or certificate. The Department of Justice shall terminate subsequent arrest notification on any applicant upon the request of the licensing, employment, or certifying authority.

(d) Any agency receiving a notification of subsequent arrest for a person unknown to the agency, or for a person no longer employed by the agency, or no longer eligible to renew the certificate or license for which subsequent arrest notification service was established shall immediately return such subsequent arrest notification to the Department of Justice, informing the department that the agency is no longer interested in the applicant. The agency shall not record or otherwise retain any information received as a result of the subsequent arrest notice.

(e) Any agency which submits the fingerprints of an applicant for employment, licensing, or certification to the Department of Justice for the purpose of establishing a record at the department to receive notification of subsequent arrest shall immediately notify the department if the applicant is not subsequently employed, or if the applicant is denied licensing or certification.

(f) An agency which fails to provide the Department of Justice with notification as set forth in subdivisions (c), (d), and (e) may be denied further subsequent arrest notification service.

(g) Notwithstanding subdivisions (c), (d), and (e), subsequent arrest notification by the Department of Justice and retention by the employing agency shall continue as to retired peace officers listed in subdivision (c) or Section 830.5.

SEC. 2. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to or affect any of the following:

(a) Peace officers listed in Section 830.1 or 830.2 whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at anytime subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this subdivision.

A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a concealed firearm every five years. Any peace officer who has been honorably retired shall be issued an identification certificate, which shall give the retired officer the privilege to carry a weapon pursuant to this subdivision when the issuing agency has endorsed the certificate indicating that the privilege exists. Where the officer retired after January 1, 1981, the endorsement shall specify the date when the endorsement is to be renewed again. A retired peace officer shall have no privilege to carry a weapon pursuant to this subdivision in the absence of the endorsement.

An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a firearm.

(b) The possession or transportation by any merchant of unloaded firearms as merchandise.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive such weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this chapter upon such target ranges, or while going to and from such ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

(h) Members of any club or organization organized for the purpose of collecting and displaying antique or historical pistols, revolvers or other firearms, while such members are displaying such weapons at meetings of such clubs or organizations or while going to and from such meetings, or individuals who collect such firearms not designed to fire, or incapable of firing fixed cartridges or fixed shot shells, or other firearms of obsolete ignition type for which ammunition is not readily available and which are generally recognized as collector's items, provided such firearm is kept in the trunk. If the vehicle is not equipped with a trunk, such firearm shall be kept in a locked container in an area of the vehicle other than the utility or glove compartment.

SEC. 3. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in the county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served

by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

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

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm in public every five years. Any peace officer who has been honorably retired shall be issued an identification certificate, which shall give the retired officer the privilege to carry a weapon pursuant to this subdivision when the issuing agency has endorsed the certificate indicating that the privilege exists. The endorsement shall specify the date when the endorsement is to be renewed again. A retired peace officer shall have no privilege to carry a weapon pursuant to this subdivision in the absence of the endorsement.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(5) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express

terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residence or

their place of employment. Security guards and alarm agents en route to or from their residence or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of such weapon is necessary for the preservation of such person or property. As used in this subdivision "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(k) Nothing in this section is intended to preclude the carrying of

a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 11105.2 of the Penal Code proposed by both this bill and SB 751. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11105.2 of the Penal Code, and (3) this bill is enacted after SB 751, in which case Section 1 of this bill shall not become operative.

CHAPTER 938

An act to add Section 1596.96 to the Health and Safety Code, relating to day care facilities for children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 1596.96 is added to the Health and Safety Code, to read:

1596.96. (a) The department and the licensing agencies with which it contracts for licensing shall review and make a final determination within 60 days on all applications for a license to operate a day care facility for children by an organization which possesses a current valid license to operate a day care facility for children at another site.

(b) If the department for any reason is unable to comply with subdivision (a), it shall grant a provisional license to the applicant to operate for a period not to exceed six months. While the provisional license is in effect, the department shall continue its investigation and make a final determination on the application before the provisional license expires. The provisional license shall be granted, provided no life safety risks are involved, upon completion of all clearances applicable to fire safety and criminal records, as required by the department's rules and regulations. The director may extend the term of a provisional license for an additional six months at the time of the application, if the director determines that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, and if all other requirements for a license have been met.

(c) The department shall immediately develop expedited procedures necessary to implement subdivisions (a) and (b).

(d) The department shall immediately develop an appeal

procedure for applicants under this section for both denial of licenses and delay in processing applications.

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:

Badly needed day care facilities in this state shall be forced to close down unless the provisions of this act are enacted, and therefore it is necessary that this act take effect immediately.

CHAPTER 939

An act to amend Sections 1463, 1463.05, 1463.4, 1463.5a, and 1463.6 of the Penal Code, to amend Section 27174.1 of the Streets and Highways Code, and to amend Sections 4760, 4761, 4762, 4763, 4764, 4765, 9800, 40309, 40510, 40521, and 41102 of, to add Article 3 (commencing with Section 40200) to Chapter 1 of Division 17 of, and to repeal Sections 40309.5, 41103, 41103.2, and 41103.5 of, the Vehicle Code, relating to parking violations.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. The Legislature finds and declares that vehicle parking violations are not being processed in a uniform or consistent manner and that the existing statutory procedures are causing confusion to the courts, the issuing agencies, and the people and are resulting in practices which may offend constitutional requirements of procedural due process. The Legislature further finds that existing procedures for processing parking violations cause conflict in the allocation of parking fine revenues between the affected local authorities. The Legislature further finds that existing procedures are permitting some persons to accumulate excessive numbers of unsatisfied parking violations while, at the same time, causing others to be subject to excessive fees or the loss of their vehicles through liens for which they have had neither notice nor opportunity to be heard.

SEC. 2. Section 1463 of the Penal Code is amended to read:

1463. Except as otherwise specifically provided by law:

(a) All fines and forfeitures including Vehicle Code fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court or justice court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated. The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the proper funds

of the county an amount equal to the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by the state or by the county in which the court is situated, exclusive of fines or forfeitures or forfeitures of bail collected from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within the limits of a city within the county.

(2) Except as otherwise provided in this subdivision, once a month there shall be transferred into the traffic safety fund of each city in the county an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within that city, and an amount equal to the remaining 50 percent shall be transferred to the special road fund of the county. However, the board of supervisors of the county may, by resolution, provide that not more than 50 percent of the amount to be transferred to the special road fund of the county, be transferred into the general fund of the county.

Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code on state highways constructed as freeways whereon city police officers enforced the provisions of the Vehicle Code on April 1, 1965, within the limits of a city within the county which is set forth in the schedule appearing in paragraph (3). If this paragraph is applicable within a city, it shall apply uniformly throughout the city to all freeways regardless of the date of freeway construction or completion.

(3) Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by each city in the county which is set forth in the following schedule:

County and city	Percentage
Alameda	
Alameda	18
Albany	29
Berkeley	19
Emeryville	13
Hayward	10
Livermore	7
Oakland	22
Piedmont	44

Pleasanton	17
San Leandro	9
County percentage	21
Amador	
Amador	25
Ione	25
Jackson	25
Plymouth	25
Sutter Creek	25
County percentage	29
Butte	
Biggs	75
Chico	22
Gridley	49
Oroville	9
County percentage	20
Calaveras	
Angels	62
County percentage	62
Colusa	
Colusa	13
Williams	17
County percentage	16
Contra Costa	
Antioch	11
Brentwood	24
Concord	18
El Cerrito	19
Hercules	14
Martinez	22
Pinole	22
Pittsburg	5
Richmond	14
San Pablo	12
Walnut Creek	24
County percentage	14
Del Norte	
Crescent City	19
County percentage	19
El Dorado	
Placerville	14
County percentage	14
Fresno	
Clovis	23
Coalinga	21
Firebaugh	16
Fowler	34
Fresno	26
Huron	24

Kerman	14
Kingsburg	34
Mendota	11
Orange Cove	24
Parlier	21
Reedley	30
Sanger	29
San Joaquin	15
Selma	14
County percentage	24
Glenn	
Orland	27
Willows	36
County percentage	32
Humboldt	
Arcata	9
Blue Lake	26
Eureka	11
Ferndale	30
Fortuna	17
Trinidad	11
County percentage	11
Imperial	
Brawley	8
Calexico	10
Calipatria	30
El Centro	5
Holtville	16
Imperial	6
Westmorland	12
County percentage	8
Inyo	
Bishop	25
County percentage	25
Kern	
Bakersfield	10
Delano	13
Maricopa	36
Shafter	15
Taft	19
Tehachapi	12
Wasco	28
County percentage	12
Kings	
Corcoran	31
Hanford	21
Lemoore	25
County percentage	25

Lake	
Lakeport	33
County percentage	33
Lassen	
Susanville	21
County percentage	21
Los Angeles	
Alhambra	13
Arcadia	11
Avalon	54
Azusa	11
Bell	11
Beverly Hills	14
Burbank	14
Claremont	5
Compton	16
Covina	11
Culver City	10
El Monte	11
El Segundo	11
Gardena	22
Glendale	16
Glendora	12
Hawthorne	7
Hermosa Beach	14
Huntington Park	12
Inglewood	16
La Verne	14
Long Beach	14
Los Angeles	8
Lynwood	9
Manhattan Beach	13
Maywood	15
Monrovia	11
Montebello	11
Monterey Park	11
Palos Verdes Estates	10
Pasadena	9
Pomona	12
Redondo Beach	15
San Fernando	17
San Gabriel	16
San Marino	5
Santa Monica	11
Sierra Madre	11
Signal Hill	24
South Gate	13

South Pasadena	9
Torrance	16
Vernon	25
West Covina	11
Whittier	11
County percentage	11
Madera	
Chowchilla	17
Madera	16
County percentage	17
Marin	
Belvedere	16
Corte Madera	12
Fairfax	30
Larkspur	30
Mill Valley	13
Ross	18
San Anselmo	11
San Rafael	13
Sausalito	21
County percentage	16
Mendocino	
Fort Bragg	19
Point Arena	40
Ukiah	10
Willits	24
County percentage	17
Merced	
Atwater	23
Dos Palos	21
Gustine	23
Livingston	14
Los Banos	13
Merced	18
County percentage	18
Modoc	
Alturas	42
County percentage	42
Monterey	
Carmel	17
Gonzales	10
Greenfield	13
King City	36
Monterey	13
Pacific Grove	22
Salinas	36

Soledad	16
County percentage	23
Napa	
Calistoga	37
Napa	11
St. Helena	12
County percentage	14
Nevada	
Grass Valley	7
Nevada City	17
County percentage	9
Orange	
County percentage	15
Placer	
Auburn	18
Colfax	8
Lincoln	26
Rocklin	16
Roseville	10
County percentage	14
Plumas	
Portola	19
County percentage	19
Riverside	
Banning	35
Beaumont	15
Blythe	9
Coachella	12
Corona	12
Elsinore	10
Hemet	35
Indio	16
Palm Springs	35
Perris	14
Riverside	16
San Jacinto	41
County percentage	35
Sacramento	
Folsom	31
Galt	25
Isleton	13
North Sacramento	10
Sacramento	21
County percentage	26
San Benito	
Hollister	9
San Juan Bautista	28
County percentage	11

San Bernardino	
Barstow	23
Chino	14
Colton	21
Fontana	15
Needles	33
Ontario	20
Redlands	28
Rialto	15
San Bernardino	20
Upland	14
County percentage	20
San Diego	
Carlsbad	8
Chula Vista	23
Coronado	25
Del Mar	8
El Cajon	17
Escondido	16
Imperial Beach	8
La Mesa	23
Lemon Grove	8
National City	14
Oceanside	15
San Marcos	8
Vista	8
San Diego	6
County percentage	25
San Joaquin	
Lodi	18
Manteca	8
Ripon	11
Stockton	14
Tracy	15
County percentage	14
San Luis Obispo	
Arroyo Grande	9
Paso Robles	26
Pismo Beach	8
San Luis Obispo	21
County percentage	16
San Mateo	
Atherton	27
Belmont	7
Burlingame	38
Colma	40
Daly City	24
Hillsborough	75
Menlo Park	12

Millbrae	16
Redwood City	27
San Bruno	13
San Carlos	8
San Mateo	42
South San Francisco	12
County percentage	21
Santa Barbara	
Guadalupe	28
Lompoc	16
Santa Barbara	11
Santa Maria	12
County percentage	13
Santa Clara	
Alviso	75
Campbell	16
Gilroy	28
Los Altos	16
Los Gatos	30
Morgan Hill	11
Mountain View	13
Palo Alto	21
San Jose	13
Santa Clara	16
Sunnyvale	26
County percentage	16
Santa Cruz	
Capitola	21
Santa Cruz	23
Watsonville	21
County percentage	22
Shasta	
Redding	22
County percentage	22
Sierra	
Loyalton	75
County percentage	75
Siskiyou	
Dorris	18
Dunsmuir	29
Etna	18
Fort Jones	46
Montague	75
Mount Shasta	37
Tulelake	33
Yreka	30
County percentage	29
Solano	
Benicia	17

Dixon	18
Fairfield	18
Rio Vista	19
Suisun	7
Vacaville	15
Vallejo	18
County percentage	19
Sonoma	
Cloverdale	40
Cotati	40
Healdsburg	40
Petaluma	24
Rohnert Park	40
Santa Rosa	40
Sebastopol	40
Sonoma	40
County percentage	40
Stanislaus	
Ceres	14
Modesto	15
Newman	10
Oakdale	15
Patterson	20
Riverbank	18
Turlock	19
County percentage	15
Sutter	
Live Oak	17
Yuba City	17
County percentage	17
Tehama	
Corning	26
Red Bluff	39
Tehama	10
County percentage	31
Tulare	
Dinuba	21
Exeter	23
Lindsay	24
Porterville	26
Tulare	20
Visalia	17
Woodlake	15
County percentage	21
Tuolumne	
Sonora	23
County percentage	23
Ventura	
Fillmore	16

Ojai	16
Oxnard	16
Port Hueneme	16
Santa Paula	16
Ventura	16
County percentage	16
Yolo	
Davis	22
Winters	19
Woodland	20
County percentage	20
Yuba	
Marysville	15
Wheatland	38
County percentage	15

In any county for which a county percentage is set forth in the above schedule and which contains a city which is not listed or which is hereafter created, there shall be transferred to the county general fund the county percentage. In any county for which no county percentage is set forth, and in which a city is hereafter created, there shall be transferred to the county general fund 15 percent.

A county and a city therein may, by mutual agreement, adjust the percentages herein.

(4) Once a month there shall be transferred to each city in the county an amount equal to the total sum remaining after the transfers provided for in paragraphs (2) and (3) have been made of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by that city or arrests made by state officers for misdemeanor violations of the Vehicle Code.

(b) Any money deposited with the court or with the clerk thereof which, by order of the court or for any other reason, should be returned, in whole or in part, to any person, or which is by law payable to the state or to any other public agency, shall be paid to that person or to the state or to the other public agency by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of such court.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which the money was deposited, or within one year after an order made by the court for the return or delivery of the money to any person, shall be apportioned between the city and the county and paid or transferred in the manner provided above for the apportionment and payment of fines and forfeitures. This paragraph controls over any conflicting provisions of law.

(c) This section does not require any county or municipal or justice court to process a parking penalty under Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the

Vehicle Code for a city, district, or any other issuing agency prior to the filing of a complaint.

SEC. 3. Section 1463.05 of the Penal Code is amended to read:

1463.05. Notwithstanding Section 1463, out of moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month, to the treasurer of any recreation and park district in the county for deposit in the district fund, an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction of any person or upon the forfeiture of bail from any person arrested or notified by a peace officer of the district and charged with a violation of any rule, regulation, or ordinance of the district committed on property owned, administered, controlled, or policed by the district, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

SEC. 4. Section 1463.4 of the Penal Code is amended to read:

1463.4. Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month, into the general fund of any regional park district in the county, an amount equal to 90 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested or notified by police officers appointed or employed by the regional park district and charged with a violation of the provisions of the Vehicle Code or vehicle regulations of the district upon property owned, leased, or policed by the district within the county, and an amount equal to the remaining 10 percent shall be transferred into the general fund of the county.

SEC. 5. Section 1463.5a of the Penal Code is amended to read:

1463.5a. (a) Notwithstanding any other provision of law, a municipal or justice court shall either authorize the California State University or any campus thereof to receive, deposit, accept forfeiture, and otherwise process the posting of bail for parking violations for which the California State University has issued a written notice of parking violation pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code within the judicial district, or the court shall receive, deposit, accept forfeiture, and otherwise process the posting of bail for parking violations.

(b) Notwithstanding subdivision (a) of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred, once a month, to the State Treasury to the credit of the State University Parking Revenue Fund an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested or notified by a member of the state college police and charged with a violation of parking regulations adopted by or with the sanction of the Trustees of the California State University pursuant to subdivision (a) of Section

21113 of the Vehicle Code which are applicable to parking upon property under the possession or control of the trustees, and an amount equal to the remaining 50 percent shall be transferred to the general fund of the county.

(c) If the moneys are deposited directly with the California State University or any campus thereof and forfeited pursuant to subdivision (a), all those moneys shall be transferred, once a month, to the State Treasury to the credit of the State University Parking Revenue Fund.

SEC. 6. Section 1463.6 of the Penal Code is amended to read:

1463.6. (a) Notwithstanding any other provision of law, a municipal or justice court shall either authorize the Regents of the University of California to receive, deposit, accept forfeiture and otherwise process the posting of bail for parking violations for which the Regents of the University of California has issued a written notice of parking violation pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code within the judicial district, or the court shall receive, deposit, accept forfeiture and otherwise process the posting of bail for such parking violations. Notwithstanding subdivision (a) of Section 1463, if the court makes that authorization, the regents may retain the forfeited bail collected.

(b) Notwithstanding subdivision (a) of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred first, once a month, to the Regents of the University of California an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeitures of bail from any person arrested or notified by a member of the University of California Police and charged with a violation of parking regulations adopted by or with the sanction of the Regents of the University of California pursuant to subdivision (a) of Section 21113 of the Vehicle Code which are applicable to parking upon property within the county under the possession or control of the regents, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

SEC. 7. Section 27174.1 of the Streets and Highways Code is amended to read:

27174.1. The district may adopt rules and regulations not inconsistent with the Vehicle Code for the control of traffic on any facility of travel constructed by the district, to aid and ensure the safe and orderly flow of traffic, and shall, so far as practicable, notify the public of those rules and regulations by signs on the facility of travel. The district may also adopt rules and regulations pertaining to parking areas in conjunction with any facilities of travel constructed or maintained by the district. The district may also adopt rules and regulations governing the use of all modes of transportation owned, operated, or maintained by the district.

The district may enforce any rule, regulation, or ordinance

adopted by the board of directors of the district pursuant to this section or subdivision (a) of Section 21113 of the Vehicle Code and relating to stopping or parking of vehicles by the issuance of notices of parking violation and notices of delinquent parking violation in the manner prescribed by Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. Notices of parking violation and notices of delinquent parking violation may be issued by those employees of the district authorized by rule, regulation, or ordinance of the district.

SEC. 8. Section 4760 of the Vehicle Code is amended to read:

4760. (a) Except as provided in subdivision (b), the department shall refuse to renew the registration of any vehicle whose registered owner, rentee, or lessee has been mailed a notice of delinquent parking violation relating to standing or parking, an itemization of unpaid parking penalties, including administrative fees, has been filed with, or electronically transmitted to, the department under Section 40220, and that person has not paid the parking penalty and administrative fee pursuant to Section 40211, unless he or she pays to the department, at the time of application for renewal, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

(b) The department shall not refuse to renew the registration of any vehicle owned by a renter or lessor when the renter or lessor applies for renewal without paying to the department, at the time of submitting the application for renewal, the full amount of all outstanding parking penalties and administrative fees as shown by records of the department, if the application for renewal is accompanied by an affidavit of the applicant in a form acceptable to the department stating that the vehicle was in the possession of the rentee or lessee at the time of occurrence of the parking violation for which the full amount of parking penalties is not enclosed and the name, address, and driver's license number of the rentee or lessee.

SEC. 9. Section 4761 of the Vehicle Code is amended to read:

4761. 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 unpaid parking penalties, including administrative fees, showing the amount thereof and the jurisdiction which issued the notice of parking violation relating thereto, which the registered owner or lessee is required to pay pursuant to Section 4760.

SEC. 10. Section 4762 of the Vehicle Code is amended to read:

4762. The department shall remit all parking penalties and administrative fees collected, after deducting the administrative fee authorized by Section 4763, for each notice of delinquent parking violation for which parking penalties and administrative fees have been collected pursuant to Section 4760, to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of delinquent parking violation. Within 45 days from the time penalties are recorded by the department, the department shall

inform each jurisdiction which of its notices of delinquent parking violation have been discharged.

SEC. 11. Section 4763 of the Vehicle Code is amended to read:

4763. The department shall assess a fee for the recording of the notice of delinquent parking violation, which is given to the department pursuant to Section 40220, 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, and 4765.

SEC. 12. Section 4764 of the Vehicle Code is amended to read:

4764. Whenever a vehicle is transferred or not renewed for two renewal periods and the former registered owner or lessee of the vehicle owes a parking penalty for a notice of delinquent parking violation filed with the department pursuant to Section 40220, the department shall notify each jurisdiction of that fact and is not required thereafter to attempt collection of the undeposited parking penalty and administrative fees.

SEC. 13. Section 4765 of the Vehicle Code is amended to read:

4765. No exemption from the payment of any fee imposed by this code is an exemption from the obligation of a registered owner or lessee to pay the full amount of parking penalties and administrative fees pursuant to Section 4760.

SEC. 14. Section 9800 of the Vehicle Code is amended to read:

9800. (a) Payments for any of the following, and any interest, penalties, or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense, and on any other vehicle owned by the owner of that vehicle:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Penalties for offenses relating to the standing or parking of a vehicle for which a notice of parking violation has been served on the owner.

(b) Notwithstanding subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated without current year registration or valid California permits or registration, an amount equal to the minimum registration fees or transfer fees, and any penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit which was pulling the dolly, semitrailer, or trailer. However, this subdivision is not applicable if the citation is issued at a scale operated by the Department of the California Highway Patrol and registration for the vehicle can be issued there immediately upon payment of the fees due.

(c) Every lien arising under this section expires three years from the date the fee, tax, or parking penalty first became due.

(d) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities are agents of the Department of Motor Vehicles for the purposes of collecting fees and taxes which are a lien on commercial vehicles.

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may possess and sell trip permits approved by the Department of Motor Vehicles.

SEC. 15. Article 3 (commencing with Section 40200) is added to Chapter 1 of Division 17 of the Vehicle Code, to read:

Article 3. Procedure on Parking Violations

40200. (a) Except as provided in subdivision (b), this article governs the procedure for enforcement and prosecution of any violation of any regulation governing the standing or parking of a vehicle under this code, under any federal statute or regulation, or under any ordinance enacted by local authorities.

(b) If the driver of the vehicle is at or in the vehicle at the time the peace officer or other person authorized to enforce parking laws and regulations determines the vehicle is standing or parked in violation of the laws or regulations governing standing or parking of a vehicle, the driver may be arrested and prosecuted pursuant to Article 1 (commencing with Section 40300) of Chapter 2, and this article does not apply.

40200.1. No provision of this article or any other provision of law requires any county, or any municipal or justice court, to process parking violations and notices of delinquent parking violation for a city, a district, or any other issuing agency prior to filing of a complaint with the court pursuant to Section 40230. A complaint based upon a notice of delinquent parking violation shall be filed with the court only pursuant to Section 40230.

40200.2. (a) If a county or a court within a county has been processing notices of parking violations and notices of delinquent parking violations for a city, a district, or any other issuing agency prior to January 1, 1987, the court shall continue to process those notices unless the court elects to discontinue that processing.

(b) If a court continues to process notices of parking violations and notices of delinquent parking violations pursuant to subdivision (a), for purposes of this article, excepting Sections 40203.5, 40205, 40211, 40215, 40219, 40220, 40221, 40226, and 40230 and subdivision (d) of Section 40206.5 and subdivision (a) of Section 40223 "processing agency" means that court.

40200.3. If the court processes notices of parking violations and notices of delinquent parking violations under Section 40200.2 or 40200.5, all amounts collected by the court, including, but not limited to, fines, forfeitures, penalty assessments, administrative service fees, and process service fees, shall be deposited and allocated pursuant to Division 18 (commencing with Section 42000) of this code, Chapter

12 (commencing with Section 76000) of Title 8 of the Government Code, and Chapter 1 (commencing with Section 1425) of Title 11 of Part 2 of the Penal Code.

40200.4. If a county or court within a county has been processing notices of parking violations and notices of delinquent parking violations for a city, a district, or any other issuing agency prior to January 1, 1987, and the court elects to discontinue and transfers that processing, the issuing agency and the county may provide in an agreement for the orderly transfer of the processing activity. The agreement shall permit the county or court to phase out, and the issuing agency to phase in, or transfer, personnel, equipment and facilities that may have been acquired or need to be acquired in contemplation of a long-term commitment to process notices of parking violations and notices of delinquent parking violations for the issuing agency under this article.

If the court elects to transfer the processing function, the court shall authorize a representative of the issuing agency to receive parking penalties for notices of parking violations and notices of delinquent parking violations issued within the agency's jurisdiction. The court shall not transfer the processing function to the Department of the California Highway Patrol or a sheriff's office. The clerk of the court is authorized to receive parking penalties resulting from notices of parking violations and notices of delinquent parking violations issued by the Department of the California Highway Patrol or a sheriff's office and for any other area of the court's jurisdiction where the court has not transferred the processing function to the issuing agency.

40200.5. (a) Except as provided in Section 40200.2, an issuing agency may elect to contract with the county, with the municipal or justice court of competent jurisdiction, with a private vendor, or with any other issuing agency within the county, with the consent of that other entity, for the processing of notices of parking violations and notices of delinquent parking violations, prior to filing with the court pursuant to Section 40230.

(b) Any contract entered pursuant to subdivision (a) shall provide for distribution of amounts collected between the parties, except as otherwise provided in Section 40200.3 or this article.

40200.6. If a contract is entered into pursuant to Section 40200.5, for the purposes of this article, "processing agency" means the contracting party responsible for the processing of the notices of parking violations and notices of delinquent parking violations.

40202. (a) If a vehicle is unattended during the time of the violation, the peace officer or person authorized to enforce parking laws and regulations shall securely attach to the vehicle a notice of parking violation setting forth the violation, including reference to the section of this code or of the local ordinance or federal statute or regulation so violated, the approximate time thereof, and the location where the violation occurred and fixing a time and place for appearance by the registered owner or the lessee or renter to answer

the notice of parking violation. The notice of parking violation shall also set forth the vehicle license number and registration expiration date, the color of the vehicle, and, if possible, the make of the vehicle.

(b) The notice of parking violation shall be attached to the vehicle either under the windshield wiper or in another conspicuous place upon the vehicle so as to be easily observed by the person in charge of the vehicle upon the return of that person.

40203. The notice of parking violation shall be accompanied by a written notice of the parking penalty due for that violation and the address of the person authorized to receive a deposit of the parking penalty, to whom payments may be sent, and a statement in bold print that payments of the parking penalty for the parking violation may be sent through the mail.

40203.5. The parking penalty imposed under this article shall be established by the issuing agency in the same amount and subject to the same limitations as bail and surcharges for a parking offense established under Section 1269b of the Penal Code and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code.

40204. If the parking penalty is received by the person authorized to receive the deposit of the parking penalty, the proceedings under this article shall terminate.

40205. If a person appears before the person authorized to receive a deposit of the parking penalty in response to the notice of parking violation and contests it, the processing agency shall proceed in accordance with Section 40215.

40206. (a) If the payment of the parking penalty is not received by the person authorized to receive a deposit of the parking penalty by the time and date fixed for appearance on the notice of parking violation under Section 40202, the processing agency shall serve or mail to the registered owner a notice of delinquent parking violation.

(b) Delivery of a notice of delinquent parking violation under this section may be made by personal service or by first-class mail addressed to the registered owner.

40206.5. (a) Within 15 days of a request, by mail or in person, the issuing agency shall provide to any person who has received a notice of delinquent parking violation, or his or her agent, a photostatic copy of the original notice of parking violation. The issuing agency may charge a fee sufficient to recover the actual cost of providing the copy, not to exceed two dollars ($2). Failure to comply with a request for a copy of the original notice of parking violation is a dismissal of the charge.

(b) If the description of the vehicle on the notice of parking violation does not match the corresponding information on the registration card for that vehicle, the processing agency may, on written request of the person cancel the notice of parking violation without the necessity of an appearance by that person.

(c) For purposes of this section, a copy of the notice of parking violation may be a photostatic copy.

(d) If the processing agency does not cancel the notice pursuant to subdivision (b), it shall file a complaint with the court pursuant to Section 40230.

40207. The notice of delinquent parking violation shall contain the information specified in Section 40202 and subdivision (a) of Section 40203, and, additionally shall contain a notice to the registered owner that, unless the registered owner makes payment of the parking penalty through the mail within 10 days after mailing of the notice of delinquent parking violation, appears before the person authorized to receive a deposit of the parking penalty within 10 days after mailing of the notice of delinquent parking violation, or completes and files an affidavit of nonliability, the renewal of the vehicle registration may be contingent upon compliance with the notice of delinquent parking violation or that a warrant for the arrest of the registered owner may be issued. If the registered owner appears before, and makes payment to, or sends by mail to, the person authorized to receive a deposit of the parking penalty within 10 court days of the mailing of the notice of delinquent parking violation, the penalty shall consist of the amount of the original penalty.

40208. The notice of delinquent parking violation shall contain, or be accompanied with, an affidavit of nonliability and information of what constitutes nonliability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the issuing agency.

40209. If the affidavit of nonliability is returned together with proof of a written lease or rental agreement for a particular vehicle which identifies the lessee or renter and provides the driver's license number and address of the lessee or renter, the processing agency shall either cancel the notice of delinquent parking violation or, if the processing agency is other than a court, shall file a complaint with the court, together with the proof and affidavit, pursuant to Section 40230, against the registered owner or against the lessee or renter.

40210. (a) If the affidavit of nonliability is returned with evidence that the registered owner served has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged violation, the processing agency shall obtain verification from the department that the registered owner has complied with Section 5602.

(b) If the registered owner has complied with Section 5602, the processing agency shall cancel the notice of delinquent parking violation with respect to the registered owner.

(c) If the registered owner has not complied with Section 5602, the processing agency shall either cancel the notice of delinquent parking violation or, if the processing agency is other than a court, file a complaint, together with the evidence and affidavit, against the registered owner with the court pursuant to Section 40230.

40211. (a) If the registered owner, or an agent of the registered owner, who was served with the notice of delinquent parking

violation, or any other person who presents the notice of parking violation or notice of delinquent parking violation after the notice of delinquent parking violation has been issued for delivery under Section 40206, appears before the person authorized to receive a deposit of the parking penalty, the processing agency shall do both of the following:

(1) Deliver a copy of the notice of delinquent parking violation issued under Section 40206 to the person and record the name, address, and driver's license number of the person actually given the copy in the records of the issuing agency.

For the purposes of this paragraph, a copy of the notice of delinquent parking violation may be a photostatic copy.

(2) Determine whether the notice of delinquent parking violation has been filed with the department pursuant to subdivision (b) of Section 40220 or a complaint has been filed in court pursuant to Section 40230.

(b) If the notice of delinquent parking violation has not been filed in court or with the department and payment of the parking penalty and any applicable assessments is received, the proceedings under this article shall terminate.

(c) If the notice of delinquent parking violation has been filed with the department, has been returned under subdivision (b) of Section 4760 or Section 4764, and payment of the parking penalty together with the administrative service fee of the processing agency for costs of service and any applicable assessments is received, the proceedings under this article shall terminate.

(d) If the notice of delinquent parking violation has been filed with the department and has not been returned under Section 4760, 4762, or 4764, and payment of the parking penalty together with the administrative fee of the department established under Section 4763, the administrative service fee of the issuing agency for costs of service, and any applicable assessments is received by the processing agency, the processing agency shall do all of the following:

(1) Sign a certificate of payment.

(2) Deliver a copy of the certificate to the registered owner or the agent.

(3) Immediately transmit a copy of the certificate to the department.

(4) Terminate proceedings on the notice of delinquent parking violation.

(5) Transmit for deposit all parking penalties and assessments in accordance with law.

(e) If a complaint has been filed in court, the registered owner or the registered owner's agent shall be referred to the court, and the processing agency shall take no further action on the notice of delinquent parking violation.

(f) If the person refuses to pay the parking penalty under subdivision (b), refuses to pay the parking penalty and administrative service fees or assessment under subdivision (c) or

(d), or otherwise contests the notice of delinquent parking violation, the processing agency shall proceed in accordance with Section 40215.

40215. (a) If the person served with a notice of parking violation or a notice of delinquent parking violation appears before the person authorized to receive a deposit of the parking penalty and contests the violation, the processing agency shall do either of the following:

(1) If the processing agency is satisfied that the violation did not occur or that the registered owner was not responsible for the violation, the processing agency shall cancel the notice of parking violation or notice of delinquent parking violation and make an adequate record of the reasons for canceling the notice.

(2) The processing agency shall set a trial date and provide documentation to the court as specified by local court rule. Except as the rules provide otherwise, the processing agency shall record the person's name, address, and driver's license number and verify whether the person appearing has received a notice of parking violation conforming to Section 40202 or a notice of delinquent parking violation conforming to Sections 40207 and 40208. If the person appearing has not received the notice of delinquent parking violation, the processing agency shall serve the person with a notice of delinquent parking violation conforming to Sections 40207 and 40208. The processing agency shall assign a specific date and time as approved by the court for appearance by the person contesting the violation and shall then file a complaint and a copy of the notice of delinquent parking violation with the court pursuant to Section 40230 within 15 days. The processing agency shall notify the registered owner or other person contesting the violation of the filing and the date and time for appearance in the same manner as provided in Section 40206. Thereafter, all proceedings shall be had by the court in the same manner as infraction violations of this code.

(b) If the processing agency has filed the notice of delinquent parking violation with the department for collection pursuant to Section 40220, the processing agency shall recall the notice by notifying the department that the notice of delinquent parking violation has been filed with the court and informing the department of the court file or docket number of the matter.

40219. The processing agency shall inquire of the department whether or not the registered owner has complied with the requirements of Section 5602 in any of the following cases:

(a) If the registered owner served with the notice of delinquent parking violation does not appear in person or by mail.

(b) If service was attempted by mail under Section 40206 and is returned unserved.

(c) If personal service was attempted under Section 40206 and cannot with reasonable diligence be personally delivered.

(d) If notice is received from the department reporting noncollection under Section 4764.

(e) Except as provided in Sections 40209, 40210, or 40211, if any

mailed response to service of a notice of delinquent parking violation does not provide satisfactory evidence of nonliability and an affidavit of nonliability and notice of that fact is mailed to the respondent.

40220. Except as provided in Section 40222, after inquiry pursuant to Section 40219, the processing agency shall elect to proceed under one and only one of the following options:

(a) Cancel the notice of delinquent parking violation, in which case no further proceedings shall occur.

(b) File an itemization of unpaid parking penalties, including administrative fees, and the amount of the costs of the processing agency for costs of service, with the department for collection with the registration of the vehicle pursuant to Section 4760.

(c) File a complaint with the court, together with supporting documents and other evidence, pursuant to Section 40230.

40221. The processing agency shall not file a complaint with the court relating to a parking violation which has been filed with the department unless the processing agency recalls the department filing pursuant to subdivision (b) of Section 40215.

40222. The processing agency shall terminate proceedings on the notice of delinquent parking violation in any of the following cases:

(a) Upon receipt of collected penalties and administrative fees remitted by the department under Section 4762 for that notice of delinquent parking violation. The termination under this subdivision is by satisfaction of the parking penalty.

(b) If the notice of delinquent parking violation was returned to the processing agency pursuant to Section 4764 and five years have elapsed since the date of the violation. The termination under this subdivision is by the running of a statute of limitation of proceedings.

(c) The processing agency receives information, which it shall verify with the department, that the penalty has been paid to the department pursuant to Section 4762.

40223. If the notice of delinquent parking violation is filed with the department under subdivision (b) of Section 40220 and the department returns the notice of delinquent parking violation by notice of noncollection pursuant to subdivision (b) of Section 4760 or Section 4764, the processing agency may elect to do either of the following:

(a) Except as provided by Section 40222, file a complaint with the court, together with supporting documents and other evidence, pursuant to Section 40230.

(b) Cancel the notice of delinquent parking violation, in which case no further proceedings shall occur.

40224. The time limitation provided by law for commencement of a criminal action for an offense specified in Section 40200 shall be tolled from and after the date a notice of delinquent parking violation is filed with the department pursuant to subdivision (b) of Section 40220 until the notice is returned to the processing agency under subdivision (b) of Section 4760 or Section 4762 or 4764 or is recalled by the processing agency pursuant to subdivision (b) of

Section 40215.

40225. A registration or equipment violation which occurred and was entered on the notice of parking violation attached to the vehicle under Section 40203 shall be processed in accordance with this article. All of the equipment and registration violations entered on the notice of parking violation shall be noticed in the notice of delinquent parking violation served or mailed pursuant to Section 40206, together with the amount of bail prescribed by the court for that infraction.

Any bail collected pursuant to this section for registration or equipment violations by an processing agency shall be paid to the court, accompanied with a copy of the notice of parking violation or notice of delinquent parking violation containing the notice of the registration or equipment violation, and the court shall process that bail and offense in the same manner as bail posted on a notice to appear issued pursuant to Section 40500.

40226. (a) Any parking penalties or administrative fees, excepting fees collected pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code or pursuant to Division 18 (commencing with Section 42000) of this code, which are received by an issuing agency acting as a processing agency, or by a processing agency acting on behalf of an issuing agency, under this article, shall be deposited in the same manner and with the same depository as are general funds, special funds, or special accounts of the issuing agency, shall be used for the purposes of the issuing agency, and are otherwise not subject to Chapter 1 (commencing with Section 1425) of Title 11 of Part 2 of the Penal Code.

(b) Parking penalties collected by the court shall be deposited and allocated pursuant to Section 40200.3.

40230. (a) When an processing agency files a complaint with the court pursuant to Section 40206.5, 40209, 40210, 40215, 40220, or 40223, a copy of the notice of delinquent parking violation issued for service under Section 40206 shall be filed with the court within 15 days and, if prepared in the form approved by the Judicial Council, shall be treated as a written notice to appear under Article 2 (commencing with Section 40500) of Chapter 2 for all further proceedings.

(b) After filing of a complaint on a notice of delinquent parking violation under this section, the court shall exercise all further jurisdiction over the violation. Any fines or forfeitures collected by the court, after filing of a complaint, shall be collected, deposited, and disbursed as are fines and forfeitures in other prosecutions of violations of this code.

SEC. 16. Section 40309 of the Vehicle Code is amended to read:

40309. Whenever a notice of parking violation is issued in accordance with Sections 40202 and 40203, or a notice of delinquent parking violation is issued pursuant to Section 40206, the amount fixed as a parking penalty for the violation charged may be forwarded by United States mail to the person authorized to receive a deposit of the parking penalty. Payment of a parking penalty

forwarded by mail is effective only when actually received, and the presumption that a letter duly directed and mailed was received does not apply. Section 40512 is applicable to a parking penalty posted pursuant to this section.

SEC. 17. Section 40309.5 of the Vehicle Code is repealed.

SEC. 18. Section 40510 of the Vehicle Code is amended to read:

40510. (a) Prior to the date upon which a defendant promised to appear, or prior to the time to appear contained on a notice of filing of a complaint on a notice of delinquent parking violation pursuant to subdivision (a) of Section 40215 or on a process issued after filing with the court under Section 40230, or prior to the expiration of any lawful continuance of that date, or upon receipt of information that an action has been filed and prior to the scheduled court date, the defendant may deposit bail or a parking penalty with the magistrate or the person authorized to receive a deposit of bail or parking penalties.

(b) For any offense which is not declared to be a felony, a deposit of bail or a parking penalty may be by a personal check meeting the criteria established in accordance with subdivision (c).

(c) Each court, sheriff, or other agency which regularly accepts deposits of bail or parking penalties, shall adopt a written policy governing the acceptance of personal checks in payment of bail or parking penalty deposits. The policy shall permit clerks and other appropriate officers to accept personal checks under conditions which tend to assure the validity of the checks.

(d) The written policy governing the acceptance of personal checks adopted pursuant to subdivision (c) shall provide that the payee of the deposit made by personal check shall be the agency accepting the deposit.

SEC. 19. Section 40521 of the Vehicle Code is amended to read:

40521. (a) Except when personal appearance is required by the bail schedule established under Section 1269b of the Penal Code, a person to whom a notice to appear has been issued under Section 40500, or a person to whom a notice of delinquent parking violation has been issued and against whom a complaint has been filed pursuant to Section 40230, who intends to forfeit bail or a parking penalty and to pay any assessment, may forward by United States mail the amount fixed as bail or the parking penalty, together with the appropriate amount of any assessment, to the person authorized to receive a deposit of bail. The amounts may be paid in the form of a personal check which meets the criteria established pursuant to subdivision (c) of Section 40510, or a bank cashier's check or a money order. Bail or a parking penalty and any assessment shall be paid not later than the date of appearance set forth in the notice to appear or prior to the expiration of any lawful continuance of that date.

(b) Bail or a parking penalty forwarded by mail is effective only when the funds are actually received.

(c) Section 40512 is applicable to bail or a parking penalty paid pursuant to this section. Upon the making of the order pursuant to

Section 40512 that no further proceedings be had, the amount paid as bail or a parking penalty shall be paid into the city or county treasury, as the case may be, and the assessment shall be transmitted to the State Treasury in the manner provided in Section 1464 of the Penal Code.

SEC. 20. Section 41102 of the Vehicle Code is amended to read:

41102. (a) In any prosecution against the registered owner of a motor vehicle charging a violation of any regulation governing the standing or parking of a vehicle under this code, any federal statute or regulation, or any ordinance enacted by local authorities, proof that the particular vehicle described in the complaint was parked in violation of any provision of this code, any federal statute or regulation, or that ordinance, together with proof that the defendant named in the notice of delinquent parking violation issued under Section 40206 or the complaint was at the time of parking the registered owner of the vehicle, is prima facie evidence that the registered owner of the vehicle was the person who parked or placed, or caused to be parked or placed, the vehicle at the point where, and for the time during which, the violation occurred, but, for purposes of this subdivision, proof that a person is the registered owner of a vehicle is not prima facie evidence that the registered owner has violated any other provision of law. Proof of a written lease of, or rental agreement for, a particular vehicle described in the complaint, on the date and time of the violation, which lease or rental agreement includes the name, address, and driver's license number of the person to whom the vehicle is leased or rented, a copy of which was delivered to the processing agency issuing the notice of delinquent parking violation under Section 40206 within 30 days after mailing of that notice, shall rebut the prima facie evidence that the registered owner was the person who parked or placed, or caused to be parked or placed, the vehicle at the time and place where the violation occurred. The above provisions apply only when the procedure required by Section 40209 is complied with.

(b) In any prosecution against the lessee or renter of a motor vehicle charging a violation of any regulation governing the standing or parking of a vehicle under this code, any federal statute or regulation, or any ordinance enacted by local authorities, proof that the particular vehicle described in the complaint filed pursuant to Section 40230 was parked in violation of any provision of this code, any federal statute or regulation, or such ordinance, together with proof that the defendant named in the complaint was at the time of parking the lessee or renter of the vehicle, shall constitute prima facie evidence that the lessee or renter of the vehicle was the person who parked or placed, or caused to be parked or placed, the vehicle at the point where, and for the time during which, the violation occurred, but for the purposes of this subdivision, proof that a person is the lessee or renter of a vehicle is not prima facie evidence that the lessee or renter has violated any other provision of law.

(c) In any prosecution charging a violation of any provision of this

code requiring the display of any evidence of registration, with respect to an unattended vehicle, proof that the particular vehicle described in the complaint failed to properly display the evidence of registration, together with proof that the defendant named in the complaint was at the time the registered owner of the vehicle, is prima facie evidence that the registered owner of the vehicle was responsible for the vehicle at the time the violation occurred. No other prima facie evidence is created by this subdivision. This subdivision applies only when the procedure required by Article 3 (commencing with Section 40200) of Chapter 1 is complied with.

(d) Any charge under this section shall be dismissed when the person charged has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser and has complied with the requirements of subdivision (a) or (b) of Section 5602 prior to the date of the alleged violation and has advised the court of the name and address of the purchaser, and of the date of sale.

SEC. 21. Section 41103 of the Vehicle Code is repealed.

SEC. 22. Section 41103.2 of the Vehicle Code is repealed.

SEC. 23. Section 41103.5 of the Vehicle Code is repealed.

SEC. 24. 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 the local agencies or school districts 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 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, to the other local agencies or school districts affected by this act.

CHAPTER 940

An act to add Sections 14124.90 and 14124.91 to the Welfare and Institutions Code, relating to health.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. The Legislature finds that federal law requires the State Department of Health Services to change its system of

third-party recoveries from pay and chase to cost avoidance, that a properly designed and administered cost avoidance system of third-party recoveries would produce very substantial savings to the state and federal governments, and that failure to adopt a cost avoidance system would result in financial penalties against the state.

SEC. 2. Section 14124.90 is added to the Welfare and Institutions Code, to read:

14124.90. It is the intent of the Legislature that when a beneficiary has third-party health coverage or insurance, the State Department of Health Services shall be the payer of last resort. In order to assess overlapping or duplicate health coverage, every health care service plan, self-insured employee welfare benefit plan, disability insurer, and nonprofit hospital service plan shall maintain a centralized file of the subscribers' or policyholders' names, mailing addresses, and social security numbers or date of birth, and where available, for all other covered persons, the names and social security numbers or date of birth. This information shall be made available to the State Department of Health Services upon reasonable request. A recipient's Medi-Cal identification card shall, where information is available, contain information advising providers of health care services of any third-party health coverage for the recipient. Providers shall seek reimbursement from available third-party health coverage before billing the Medi-Cal program.

SEC. 3. Section 14124.91 is added to the Welfare and Institutions Code, to read:

14124.91. The State Department of Health Services may, whenever it is cost-effective, pay the premium for third-party health coverage for beneficiaries under this chapter. The State Department of Health Services may, when a beneficiary's third-party health coverage would lapse due to loss of employment or change in health status or any other reason, continue the health coverage by paying the costs of continuation of group coverage pursuant to federal law or converting from a group to an individual plan. Notwithstanding any other provision of a contract or of law, the time period for the department to exercise either of these options shall be 60 days from the date of lapse of the policy.

CHAPTER 941

An act relating to education.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. The Legislature finds that many approaches throughout the state are being used to address the undesirable consequences of adolescent pregnancy and parenting.

The Legislature finds that in order to address the incidence and adverse consequences of adolescent pregnancy there is a need to assemble, in one location, available information describing services to pregnant and parenting teens in California, specifying characteristics of the populations served, and reporting measured outcomes of services provided.

SEC. 2. The Health and Welfare Agency, in consultation with the State Department of Education, the Youth and Adult Correctional Agency, the Department of Justice, the Department of Finance, and the Office of Criminal Justice Planning, (1) shall identify all state agencies which administer programs directing services to pregnant and parenting teens, (2) shall solicit available information from each identified agency describing services to pregnant teens in California, specifying characteristics of the populations served, and reporting measured outcomes of services provided, and (3) shall provide copies of the assembled information to the Legislative Analyst on or before November 1, 1987.

The information collected from each agency, to the extent it is available in existing documents, shall include, but not be limited to:

(a) The number of teens served and the characteristics of the population, including, but not limited to, age, ethnicity, and school enrollment.

(b) A description of the services, including the average amount of contact time with the teen.

(c) A description of identified need for services, including whether or not there is a waiting list to enter the program and the length of the average wait to begin receiving service.

(d) A description of the delivery systems, including how they coordinate with other programs providing services to teens and any eligibility requirements for participation in the program.

(e) The objectives of each program and any evaluation data on the extent to which the program has met its objectives, including the dropout rate from the program.

(f) The cost of services provided.

SEC. 3. The Legislative Analyst shall review, summarize and analyze the information assembled in accordance with Section 2 and provide recommendations to the Legislature in the 1988–89 fiscal

year analysis of the Budget Bill.

CHAPTER 942

An act to amend Sections 55522.5, 55741, 55751, 55901, 55902, 56182.5, 56281, 56411, 56451, 56631, 56632, and 56703 of, to add Sections 55725, 55745.5, 55902.5, 56283, and 56623 to, and to repeal and add Sections 55745 and 56715 of, the Food and Agricultural Code, relating to farm products.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 55522.5 of the Food and Agricultural Code is amended to read:

55522.5. (a) It is unlawful for a licensee that has changed its legal entity, or after the corporate status has been suspended by the Secretary of State, to continue to operate after the change in entity until either a new license has been issued or until the corporate status has been reinstated by the Secretary of State, as the case may be. The director shall be notified in writing by the licensee within 15 days of any change in entity or corporate suspension action taken by the Secretary of State.

(b) Notwithstanding subdivision (a), if a licensee conducts business without a new license as a result of a change of legal entity, it may, upon a showing of no substantial change in financial resources and liabilities, petition the director to grant a new license retroactive to the first day of the month during which the change occurred, and the director may grant the license with retroactive effect upon a finding that doing so would be consistent with the purposes of this chapter. Upon granting the petition, the director shall (1) require the licensee to pay an additional fee in an amount that will cover the expenses of the department in the matter, but not to exceed the fee for a new license, (2) place conditions on the license that are consistent with the purposes of this chapter as the director deems appropriate, and (3) require the licensee to pay an amount, for deposit in the Farm Products Trust Fund, equal to the amount that would have been required had the license been obtained in accordance with subdivision (a).

SEC. 2. Section 55725 is added to the Food and Agricultural Code, to read:

55725. The failure or refusal of any licensee to produce and make available to the director any books or records requested pursuant to this article, or otherwise to obstruct the examination or audit, is sufficient ground to suspend or revoke the license issued pursuant to this chapter.

SEC. 3. Section 55741 of the Food and Agricultural Code is amended to read:

55741. The director, upon his or her own motion, may, or upon the verified complaint of any interested party and within 30 days of the filing of that complaint, shall commence to investigate, examine, or inspect any of the following:

(a) A 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) A transaction which involves the failure of a processor who contracts to harvest a producer's crop to fulfill the terms of the contract.

(c) A charge that a processor may be insolvent or in an unsound financial condition.

SEC. 4. Section 55745 of the Food and Agricultural Code is repealed.

SEC. 5. Section 55745 is added to the Food and Agricultural Code, to read:

55745. If a farm products producer fails to obtain a settlement satisfactory to him or her in any transaction after having notified the processor, a verified complaint may be filed with the director who shall notify the person against whom the complaint has been filed and undertake to effect a settlement. If the director fails to effect a settlement, the director shall call a hearing as provided for in this article.

SEC. 6. Section 55745.5 is added to the Food and Agricultural Code, to read:

55745.5. Upon calling a hearing on a verified complaint pursuant to Section 55745, the director shall cause a copy of it, together with a notice of the time and place of the hearing of the complaint, to be served personally or by mail upon each person that is named as a respondent in the verified complaint. The service shall be made at least 10 days before the hearing.

SEC. 7. Section 55751 of the Food and Agricultural Code is amended to read:

55751. Any verified complaint filed with the director pursuant to this chapter shall be filed within one year after default by the licensee.

An investigation initiated on the director's own motion pursuant to Section 55721 or 56381 shall satisfy the requirement of this section on behalf of all farm products creditors.

SEC. 8. Section 55901 of the Food and Agricultural Code is amended to read:

55901. Except as specified in Section 55902, any misdemeanor which is prescribed by this article is punishable by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000), by imprisonment in the county jail for not more than one

year, or by both the fine and imprisonment.

SEC. 9. Section 55902 of the Food and Agricultural Code is amended to read:

55902. It is a misdemeanor for any person subject to this chapter to act as a processor or agent without a license, and is punishable by a fine of not less than ten thousand dollars ($10,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

SEC. 9.5. Section 55902.5 is added to the Food and Agricultural Code, to read:

55902.5. It is a misdemeanor for any person licensed as a cash buying processor to buy or otherwise take title to, or possession of, any farm product from a producer of the product, except by cash payment of the full agreed price to the producer at the time of obtaining possession or control.

SEC. 10. Section 56182.5 of the Food and Agricultural Code is amended to read:

56182.5. (a) It is unlawful for a licensee that has changed its legal entity, or after the corporate status has been suspended by the Secretary of State, to continue to operate after the change in entity until either a new license has been issued or until the corporate status has been reinstated by the Secretary of State, as the case may be. The director shall be notified in writing by the licensee within 15 days of any change in entity or corporate suspension action taken by the Secretary of State.

(b) Notwithstanding subdivision (a), if a licensee conducts business without a new license as a result of a change of legal entity, it may, upon a showing of no substantial change in financial resources and liabilities, petition the director to grant a new license retroactive to the first day of the month during which the change occurred, and the director may grant the license with retroactive effect upon a finding that doing so would be consistent with the purposes of this chapter. Upon granting the petition, the director shall (1) require the licensee to pay an additional fee in an amount that will cover the expenses of the department in the matter, but not to exceed the fee for a new license, (2) place conditions on the license that are consistent with the purposes of this chapter as the director deems appropriate, and (3) require the licensee to pay an amount, for deposit in the Farm Products Trust Fund, equal to the amount that would have been required had the license been obtained in accordance with subdivision (a).

SEC. 11. Section 56281 of the Food and Agricultural Code is amended to read:

56281. A commission merchant shall notify each consignor with whom he or she does business of the provisions affecting the consignor which are contained in Sections 56271, 56272, 56280, 56281, 56282, and 56351. The notice shall be given in writing prior to the shipping season of the particular farm product. The notice shall include a form whereby the consignor may request notice of any

adjustment by the commission merchant. The form shall also include a provision whereby the consignor may request lot numbers be affixed on each individual farm product container as provided in subdivision (h) of Section 56271. It is the responsibility of the commission merchant to keep the records necessary to prove that the notices were given to each consignor in accordance with this section. When requested by his or her consignor, prior to, or at any time during the shipping season, a licensee operating as a commission merchant shall notify the consignor of any adjustment on a transaction, and provide reasons for such an adjustment, within 48 hours.

If the commission merchant is unable to contact the consignor by telephone or in person, the notification shall be immediately provided by mail.

SEC. 12. Section 56283 is added to the Food and Agricultural Code, to read:

56283. Every commission merchant who receives any farm product for sale on consignment shall exercise reasonable care and diligence in disposing of the product in a fair and reasonable manner.

SEC. 13. Section 56411 of the Food and Agricultural Code is amended to read:

56411. For the purpose of enforcing the provisions of this chapter, the director may receive verified complaints from producers or licensees against any licensee or any person who acts or attempts to act as a licensee.

Upon receipt of any verified complaint, the director may make any and all necessary investigations relative to the complaint. The director shall, within 30 days, commence to investigate any verified complaint alleging that a licensee may be insolvent or in an unsound financial condition.

SEC. 14. Section 56451 of the Food and Agricultural Code is amended to read:

56451. Any verified complaint filed with the director pursuant to this chapter shall be filed not later than one year after default by the licensee.

An investigation initiated on the director's own motion pursuant to Section 55721 or 56381 shall satisfy the requirement of this section on behalf of all farm products creditors.

SEC. 15. Section 56623 is added to the Food and Agricultural Code, to read:

56623. It is a violation of this chapter if any commission merchant who collects or receives funds in connection with the sale of consigned farm products has made any use or disposition of these funds in his or her possession or control that endangers or impairs faithful and prompt payment to the consignor of the product or to any other person having a financial interest therein.

SEC. 16. Section 56631 of the Food and Agricultural Code is amended to read:

56631. Except as specified in Section 56632, any misdemeanor

which is prescribed in this article is punishable by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

SEC. 17. Section 56632 of the Food and Agricultural Code is amended to read:

56632. It is a misdemeanor for any person to assume or attempt to act, or to act, as a licensee or agent without a license and is punishable by a fine of not less than ten thousand dollars ($10,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

SEC. 18. Section 56703 of the Food and Agricultural Code is amended to read:

56703. In addition to the fees required under Article 16 (commencing with Section 55861) of Chapter 6 and Article 17 (commencing with Section 56571) of Chapter 7, each principal applicant for a license, or for the renewal of a license, under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) shall pay to the director an annual fee of one hundred twenty-five dollars ($125) which shall be paid before the director issues or renews any such license. If any person is found to be operating a business without the license required by Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101), that person shall pay to the director double the amount of the annual fee. All the fees collected pursuant to this chapter shall be deposited in the products fund. The director may establish a lower annual fee if he or she finds it to be sufficient to defray the costs in carrying out this chapter.

This chapter does not apply to any licensee who pays to the seller, at the time of obtaining title, possession, or control, or at the time of contracting for the title, possession, or control, of any farm product, the full agreed purchase price of the farm product in coin or currency, lawful money of the United States, or to any licensee who purchases livestock and is bonded under the federal Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 181, et seq.).

SEC. 19. Section 56715 of the Food and Agricultural Code is repealed.

SEC. 20. Section 56715 is added to the Food and Agricultural Code, to read:

56715. Any transactions with a licensee made after the licensee has filed bankruptcy shall not be covered under this chapter until the bankruptcy is resolved. A transaction includes, but is not limited to, a contract which provides for multiple deliveries.

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 943

An act to add Section 2924j to the Civil Code, relating to civil law.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 2924j is added to the Civil Code, to read:

2924j. (a) A purported sale of real property made in the course of a nonjudicial foreclosure is void and without legal effect, and no trustee's deed shall be issued as a result of such a sale, or, in the event a trustee's deed has been issued in connection with the sale, the deed is void and without legal effect and shall promptly be returned to the trustee by the grantee, where, prior to the purported sale of real property in the course of a nonjudicial foreclosure, the sale has been enjoined and the injunction has been served upon the trustee or beneficiary, or the sale has been stayed by operation of the laws relating to bankruptcy and the real property is located in the county in which the bankruptcy proceedings were commenced. Where the real property is located in a county other than the county in which the bankruptcy proceedings were commenced, the deed is void and without legal effect upon the recordation, prior to the sale, in the county in which the real property is located, of a notice of the stay order or a copy of the petition in bankruptcy, or the service of a written notice of commencement of the bankruptcy proceedings on the trustee or beneficiary.

(b) The trustee, or in the event the proceeds of the sale have been distributed, the beneficiary and any other person receiving a distribution of the proceeds, shall tender the consideration paid for the real property at the sale rendered void pursuant to subdivision (a). If the trustee's deed has been issued, the trustee shall tender the consideration at the time the purported grantee returns the deed; provided further that in the event the trustee's deed has been recorded, the purported grantee shall first execute and record a quitclaim deed which relinquishes the purported right, title, or interest of the person or persons denominated as the grantee in the trustee's deed.

CHAPTER 944

An act to amend Sections 12744, 12753, 12761, and 12995 of, and to add Sections 12745 and 12997 to, the Insurance Code, and to amend Section 3 of Chapter 1070 of the Statutes of 1978, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 12744 of the Insurance Code is amended to read:

12744. (a) No person shall issue or offer to issue home protection contracts in this state unless such person holds a home protection company license issued by the department, except as provided in subdivision (b) of this section.

(b) An insurer admitted for the class of insurance defined in Section 120 is authorized, in addition to the underwriting powers granted by such class, to issue home protection contracts, but the provisions of this part shall not be otherwise applicable to such insurers or their contracts.

(c) No license shall be granted to a foreign applicant that has not fulfilled the requirements of Sections 716 and 717. For purposes of this part, the term "class of insurance" as used in said sections shall mean the business of a home protection company. This section shall not prohibit the admission of a foreign home protection company which has actively transacted home protection business in its state of domicile for three years or more.

(d) The commissioner shall by regulation prescribe forms for applications for home protection company licenses consistent with the provisions of this part. Any reference to certificate of authority in Article 3 (commencing with Section 699) of Chapter 1 of Part 2 of Division 1, shall mean home protection company license.

SEC. 2. Section 12745 is added to the Insurance Code, to read:

12745. (a) Any insurance holding company subject to Article 4.7 (commencing with Section 1215) of Chapter 2 of Part 2 of Division 1, one of whose affiliates is a home protection company as defined in this part, may invest in or operate a corporation which provides home service contractor or dispatch services or appliance service or appliance repair services pursuant to a contract issued for that purpose. The corporation shall not be subject to licensing or regulation under this part except as set forth in this section, provided, that the contract shall not be sold in conjunction with, or otherwise attach to, the sale or any proposed sale of the real property to which it relates.

(b) At the time of filing its registration statement under Section 1215.4, and annually thereafter, each affiliate owning or operating

such a corporation shall file as a supplement thereto, a statement of the financial condition of the corporation prepared according to generally accepted accounting principles, and a designated list of the name and addresses of all agents, employees, and independent contractors utilized to issue or sell those contracts. Each statement of financial condition and designated list shall be certified as correct by an officer of the corporation. The commissioner may prescribe the form for the statement or list.

SEC. 3. Section 12753 of the Insurance Code is amended to read:

12753. (a) A home protection company shall maintain a reserve for unearned premiums in an amount not less than 40 percent of the aggregate premiums charged on its contracts currently in force.

(b) For purposes of this section, such reserve shall not include protection contract fees on home protection contracts to the extent provision is made for reinsurance of the outstanding risk on such contracts.

(c) The commissioner may, by regulation, prescribe the format by which the reserve shall be reported.

SEC. 4. Section 12761 of the Insurance Code is amended to read:

12761. (a) The furnishing of a home protection contract without charge to any person shall constitute a violation of this part. No home protection contract providing coverage prior to the time an interest in the home to which it attaches is sold shall be issued or delivered unless it provides for consideration. Such consideration may consist of a bona fide promise to pay the protection contract fee at the time of and only upon transfer of title.

(b) A home protection company may require an onsite inspection as a prequalification for the issuance of a home protection contract, and in such event offer a report on the inspection in connection with a bona fide application for the issuance of such contract even though the issuance of a contract on the property which is the subject of the inspection does not occur.

SEC. 5. Section 12995 of the Insurance Code is amended to read:

12995. The costs of administration and operation of the Bureau of Fraudulent Claims shall be borne by all of the insurers admitted to transact insurance in this state. The commissioner shall divide such costs among all such companies, assessing each such company an identical amount adequate to provide the funds for each fiscal year of operation of the bureau; provided, however, the assessment for each company shall not exceed one thousand dollars ($1,000) in each fiscal year. All moneys received by the commissioner from insurers pursuant to this section shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. All moneys which are deposited in the fund after receipt by the commissioner from insurers pursuant to this section are hereby appropriated to the department and are to be exclusively used for the support of the Bureau of Fraudulent Claims. To the extent the assessments against insurers made pursuant to this section are not sufficient to fund the entire operations of the bureau, other money

appropriated to the department, if available, may be used, in the commissioner's discretion, to fund those operations not covered by the assessments. The total budget of the bureau shall be as determined annually in the Budget Act.

SEC. 6. Section 12997 is added to the Insurance Code, to read:

12997. The Bureau of Fraudulent Claims shall annually compile and report, as a part of the commissioner's annual report as required by Section 12922, the following information:

(a) The number of cases reported to the bureau pursuant to Article 6 (commencing with Section 13000).

(b) The number of cases rejected wherein an investigation was not initiated by the bureau due to insufficient evidence to proceed and the number of cases rejected wherein an investigation was not initiated by the bureau due to any other reason.

SEC. 7. Section 3 of Chapter 1070 of the Statutes of 1978 is amended to read:

Sec. 3. Section 2 of this act shall remain in effect until January 1, 1992, and on such date is repealed.

CHAPTER 945

An act to amend Section 4700 of the Civil Code, relating to family law.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 4700 of the Civil Code is amended to read:

4700. (a) In any proceeding where there is at issue the support of a minor child or a child for whom support is authorized under Section 206, the court may order either or both parents to pay any amount necessary for the support, maintenance, and education of the child. At the request of either party, the court shall make appropriate findings with respect to the circumstances on which the order for the support of a minor child is based. Upon a showing of good cause, the court may order the parent or parents required to make the payment of support to give reasonable security therefor. All payments of support shall be made by the person owing the support payment prior to the payment of any debts owing to creditors. Any order for child support may be modified or revoked as the court may deem necessary, except as to any amount that may have accrued prior to the date of the filing of the notice of motion or order to show cause to modify or revoke. Any order for child support, as well as any order of modification or revocation of such an order, may be made retroactive to the date of the filing of the notice of motion or order to show cause therefor, or to any subsequent date.

An order of modification or revocation may include an award of attorney fees and court costs to the prevailing party.

(b) The court may order financial compensation for periods when a parent fails to assume the caretaker responsibility, or when a parent has been thwarted by the other parent when attempting to exercise visitation or custody rights, contemplated by a custody or visitation order entered pursuant to this part, including, but not limited to, an order for joint physical custody or by a written or oral agreement between the parents. The compensation shall be limited to (1) the reasonable expenses incurred for, or on behalf of, a child, resulting from the other parent's failure to assume his or her caretaker responsibility or (2) reasonable expenses incurred by a parent for or on behalf of a child resulting from the other parent's thwarting his or her efforts to exercise visitation or custody rights. These expenses may include the value of caretaker services, but are not limited to the cost of services provided by a third party during the relevant period.

The compensation may be requested by noticed motion or an order to show cause and shall allege, under penalty of perjury, a minimum of one hundred dollars ($100) of expenses so incurred or, at least three occurrences of failure to exercise visitation or custody rights or at least three occurrences of the thwarting of efforts to exercise visitation or custody rights within the six months prior to filing of the motion or order.

Attorney's fees shall be awarded to the prevailing party, upon a showing of the nonprevailing party's ability to pay.

(c) When a court orders a person to make specified payments for support of a child during the child's minority, or until the child is married or otherwise emancipated, or until the death of, or the occurrence of a specified event as to, a child for whom support is authorized under Section 206, the liability of the person ordered to pay support terminates upon the happening of the contingency. If the custodial parent or other person having physical custody of the child, to whom payments are to be made, fails to notify the person ordered to make those payments, or the attorney of record of the person ordered to pay support, of the happening of the contingency, and continues to accept support payments, the person shall refund any and all moneys received which accrued after the happening of the contingency, except that the overpayments shall first be applied to any and all support payments which are then in default. The court may, in the original order for support, order the custodial parent or other person to whom payments are to be made to notify the person ordered to make the payments, or his or her attorney of record, of the happening of the contingency.

(d) In the event obligations for support of a child are discharged in bankruptcy, the court may make all proper orders for the support, maintenance and education of the child, as the court may deem just.

CHAPTER 946

An act to amend Section 64 of the Civil Code, and to amend Sections 697.320 and 724.250 of the Code of Civil Procedure, relating to civil law.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 64 of the Civil Code is amended to read:

64. (a) A minor may petition the superior court of the county in which he or she resides or is temporarily domiciled, for a declaration of emancipation. The petition shall be verified and shall set forth with specificity all of the following facts:

(1) That he or she is at least 14 years of age.

(2) That he or she willingly lives separate and apart from his or her parents or legal guardian with the consent or acquiescence of his or her parents or legal guardian.

(3) That he or she is managing his or her own financial affairs.

(4) That the source of his or her income is not derived from any activity declared to be a crime by the laws of the State of California or the laws of the United States.

(b) Before the petition is heard, such notice as the court deems reasonable shall be given to the minor's parents, guardian, or other person entitled to the custody of the minor, or proof made to the court that their addresses are unknown, or that for other reasons the notice cannot be given. The clerk of the court shall also notify the district attorney of the county where the matter is to be heard of the proceeding. When a minor is a ward or dependent child of the court, notice shall be given to the probation department.

(c) The court shall sustain the petition if it finds that the minor is a person described by subdivision (a) and that emancipation would not be contrary to his or her best interests.

(d) If the petition is sustained, the court shall forthwith issue a declaration of emancipation, which shall be filed by the county clerk. Upon application of the emancipated minor, the Department of Motor Vehicles shall enter identifying information in its law enforcement computer network, and the fact of emancipation shall be stated on the department's identification cards issued to emancipated minors.

(e) If the petition is denied, the minor shall have a right to file a petition for a writ of mandate.

(f) If the petition is sustained, the parents or guardian shall have a right to file a petition for a writ of mandate if they have appeared in the proceeding and opposed the granting of the petition.

(g) A declaration shall be conclusive evidence that the minor is emancipated.

SEC. 2. Section 697.320 of the Code of Civil Procedure is amended to read:

697.320. (a) A judgment lien on real property is created under this section by recording an abstract or a certified copy of any of the following money judgments with the county recorder:

(1) A judgment for spousal or child support payable in installments.

(2) A judgment entered pursuant to Section 667.7 (judgment against health care provider requiring periodic payments).

(b) Unless the money judgment is satisfied or the judgment lien is released, a judgment lien created under this section continues for a period of 10 years from the date of its creation. The duration of a judgment lien created under this section may be extended any number of times by recording during the time the judgment lien is in existence a certified copy of the judgment in the manner provided in this section for the initial recording. Such rerecording has the effect of extending the duration of the judgment lien created under this section until 10 years from the date of the rerecording.

SEC. 3. Section 724.250 of the Code of Civil Procedure is amended to read:

724.250. (a) An acknowledgment of satisfaction of matured installments under an installment judgment shall be made in the same manner and by the same person as an acknowledgment of satisfaction of judgment and shall contain the following information:

(1) The title of the court.

(2) The cause and number of the action.

(3) The names and addresses of the judgment creditor, the judgment debtor, and the assignee of record if any. The judgment debtor's name shall appear on the acknowledgment of satisfaction of matured installments as it appears on the certified copy of the judgment that was recorded to create the judgment lien.

(4) The date of entry of the judgment and of any renewals of the judgment and where entered in the records of the court.

(5) A statement that the matured installments under the installment judgment had been satisfied as of a specified date.

(6) A statement whether a certified copy or abstract of the judgment has been recorded in any county and, if so, a statement of each county where the certified or abstract copy has been recorded and the book and page of the county records where the certified copy or abstract of the judgment has been recorded.

(b) If any amount of child or spousal support provided in a support order has been directed to be made to an officer designated by statute or by the court pursuant to Section 4702 of the Civil Code or any other provision of law and the directive is set forth in the certified copy or abstract of the judgment that was recorded to create the judgment lien on real property, or in a similarly recorded certified copy or abstract of an amended or supplemental order, the acknowledgment of satisfaction of matured installments under the installment judgment is not effective and does not affect the

judgment lien unless the acknowledgment is executed by or approved in writing by the designated officer.

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 947

An act to amend Sections 1803 and 27360 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 1803 of the Vehicle Code is amended to read:

1803. (a) Every clerk of a court, or judge if there is no clerk, in which a person was convicted of any violation of this code, and of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, and of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a) of this section:

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.

(7) Division 16.5 (commencing with Section 38000).

(8) Sections 23221, 23223, 23225, and 23226.

(c) If the court impounds a license or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23186, or subdivision (c) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 23208, the clerk of the court, or judge if there is no clerk, in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23167, 23187, or 23207, the clerk of the court, or the judge if there is no clerk, in which the order terminating or revoking probation was entered, shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

SEC. 2. Section 27360 of the Vehicle Code is amended to read:

27360. (a) It is unlawful for the parent or legal guardian, when present in a passenger vehicle or motortruck of less than 6,001 pounds unladen weight which is owned by him or her, to permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly using, for each such child or ward, a child passenger seat restraint system meeting applicable federal motor vehicle safety standards.

Notwithstanding Section 42005, a first charge under this subdivision may be dismissed, with the consent of the defendant, only if the person charged produces in court either or both of the following, as designated by the court:

(1) Proof that a child passenger seat restraint system has been obtained for use of the child.

(2) Proof of attendance at a program providing education in the use of child passenger restraint systems.

No violation of the subdivision shall be dismissed unless the court notifies the department and includes the reasons for the dismissal in the notification.

(b) It is unlawful for the parent or legal guardian, when present in a passenger vehicle or motortruck of less than 6,001 pounds

unladen weight which is not owned by him or her but which is registered in this state, to permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly securing his or her child or ward in either a child passenger restraint system meeting applicable federal motor vehicle safety standards or available seatbelts.

(c) It is unlawful for any driver to transport on a highway any child under four years of age or weighing less than 40 pounds in a passenger vehicle or motortruck of less than 6,001 pounds unladen weight which is registered in this state without providing and properly securing the child in either a passenger seat restraint system meeting applicable federal motor vehicle safety standards or available seatbelts. This subdivision shall not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

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 948

An act to amend Section 21684 of the Public Utilities Code, relating to airports, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 21684 of the Public Utilities Code, as amended by Section 4 of Chapter 1027 of the Statutes of 1982, is amended to read:

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity pursuant to Section 21682 or 21683 unless the public entity deposits in its special aviation fund, for expenditure solely for airport and aviation purposes, a sum from other than state or federal sources, established annually by the commission at not less than 10 percent nor more than 50 percent of the nonfederal funded portion.

Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay the sum of five thousand dollars ($5,000) annually to each city, county, airport district, community services district, or the University of California owning and operating an airport or airports in accordance with Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21682 or 21683 unless the university deposits in its special aviation fund each year, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the commission pursuant to subdivision (a), or unless a city located within 10 miles of the airport or the county within which the airport is located pays to the university a sum based on the rate established annually by the commission pursuant to subdivision (a). However, any sums so deposited by the university or paid by the city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

(c) Payments made by the department pursuant to Section 21682 and funds provided by public entities to match these payments may be accrued for a period of not more than five years. Extention of time for accrual of these funds for major projects shall be obtained from the department.

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 extend the authority of the California Transportation Commission to establish the rates for matching funds by public entities for purposes of state grants for airport purposes from the Aeronautics Account in the State Transportation Fund, which expires July 1, 1986, as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 949

An act to amend Section 19612 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 19612 of the Business and Professions Code, as amended by Chapter 24 of the Statutes of 1986, is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a harness or quarter horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle:

Daily Handle	License Fee Rate
$550,000 or less	2.5 percent of handle
$550,001 to $750,000	$13,750 plus 5.5 percent of the handle in excess of $550,001
$750,001 and more	$24,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of the daily exotic parimutuel handle.

(b) With respect to quarter horse meetings, all funds remaining from the deductions provided in Sections 19610, 19491, and 19491.5, after distribution of the applicable license fee, shall be distributed 55 percent as commissions and 45 percent as purses. With respect to harness meetings, except for meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 59.5 percent as commissions and 40.5 percent as purses. For meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 50 percent as commissions and 50 percent as purses.

(c) Every harness association or any transferee or successor or subsequent transferee or successor of the business or assets of the association which: (1) conducts its racing meeting at the facilities of a county fair or a district agricultural association or (2) conducted its racing meeting in a single continuous period prior to January 1, 1979, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutual

handle in accordance with the following schedule:

Daily Handle	License Fee Rate
$1,000,000 or less	1.5 percent of handle
$1,000,001 and more	$15,000 plus 10.7 percent of the handle in excess of $1,000,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of its daily conventional parimutuel handle and 3.79 percent of its daily exotic parimutuel handle.

(d) Every quarter horse association which conducted its racing meeting in the northern zone prior to January 1, 1979, or which conducts its meeting pursuant to Section 19549.3 or 19549.9, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
$550,000 or less	1.5 percent of handle
$550,001 to $750,000	$8,250 plus 2.75 percent of the handle in excess of $550,001
$750,001 and more	$13,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of its daily exotic parimutuel handle.

(e) Every association which conducted a quarter horse racing meeting in the southern zone during the daytime prior to January 1, 1979, and thereafter conducts such a meeting at night, shall be entitled to the following license fee adjustment:

For each 1 percent that the association's average daily handle in the 1981 year, during the period from the commencement of the meeting to December 25, falls below its 1980 average daily handle during the same period, the amount of the applicable license fee as set forth in subdivision (a) shall be reduced by 2 percent.

(f) Any association qualified to operate its meetings pursuant to Section 19612.6 shall be entitled to continue to distribute license fees, commissions, and purses as provided by that section.

(g) Notwithstanding subdivision (b), for every association which conducts a quarter horse meeting in the northern zone pursuant to subdivision (d), the amount remaining after deduction of the state license fee shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting. Every association conducting a quarter horse meeting pursuant to

subdivision (d) may deduct an additional amount up to 1 percent of its conventional and exotic parimutuel pools to be distributed as commissions. The association may also deduct an additional 1 percent from the exotic parimutuel pools to be distributed as commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

CHAPTER 950

An act to amend Section 22454 of the Business and Professions Code, relating to immigration consultants.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 22454 of the Business and Professions Code, as added by Chapter 1149 of the Statutes of 1983, is amended to read:

22454. It is unlawful for any person engaged in the business or acting in the capacity of an immigration consultant to do any of the following acts:

(a) Make false or misleading statements to a client while providing services to that client.

(b) Make any guarantee or promise to a client, unless the guarantee or promise is in writing and the immigration consultant has some basis in fact for making the guarantee or promise.

(c) Make any statement that the immigration consultant can or will obtain special favors from or has special influence with the United States Immigration and Naturalization Service.

(d) Charge a client a fee for referral of the client to another for services which the immigration consultant cannot or will not provide to the client. A sign setting forth this prohibition shall be conspicuously displayed in the consultant's office.

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 951

An act to amend Sections 5679, 7137, 9891.1, 9891.10, 9891.11, 9891.25, 9891.26, 9891.29, 9891.30, 9891.31, 9891.35, 9891.41, 9941, 9989, and 9990 of, to add Sections 122 and 9889.22 to, and to repeal Section 9923 of, the Business and Professions Code, to amend Section 11506 of the Government Code, and to amend Sections 25672 and 44033 of, and to add Section 44052 to, the Health and Safety Code, relating to business and professions, and making an appropriation therefor.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 122 is added to the Business and Professions Code, to read:

122. Except as otherwise provided by law, the department and each of the boards, bureaus, committees, and commissions within the department may charge a fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure. The fee shall be in an amount sufficient to cover all costs incident to the issuance of the duplicate certificate or other form but shall not exceed twenty-five dollars ($25).

SEC. 3. Section 5679 of the Business and Professions Code, as added by Chapter 1405 of the Statutes of 1984, is amended to read:

5679. (a) If a licensee or an unlicensed individual desires to contest a citation or the proposed assessment of a civil penalty therefor, he or she shall within 10 business days after service of the citation notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. He or she shall state with particularity, in writing, his or her reasons for such action, and shall immediately transmit a copy thereof, to each party, of the original complaint.

If the licensee, or unlicensed individual desires to contest a decision made after the informal conference, he or she shall inform the executive officer in writing within five business days after he or she receives the decision resulting from the informal conference.

If the licensee or unlicensed individual fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed

a final order of the board and shall not be subject to further administrative review.

(b) A licensee or an unlicensed individual may, in lieu of contesting a citation pursuant to this section, transmit to the board the amount assessed in the citation as a civil penalty, within 10 business days after service of the citation.

(c) Where a licensee or an unlicensed individual has notified the executive officer in a timely manner that he or she intends to contest the decision made after the informal conference, the executive officer shall afford an opportunity for a hearing. The board shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but not be limited to, an order that a licensee's or unlicensed individual's failure to comply with any provision of the board's decision constitutes grounds for suspension or denial of licensure, or both. The proceedings under this section 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 board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section, the board may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply with the order of abatement. The application, which shall include a certified copy of the final order of the board, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(e) The civil penalties received under this chapter shall be deposited in the California State Board of Landscape Architects Fund.

SEC. 4. 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).

(h) The application fee for an asbestos certification exam shall not exceed fifty dollars ($50).

SEC. 5. Section 9889.22 is added to the Business and Professions Code, to read:

9889.22. The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

SEC. 6. Section 9891.1 of the Business and Professions Code is amended to read:

9891.1. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), "tax preparer" includes:

(A) Any person, as defined in subdivision (g), who, for a fee, assists with or prepares tax returns for another person or entity or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. Each person engaged in such activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with or employment by another tax preparer.

(B) Any corporation, partnership, association, or other entity which has associated with it persons not exempted from this chapter under Section 9891.2, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or which holds itself out as offering those services or having that authority. Persons employed by or otherwise associated with these entities and not exempted under Section 9891.2 shall, for the purposes of this chapter, be deemed to be tax interviewers, as defined in subdivision (j).

(2) Notwithstanding paragraph (1), "tax preparer" does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer's income, sales, or payroll tax returns, or a person employed by a corporation, partnership, association, or other entity described in subparagraph

(B) of paragraph (1).

(b) "Administrator" means the official appointed by the Governor to head the program.

(c) "Director" means the Director of the Department of Consumer Affairs.

(d) "Fee" means any money or valuable consideration paid or promised to be paid for services rendered or promised to be rendered by any tax preparer.

(e) "Person" means an individual, irrespective of relationship to any firm, partnership, association, joint venture, or corporation.

(f) "Program" includes all procedures, regulations, and activities authorized by or associated with this chapter.

(g) "Registrant" includes any tax preparer, or tax interviewer not specifically exempted by Section 9891.2, and those persons otherwise entitled to exemption under Section 9891.2 who have voluntarily expressed desire to be registered under the program.

(h) "Tax interviewer" means a person who is associated with a tax preparer and who by delegation or authorization from such preparer assumes responsibility for the preparation of returns for third parties, or the signing of returns prepared by those in the control of such preparer, or both. A preparer having associated with him or her a tax interviewer shall assume responsibility for the bonding of such interviewer, and the reporting to the administrator with payment of appropriate fees of the association of such interviewer within 30 days of the beginning of such association.

(i) "Tax return" means any return, declaration, statement, refund claim or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

SEC. 7. Section 9891.10 of the Business and Professions Code is amended to read:

9891.10. (a) The duty of enforcing and administering this chapter is vested in the administrator who is responsible to the director.

(b) The Governor shall appoint, subject to confirmation by the Senate, an Administrator—Tax Preparer Program at a salary to be fixed by the director with the approval of the Department of Personnel Administration. The Administrator—Tax Preparer Program shall serve under the direction and supervision of the director and at the pleasure of the Governor.

SEC. 8. Section 9891.11 of the Business and Professions Code is amended to read:

9891.11. With the approval of the director, the administrator may adopt whatever rules and regulations he or she determines are reasonably necessary to carry out the purposes of this chapter. The rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 9. Section 9891.25 of the Business and Professions Code is

amended to read:

9891.25. (a) The director may refuse to validate or may, after a hearing, suspend or revoke, temporarily or permanently, the registration of a tax preparer for any of the following acts or omissions relating to preparing tax returns for others for a fee by any registrant:

(1) Making, or authorizing the making of, any statement or representation, oral or written or recorded by any means, which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading.

(2) Obtaining the signature of a customer to a tax return or authorizing document which contains blank spaces to be filled in after it has been signed.

(3) Failing or refusing to give a customer, for his or her own records, a copy of any document requiring his or her signature, within a reasonable time after the customer signs such document.

(4) Failing to maintain a copy of any tax return prepared for a customer for four years from the date of completion or the due date of the return, whichever is later.

(5) Engaging in any fraudulent conduct.

(6) Engaging in advertising practices which are fraudulent, untrue, or misleading, including but not limited to assertions that registration in any way implies licensure or endorsement of a tax preparer or interviewer by the State of California.

(7) Failing to report changes in the information required by Section 9891.20 within 60 days.

(8) Violating the provisions of Section 17530.5.

(9) Violating the provisions of Section 7216 of Title 26 of the United States Code.

(10) Failing to post the certificate of registration in the tax preparer's place of business so that it may easily be read by customers.

(11) Failing to sign a customer's tax return as prescribed by the administrator.

(12) Gross negligence as defined by the administrator with the advice of the State Preparer Advisory Committee.

(13) Failing to return, upon the demand by or on behalf of a client and after payment for services rendered, records or other data provided to the tax preparer by the client.

(14) Willfully misrepresenting any material fact in an application for registration or renewal of registration.

(15) Failing to provide to the administrator by October 31 proof of compliance with continuing education requirements for the current year, unless the registrant has previously specified inactive status pursuant to Section 9891.34.

(b) In addition to the grounds specified in subdivision (a), the director may, after a hearing, refuse to validate or may suspend or revoke, temporarily or permanently, the registration of a tax

preparer or tax interviewer if he or she enters a plea of guilty or nolo contendere to, or if he or she has been convicted of a crime which is substantially related to the qualifications, functions or duties of a tax preparer, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, or suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

SEC. 10. Section 9891.26 of the Business and Professions Code is amended to read:

9891.26. If the director refuses to validate a registration, the administrator shall notify the applicant by personal service or registered mail return receipt requested mailed to the address as shown on the registration form. In the event the notice is given, the applicant shall be given a hearing under Section 9891.29 if he or she files a written request with the administrator within 60 days after the notice is given.

SEC. 11. Section 9891.29 of the Business and Professions Code is amended to read:

9891.29. All hearings relating to a refusal to validate a registration, or revocation or suspension of a registration, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Any accusation or statement of issues in connection with those proceedings shall be prepared and served by the administrator. Any proposed decision rendered by an administrative law judge shall be submitted to the director for adoption or rejection.

SEC. 12. Section 9891.30 of the Business and Professions Code is amended to read:

9891.30. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or disciplinary proceeding against a tax preparer or to render a decision invalidating, revoking or suspending a registration.

SEC. 13. Section 9891.31 of the Business and Professions Code is amended to read:

9891.31. The superior court in and for the county wherein any person acts as a tax preparer in violation of the provisions of this chapter, or any regulation adopted pursuant to this chapter, may, upon a petition filed by the administrator with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of the Code of Civil Procedure, except that the administrator shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

SEC. 14. Section 9923 of the Business and Professions Code is repealed.

SEC. 15. Section 9891.35 of the Business and Professions Code is amended to read:

9891.35. (a) A tax preparer, other than a tax preparer operating solely in the capacity of a tax interviewer, shall deposit with the director, prior to registration or registration renewal, a bond executed by an admitted surety insurer payable to the people of the State of California in the penal sum of two thousand dollars ($2,000). The bond shall be conditioned that the person applying for registration or registration renewal will comply with this chapter and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit or any unlawful acts or omissions by the tax preparer, or interviewer while acting in the scope of their employment.

(b) A tax interviewer associated with a tax preparer shall be covered by the bond of the tax preparer with which the tax interviewer is associated. However, in no event shall the total bond required for any single tax preparer and associated tax interviewers be required to exceed fifty thousand dollars ($50,000).

SEC. 16. Section 9891.41 of the Business and Professions Code is amended to read:

9891.41. The administrator shall report to the Controller at the beginning of each month, for the month preceding, the amount and source of all fees and revenues received by the director pursuant to this chapter, and at that time shall pay the entire amount of such fees and revenues into the State Treasury for credit to the Tax Preparers Fund.

SEC. 17. Section 9941 of the Business and Professions Code is amended to read:

9941. (a) The bureau shall issue two types of licenses:

(1) An employment agency license.

(2) An interim employment agency license.

(b) The bureau may, when issuing a license under this chapter, restrict the type of employment agency business which may be conducted under the license to one or more of the following categories:

(1) General. This category authorizes the licensee to engage in the business of finding all types of employment for others and charging a fee to either applicants or employers or both applicants and employers for such service.

(2) Babysitting. This category authorizes the licensee to engage exclusively in the business of providing babysitting employment for others.

(3) Domestic. This category authorizes the licensee to engage exclusively in the business of procuring domestic employment for others.

(4) Modeling. This category authorizes the licensee to engage exclusively in the business of procuring modeling employment for others.

(5) Farm labor. This category authorizes the licensee to engage

exclusively in the business of procuring farm labor employment for others.

(6) Employer retained. This category authorizes the licensee to engage in the business of finding all types of employment for others, except domestic employment, while charging fees exclusively to employers for such service.

(7) Nurses' registry. This category authorizes the licensee to engage exclusively in the business of a nurses' registry.

(8) Employment counseling. This category authorizes the licensee to engage exclusively in the business of an employment counseling service, as defined in Section 9909.5.

(c) In restricting the license to one or more of these categories, the bureau shall consider all of the following:

(1) The applicant's experience.

(2) The type of employment agency business which the applicant proposes to conduct.

SEC. 18. Section 9989 of the Business and Professions Code is amended to read:

9989. The definitions used in this section shall govern the construction and terms as used in this article:

(a) "Prepaid computer employment agency" means the business of matching jobseekers with employment opportunities, pursuant to an arrangement under which the jobseekers are required to pay a fee in advance of, or contemporaneously with, the supplying of the matchings, but which does not otherwise involve services for the procurement of employment by the person conducting the service.

(b) "Job listing service" means any person who by advertisment or otherwise offers to provide applicants for employment lists of employers or lists of job openings or like publications, or prepares resumés or lists of applicants for distribution to potential employers, where a prepaid fee or valuable consideration is exacted or attempted to be collected, either directly or indirectly from the jobseeker.

(c) "Licensee" means a person licensed to conduct a prepaid computer employment agency or a job listing service.

(d) "Jobseeker" means a person seeking employment.

(e) "Location" means the place where a prepaid computer employment agency or job listing service business is conducted.

(f) "Designated agent" means the person who is in charge of the business of a prepaid computer employment agency or a job listing service at a given location.

SEC. 19. Section 9990 of the Business and Professions Code is amended to read:

9990. The bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. 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. Any accusation or statement of issues in connection with those proceedings shall be prepared and served under direction of the chief of the bureau. Any proposed decision rendered by an administrative law judge shall be submitted to the director for adoption or rejection.

SEC. 20. Section 11506 of the Government Code is amended to read:

11506. (a) Within 15 days after service upon him of the accusation the respondent may file with the agency a notice of defense in which he may:

(1) Request a hearing.

(2) Object to the accusation upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation on the ground that it is so indefinite or uncertain that he cannot identify the transaction or prepare his defense.

(4) Admit the accusation in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

Within the time specified respondent may file one or more notices of defense upon any or all of these grounds but all such notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(b) The respondent shall be entitled to a hearing on the merits if he files a notice of defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file such notice shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation shall be deemed waived.

(c) The notice of defense shall be in writing signed by or on behalf of the respondent and shall state his mailing address. It need not be verified or follow any particular form.

(d) Respondent may file a statement by way of mitigation even if he does not file a notice of defense.

(e) As used in this section, "file," "files," "filed," or "filing" means "delivered or mailed" to the agency as provided in Section 11505.

SEC. 21. Section 25672 of the Health and Safety Code is amended to read:

25672. The provisions of Section 25671 shall not apply to any of the following persons:

(a) Licentiates of the healing arts.

(b) Students in an approved school for radiologic technologists and in schools of medicine, podiatry or chiropractic when such students are operating X-ray machines under the supervision of an

instructor who is a certified radiologic technologist or a certified supervisor or operator; and students of dentistry, dental hygiene and dental assisting when such students are operating X-ray machines under the supervision of an instructor who is a licensed dentist.

(c) Any person employed by an agency of the government of the United States while performing the duties of such employment.

(d) Persons temporarily exempted pursuant to Section 25680.

(e) A licensed dentist; or person who, under the supervision of a licensed dentist, operates only dental radiographic equipment for the sole purpose of oral radiography. This exemption applies only to those persons who have complied with the requirements of Section 1656 of the Business and Professions Code.

(f) A person who has been certified or granted a limited permit pursuant to subdivision (b) or (c) of Section 25668 and who performs dental radiography in a dental X-ray laboratory upon the written order of a licensed dentist.

SEC. 21.5. Section 44033 of the Health and Safety Code is amended to read:

44033. (a) Any facility meeting the requirements established by the department pursuant to this chapter may be licensed as a repair station or test station. A licensed station shall display an identifying sign prescribed by the department in a manner conspicuous to the public. Licensed repair stations shall be authorized to do tests, and shall meet all the requirements established for both test stations and repair stations.

(b) No licensed test station shall require, as a condition of performing the test, that any needed repairs or adjustment be done by the person, or at the facility of the person, performing the test.

(c) If a vehicle is tested at a facility licensed to do both testing and repairs, the facility shall include on the written estimate, as described in Section 9884.9 of the Business and Professions Code, a notice to the customer that the customer may choose another facility to perform needed repairs or adjustments. If a licensed facility has existing forms that do not include the notice required by this subdivision, it may continue using those forms until January 1, 1988, or until those forms are exhausted, whichever occurs first.

(d) Charges for testing or repair, or both, shall be separately stated.

(e) The department shall require the posting of station licenses, inspector licenses, and qualified mechanics certificates prominently in each place of business so as to be readily visable to the public.

SEC. 22. Section 44052 is added to the Health and Safety Code, to read:

44052. The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.

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 952

An act to amend Sections 543, 5900, and 11515 of, and to add Sections 11540 and 11541 to, the Vehicle Code, relating to salvage pools.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 543 of the Vehicle Code is amended to read:

543. "Salvage pool" means a person engaged exclusively in the business of disposing of total loss salvage vehicles or recovered stolen vehicles, or both, for, or on behalf of, insurance companies or authorized adjusters.

SEC. 2. Section 5900 of the Vehicle Code is amended to read:

5900. (a) Whenever the owner of a vehicle registered under this code sells or transfers his or her title or interest in, and delivers the possession of, the vehicle to another, the owner shall immediately notify the department of the sale or transfer giving the date thereof, the name and address of the owner and of the transferee, and the description of the vehicle which is required in the appropriate form provided for that purpose by the department.

(b) Except as otherwise provided in subdivision (c), in the case of a vehicle under 6,001 pounds, manufacturer's maximum gross vehicle weight rating, the owner shall also notify the department of the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of sale or transfer. However, if the vehicle owner has knowledge that the mileage displayed on the odometer is incorrect, the owner shall indicate on the appropriate form the true mileage, if known, of the vehicle at the time of sale or transfer.

Providing false or inaccurate mileage is not a violation of this subdivision unless it is done with the intent to defraud.

(c) If the registered owner is not in possession of the vehicle that is sold or transferred, the person in physical possession of that vehicle shall give the notice required by subdivisions (a) and (b).

SEC. 3. Section 11515 of the Vehicle Code is amended to read:

11515. (a) Whenever an insurance company makes a total loss settlement on a total loss salvage vehicle, the insurance company shall, within 10 days from the settlement of the loss, forward the

properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, shall issue a salvage certificate for the vehicle.

(b) Whenever the owner of a total loss salvage vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, shall issue a salvage certificate for the vehicle.

(c) Whenever a total loss salvage vehicle is not the subject of an insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department.

(d) Whenever a total loss salvage vehicle is not the subject of an insurance settlement, a self-insurer, as defined in Section 16052, shall, within 10 days of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department.

(e) Prior to sale or disposal of a total loss salvage vehicle, the owner, owner's agent, or salvage pool, shall obtain a properly endorsed salvage certificate and deliver it to the purchaser within 10 days after payment in full for the salvage vehicle and shall also comply with Section 5900. The department shall accept the endorsed salvage certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department.

(f) This section does not apply to a vehicle which has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a total loss salvage vehicle.

(g) A violation of subdivision (a), (b), (d), or (e) is a misdemeanor, pursuant to Section 40000.11. Notwithstanding Section 40000.11, a violation of subdivision (c) is an infraction, except that, if committed with intent to defraud, a violation of subdivision (c) is a misdemeanor.

SEC. 4. Section 11540 is added to the Vehicle Code, to read:

11540. A salvage pool shall maintain an accurate record of every vehicle it acquires and every vehicle it disposes of, and shall notify the department of the disposition of any vehicle pursuant to Section 5900.

SEC. 5. Section 11541 is added to the Vehicle Code, to read:

11541. The department shall administer and enforce all provisions of this code pertaining to salvage pools.

This section shall become operative on July 1, 1987.

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 953

An act to amend Sections 417.10, 465, 631.01, and 1169 of, and to amend and repeal Section 86 of, the Code of Civil Procedure, to amend Sections 72003 and 72301 of, to add Sections 26809 and 69503.5 to, and to repeal Section 69503.2 of, the Government Code, to amend Section 19e of the Penal Code, to amend Sections 12808, 40310, 40509, 40519, and 40521 of the Vehicle Code, relating to courts.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 86 of the Code of Civil Procedure, as amended by Chapter 88 of the Statutes of 1986, 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 residential real property where rent is charged, 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 five hundred dollars ($1,500) 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. 2. Section 417.10 of the Code of Civil Procedure is amended to read:

417.10. Proof that a summons was served on a person within this state shall be made:

(a) If served under Section 415.10, 415.20, or 415.30, by the affidavit of the person making such service showing the time, place, and manner of service and facts showing that such service was made in accordance with this chapter. Such affidavit shall recite or in other manner show the name of the person to whom a copy of the summons and of the complaint were delivered, and, if appropriate, his title or the capacity in which he is served, and that the notice required by Section 412.30 appeared on the copy of the summons served, if in fact it did appear.

If service is made by mail pursuant to Section 415.30, proof of service shall include the acknowledgement of receipt of summons in the form provided by that section or other written acknowledgment of receipt of summons satisfactory to the court.

(b) If served by publication pursuant to Section 415.50, by the affidavit of the publisher or printer, or his foreman or principal clerk, showing the time and place of publication, and an affidavit showing the time and place a copy of the summons and of the complaint were mailed to the party to be served, if in fact mailed.

(c) If served pursuant to another statute of this state, in the manner prescribed by such statute or, if no manner is prescribed, in the manner prescribed by this section for proof of a similar manner

of service.

(d) By the written admission of the party.

(e) If served by posting pursuant to Section 415.45, by the affidavit of the person who posted the premises, showing the time and place of posting, and an affidavit showing the time and place copies of the summons and of the complaint were mailed to the party to be served, if in fact mailed.

(f) All proof of personal service shall be made on a form adopted by the Judicial Council.

SEC. 3. Section 465 of the Code of Civil Procedure is amended to read:

465. Except with leave of the court, all pleadings subsequent to the complaint, together with proof of service unless a summons need be issued, shall be filed with the clerk or judge, and copies thereof served upon the adverse party or his or her attorney.

SEC. 4. Section 631.01 of the Code of Civil Procedure is amended to read:

631.01. (a) Trial by jury may be waived by the several parties to an issue of fact in any of the following ways:

(1) By failing to appear at the trial.

(2) By written consent filed with the clerk or judge.

(3) By oral consent, in open court, entered in the minutes or docket.

(4) By failing to announce that a jury is required, at the time the cause is first set for trial, if it is set upon notice or stipulation, or within five days after notice of setting if it is set without notice or stipulation.

(5) By failing to deposit with the clerk, or judge, advance jury fees 25 days prior to the date set for trial, or as provided by subdivision (b). The advanced jury fee shall not exceed the amount necessary to pay the average mileage and fees of 20 trial jurors in the court to which the jurors are summoned.

(6) By failing to deposit with the clerk, or judge, at the beginning of the second and each succeeding day's session a sum equal to one day's fees of the jury, and the mileage or transportation, if there are any.

(b) In a superior court action if a jury is demanded by either party in the memorandum to set the cause for trial and the party, prior to trial, by announcement or by operation of law waives a trial by jury, then all adverse parties shall have five days following the receipt of notice of the waiver to file and serve a demand for a trial by jury and to deposit any advance jury fees which are then due.

(c) When the party who has demanded trial by jury either waives such trial upon or after the assignment for trial to a specific department of the court, or upon or after the commencement of the trial, or fails to deposit the fees as provided in paragraph 6 of subdivision (a), trial by jury shall be waived by the other party either failing promptly to demand trial by jury before the judge in whose department the waiver, other than for the failure to deposit such fees, was made, or by that party's failing promptly to deposit the fees

provided in paragraph 6 of subdivision (a).

(d) The court may, in its discretion upon just terms, allow a trial by jury although there may have been a waiver of a trial by jury.

SEC. 5. Section 1169 of the Code of Civil Procedure is amended to read:

1169. If at the time appointed any defendant served with a summons does not appear and defend, the clerk, or the judge if there is no clerk, shall enter the default of any defendant so served, upon written application of the plaintiff together with the following:

(a) Proof of service of the summons and complaint.

(b) Proof of service of the notice of termination of tenancy together with a copy of the notice.

(c) An affidavit by the plaintiff affirming that the defendant or defendants are still in possession of the premises.

If requested by the plaintiff, the clerk shall immediately enter judgment for restitution of the premises and shall issue a writ of execution thereon. Thereafter, the plaintiff may apply to the court for any other relief demanded in the complaint, including the costs, against the defendant, or defendants, or against one or more of the defendants.

SEC. 6. Section 26809 is added to the Government Code, to read:

26809. Unless another provision of law requires a longer retention period, the county clerk may destroy or otherwise dispose of any paper or document filed with or submitted to him or her more than one year previously, if he or she determines that there is no need for its retention. In determining whether there is a need for retaining a paper or document, consideration shall be given to such factors as future public need, the effect of statutes of limitation, and historical significance.

SEC. 7. Section 69503.2 of the Government Code is repealed.

SEC. 8. Section 69503.5 is added to the Government Code, to read:

69503.5. Notwithstanding any other provision of law, a county clerk, on order of the presiding judge of the appellate department of the superior court, shall destroy a statement or transcript on appeal from the municipal or justice court on file in the appellate department of the superior court without retaining a micrographic film print or copy, 10 years after the decision becomes final.

SEC. 9. Section 72003 of the Government Code is amended to read:

72003. In addition to salaries, the judges of the municipal court shall be allowed traveling expenses of twenty and one-half cents ($0.205) for each mile actually traveled when the business of the court requires their attendance for holding regular sessions of the court at a location other than that designated as their principal office. The mileage allowance shall not be computed upon a greater distance than that between the principal office and such departments of the court, or that between the place for regular sessions and such special or extra session of the court.

SEC. 10. Section 72301 of the Government Code is amended to read:

72301. The clerk of the court or one or more deputy clerks, the sheriff or one or more deputy sheriffs, or one or more city police officers shall be in attendance at the department at all hours of the day and night, including Sundays and holidays, and may fix and accept bail pursuant to procedures established by the court for the appearance before the court of any defendant charged in the court with an offense of which the court has jurisdiction or whenever a defendant has been arrested and booked within the territorial limits of said judicial district for having committed a misdemeanor. The amount of bail shall be pursuant to a schedule of bail in such cases previously fixed and approved by the judges of the court at their annual meeting. If a warrant has been issued for the arrest of the defendant, the bail shall be in the amount fixed in the warrant. The bail shall be cash, negotiable United States Treasury bonds, or a surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code.

SEC. 11. Section 19e of the Penal Code is amended to read:

19e. The following offenses are subject to the provisions of subdivision (d) of Section 17: Sections 330, 415, 555, and 853.7, of the Penal Code; subdivision (m) of Section 602 of the Penal Code; subdivision (b) of Section 25658 and Sections 25661 and 25662 of the Business and Professions Code; Sections 27150.1, 40508, and 42005 of the Vehicle Code, Section 14601.1 of the Vehicle Code based upon failure to appear, and any other offense which the Legislature makes subject to the provisions of subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for violation of any of such sections, any such violation which is an infraction is punishable by a fine not exceeding two hundred fifty dollars ($250).

Except for Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for any offense made an infraction under subdivision (d) of Section 17 shall not be grounds for the suspension, revocation, or denial of any license, or for the revocation of probation or parole of the person convicted.

SEC. 12. Section 12808 of the Vehicle Code is amended to read:

12808. (a) The department shall, before issuing or renewing any license, check the record of the applicant for conviction of traffic violations and traffic accidents.

(b) The department shall, before issuing or renewing any license, check the record of the applicant for notices of failure to appear in court filed with it and shall withhold or shall not issue a license to any applicant who has violated his written promise to appear in court unless the department has received a certificate issued by the magistrate or clerk of the court hearing the case in which the promise was given showing that the case has been adjudicated or unless the applicant's record is cleared as provided in Chapter 6 (commencing with Section 41500) of Division 17. In lieu of the certificate of adjudication, a notice from the court stating that the

original records have been lost or destroyed shall permit the department to issue a license.

(c) Any notice received by the department pursuant to Section 40509 of this code which has been on file five years may be removed from the department records and destroyed at the discretion of the department.

SEC. 13. Section 40310 of the Vehicle Code is amended to read:

40310. Notwithstanding subdivision (d) of Section 1269b of the Penal Code, relating to the adoption of a uniform schedule of bail for infractions, no bail shall be established for any infraction in an amount, exclusive of any applicable penalty assessment levied pursuant to Section 1464 of the Penal Code, in excess of the amount of the maximum fine pursuant to Section 42001 or 42001.5, and bail shall be set without regard to residence.

SEC. 14. 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 issue 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. 15. Section 40519 of the Vehicle Code is amended to read:

40519. (a) Any person who has received a written notice to appear for an infraction may, prior to the time at which the person is required to appear, make a deposit and declare the intention to plead not guilty to the clerk of the court named in the notice to appear. The deposit shall be in the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 of this code or Section 1464 of the Penal Code, for the offense charged, and shall be used for the

purpose of guaranteeing the appearance of the defendant at the time and place scheduled by the clerk for arraignment and for trial, and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. The case shall thereupon be set for arraignment and trial on the same date, unless the defendant requests separate arraignment.

(b) Any person who has received a written notice to appear for an infraction may, prior to the time at which the person is required to appear, plead not guilty in writing in lieu of appearing in person. In a county where the board of supervisors has adopted an ordinance providing that a plea of not guilty to a parking violation may be entered in writing in lieu of appearing in person, any person who has received a notice of a parking violation issued under Section 41103 may, prior to the time at which the person is required to appear, plead not guilty in writing in lieu of appearing in person. The written plea shall be directed to the court named in the notice to appear or to the court or city agency indicated on the notice of parking violation and, if mailed, shall be sent by certified or registered mail postmarked not later than five days prior to the day upon which appearance is required. The written plea and request to the court or city agency shall be accompanied by a deposit consisting of the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 of this code or Section 1464 of the Penal Code, for that offense, which amount shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place set by the court for trial and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. Upon receipt of the plea and deposit, the case shall be set for arraignment and trial on the same date, unless the defendant requests separate arraignment. Thereafter, the case shall be conducted in the same manner as if the defendant had appeared in person, had made his or her plea in open court, and had deposited such sum as bail. The court or the clerk of the court shall notify the accused of the time and place of trial by first-class mail postmarked at least 10 days prior to the time set for the trial. Any person using this procedure shall be deemed to have waived the right to be tried within the statutory period.

(c) Any person using the procedure set forth in subdivision (a) or (b) shall be deemed to have given a written promise to appear at the time designated by the court for trial, and failure to appear at the trial shall constitute a misdemeanor.

SEC. 15.5. Section 40519 of the Vehicle Code is amended to read:

40519. (a) Any person who has received a written notice to appear for an infraction may, prior to the time at which the person is required to appear, make a deposit and declare the intention to plead not guilty to the clerk of the court named in the notice to appear. The deposit shall be in the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 of this code or Section 1464 of

the Penal Code, for the offense charged, and shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place scheduled by the clerk for arraignment and for trial, and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. The case shall thereupon be set for arraignment and trial on the same date, unless the defendant requests separate arraignment.

(b) Any person who has received a written notice to appear or a notice of parking violation issued under Section 41103 for an infraction may, prior to the time at which the person is required to appear, plead not guilty in writing in lieu of appearing in person. The written plea shall be directed to the court named in the notice to appear or to the court or city agency indicated on the notice of parking violation and, if mailed, shall be sent by certified or registered mail postmarked not later than five days prior to the day upon which appearance is required. The written plea and request to the court or city agency shall be accompanied by a deposit consisting of the amount of bail established pursuant to Section 1269b of the Penal Code, together with any assessment required by Section 42006 of this code or Section 1464 of the Penal Code, for that offense, which amount shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place set by the court for trial and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. Upon receipt of the plea and deposit, the case shall be set for arraignment and trial on the same date, unless the defendant requests separate arraignment. Thereafter, the case shall be conducted in the same manner as if the defendant had appeared in person, had made his or her plea in open court, and had deposited that sum as bail. The court or the clerk of the court shall notify the accused of the time and place of trial by first-class mail postmarked at least 10 days prior to the time set for the trial. Any person using this procedure shall be deemed to have waived the right to be tried within the statutory period.

(c) Any person using the procedure set forth in subdivision (a) or (b) shall be deemed to have given a written promise to appear at the time designated by the court for trial, and failure to appear at the trial shall constitute a misdemeanor.

SEC. 16. Section 40521 of the Vehicle Code is amended to read:

40521. (a) Except when personal appearance is required by the bail schedule established under Section 1269b of the Penal Code, a person to whom a notice to appear has been issued under Section 40500, or a person to whom a notice of a delinquent parking violation has been issued and against whom a complaint has been filed pursuant to Section 40230, who intends to forfeit bail or a parking penalty and to pay any assessment may forward by United States mail the amount fixed as bail or the parking penalty, together with the appropriate amount of any assessment, to the person authorized to receive a deposit of bail. The amounts may be paid in the form of a personal check which meets the criteria established pursuant to

subdivision (c) of Section 40510, or a bank cashier's check or a money order. Bail or a parking penalty and any assessment shall be paid not later than the day of appearance set forth in the notice to appear or prior to the expiration of any lawful continuance of such date.

(b) Bail or a parking penalty forwarded by mail is effective only when the funds are actually received.

(c) Section 40512 is applicable to bail or a parking penalty paid pursuant to this section. Upon the making of the order pursuant to Section 40512 that no further proceedings be had, the amount paid as bail or a parking penalty shall be paid into the city or county treasury, as the case may be, and the assessment shall be transmitted to the State Treasury in the manner provided in Section 1464 of the Penal Code.

SEC. 16.5. Section 1 of this act 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 86 of the Code of Civil Procedure, as amended by Section 1 of Chapter 88 of the Statutes of 1986, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 17. Section 2 of this act shall become operative on July 1, 1987.

SEC. 18. Section 15.5 of this bill incorporates amendments to Section 40519 of the Vehicle Code proposed by both this bill and SB 2042. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 40519 of the Vehicle Code, and (3) this bill is enacted after SB 2042, in which case Section 15 of this bill shall not become operative.

SEC. 19. 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 954

An act to add Part 2.8 (commencing with Section 10800) to Division 6 of the Water Code, relating to water conservation, and making an appropriation therefor.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Part 2.8 (commencing with Section 10800) is added to Division 6 of the Water Code, to read:

PART 2.8. AGRICULTURAL WATER MANAGEMENT PLANNING

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

10800. This part shall be known and may be cited as the Agricultural Water Management Planning Act.

10801. The Legislature finds and declares as follows:

(a) The waters of the state are a limited and renewable resource.

(b) The Constitution requires that water in the state be used in a reasonable and beneficial way.

(c) Urban water districts, which represent more than 22,000,000 Californians and use less than 12 percent of the water consumed in the state, are required by Part 2.6 (commencing with Section 10610) to submit water management plans.

(d) More than 84 percent of the water used in the state is used for agricultural purposes.

(e) The conservation of agricultural water supplies are of great statewide concern.

(f) There is a great amount of reuse of delivered water, both inside and outside the water service areas.

(g) Significant noncrop beneficial uses are associated with agricultural water use, including streamflows and wildlife habitat.

(h) Significant opportunities exist in some areas, through improved irrigation water management, to conserve water or to reduce the quantity of highly saline or toxic drainage water.

(i) Changes in water management practices shall be carefully planned and implemented to minimize adverse effects on other beneficial uses currently being served.

(j) Agricultural water suppliers that receive water from the federal Central Valley Project are required by federal law to develop and implement water conservation plans.

(k) Agricultural water users applying for a permit to appropriate water from the State Water Resources Control Board are required to develop and implement water conservation plans.

10802. The Legislature finds and declares that it is the policy of the state as follows:

(a) The conservation of water shall be pursued actively to protect both the people of the state and their water resources.

(b) The conservation of agricultural water supplies shall be an important criterion in public decisions on water.

(c) Agricultural water suppliers, who determine that a significant opportunity exists to conserve water or reduce the quantity of highly saline or toxic drainage water, shall be required to develop water management plans to achieve conservation of water.

CHAPTER 2. DEFINITIONS

10810. Unless the context otherwise requires, the definitions of this chapter govern the construction of this part.

10811. "Conservation" means the use of cost-effective measures that reduce evapotranspiration, evaporation, or flows to unusable water bodies in order to prevent the waste, the unreasonable use, or the unreasonable method of use of water.

10812. "Customer" means a purchaser of water from a water supplier who uses water for agricultural purposes.

10813. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of such an entity.

10814. "Plan" means an agricultural water management plan prepared pursuant to this part. A plan shall describe and evaluate reasonable and practical efficient uses and conservation activities. The components of the plan may vary according to an area's characteristics and its capabilities to conserve and use water efficiently. The plan shall address measures for agricultural water management as set forth in Article 2 (commencing with Section 10830) of Chapter 3. In addition, a strategy and time schedule for implementation shall be included in the plan.

10815. "Public agency" means any board, commission, county, city and county, city, regional agency, district, or other public entity.

10816. "Agricultural water supplier" or "supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

CHAPTER 3. WATER MANAGEMENT PLANS

Article 1. General Provisions

10820. (a) The requirements of this part shall be satisfied by any water management or conservation plan prepared to meet federal or state laws or regulations which substantially include the contents

of a plan required under this part if that plan was prepared after January 1, 1981.

(b) Those suppliers that have prepared, or are preparing, an alternate plan as described in subdivision (a) shall submit that plan to the department not later than December 31, 1991.

10821. (a) Every agricultural water supplier serving water directly to customers shall prepare an informational report based on information from the last three irrigation seasons on its water management and conservation practices in the manner set forth in Article 2 (commencing with Section 10825) and shall submit the report to the department not later than December 31, 1989.

(b) The informational report shall include a determination of whether the supplier has a significant opportunity to conserve water or reduce the quantity of highly saline or toxic drainage water through improved irrigation water management in the manner set forth in subdivision (g) of Section 10825.

(c) Suppliers may consult with appropriate state agencies or the Agricultural Experiment Station to help determine whether significant opportunities exist. State agencies shall cooperate with agricultural water suppliers in any reasonable manner.

(d) Those suppliers that determine that a significant opportunity exists to conserve water or reduce the quantity of highly saline or toxic drainage water in the manner set forth in subdivision (g) of Section 10825 shall prepare and adopt an agricultural water management plan based on information from the last three irrigation seasons in the manner set forth in Section 10826 and shall submit the plan to the department not later than December 31, 1991.

10822. Every person that becomes an agricultural water supplier after December 31, 1988, shall comply with the requirements of this part within two years after becoming an agricultural water supplier to an area.

10823. An agricultural water supplier indirectly providing water to customers may adopt an agricultural water management plan or participate in areawide, regional, watershed, or basinwide agricultural water management planning.

10824. An agricultural water supplier may satisfy the requirements of this part by participation in areawide, regional, watershed, or basinwide agricultural water management planning where those plans will reduce preparation costs and contribute to the achievement of conservation and efficient water use and where those plans satisfy the requirements of this part.

Article 2. Contents of Reports and Plans

10825. To the extent information is available, the reports shall address all of the following:

(a) The quantity and source of water delivered to and by the supplier.

(b) Other sources of water used within the service area, such as

groundwater and other diversions.

(c) A general description of the supplier's water delivery system and service area, including a map.

(d) Total irrigated acreage within the service area.

(e) The amount of acreage of trees and vines grown within the service area.

(f) An identification of all of the following:

(1) Current water conservation practices being used.

(2) Plans for changing current water conservation plans.

(3) Conservation educational services being used.

(g) A determination of whether the supplier, through improved irrigation water management, has a significant opportunity to do one or both of the following:

(1) Save water by means of reduced evapotranspiration, evaporation, or reduction of flows to unusable water bodies that fail to serve further beneficial uses.

(2) Reduce the quantity of highly saline or toxic drainage water.

10826. To the extent information is available, the plans shall address all of the following:

(a) The quantity and source of surface and ground water delivered to and by the supplier.

(b) A description of all of the following:

(1) The water delivery system used in the area supplied.

(2) The beneficial uses of the water supplied, including noncrop beneficial uses.

(3) Conjunctive use programs.

(4) Incidental and planned groundwater recharge.

(5) The amounts of the delivered water that are lost to further beneficial use to unusable bodies of water or moisture-deficient soils through the following:

(A) Crop evapotranspiration.

(B) Noncrop evapotranspiration.

(C) Evaporation from water surfaces.

(D) Surface flow or percolation.

(c) An identification of cost-effective and economically feasible measures for water conservation, their resulting detriments and benefits, and the impacts on amounts of downstream surface water supply and immediately adjacent groundwater supply.

(d) An evaluation of other significant impacts, including impacts within the service area and downstream on fish and wildlife habitat, water quality, energy use, and other factors of either local or statewide concern or interstate concern, where applicable. Alternatives should be designed to minimize impacts on other beneficial users currently being served both within and without the service area and to result in improved overall water management.

(e) A schedule prepared by the supplier to implement those water management practices that it determines to be cost-effective and economically feasible. Priority shall be given to those water management practices, or combination of practices, that offer lower

incremental costs than expanded or additional water supplies.

Article 3. Adoption and Implementation of Plans

10840. Every agricultural water supplier required to prepare a water management plan pursuant to subdivision (d) of Section 10821 shall prepare its plan pursuant to Section 10826.

10841. (a) An agricultural water supplier required to prepare a plan may consult with, and obtain comments from, any public agency or state agency or any person who has special expertise with respect to water conservation and management methods and techniques.

(b) In order to assist agricultural water suppliers in obtaining needed expertise as provided for in subdivision (a), the department, upon request of an agricultural water supplier, shall provide the supplier with a list of persons or agencies having expertise or experience in the development of water management plans.

(c) The department shall prepare by July 1, 1988, an outline of model informational reports and water management plans which an agricultural water supplier may use in complying with the requirements of this part.

10842. Prior to adopting a plan, the agricultural water supplier shall make the plan available for public inspection and shall hold a public hearing thereon. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned water supplier pursuant to Section 6066 of the Government Code. A privately owned water supplier shall provide an equivalent notice within its service area. After the hearing, the plan shall be adopted as prepared or as modified after the hearing.

10843. An agricultural water supplier shall implement its plan adopted pursuant to this chapter in accordance with the schedule set forth in its plan, as determined by the governing body of the agricultural water supplier.

10844. An agricultural water supplier shall file with the department a copy of its plan no later than 30 days after adoption. Copies of amendments or changes to the plans shall be filed with the department within 30 days after adoption.

Not later than January 1, 1993, the department shall prepare and submit to the Legislature a report summarizing the status of the plans adopted pursuant to this part.

10845. The adoption of a plan or submission of a report as specified in subdivision (d) of Section 10821 satisfies any requirements of state statute, regulation, or order, including those of the State Water Resources Control Board, for the preparation of water management plans. If the board requires additional information concerning water conservation to implement its existing authority, nothing in this part limits the board in obtaining that information.

CHAPTER 4. MISCELLANEOUS PROVISIONS

10850. (a) Any actions or proceedings to attack, review, set aside, void, or annul the acts or decisions of an agricultural water supplier on the grounds of noncompliance with this part shall be brought pursuant to Section 1085 of the Code of Civil Procedure, and the court's review of compliance or noncompliance with this part shall extend to whether the water conservation plan, or portion thereof, or revision thereto, substantially complies with the requirements of this part.

(b) An action or proceeding alleging failure to adopt a plan shall be commenced within 18 months after that adoption is required by this part, or within 18 months after commencement of agricultural water service by a supplier commencing that service after January 1, 1988.

(c) Any action or proceeding alleging that a plan, or action taken pursuant to the plan, does not comply with this part shall be commenced within 120 days after filing of the plan or amendment thereto pursuant to Section 10844 or the taking of that action.

(d) In an action or proceeding to attack, review, set aside, void, or annul the acts or decisions of an agricultural water supplier made pursuant to this part at a properly noticed public hearing, the issues raised shall be limited to those raised in the public hearing, or in written correspondence delivered to the public agency prior to, or at, the public hearing, except where the court finds either of the following.

(1) The issue could not have been raised at the public hearing by a person exercising reasonable diligence.

(2) The body conducting the public hearing prevented the issue from being raised at the public hearing.

10851. The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans prepared and adopted under this part. Nothing in this part exempts projects for implementation of the plan or for expanded or additional water supplies from the California Environmental Quality Act.

10852. If any provision of this part or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application thereof, and to this end the provisions of this part are severable.

10853. The department, from funds appropriated for this purpose, shall reimburse each supplier preparing an informational report pursuant to this part for the cost incurred in preparing the report up to an amount, not to exceed five thousand dollars ($5,000) per report. The department shall reimburse each supplier preparing an agricultural water management plan pursuant to this part for the costs incurred by the supplier in preparing the plan up to an amount, not to exceed twenty-five thousand dollars ($25,000) per plan.

10854. No agricultural water supplier shall be required to prepare an agricultural water management plan pursuant to this part unless funds are appropriated by the Legislature for the 1990–91 fiscal year, or before, to reimburse the agricultural water supplier for its costs associated with the plans.

10855. This part shall remain operative only until January 1, 1993, except that, if an agricultural water supplier fails to submit its information report or agricultural water management plan prior to January 1, 1993, this part shall remain operative with respect to that supplier until it has submitted its report or plan, or both.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act above the five thousand dollars ($5,000) per report and twenty-five thousand dollars ($25,000) per plan specified in Section 10853 of the Water Code 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. The provisions of paragraph (4) of subdivision (a) of Section 17556 of the Government Code shall not be applicable to claims filed pursuant to this act.

SEC. 3. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Bosco-Keene Renewable Resources Investment Fund to the Department of Water Resources for payment of claims for preparation of informational reports pursuant to Section 10821 of the Water Code for expenditure without regard to fiscal year. Reimbursement shall not be made under this section for reports prepared pursuant to any law other than Part 2.8 (commencing with Section 10800) of Division 6 of the Water Code.

CHAPTER 955

An act relating to rapid transit, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. The Legislature finds and declares that the Board of Directors of the San Francisco Bay Area Rapid Transit District have instituted a creative and innovative control system designed to deter casual carpoolers from parking in the district parking facility at the Orinda Station in Contra Costa County. Demand for use of district parking facility in the county by casual carpoolers has resulted in constrained availability of the limited number of parking spaces at district stations for patrons intending to use the district

train service.

The Legislature further declares that improved parking opportunities for district patrons will enhance the mass transit system's convenience, resulting in higher usage and increased revenues.

It is the intent of the Legislature, in enacting this act, to commend the district for its willingness to develop positive methods to ensure the availability of parking spaces at its stations and to request that the district report on its experience with the model carpool parking deterrence program initiated at the Orinda Station.

SEC. 2. (a) The San Francisco Bay Area Rapid Transit District is requested to submit a report to the Legislature by December 15, 1986, on the carpool parking control system implemented in June 1986 at the parking facility at the district station in Orinda.

(b) The report shall include all of the following:

(1) Background and supporting data regarding the effects of casual carpools on the district system that led the district to initiate the new parking control system.

(2) A description of how the parking control system works and any modifications made during the first four months of the implementation period.

(3) A description of the results of the parking control system and an assessment of its effectiveness deterring casual carpooling.

(4) The potential for expanding use of the control system to other district parking facilities.

(5) An assessment of the parking control system's impact on ridership and revenues of the district.

(6) A description of any legislative, regulatory, or policy actions that may be required to enhance the parking control system effectiveness.

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 timely collection and analysis of information relating to parking at stations of the San Francisco Bay Area Rapid Transit District, and to facilitate an early legislative response thereto, it is necessary that this act take effect immediately.

CHAPTER 956

An act to amend Section 56842 of the Government Code, relating to local agency formation commissions.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 56842 of the Government Code is amended to read:

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 determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 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. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net 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. For purposes of this paragraph, "total net cost" means the total cost which was funded by general purpose revenues of the affected local agency and excludes

any portion of the total cost which was funded by any revenues of that agency which are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall 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.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985–86 Regular Session of the Legislature shall apply to any proposal

described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

SEC. 2. 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 957

An act to amend Section 1375.1 of, and to add Section 1371 to, the Health and Safety Code, and to add Sections 10123.13 and 11512.180 to the Insurance Code, relating to insurance.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 1371 is added to the Health and Safety Code, to read:

1371. A health care service plan which covers hospital, medical, or surgical expenses shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses, as soon as practical, but no later than 30 working days after receipt of the claim by the health care service plan, or if the health care service plan is a health maintenance organization, 45 working days after receipt of the claim by the health care service plan, unless the claim or portion thereof is contested by the plan in which case the claimant shall be notified, in writing, within 30 working days.

As used in this section, a contested claim, or portion thereof, includes situations in which the plan has not received the completed claim and all information necessary to determine payer liability for the claim, including but not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, or a claim on appeal.

SEC. 2. 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. Except as provided in Section 1371, 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. 3. Section 10123.13 is added to the Insurance Code, to read:

10123.13. Every insurer issuing group or individual policies of disability insurance and every self-insured employee welfare benefit plan which covers hospital, medical, or surgical expenses shall reimburse claims or any portion of any claim, whether in state or out of state, for such expenses, as soon as practical, but no later than 30 working days after receipt of the claim by the insurer or plan unless the claim or portion thereof is contested by the insurer in which case the claimant shall be notified, in writing, within 30 working days.

As used in this section, a contested claim, or portion thereof, includes situations in which the insurer or plan has not received a completed claim and all information necessary to determine payer liability for the claim, including but not limited to, reports of investigations concerning fraud or misrepresentation, and necessary consents, releases, and assignments, or a claim on appeal.

SEC. 4. Section 11512.180 is added to the Insurance Code, to read:

11512.180. Every nonprofit hospital service plan that covers hospital, medical, or surgical expenses on a group or individual basis shall reimburse claims or any portion of any claim, whether in state or out of state, for such expenses, as soon as practical, but no later than 30 working days after receipt of the claim by the hospital service plan, or if the plan is a health maintenance organization, 45 working days after receipt of the claim by the hospital service plan, unless the claim or portion thereof is contested by the plan in which case the claimant shall be notified, in writing, within 30 working days.

As used in this section, a contested claim, or portion thereof, includes situations in which the plan has not received the completed claim and all information necessary to determine payer liability for

the claim, including but not limited to, reports of investigations concerning fraud or misrepresentation, and necessary consents, releases, and assignments, or a claim on appeal.

CHAPTER 958

An act to add Sections 25174.11 and 25345.6 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 25174.11 is added to the Health and Safety Code, to read:

25174.11. Section 25174 does not apply to the previous disposal of mining waste that is subsequently classified as nonhazardous pursuant to the department's California Assessment Manual criteria regulations set forth in Article 2 (commencing with Section 66300) of Chapter 30 of Division 4 of Title 22 of the California Administrative Code, which became effective October 27, 1984, and disposal fees shall not be assessed pursuant to Section 25174 for that waste if the waste previously disposed of is not significantly different from the waste classified as nonhazardous.

SEC. 2. Section 25345.6 is added to the Health and Safety Code, to read:

25345.6. Sections 25342 and 25345 do not apply to the previous disposal of mining waste that is subsequently classified as nonhazardous pursuant to the department's California Assessment Manual criteria regulations set forth in Article 2 (commencing with Section 66300) of Chapter 30 of Division 4 of Title 22 of the California Administrative Code, which became effective October 27, 1984, and taxes shall not be assessed pursuant to Sections 25342 and 25345 for that waste if the waste previously disposed of is not significantly different from the waste classified as nonhazardous.

SEC. 3. The Legislature hereby finds and declares that Sections 1 and 2 of this act do not constitute a gift of public money within the meaning of Section 6 of Article XVI of the California Constitution for the following reasons:

(a) On October 27, 1984, the State Department of Health Services adopted by regulation criteria, including tests and standards, for the identification of wastes as hazardous or nonhazardous.

(b) After October 27, 1984, certain mining wastes were initially classified by the department as hazardous, but subsequently were classified as nonhazardous with no change having occurred in the nature of the wastes.

(c) Notwithstanding the department's subsequent classification of

the mining wastes as nonhazardous, the State Board of Equalization has assessed hazardous waste disposal fees and taxes retroactively against the mining wastes, including wastes disposed of after and before October 27, 1984.

(d) Assessment of hazardous waste disposal fees and taxes retroactively against wastes now classified as nonhazardous pursuant to department regulations adopted October 27, 1984, is unfair. This act would serve the public purpose of preventing those unfair acts.

CHAPTER 959

An act to amend Section 803 of the Penal Code, relating to pollution.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540 of any type or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under

Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.5 (commencing with Section 25100) of Division 20 or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code.

CHAPTER 960

An act to add Sections 273 and 14610.5 to the Vehicle Code, relating to driver's licenses.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 273 is added to the Vehicle Code, to read:

273. A "crib sheet" or "cribbing device" is any paper or device designed for cheating by supplying examination answers without questions to an applicant for the purpose of fraudulently qualifying the applicant for any class of driver's license, permit, or certificate.

SEC. 2. Section 14610.5 is added to the Vehicle Code, to read:

14610.5. (a) It is unlawful for any person to do any of the following:

(1) Sell, offer for sale, distribute, or use any crib sheet or cribbing device that contains the answers to any examination administered by the department for any class of driver's license, permit, or certificate.

(2) Impersonate or allow the impersonation of an applicant for any class of driver's license, permit, or certificate for the purpose of fraudulently qualifying the applicant for any class of driver's license, permit, or certificate.

(b) A first conviction under this section is punishable as an infraction; a second or subsequent conviction is punishable as a misdemeanor.

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 961

An act to amend Section 901 of the Probate Code, relating to decedents' estates.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 901 of the Probate Code is amended to read:

901. The executor, when no compensation is provided by the will or he renounces all claim thereto, or the administrator, shall receive commissions upon the amount of estate accounted for by him, as follows: For the first fifteen thousand dollars ($15,000), at the rate of 4 percent; for the next eighty-five thousand dollars ($85,000), at the rate of 3 percent; for the next nine hundred thousand dollars ($900,000), at the rate of 2 percent; for the next nine million dollars ($9,000,000), at the rate of 1 percent; for the next fifteen million dollars ($15,000,000), at the rate of ½ percent; and for all above twenty-five million dollars ($25,000,000), a reasonable amount to be determined by the court. If there are two or more executors or administrators, the compensation shall be apportioned among them by the court according to the services actually rendered by each.

The commission to which the executor or administrator is entitled pursuant to this section shall be based upon the total amount of the inventory plus gains over appraisal value on sales, plus receipts, less losses on sales, without reference to encumbrances or other obligations on property in the estate, if any. This paragraph shall apply whether or not a sale of property has taken place during the probate of the estate.

CHAPTER 962

An act relating to the San Lorenzo Valley Water District, and making an appropriation therefor.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. It is the intent of the Legislature to assist the San Lorenzo Valley Water District in solving its cash-flow problems. These cash-flow problems are associated with efforts made by the San Lorenzo Valley Water District to address water quality problems in the San Lorenzo Valley of the County of Santa Cruz. Assistance to that district provided by the state shall be in the form of a loan to

be repaid by the district, with interest.

It is also the intent of the Legislature to temporarily restrict the involvement of the San Lorenzo Valley Water District in further waste water activities during the time between the issuance of the loan by the State Water Resources Control Board to the district and the repayment of the loan to the board by the district.

SEC. 2. (a) Notwithstanding Sections 13400, 13410, and 13411 of the Water Code, the State Water Resources Control Board, subject to approval by the Director of Finance, may make a loan to the San Lorenzo Valley Water District from the State Water Quality Control Fund in an amount not to exceed one million five hundred thousand dollars ($1,500,000) to provide assistance to the district in meeting its cash-flow problems. Except as expressly provided in this act, the making of the loan shall comply with all other provisions and requirements of Sections 13400 to 13417, inclusive, of the Water Code.

(b) The district shall submit a report to the State Water Resources Control Board and the Legislature which adequately demonstrates that the district has taken specific actions to ensure that the district has an enforceable collection mechanism which will allow it to make full repayment of the loan, including interest, and the State Water Resources Control Board shall certify the report as being in compliance with this section prior to the making of the loan.

(c) As a condition to the making of the loan, the County of Santa Cruz shall agree to undertake a program which will adequately ensure that the use of onsite waste water disposal systems will not pollute waters of the state. The proposed program shall be submitted to the Central Coast Regional Water Quality Control Board, and the regional board shall certify the adequacy of the program prior to the making of the loan.

(d) Except as otherwise provided or required by law, any loan contract made pursuant to this section shall be on the terms and conditions determined by the State Water Resources Control Board. The contract may contain a provision requiring immediate repayment of any outstanding loan balance to the extent of receipt by the district of any state-mandated costs.

SEC. 3. Notwithstanding Article 6 (commencing with Section 31100) or Article 9.5 (commencing with Section 31143) of Chapter 1 of Part 5 of Division 12 of the Water Code, or any other provision of law, as a condition of the loan, the San Lorenzo Valley Water District shall not, during the actual term of the loan, undertake activities relative to planning for, designing for, acquiring, constructing, or operating any facilities to collect, transport, treat, or dispose of sewage from onsite waste water disposal systems, except that this section shall not apply to systems presently operated by the district at Bear Creek Estates or at district offices and facilities. This section does not affect the authority of the district to collect those fees or charges necessary to provide for payment of any and all costs incurred for or associated with waste water activities undertaken

prior to the effective date of this act, and this section shall have no force or effect if the State Water Resources Control Board does not make the loan authorized by this act. This section has no force or effect after the repayment by the district of the loan authorized by this act.

SEC. 4. The Legislature hereby finds and declares that this act is necessary because of special circumstances existing within the San Lorenzo Valley area. New facilities were deemed essential to replace septic systems in the San Lorenzo Valley area in order to preserve the high quality of the waters and the unique beauty of the area for the benefit of all the people of California.

CHAPTER 963

An act to amend Sections 2126 and 2127 of the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 2126 of the Streets and Highways Code, as amended by Chapter 41 of the Statutes of 1986, is amended to read:

2126. (a) The money appropriated pursuant to Item 9675-101-890 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) is hereby appropriated to the Controller for allocation to counties and cities for street and highway maintenance and reconstruction, 55 percent to the cities for allocation pursuant to subdivision (b) and 45 percent to the counties for allocation pursuant to subdivision (c).

(b) (1) The amount to be allocated to a city, including a city and county, equals the amount available for allocation to the cities pursuant to subdivision (a) times the ratio of the total allocation it received pursuant to Section 2107 over all allocations made pursuant to that section during the prior fiscal year.

(2) In the case of a city whose incorporation was effective between July 1, 1984, and October 2, 1986, inclusive, and which did not receive the equivalent of a full year allocation of funds appropriated for allocation pursuant to subdivision (a) of Section 7 of Chapter 1600 of the Statutes of 1985 or pursuant to subdivision (a) of this section, the amount calculated for allocation pursuant to subdivision (b) of that Section 7 shall be increased by an amount which will provide the city an amount equivalent to the total allocation it would have received pursuant to subdivisions (a) and (b) of that Section 7 and subdivision (a) of this section.

(c) Fifty-five percent of the funds payable under this section to

counties, including a city and county, shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles registered in each county bears to the total number of fee-paid and exempt vehicles which are registered in the state.

Forty-five percent of the funds payable under this section to counties, including a city and county, shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state.

(d) For purposes of this section:

(1) "Maintenance" means (A) patching and (B) overlay and sealing.

(2) "Reconstruction" does not include widening to increase the traffic capacity of a street or highway, but does include any widening of the roadway if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for nonfreeway 3R (reconstruction, resurfacing, and rehabilitation) projects.

(e) The Controller shall allocate the funds available for that Item 9675-101-890 within 30 days after they become available to the state.

SEC. 2. Section 2127 of the Streets and Highways Code, as amended by Chapter 41 of the Statutes of 1986, is amended to read:

2127. (a) In order to receive any allocation pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985, the city or county, as the case may be, shall expend for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during each of the fiscal years that it receives an allocation pursuant to Section 2126 or that Section 7 not less than its base year expenditure, excluding the allocation received pursuant to Section 2126 or that Section 7, or both, during the fiscal year.

(b) The allocation shall be expended within one year of its disbursement by the Controller to the city or county, as the case may be, except as follows:

(1) In the case of counties declared by the President and proclaimed by the Governor on February 12, 1986, for the period ending March 10, 1986, to be in a state of disaster, the counties and the cities in those counties shall have until October 1, 1987, to expend funds appropriated by Section 7 of Chapter 1600 of the Statutes of 1985.

(2) Funds allocated to all counties and cities pursuant to Section 2126 shall be expended by October 1, 1987.

(c) (1) For purposes of this section, "base year expenditure" means the amount that the city or county, as the case may be, expended for patching, overlay and sealing, and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151.

(2) If the sum of the revenue received by a city or county during the fiscal year pursuant to Section 500 of Title 16, Section 104(b) (2)

and (6) and Sections 125 and 144 of Title 23, and Chapter 68 (commencing with Section 5121) of Title 42 of the United States Code expended for the maintenance and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151, is more than the sum of funds it received from those sources during any fiscal year, the base year expenditure of the city or county, as the case may be, for the fiscal year shall be reduced by the difference between the sums. For the purposes of this paragraph, "revenue received" means that percentage of the project expenditures or the maximum reimbursable amount of eligible project costs as agreed upon by the federal government and the local agency for those projects eligible under this paragraph.

(d) For each fiscal year during which an allocation was made pursuant to Section 2126 or that Section 7, or both, the Controller shall audit the amount each county and city expended for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year.

(e) (1) If the Controller determines pursuant to subdivision (d) that a county or city, for the fiscal year, expended for the maintenance and reconstruction of its local street and highway system less than the required amount determined pursuant to subdivision (a) or (b), its allocation pursuant to Section 2104 or 2107, as the case may be, shall be reduced during the next fiscal year by the amount that its expenditure is less than the required amount.

(2) Paragraph (1) does not apply to a city or county during the fiscal year in which it returns to the Controller the allocation it received pursuant to Section 2126 or that Section 7, or both. The city or county shall return the allocation plus any accrued interest within 30 days after receipt of the allocation.

(f) Any funds withheld or returned as a result of subdivision (e) of this section shall be reallocated to the other counties and cities whose expenditure is not less than its required amount pursuant to subdivision (b) or (c) of Section 2126, as the case may be.

(g) In the case of a city or county which on or before October 1, 1986, files with the Controller a written notice declaring the inability of the city or county to comply with the matching requirement of subdivision (a), the Controller shall postpone the penalty provisions of paragraph (1) of subdivision (e) and shall not reallocate the funds, as provided for by subdivision (f), until September 1, 1987. The notice to the Controller shall contain all of the following:

(1) The amount of 1984–85 base year matching requirements as determined by the Controller's audit.

(2) The amount the local entity will fall short of the base year matching requirement.

(3) The reasons why the city or county is unable to meet the base year matching requirement.

(4) The amounts expended by the local entity on patching,

overlay, sealing, and reconstruction of its street and highway system in fiscal years 1981–82, 1982–83, and 1983–84.

The Controller shall, by November 1, 1986, transmit to the Chairpersons of the Senate and Assembly Transportation Committees and the Joint Legislative Budget Committee the information submitted by cities and counties in the written notices provided for in this subdivision.

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 flexibility in transportation financing afforded by this act may be implemented at the earliest possible time, so that cities and counties may proceed with road maintenance and construction necessitated by the disastrous flooding of 1986, it is necessary that this act take effect immediately.

CHAPTER 964

An act to amend Sections 74137 and 74156 of, and to add Section 74016 to, the Education Code, relating to education.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 74137 of the Education Code is amended to read:

74137. The governing board of the district to which the territory is to be transferred shall set a date for a public hearing on the petition which shall be within 60 days of the receipt of the petition forwarded pursuant to Section 74136, and the county superintendent shall notify the chief petitioners of the times and places of the hearings, where appropriate. At the hearings, interested persons shall be given an opportunity to present their views on the petition. The governing board of the receiving district then shall either approve or deny the petition. No annexation shall be made unless a majority of the members of the governing board of the receiving district sign a statement agreeing to all conditions of the transfer at the hearings. Upon completion of the hearings, the governing board of the receiving district shall return the petition, together with a notice of action, to the county committee.

SEC. 2. Section 74156 of the Education Code is amended to read:

74156. Each affected district governing board shall set a date for a hearing on the petition which shall be within 60 days of the receipt of the petition forwarded pursuant to Section 74155, and the county superintendent shall notify the chief petitioners of the times and

places of the hearings, where appropriate. At the hearings, interested persons shall be given an opportunity to present their views on the petition. The affected district governing boards then shall either approve or deny the petition. No new district shall be formed unless a majority of the members of each affected district governing board sign a statement agreeing to all conditions of the formation at the hearings. Upon completion of the hearings, each affected school district governing board shall return the petition, together with a notice of action, to the county committee.

SEC. 3. Section 74016 is added to the Education Code, to read:

74016. "Affected districts" means any component school district or nondistrict territory within the territory to be transferred, annexed, or formed, or both, or any community college district subject to an action to reorganize districts.

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 965

An act to add Section 1797.226 to the Health and Safety Code, relating to emergency medical services.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 1797.226 is added to the Health and Safety Code, to read:

1797.226. Without altering or otherwise affecting the meaning of any portion of this division as to any other county, as to San Bernardino County only, it shall be competent for any local EMS agency which establishes exclusive operating areas pursuant to Section 1797.224 to determine the following:

(a) That a minor alteration in the level of life support personnel or equipment, which does not significantly reduce the level of care available, shall not constitute a change in the manner and scope of providing services.

(b) That a successor to a previously existing emergency services provider shall qualify as an existing provider if the successor has continued uninterrupted the emergency transportation previously supplied by the prior provider.

CHAPTER 966

An act relating to schools.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. The Superintendent of Public Instruction shall report to the Legislature no later than January 1, 1988, concerning the length of schooldays. The superintendent shall include in the report data regarding the number of districts that have four, five, six, and seven period days, respectively.

CHAPTER 967

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 20, 1986 Filed with Secretary of State September 22, 1986.]

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, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, and Girls' 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 968

An act to add and repeal Section 1646.5 of the Civil Code, and to amend and repeal Section 410.30 of, to amend and repeal the headings of Chapter 1 (commencing with Section 410.10) and Article 2 (commencing with Section 410.30) of Chapter 1 of Title 5 of Part 2 of, and to add and repeal Section 410.40 of, the Code of Civil Procedure, relating to civil actions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 1646.5 is added to the Civil Code, to read:

1646.5. Notwithstanding Section 1646, the parties to any contract, agreement, or undertaking, contingent or otherwise, relating to a transaction involving in the aggregate not less than two hundred fifty thousand dollars ($250,000), including a transaction otherwise covered by subdivision (1) of Section 1105 of the Commercial Code, may agree that the law of this state shall govern their rights and duties in whole or in part, whether or not the contract, agreement, or undertaking or transaction bears a reasonable relation to this state. This section does not apply to any contract, agreement, or undertaking (a) for labor or personal services, (b) relating to any transaction primarily for personal, family, or household purposes, or (c) to the extent provided to the contrary in subdivision (2) of Section 1105 of the Commercial Code.

Nothing in this section shall be construed to limit or deny the enforcement of any provision respecting choice of law in any contract, agreement, or undertaking to which this section does not apply.

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 enacted before January 1, 1992, deletes or extends that date.

SEC. 2. The heading of Chapter 1 (commencing with Section 410.10) of Title 5 of Part 2 of the Code of Civil Procedure is amended to read:

CHAPTER 1. JURISDICTION AND FORUM

SEC. 3. The heading of Article 2 (commencing with Section 410.30) of Chapter 1 of Title 5 of Part 2 of the Code of Civil Procedure is amended to read:

Article 2. Forum

SEC. 4. Section 410.30 of the Code of Civil Procedure is amended to read:

410.30. (a) Except as provided in subdivision (b), when a court upon motion of a party or its own motion finds that in the interest of substantial justice an action should be heard in a forum outside this state, the court shall stay or dismiss the action in whole or in part on any conditions that may be just. The domicile or residence in this state of any party to the action shall not preclude the court from staying or dismissing the action.

(b) Subdivision (a) does not apply to an action arising out of, or relating to, a contract, agreement, or undertaking to which Section 410.40 applies.

(c) The provisions of Section 418.10 do not apply to a motion to stay or dismiss the action by a defendant who has made a general appearance.

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 enacted before January 1, 1992, deletes or extends that date. If that date is not deleted or extended then, on and after January 1, 1992, pursuant to Section 9611 of the Government Code, Section 410.30 of the Code of Civil Procedure, as amended by Section 1 of Chapter 601 the Statutes of 1972, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Section 410.40 is added to the Code of Civil Procedure, to read:

410.40. Any person may maintain an action or proceeding in a court of this state against a foreign corporation or nonresident person where the action or proceeding arises out of or relates to any contract, agreement, or undertaking for which a choice of California law has been made in whole or in part by the parties thereto and

which (a) is a contract, agreement, or undertaking, contingent or otherwise, relating to a transaction involving in the aggregate not less than one million dollars ($1,000,000), and (b) contains a provision or provisions under which the foreign corporation or nonresident agrees to submit to the jurisdiction of the courts of this state.

Nothing in this section shall be construed to limit or deny the enforcement of any provision respecting choice of forum in any other contract, agreement, or undertaking to which this section does not apply.

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 enacted before January 1, 1992, deletes or extends that date.

SEC. 6. The amendments to the heading of Chapter 1 (commencing with Section 410.10) of Title 5 of Part 2 of the Code of Civil Procedure made by Section 2 of this act shall remain in effect only until January 1, 1992, and as of that date are repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date. If that date is not deleted or extended, then, on and after Janaury 1, 1992, pursuant to Section 9611 of the Government Code, the heading of Chapter 1 (commencing with Section 410.10) of Title 5 of Part 2 of the Code of Civil Procedure, as added by Section 3 of Chapter 1610 the Statutes of 1969, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 7. The amendments to the heading of Article 2 (commencing with Section 410.30) of Chapter 1 of Title 5 of Part 2 of the Code of Civil Procedure made by Section 3 of this act shall remain in effect only until January 1, 1992, and as of that date are repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1992, pursuant to Section 9611 of the Government Code, the heading of Article 2 (commencing with Section 410.30) of Chapter 1 of Title 5 of Part 2 of the Code of Civil Procedure, as added by Section 3 of Chapter 1610 the Statutes of 1969, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 8. This act applies to contracts entered into on or after its effective date, and also applies to contracts entered into prior to its effective date with respect to any action or proceeding commenced on or after the effective date of this act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to promote commerce as provided in this act without delay, it is necessary that this act go into immediate effect.

CHAPTER 969

An act to amend, repeal, and add Section 34501 of, and to add Section 34501.7 to, the Vehicle Code, relating to wheelchair lifts.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. The Legislature finds and declares that the safety of wheelchair lifts is a continuing public safety concern, and that there is a necessity for enhanced oversight and regulation of wheelchair lift safety.

SEC. 2. Section 34501 of the Vehicle Code is amended to read:

34501. (a) The department shall adopt reasonable rules and regulations which, in the judgment of the department, are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. The rules and regulations shall not, however, be applicable to schoolbuses which shall be subject to rules and regulations adopted pursuant to Section 34501.5. The commissioner shall appoint a committee of 15 members, consisting of representatives of industry subject to the regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department shall cooperate and confer with the advisory committee so appointed.

The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with the provisions of this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt regulations for the transportation of hazardous materials in this state, except the transportation of materials which are subject to other provisions of this code, that the department determines are reasonably necessary to ensure the safety of persons and property using the highways. The regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that the shipments are correctly identified and in proper conditions for transport.

(c) At least once every 13 months, the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus.

(d) The commissioner shall adopt and enforce regulations which will make the public or private users of any bus aware of the

operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspection specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of any vehicle from a maintenance facility or terminal if the vehicle is found in violation of this code or regulations adopted pursuant to this section.

(g) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 3. Section 34501 is added to the Vehicle Code, to read:

34501. (a) (1) The department shall adopt reasonable rules and regulations which, in the judgment of the department, are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. The rules and regulations shall not, however, be applicable to schoolbuses, which shall be subject to rules and regulations adopted pursuant to Section 34501.5.

(2) The commissioner shall appoint a committee of 15 members, consisting of representatives of industry subject to the regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department shall cooperate and confer with the advisory committee so appointed. The commissioner shall appoint a separate committee to advise the department on rules and regulations concerning wheelchair lifts for installation and use on buses, consisting of persons who use the wheelchair lifts, representatives of transit districts, representatives of designers or manufacturers of wheelchairs and wheelchair lifts, and representatives of the Department of Transportation. (3) The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with the provisions of this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt regulations for the transportation of hazardous materials in this state, except the transportation of materials which are subject to other provisions of this code, that the department determines are reasonably necessary to ensure the safety of persons and property using the highways. The regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that the shipments are correctly identified and in proper conditions for transport.

(c) At least once every 13 months, the department shall inspect

every maintenance facility or terminal of any person who at any time operates any bus.

(d) The commissioner shall adopt and enforce regulations which will make the public or private users of any bus aware of the operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspection specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of any vehicle from a maintenance facility or terminal if the vehicle is found in violation of this code or regulations adopted pursuant to this section.

(g) This section shall become operative on July 1, 1987.

SEC. 4. Section 34501.7 is added to the Vehicle Code, to read:

34501.7. (a) Any rules or regulations adopted pursuant to Section 34501 for the construction, testing, or certification of wheelchair lifts for installation and use on buses shall take into consideration the costs of implementing the regulations and shall be reviewed and brought up to date by the department annually.

(b) This section shall become operative on July 1, 1987.

SEC. 5. The Department of Rehabilitation, in cooperation with the Department of Motor Vehicles, the Department of Transportation, and the Department of the California Highway Patrol, and, with selected manufacturers, retail sellers, installers, design engineers of wheelchair lifts, designers and manufacturers of wheelchairs, transit providers, and disabled persons, shall form a committee to develop uniform safety standards for statewide implementation, for the design, manufacture, installation, performance, and use of wheelchair lifts in private and publicly owned paratransit vehicles. Standards developed by the committee shall take into consideration the costs of their implementation.

The Department of Rehabilitation shall submit a report setting forth findings and recommendations on the uniform safety standards developed by the committee for wheelchair lifts to the Legislature on or before January 1, 1988.

CHAPTER 970

An act to add Chapter 7 (commencing with Section 470) to Division 1 of the Water Code, relating to water.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Chapter 7 (commencing with Section 470) is added to Division 1 of the Water Code, to read:

CHAPTER 7. WATER TRANSFER

Article 1. Short Title

470. This chapter shall be known as and may be cited as the Costa-Isenberg Water Transfer Act of 1986.

Article 2. Declaration of Policy

475. The Legislature hereby finds and declares that voluntary water transfers between water users can result in a more efficient use of water, benefiting both the buyer and the seller.

The Legislature further finds and declares that transfers of surplus water on an intermittent basis can help alleviate water shortages, save capital outlay development costs, and conserve water and energy.

The Legislature further finds and declares that it is in the public interest to conserve all available water resources, and that this interest requires the coordinated assistance of state agencies for voluntary water transfers to allow more intensive use of developed water resources in a manner that fully protects the interests of other entities which have rights to, or rely on, the water covered by a proposed transfer.

Article 3. State Assistance

480. The department shall establish an ongoing program to facilitate the voluntary exchange or transfer of water and implement the various state laws that pertain to water transfers. The department shall seek to facilitate these transactions only if the water to be transferred is already developed and being diverted from a stream for beneficial use or has been conserved.

481. The department shall create and maintain a list of entities seeking to enter into water supply transfers, leases, exchanges, or other similar arrangements. In addition, the department shall maintain a list of the physical facilities which may be available to carry out water supply transfers.

482. The department shall prepare a water transfer guide which shall include, but not be limited to, all of the following:

(a) A review of existing and appropriate state and federal laws that pertain to water transfers, water markets, or water rights.

(b) A list of persons or public agencies throughout the state involved in water management who could be helpful to those seeking assistance to transfer water.

(c) Information and resources which could be used to identify potential third-party impacts and mitigation alternatives, including economic, environmental, and legal issues related to the transfer of water.

(d) A description of the services available to water users from the

department.

483. The department shall consult and coordinate its activities with other state boards, departments, agencies, or offices whose assistance may be desirable or necessary in carrying out the purposes of this chapter.

SEC. 2. The Department of Water Resources shall report to the Chairperson of the Agriculture and Water Resources Committee of the Senate and the Chairperson of the Water, Parks, and Wildlife Committee of the Assembly, no later than July 1, 1987, its findings and recommendations as to any changes in existing law or state policy necessary to improve water management by the use of voluntary water transfers.

CHAPTER 971

An act to amend Section 66796.54 of the Government Code, and to amend Section 13273 of the Water Code, relating to water quality.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 66796.54 of the Government Code is amended to read:

66796.54. On or before July 1, 1988, July 1, 1989, and July 1, 1990, the State Water Resources Control Board and the State Air Resources Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have, respectively, upon the quality of waters and upon the ambient air quality of the state, and recommending actions needed to protect the quality of water and air. Each report shall summarize the data from those solid waste assessment test reports which have been submitted during the preceding year to boards of the air pollution control districts or air quality management districts pursuant to Section 41805.5 of the Health and Safety Code and to California regional water quality control boards pursuant to Section 13273 of the Water Code, and shall evaluate the accuracy of the solid waste assessment tests conducted.

SEC. 2. Section 66796.54 of the Government Code is amended to read:

66796.54. (a) On or before January 1, 1989, January 1, 1990, and January 1, 1991, the State Water Resources Control Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have upon the quality of waters of the state, and recommending actions needed to protect the quality of water. Each report shall summarize the data from those solid waste

water quality assessment test reports which have been submitted during the preceding year to California regional water quality control boards pursuant to Section 13273 of the Water Code, and shall evaluate the accuracy of the solid waste water quality assessment tests conducted.

(b) On or before July 1, 1988, and July 1, 1989, the State Air Resources Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have upon the ambient air quality of the state, and recommending actions needed to protect the quality of air. The reports submitted on July 1, 1988, and July 1, 1989, shall summarize the data from the solid waste air quality assessment test reports submitted to air quality maintenance districts and air pollution control districts on or before July 1, 1987, and January 1, 1988, respectively, pursuant to Section 41805.5 of the Health and Safety Code, and shall evaluate the accuracy of the solid waste assessment tests conducted.

SEC. 3. Section 13273 of the Water Code is amended to read:

13273. (a) The state board shall, on or before January 1, 1986, rank all solid waste disposal sites, as defined in Section 66714.1 of the Government Code, based upon the threat which they may pose to water quality. On or before July 1, 1987, the operators of the first 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d). On or before July 1 of each succeeding year, the operators of the next 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d).

(b) Before a solid waste water quality assessment test report may be submitted to the regional board, a registered geologist, registered pursuant to Section 7850 of the Business and Professions Code, a certified engineering geologist, certified pursuant to Section 7842 of the Business and Professions Code, or a civil engineer registered pursuant to Section 6762 of the Business and Professions Code, who has at least five years' experience in groundwater hydrology, shall certify that the report contains all of the following information and any other information which the state board may, by regulation, require:

(1) An analysis of the surface and groundwater on, under, and within one mile of the solid waste disposal site to provide a reliable indication whether there is any leakage of hazardous waste.

(2) A chemical characterization of the soil-pore liquid in those areas which are likely to be affected if the solid waste disposal site is leaking, as compared to geologically similar areas near the solid waste disposal site which have not been affected by leakage or waste discharge.

(c) If the regional board determines that the information specified in paragraph (1) or (2) is not needed because other

information demonstrates that hazardous wastes are migrating into the water, the regional board may waive the requirement to submit this information specified in paragraphs (1) and (2) of subdivision (b). The regional board shall also notify the State Department of Health Services, and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(d) The regional board shall examine the report submitted pursuant to subdivision (b) and determine whether the number, location, and design of the wells and the soiling testing could detect any leachate buildup, leachate migration, or hazardous waste migration. If the regional board determines that the monitoring program could detect the leachate and hazardous waste, the regional board shall take the action specified in subdivision (e). If the regional board determines that the monitoring program was inadequate, the regional board shall require the solid waste disposal site to correct the monitoring program and resubmit the solid waste assessment test based upon the results from the corrected monitoring program.

(e) The regional board shall examine the approved solid waste assessment test report and determine whether any hazardous waste migrated into the water. If the regional board determines that hazardous waste has migrated into the water, it shall notify the State Department of Health Services and the California Waste Management Board and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(f) When a regional board revises the waste discharge requirements for a solid waste disposal site, the regional board shall consider the information provided in the solid waste assessment test report and any other relevant site-specific engineering data provided by the site operator for that solid waste disposal site as part of a report of waste discharge.

SEC. 4. Section 2 of this bill incorporates amendments to Section 66796.54 of the Government Code proposed by both this bill and AB 3374. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) this bill amends Section 66796.54 of the Government Code and AB 3374 repeals and adds Section 66796.54 of the Government Code, and (3) this bill is enacted after AB 3374, in which case Section 66796.54 of the Government Code, as added by AB 3374, 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 972

An act to amend Sections 19352, 19356, and 19356.5 of, and to add and repeal Sections 19356.6 and 19356.7 of, the Welfare and Institutions Code, relating to developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 19352 of the Welfare and Institutions Code is amended to read:

19352. As used in this chapter:

(a) "Habilitation services" means those community-based services purchased or provided for adults with developmental disabilities including supported employment or competitive employment, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) "Individual program plan" means the overall plan developed by a regional center pursuant to Section 4646.

(c) "Habilitation component" means the plan developed for each eligible person for whom services are purchased under this chapter.

(d) "Department" means the Department of Rehabilitation.

(e) "Work-activity program" includes, but is not limited to, sheltered workshops, or workshops or work-activity centers accredited under departmental regulations.

(f) "Habilitation team" means a group, which shall be established for each work-activity program client, composed of the following members:

(1) The regional center case manager.

(2) The work-activity program case-responsible person.

(3) A habilitation specialist designated by the department.

(4) The work-activity program client, and where appropriate, his or her parent, legal guardian, or conservator.

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. 2. Section 19356 of the Welfare and Institutions Code is amended to read:

19356. (a) The department shall promulgate regulations to establish rates subject to the approval of the Department of Finance. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of

service. Reasonable costs shall be determined annually by the department, subject to audit at the discretion of the department.

(b) Notwithstanding subdivision (a), the rate set by the department for a work-activity program in the 1984–85 fiscal year shall not be less than 85 percent of the rate paid in the 1983–84 fiscal year and shall remain the rate of the work-activity program until July 1, 1988, subject to rate adjustments provided for by law.

This subdivision shall become inoperative July 1, 1988.

SEC. 3. Section 19356.5 of the Welfare and Institutions Code is amended to read:

19356.5. (a) Notwithstanding subdivision (b) of Section 19356, the department may set rates for new work-activity programs and purchase habilitation services from them commencing with the 1985–86 fiscal year. Subdivision (a) of Section 19356, and regulations promulgated thereunder, shall govern the establishment of new work-activity programs in terms of confirming the need for a new work-activity program, the capacity of that program to deliver services effectively, and the ability of the program to comply with accreditation and certification requirements of the Habilitation Services Program where applicable. For purposes of this section, new work-activity programs shall include those which first began providing habilitation services in the 1984–85 fiscal year at rates based on the statewide average rate.

New work-activity programs shall not include any existing work-activity program components currently funded by the department or any related or successor organizations to such work-activity programs. This definition of a new-work activity program is intended to prevent any work-activity program from frustrating the purposes of this section by reorganizing in an attempt to qualify as a new work-activity program. This limitation is not, however, intended to restrict the establishment of a new program component by an existing provider, as specified in paragraph (2) of subdivision (d) or approved by the department as a supported employment component pursuant to Section 19356.7.

(b) When a new work-activity program has a historical cost period on which to base a rate, as specified in subdivision (a) of Section 19356, and the regulations promulgated thereunder, the department shall set the rate in accordance with that subdivision and the rate derived thereby shall, subject to rate adjustments provided by law, remain the rate of that work-activity program until July 1, 1988.

(c) Whenever a new work-activity program, other than one receiving a supported employment rate under Section 19356.6, does not have a historical cost period on which to base a rate, the initial rate for that work-activity program shall be based on a statewide average rate. As soon as the work-activity program has a historical period of at least three months that is representative of the cost per client, as determined by the department, the department shall set the rate in accordance with subdivision (b).

(d) Any rate determined pursuant to subdivision (c) because of

an insufficient historical cost period shall be set according to whichever of the following statewide averages is most applicable, with respect to the purpose or size of the new work-activity programs:

(1) The statewide average rate of all work-activity programs of similar size based on the average number of all clients served in all work-related programs in the historical cost period of those work-activity programs. Average rates shall be determined for work-activity programs serving an average of one to 30 clients, 31 to 100 clients, and more than 100 clients.

(2) The statewide average rate of all work-activity programs, without regard to size, which have as their primary purpose the provision of services to meet the habilitation needs of special groups of persons with developmental disabilities such as persons with cerebral palsy or autism.

(e) 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. Section 19356.6 is added to the Welfare and Institutions Code, to read:

19356.6. (a) The terms used in this section shall have the following meanings:

(1) "Supported employment" means substantial paid work that is integrated in the community for persons with developmental disabilities whose vocational handicap is so severe that they would be unable to achieve this employment without specialized services and would not be able to retain this employment without an appropriate level of ongoing postemployment support services.

(2) "Substantial paid work" means work of at least 20 hours per week which is paid for in accordance with applicable standards set forth by the federal Department of Labor and the State Department of Industrial Relations.

(3) "Integrated work" means the engagement of an employee with a disability in work in a natural community employment setting, including, but not limited to, work crews, enclaves, and individual placements, in which the degree of integration is measured by the extent to which the disabled employee has opportunities to interact with nondisabled individuals other than those providing direct support services to the disabled employee.

(4) "Work crew" means a group of workers in the community typically containing no more than eight persons with developmental disabilities who engage in paid work together on service contracts in the community.

(5) "Enclave" means a group typically containing no more than eight persons with developmental disabilities that engages in paid work at employer sites in the community and represents a minority of the employer work force.

(6) "Individual placement" means placing a person with a

developmental disability with an employer in the community and providing specialized services which are intended to lead to employer-paid and employer-supervised employment, and which decrease as the individual adjusts to the job; and ongoing postemployment services necessary for the individual to retain the job.

(7) "Allowable supported employment services" means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program, for the purpose of achieving supported employment as an outcome for persons with developmental disabilities, which may include any of the following:

(A) Work-activity program staff time spent conducting task analysis on a supported employment opportunity for a specific client or group of clients.

(B) Work-activity program staff time spent in the direct supervision or training of a client or clients while they are engaged in integrated work designed to achieve supported employment unless other arrangements for client supervision, such as employer supervision reimbursed by the work-activity program, are approved by the Habilitation Services Program.

(C) Social skills training which is necessary to ensure job adjustment and retention, and which is provided in an integrated setting, unless otherwise approved by the Habilitation Services Program.

(D) Training in certain independent living skills, such as independent travel or money management, which is necessary to ensure job adjustment and retention and which is provided in the community, unless otherwise approved by the Habilitation Services Program.

(E) Counseling with family, care providers, or others to ensure necessary support to clients' job adjustment or to overcome problems affecting their job performance.

(F) Direct action to advocate on behalf of a client to resolve problems affecting the client's work adjustment or retention of an integrated job.

(G) Intervention with the employer to review a client's job performance, resolve job problems or facilitate the employer's hiring of the client as an employee.

(H) In the case of work crews, the time crew members spend preparing for and ending the day's work.

(I) In the case of individual placements, job development to the extent authorized by the Habilitation Services Program, and ongoing postemployment support services needed to ensure the client's retention of the job.

(J) In the case of enclaves, the staff time spent obtaining and arranging the enclave for a specific group of clients.

(b) Notwithstanding subdivision (c) of Section 19353, the department's habilitation services and vocational rehabilitation

programs may mutually serve individuals whose individual written rehabilitation program provides for placement into supported employment.

(c) (1) Commencing in the 1986–86 fiscal year, the Habilitation Services Program shall set hourly rates for supported employment in accordance with this section. The Habilitation Services Program shall apply those rates to those work-activity programs or program components of work-activity programs approved by the department to provide community-integrated services under former paragraph (3) of subdivision (d) of Section 19356.5, that are not receiving a rate based on a submitted cost statement, and to new programs or components approved by the Habilitation Services Program to provide supported employment services following enactment of this section. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services Program.

(2) The hourly rate for work crews and enclaves shall be four dollars ($4) per client or, in the case of new components of existing programs, the work-activity program's daily rate converted to an hourly rate according to the formula set forth in subdivision (d), whichever hourly rate is the higher. In addition, the Habilitation Services Program may, at its discretion, negotiate a higher hourly rate for work crews or enclaves, based upon a submitted budget that is approved by the Habilitation Services Program, when either of the following circumstances exist:

(A) There is documentation that clearly demonstrates a need for a higher rate because of the nature and severity of the disabilities of the clients served, as determined by the Habilitation Services Program.

(B) The program has already developed and the Habilitation Services Program has a already approved, under the authority of former paragraph (3) of subdivision (d) of Section 19356.5, a work crew or enclave for which there is documentation clearly demonstrating that the work crew will be unable to continue at the four dollar ($4) hourly rate, as determined by the Habilitation Services Program. In these cases, the increased rate shall be provisional for a limited period, as determined by the Habilitation Services Program, and shall be granted by the Habilitation Services Program only under an approved plan, to allow time for the work-activity program to make adjustments in terms of the number of clients served or the number of hours they have an opportunity to work.

(3) The hourly rate for individual placement shall be twenty dollars ($20) per client for one-to-one services. If more than one client is receiving placement services simultaneously at the same site, the amount to be reimbursed per hour of service provided shall not exceed twenty dollars ($20) regardless of the number of clients receiving service during the hour.

(4) These hourly rates shall be subject to rate adjustments provided by law commencing with the 1987–88 fiscal year.

(d) (1) When a client receives traditional work-activity services and supported employment services during the same payment period, the Habilitation Services Program shall convert the daily rate for the traditional work-activity services into an hourly rate for the purpose of paying for those traditional work-activity services received by that client. In its conversion of the daily rate into any hourly rate the Habilitation Services Program shall use the formula in paragraph (2).

(2) The daily rate of the work-activity program shall be divided by the number of hours in the program day of the traditional work-activity program during the historical period on which its rate is based, or as of the date the Habilitation Services Program approved the work-activity program as a new provider of habilitation services plus 5 percent.

(e) This section shall become inoperative on October 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. 5. Section 19356.7 is added to the Welfare and Institutions Code, to read:

19356.7. (a) Proposals for funding of supported employment programs and components by the Habilitation Services Program shall be submitted to the Habilitation Service Program and shall contain sufficient information to enable the Habilitation Services Program to act on the proposal under this section.

(b) Provided that sufficient funding is available to finance services by supported employment programs and components, the Habilitation Services Program may approve or disapprove proposals based on all of the following criteria:

(1) The need for a supported employment program or component.

(2) The capacity of the program to deliver supported employment services effectively.

(3) The ability of the program to comply with accreditation and certification requirements of the Habilitation Services Program where applicable.

(4) A profile of an average client in the program or component, showing the planned progress toward self reliance as an employee, measured, as appropriate, in terms of decreasing support services.

(5) The ability of the program to achieve integrated substantial paid work on the average for clients served.

(c) The Habilitation Services Program may purchase supported employment services at the rates authorized in Section 19356.6 only from supported employment programs or components approved under this section.

(d) For purposes of evaluating the effectiveness of the entire program, and individual supported employment programs or

components, the Habilitation Services Program may monitor supported employment programs or components to determine whether the performance agreed upon in the approved proposal is being achieved. When the performance of a supported employment program or component does not comply with the criteria according to which it was approved for funding pursuant to subdivision (b), the Habilitation Services Program may establish prospective performance criteria for the program or component, with which the program or component shall comply as a condition of continued funding.

(e) The department may adopt the regulations it deems necessary to implement Sections 19352, 19356.6, and this section.

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

In order to ensure that an adequate ratesetting methodology for supported employment services provided by work-activity programs being funded by the Department of Rehabilitation is established for the 1986–87 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 973

An act to amend Sections 12501, 12804, 36000, 36005, 36101, 36600, 36605, and 36615 of, to add Sections 36012, 36016, 36017, 36305, and 36509 to, and to repeal Section 267 of, the Vehicle Code, relating to implements of husbandry.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 267 of the Vehicle Code is repealed.

SEC. 2. Section 12501 of the Vehicle Code is amended to read:

12501. The following persons are not required to obtain a driver's license:

(a) An officer or employee of the United States, while operating a motor vehicle owned or controlled by the United States on the business of the United States.

(b) Any person while driving or operating implements of husbandry incidentally operated or moved over a highway, except as provided in Section 36300 or 36305.

(c) Any person driving or operating an off-highway motor vehicle subject to identification, as defined in Section 38012, while driving or operating such motor vehicle as provided in Section 38025. Nothing in this subdivision authorizes operation of a motor vehicle by a person without a valid driver's license upon any offstreet parking facility, as defined in subdivision (c) of Section 12500.

SEC. 3. Section 12804 of the Vehicle Code is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and the understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his or her ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination of any applicant who holds a valid license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration. Any physical defect of the applicant, which, in the opinion of the department, is compensated to ensure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class 1. Any combination of vehicles, including the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A truck tractor or truck tractor and semitrailer

combination as specified in subdivision (h) of Section 36101 when operated in accordance with subdivision (h) of Section 36101, a three-axle housecar, any three-axle vehicle weighing less than 6,000 pounds gross, any two-axle vehicle, any three-axle housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, including when a tow dolly is used between the towing vehicle and a towed motor vehicle, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach not exceeding 9,000 pounds gross or a trailer or semitrailer not exceeding 9,000 pounds gross designed and used exclusively for hauling livestock, or a trailer not exceeding 9,000 pounds gross used to transport agricultural products from a farm to a processing or handling point, or a trailer transporting a boat not exceeding 9,000 pounds gross, when the hauling of livestock or agricultural products or the towing of boats is not for compensation, or any schoolbus, school pupil activity bus, youth bus or farm labor vehicle, as specified in paragraph (1) of subdivision (d), except any other bus, two-wheel motorcycle, or two-wheel motor-driven cycle.

(4) Class 4. Any two-wheel motorcycle, any two-wheel motor-driven cycle, or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2, or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 driver's licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration is in the licensee's immediate possession which has been issued within two years of the date of the operation of that vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed.

(d) (1) A class 3 license shall be valid for operating any schoolbus, school pupil activity bus, youth bus, or farm labor vehicle when a special driver's certificate to permit the operation of those vehicles is also in the immediate possession of the licensee. A class 3 license shall also be valid for operating any of those vehicles with no passengers aboard while receiving behind-the-wheel driver training from a person having in his or her immediate possession a special driver's certificate to permit the operation of the vehicle.

(2) A special driver certificate for the operation of a schoolbus, school pupil activity bus, youth bus, farm labor vehicle, or vehicle requiring operator certification pursuant to Section 12804.1 shall not be valid unless the driver has, in his or her immediate possession, a medical certificate issued within the past two years.

(e) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when the certificate is issued by an employer of the applicant, if the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the

applicant's experience or training in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when the certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties, if the applicant has also met the other examination requirements for the license for which he or she is applying.

(g) Notwithstanding subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on that license.

(h) Drivers of vanpool vehicles, may operate with class 3 licenses, but shall possess evidence of a medical examination required for a class 2 license when operating vanpool vehicles. The driver shall keep in the vanpool vehicle a statement signed under penalty of perjury that he or she has not been convicted of reckless driving, drunk driving, or a hit and run offense in the last five years in order to be eligible to drive the vanpool vehicle.

SEC. 4. Section 36000 of the Vehicle Code is amended to read:

36000. An "implement of husbandry" is a vehicle which is used exclusively in the conduct of agricultural operations.

An implement of husbandry does not include a vehicle if its existing design is primarily for the transportation of persons or property on a highway, unless specifically designated as such by some other provision of this code.

SEC. 5. Section 36005 of the Vehicle Code is amended to read:

36005. Implement of husbandry includes, but is not limited to:

(a) A lift carrier or other vehicle designed and used exclusively for the lifting and carrying of implements of husbandry or tools used exclusively for the production or harvesting of agricultural products, when operated or moved upon a highway.

(b) A trailer of the tip-bed type when used exclusively in the transportation of other implements of husbandry or tools used exclusively for the production or harvesting of agricultural products.

(c) A trailer or semitrailer having no bed, and designed and used solely for transporting a hay loader or swather.

(d) A spray or fertilizer applicator rig used exclusively for spraying or fertilizing in the conduct of agricultural operations. This subdivision does not apply to anhydrous ammonia fertilizer applicator rigs which have a transportation capacity in excess of 500 gallons.

(e) A trailer or semitrailer which has a maximum transportation capacity in excess of 500 gallons, but not more than 1,000 gallons, used exclusively for the transportation and application of anhydrous ammonia, if the vehicle is either equipped with operating brakes or is towed upon a highway by a motortruck that is assigned a manufacturer's gross vehicle weight rating of ¾ ton or more.

These vehicles are subject to Section 24603 if the stoplamps of the towing vehicle are not clearly visible.

For purposes of this subdivision, a combination of vehicles is limited to two vehicles in tandem.

(f) A nurse rig or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of an applicator rig or an airplane used for the dusting, spraying, fertilizing, or seeding of crops.

(g) A row duster.

(h) A wagon or van used exclusively for carrying products of farming from one part of a farm to another part thereof, or from one farm to another farm, and used solely for agricultural purposes, including any van used in harvesting alfalfa or cotton, which is only incidentally operated or moved on a highway as a trailer.

(i) A wagon or portable house on wheels used solely by shepherds as a permanent residence in connection with sheep raising operations and moved from one part of a ranch to another part thereof or from one ranch to another ranch, which is only incidentally operated or moved on a highway as a trailer.

(j) Notwithstanding subdivision (f) of Section 36101, a trap wagon, as defined in Section 36016, moved from one part of a ranch to another part of the same ranch or from one ranch to another, which is only operated or moved on a highway incidental to agricultural operations. The fuel tank or tanks of the trap wagon shall not exceed 1,000 gallons total capacity.

(k) Any vehicle which is operated upon a highway only for the purpose of transporting agricultural products and is in no event operated along a highway for a total distance greater than one mile from the point of origin of the trip.

(*l*) A portable honey-extracting trailer or semitrailer.

(m) A fertilizer nurse tank or trailer that is not self-propelled and which is moved unladen on the highway and auxiliary to the use of a spray or fertilizer applicator rig.

(n) Any cotton trailer when used on the highways for the exclusive purpose of transporting cotton from a farm to a cotton gin, and returning the empty trailer to such farm, except that Section 5014 shall apply to such trailers.

(o) A truck tractor or truck tractor and semitrailer combination specified in this subdivision which is owned by a farmer and operated on the highways, (1) only incidental to a farming operation, (2) not for compensation, and (3) for a distance of not more than two miles (on the highway) each way. This subdivision applies only to truck tractors with a manufacturer's gross vehicle weight rating over 10,000 pounds that are equipped with all-wheel drive and off-highway traction tires on all wheels, and only to semitrailers used in combination with such a truck tractor and exclusively in production or harvesting of tomatoes. The vehicles specified in this subdivision shall not be operated in excess of 25 miles per hour on the highways.

SEC. 6. Section 36012 is added to the Vehicle Code, to read:

36012. A "cotton module mover" is a motortruck or semitrailer which is equipped with a self-loading bed and which is designed and used exclusively to transport field manufactured cotton modules to a cotton gin.

SEC. 7. Section 36016 is added to the Vehicle Code, to read:

36016. A "trap wagon" is a trailer or semitrailer used exclusively in the conduct of agricultural operations to fuel, service, or repair implements of husbandry. A trap wagon may be equipped with tools, spare parts, lubricating supplies, or fuel tanks.

SEC. 8. Section 36017 is added to the Vehicle Code, to read:

36017. For the exclusive purpose of this division, empty bins, pallets, and tiedown straps shall not be considered a load when transported within the parameters of agricultural operations. Any farm trailer or other vehicle transporting these items shall continue to be regulated pursuant to this division. The total outside width of any of the transported items shall not exceed 102 inches.

SEC. 9. Section 36101 of the Vehicle Code is amended to read:

36101. The following farm vehicles are exempt from registration, if they have and display an identification plate as specified in Section 5014, and the vehicles shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) A motor vehicle of a size so as to require a permit under Section 35780 owned and operated by a farmer, designed and used exclusively for carrying or returning empty from carrying feed and seed products of farming, and used on a highway between one part of a farm to another part thereof or from one farm to another farm.

(b) A vehicle equipped with a water tank owned by a farmer and used exclusively to service his or her own implements of husbandry.

(c) A water tank truck which is used exclusively for sprinkling water on dirt roads providing access to agricultural fields and which is only incidentally operated or moved on a highway.

(d) A cotton module mover, as defined in Section 36012.

(e) A trailer which is equipped with a plenum chamber for the drying of agricultural commodities.

(f) Except as provided in subdivision (j) of Section 36005, a trap wagon, as defined in Section 36016, which is equipped with a fuel tank or tanks. The fuel tank or tanks shall not exceed 3,000 gallons total capacity.

(g) A forklift truck, operated by a farmer not for compensation. For purposes of this section, a hay-squeeze shall be deemed a forklift.

(h) A truck tractor or truck tractor and semitrailer combination specified in this subdivision which is owned by a farmer and operated on the highways only incidental to a farming operation and not for compensation. This subdivision applies only to truck tractors with a manufacturer's gross vehicle weight rating over 10,000 pounds that are equipped with all-wheel drive and off-highway traction tires on all wheels, and only to semitrailers used in combination with such a

truck tractor and exclusively in the production or harvesting of melons. The vehicles specified in this subdivision shall not be operated in excess of 25 miles per hour on the highways and may be operated on the highways by a person holding a valid class 3 driver's license.

The Commissioner of the California Highway Patrol may, by regulation, prohibit the vehicles specified in this subdivision from operating on specific routes. These vehicles shall not be operated laden on the highway for more than two miles from the point of origin and shall not be operated for more than 30 miles unladen on the highway from the point of origin. These vehicles shall not be operated for more than 15 miles unladen on the highway from the point of origin, unless accompanied by an escort vehicle to the front, and an escort vehicle to the rear.

SEC. 10. Section 36305 is added to the Vehicle Code, to read:

36305. The driver of any implement of husbandry shall possess a valid class 3 driver's license when operating a combination of vehicles at a speed in excess of 25 miles per hour or towing any implement of husbandry as specified in subdivision (d), (e), or (j) of Section 36005.

SEC. 11. Section 36509 is added to the Vehicle Code, to read:

36509. (a) An implement of husbandry, a farm vehicle, or any vehicle escorting or towing an implement of husbandry or farm vehicle, may display flashing amber warning lamps or flashing amber turn signals:

(1) When the vehicle is required to display a "slow moving vehicle" emblem as defined in Section 24615.

(2) When the width, length, height, or speed of the vehicle may cause a hazard to other traffic on the highway.

(b) An implement of husbandry, a farm vehicle, or any vehicle towing an implement of husbandry or farm vehicle, when the load upon the vehicle exceeds 120 inches in width, shall display either:

(1) Flashing amber warning lamps.

(2) Flashing amber turn signals.

(3) During daylight hours, red flags, each of which shall be not less than 16 inches square, mounted at the left and right outer extremities of the vehicle or load whichever has the greater horizontal dimension.

SEC. 12. Section 36600 of the Vehicle Code is amended to read:

36600. (a) The limitations as to width as set forth in Chapter 2 (commencing with Section 35100) of Division 15 do not apply to implements of husbandry incidentally operated, transported, towed, or otherwise moved over a highway.

(b) Notwithstanding subdivision (a), when an implement of husbandry is transported or moved over a highway which is a part of the National System of Interstate and Defense Highways (as referred to in Section 108 of the Federal-aid Highway Act of 1956) as a load on another vehicle, if the load exceeds 102 inches in width, the vehicle and load shall not be operated for a distance in excess of

25 miles from the point of origin of the trip. The operator of the transporting vehicle shall be a farmer or a person regularly employed by a farmer or farm corporation, and the operator transporting the load shall have in his or her immediate possession a writing signed by the farmer or farm corporation agent which states the origin and destination of the trip.

(c) Notwithstanding subdivision (a), when an implement of husbandry is transported or moved over any other highway as a load on another vehicle, if the load exceeds 120 inches in width, the vehicle and load shall not be operated for a distance in excess of 25 miles from the point of origin of the trip. The operator of the transporting vehicle shall be a farmer or a person regularly employed by a farmer or farm corporation, and the operator transporting the load shall have in his or her immediate possession a writing signed by the farmer or farm corporation agent which states the origin and destination of the trip.

SEC. 13. Section 36605 of the Vehicle Code is amended to read:

36605. The limitations as to width, as set forth in Chapter 2 (commencing with Section 35100) of Division 15, do not apply to any trailer or semitrailer, including lift carriers and tip-bed trailers, used exclusively for the transportation of implements of husbandry or tools used exclusively for the production or harvesting of agricultural products by farmers or implement dealers, except as follows:

(1) With respect to any trailer or semitrailer transporting a grain-harvesting combine, that vehicle shall not exceed a width of 144 inches.

(2) With respect to any other vehicle described in this section, that vehicle, or the load on that vehicle when that load consists of tools, shall not exceed a width of 120 inches.

(3) With respect to any trailer or semitrailer described in subdivision (c) of Section 36005, that vehicle, when towed upon a highway shall not exceed a width of 174 inches and shall be subject to subdivisions (b) and (c) of Section 36600.

SEC. 14. Section 36615 of the Vehicle Code is amended to read:

36615. The limitations as to length of vehicles contained in Chapter 4 (commencing with Section 35400) do not apply to implements of husbandry operated or moved over a highway incidental to agricultural operations. Notwithstanding Section 36626, when an implement of husbandry is operated in a combination of vehicles that exceeds the length requirements of Section 35401, the combination is limited to two vehicles in tandem.

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 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 974

An act to amend Sections 17206, 17220, 24345, 24520, 25115, 25553.5, 25563.1, and 25563.2 of, to repeal Section 25563.3 of, and to repeal Article 2.5 (commencing with Section 25441) of Chapter 19 of Part 11 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 17206 of the Revenue and Taxation Code is amended to read:

17206. (a) Section 165(h)(2) of the Internal Revenue Code, relating to limitation of losses, shall not be applicable to losses occurring before January 1, 1984.

(b) For purposes of computing the deduction allowed under Section 165(c)(3) of the Internal Revenue Code, the term "adjusted gross income," as used in Section 165(h)(2) of the Internal Revenue Code, shall refer to adjusted gross income as shown on the federal tax return for the same taxable year.

SEC. 2. Section 17220 of the Revenue and Taxation Code is amended to read:

17220. No deduction shall be allowed for any of the following:

(a) State, local, and foreign income, war profits, and excess profits taxes.

(b) Sales or use tax paid or incurred in connection with the purchase of qualified property for which a tax credit is claimed pursuant to Section 17052.13.

SEC. 3. Section 24345 of the Revenue and Taxation Code is amended to read:

24345. There shall be allowed as a deduction—

(a) Taxes or licenses paid or accrued during the income year except:

(1) Taxes paid to the state under this part.

(2) Taxes on or according to or measured by income or profits paid or accrued within the income year imposed by the authority of any of the following:

(A) The Government of the United States or any foreign country.

(B) Any state, territory, county, school district, municipality, or other taxing subdivision of any state or territory.

(3) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges. Nor does this exclude the allowance of any irrigation or other water district taxes or assessments which are levied for the

payment of the principal of any improvement or other bonds for which a general assessment on all lands within the district is levied as distinguished from a special assessment levied on part of the area within the district.

(4) Federal stamp taxes (not described in paragraph (2) or (3) of subdivision (a); but this subdivision shall not prevent such taxes from being deducted under Section 24343 (relating to trade or business expenses).

(5) Sales or use tax paid or incurred in connection with the purchase of qualified property for which a tax credit is claimed pursuant to Section 23612.

(b) (1) In this subdivision, "retail sales tax" means a tax imposed by any state, territory, district, or possession of the United States, or any political subdivision thereof, upon persons engaged in:

(A) Selling tangible personal property at retail, which is measured by the gross sales price or the gross receipts from the sale or which is a stated sum per unit of the property sold.

(B) Furnishing services at retail, which is measured by the gross receipts for furnishing the services.

(2) If the amount of a retail sales tax is separately stated, to the extent that the amount so stated is paid by the purchaser (otherwise than in connection with the purchaser's trade or business) the amount shall be allowed as a deduction in computing the net income of the purchaser as if the amount were a tax imposed upon and paid by the purchaser.

SEC. 4. Section 24520 of the Revenue and Taxation Code is amended to read:

24520. (a) For purposes of this chapter, a distribution shall be treated as in complete liquidation of a corporation if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

(b) The Franchise Tax Board shall prescribe such regulations as may be necessary to ensure that the purpose of subsections (a) and (b) of Section 222 of the Tax Equity and Fiscal Responsibility Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of Sections 24512, 24513, 24514, 24516, 24521, 24532, and 24533, or any other provision of law or regulations.

SEC. 5. Section 25115 of the Revenue and Taxation Code, as added by Senate Bill 85 of the 1985–86 Regular Session, is amended to read:

25115. (a) Each contract described in Section 25111 shall provide that a taxpayer making a water's-edge election pursuant to this article shall pay an annual amount to the Franchise Tax Board for deposit in the California Unitary Fund created pursuant to Section 16429.30 of the Government Code. One-third of the amount shall be deposited in the Local Project Account for Non-Transient Spending in the California Unitary Fund, and two-thirds of the amount shall be deposited in the Future Infrastructure State Targeted Account in the

California Unitary Fund.

(b) The amount shall be equal to thirty-thousandths of 1 percent of the sum of the taxpayer's property, payroll, and sales in this state, as defined in this chapter, with the following adjustments:

(1) Intangibles shall not be included in the property factor.

(2) The property and payroll factors shall be with respect to the income year ending during calendar year 1986.

(3) The sum of the property, payroll, and sales shall be reduced by the cumulative amount expended since January 1, 1988, for investment in new plants or facilities in this state, as defined in subdivision (c), and shall further be reduced by the amount expended for new employees in this state as defined in subdivision (e).

(c) A new plant or facility is property described in Section 70, provided that it is not a replacement, in whole or in part, for an existing plant or facility in this state. A plant or facility shall be deemed a replacement if the taxpayer, or an affiliated bank or corporation, as defined in paragraph (1) of subdivision (b) of Section 25110, closes, takes out of service, sells, or leases to an unrelated party, in either the three immediately preceding or the three immediately succeeding years from the time the new plant or facility is operational, a plant or facility with a cost basis equal to 25 percent or more of the cost basis of the new plant or facility.

(d) The number of new employees in this state for any income year shall be determined by comparing the total number of work years in this state for the income year to the greater of (1) the average of the total number of work years in this state for the income years ending in 1985, 1986, and 1987, or (2) the total number of work years in this state for the income year ending in 1987. A "work year" means, in the case of workers who are paid an hourly wage, 2,000 paid hours, and in the case of salaried employees, a total of 12 paid months.

(e) The amount expended for new employees shall be equal to the product of the number of new employees determined pursuant to subdivision (d) and the average wages paid for each work year in this state for the income year.

(f) Each contract shall provide that the amount described in this section shall not be subject to any statutory changes, for the period the contract is in effect, without the consent of the taxpayer. Any statutory change shall be applicable for any renewal year beginning 10 years after that statutory change.

(g) Amounts determined pursuant to this section shall be collected in the same manner as the taxes imposed by this part and shall be subject to interest and penalties as provided in this part.

(h) In no event shall the amount determined pursuant to this section be less than ten-thousandths of 1 percent of the sum of the taxpayer's property, payroll, and sales in this state for the current year.

(i) The annual amount otherwise determined pursuant to this section and payable under a contract described in Section 25111 shall

not be imposed for an income year in which a taxpayer incurs no tax liability under Sections 25101 and 25110.

SEC. 6. Section 25553.5 of the Revenue and Taxation Code is amended to read:

25553.5. The amount of tax payable by taxpayers subject to the tax imposed by Article 3 (commencing with Section 23181) of Chapter 2 as set forth in a notice mailed to such taxpayers pursuant to Section 23186.1 shall be due and payable on or before the 15th day following the mailing of the notice by the Franchise Tax Board.

SEC. 7. Section 25563.1 of the Revenue and Taxation Code is amended to read:

25563.1. If, after paying any installment of estimated tax required by subdivision (b) of Section 25563, the taxpayer makes a new estimate, the amount of each remaining installment (if any) shall be the amount which would have been payable if the new estimate had been made when the first estimate for the income year was made, increased or decreased (as the case may be) by the amount computed by dividing—

(1) The difference between—

(A) The amount of estimated tax required to be paid before the date on which the new estimate is made, and

(B) The amount of estimated tax which would have been required to be paid before such date if the new estimate had been made when the first estimate was made, by

(2) The number of installments remaining to be paid on or after the date on which the new estimate is made.

SEC. 8. Section 25563.2 of the Revenue and Taxation Code is amended to read:

25563.2. At the election of the taxpayer, any installment of the estimated tax required by subdivision (b) of Section 25563, may be paid before the date prescribed for its payment.

SEC. 9. Article 2.5 (commencing with Section 25441) of Chapter 19 of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 25563.3 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 5 of this act shall become operative only if Senate Bill 85 of the 1985–86 Regular Session becomes operative, in which case Section 5 shall become operative on January 1, 1988.

CHAPTER 975

An act to amend Sections 42238 and 42238.4 of the Education Code, relating to school finance.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1985–86 and 1986–87 fiscal years only, the equalization adjustment specified in Section 42238.4.

(3) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to Section 42238.7.

(4) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(1) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(3) Add the amounts in paragraphs (1) and (2).

(e) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) The amount computed pursuant to Section 42238 for the prior fiscal year divided by the prior fiscal year revenue limit average daily attendance times the sum of 1.0 and twice the percentage increase in revenue limits computed pursuant to Section 42238.1 for the current fiscal year.

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(g) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

The reduction shall be calculated as follows:

(1) Determine the amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds that were subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(i) This section shall become operative July 1, 1984.

SEC. 2. Section 42238.4 of the Education Code is amended to read:

42238.4. (a) For the 1985–86 and 1986–87 fiscal years only, the county superintendent shall compute an equalization adjustment for each district so that no district's base revenue limit per unit of average daily attendance is less than the prior fiscal year statewide average base revenue limit for the appropriate size and type of district listed in subdivision (b) plus the inflation adjustment specified in Section 42238.1 for the current fiscal year for the appropriate type of district. For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 44492, 45023.4, 46200, or 46201.

(b) For purposes of subdivision (a), districts shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) The Superintendent of Public Instruction shall compute a revenue limit equalization adjustment for each school district's base revenue limit per unit of average daily attendance as follows:

(1) Add the products of the amount computed for each school district by the county superintendent pursuant to subdivision (a) and the average daily attendance used to calculate the district's revenue limit for the current fiscal year.

(2) Divide the amount appropriated for purposes of this section for the current fiscal year by the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to subdivision (a) by the amount computed pursuant to paragraph (2).

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 1986–87 fiscal year. For the purpose of implementing the changes required by Sections 1 and 2 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 976

An act to add Sections 868.6 and 1348.5 to the Penal Code, relating to child abuse.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 868.6 is added to the Penal Code, to read:

868.6. (a) It is the purpose of this section to provide a nonthreatening environment for minors involved in the judicial system in order to better enable them to speak freely and accurately of the experiences that are the subject of judicial inquiry.

(b) Each county is encouraged to provide a room, located within, or within a reasonable distance from, the courthouse, for the use of minors under the age of 16. Should any such room reach full occupancy, preference shall be given to minors under the age of 16 whose appearance has been subpoenaed by the court. The room may be multipurpose in character. The county may seek the assistance of civic groups in the furnishing of the room and the provision of volunteers to aid in its operation and maintenance. If a county newly constructs, substantially remodels or refurbishes any courthouse or facility used as a courthouse on or after January 1, 1988, that courthouse or facility shall contain the room described in this subdivision.

SEC. 2. Section 1348.5 is added to the Penal Code, to read:

1348.5. (a) On or before July 1, 1987, upon adoption of a resolution of the board of supervisors, a county may establish a three-year pilot project, whereby the court, in any criminal action in which an act of child abuse or molestation is alleged against a

member of the child's immediate family, may appoint a children's representative to represent the interests of the minor who was a victim of, or a witness to, the alleged act of abuse or molestation, provided that the victim or witness is under the age of 14. Counties participating in the program shall report to the Legislature before December 31, 1988, on the interim results of the program, and shall submit a final report to the Legislature on or before September 30, 1990, on the results of this program.

(b) The program shall be considered to be successful if the participation of child witnesses in criminal matters has increased 10 percent after the first year and increased 20 percent after the third year of the program. The amount of the increase shall be determined by comparing the 1986 participation rate with the participation rate data for 1987 and 1989, respectively.

(c) The court shall consider all of the following guidelines in appointing the children's representative.

(1) The person's willingness and ability to undertake working with and accompanying the child witness through all proceedings, including criminal proceedings, dependency proceedings, and civil proceedings.

(2) The person's willingness and availability to communicate with the child witness.

(3) The person's willingness and availability to express the child's concerns to those authorized to come in contact with the child as a result of the proceedings.

(d) After considering the guidelines stated in subdivision (b), the court, in its discretion, may appoint a trained volunteer as a children's representative, including a person who has received training from a program formed and operated under the guidelines established by the National Court Appointed Special Advocate Association.

(e) In cases involving more than one child victim under the age of 14, the court may, if it finds it appropriate, appoint a children's representative for each of the victims.

(f) In consideration of the special ethical responsibilities of attorneys and the attendant problems that might be raised by an attorney serving as a children's representative, the court shall not appoint attorneys as children's representatives under this section.

(g) In order to be appointed as a children's representative, the volunteer shall meet all of the following requirements:

(1) Possess adequate training in the court process, the dynamics of child abuse and neglect, child abuse laws, the social service system, and how to avoid becoming a witness in a case. Volunteers shall receive this training from persons who are involved in the judicial process (prosecutors, defense attorneys, county counsel, social services, child protective services, judges, and advisory board). Each county shall establish such a training program.

(2) Be screened for a criminal record pursuant to Section 11105.3, including, but not limited to, a fingerprint check. A criminal

conviction, other than a conviction of a sexually related crime or a conviction of child abuse, shall not bar a person from acting as a children's representative.

(3) Meet other requirements as deemed necessary by the court.

(4) Not have any interest in the case, nor any connection to either the prosecution or defense.

(h) The requirements of this section are the minimum requirements for the appointment of a volunteer as a children's representative. Each county participating in the program shall appoint a volunteer special children's representative advisory board, which shall develop additional criteria requiring additional initial training, continuing in-service training, a system to screen volunteer applicants on an individual basis, and guidelines for supervising and monitoring the volunteers.

The board shall be appointed by the board of supervisors and shall be composed as specified by the board as nominated by the local child abuse council.

(i) The court shall admonish the children's representative that he or she shall not discuss the facts and circumstances of the case with the child witness.

(j) The court shall appoint an administrator whose duties shall be to enforce the guidelines established by this section and the guidelines set up by the volunteer advisory board. The administrator's duties shall also include monitoring the training program and supervising the volunteers.

(k) The children's representative shall do all of the following:

(1) Accompany the child witness through all proceedings, including criminal proceedings, dependency proceedings, and civil proceedings.

(2) Explain to the child witness in terms he or she will understand, based upon his or her age and maturity, the nature and progress of the proceedings and what the child will be called upon to do, including, but not limited to, telling the child that he or she is expected to tell the truth. These explanations shall be made prior to the child's courtroom appearance.

(3) Be available to observe the minor in all aspects of the case, in order to consult with the court as to any special needs of the minor. These consultations shall take place prior to the testimony of the child. For purposes of this paragraph, the court, during a recess, may recognize the children's representative when the representative indicates a need to address the court. The representative shall indicate such a need through the court clerk or bailiff. If a jury is present in the courtroom when the court decides to meet with the representative, the judge shall excuse the jury or convene an in-chambers session with the representative, the defense attorney, and the prosecuting attorney. The session shall be on the record.

(*l*) It is the intent of the Legislature that the court shall consider the goal of continuity between the children's representative and a child victim or witness in the various court proceedings. The

Legislature thereby declares that it is desirable for a children's representative appointed to represent the interests of the minor in a dependency proceedings to continue to represent the minor's interest in any ensuing criminal and civil proceedings.

(m) The children's representative shall not be required to testify with respect to the contents of a dependency proceeding in any other proceeding.

(n) The judge may appoint a children's representative at the initial proceeding or any proceeding thereafter. The minor or a person representing the minor may request the appointment of a representative.

(o) The children's representative is not immune from prosecution for dissuading a witness or from interfering with any judicial proceeding.

(p) The children's representative shall not discuss the facts and circumstances of the case with the child witness.

(q) Nothing in this act shall be construed to confer or create a privilege between the child and the children's representative.

(r) The inability of the children's representative to attend any proceeding is not cause for a continuance.

(s) The children's representative shall not be involved in any investigatory interviewing with the child.

CHAPTER 977

An act to amend Sections 2014 and 12017 of, and to add Section 5656 to, the Fish and Game Code, and to add Section 153 to the Harbors and Navigation Code, relating to wildlife, and making an appropriation therefor.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 2014 of the Fish and Game Code is amended to read:

2014. (a) It is the policy of this state to conserve its natural resources and to prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or amphibia.

The state may recover damages in a civil action against any person or local agency which unlawfully or negligently takes or destroys any bird, mammal, fish, reptile, or amphibian protected by the laws of this state.

(b) The measure of damages is the amount which will compensate for all the detriment proximately caused by the destruction of the birds, mammals, fish, reptiles, or amphibia.

(c) An action to recover damages under this section shall be

brought in the name of the people of the state, in a court of competent jurisdiction in the county in which the cause of action arose. The State Water Resources Control Board shall be notified of, and may join in, any action brought under this section when the activities alleged to have caused the destruction of any bird, mammal, fish, reptile, or amphibian may involve either the unlawful discharge of pollutants into the waters of the state or other violation of Division 7 (commencing with Section 13000) of the Water Code.

(d) This section does not apply to persons or local agencies engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of birds or mammals killed while damaging crops as provided by law.

(e) No damages may be recovered against a local agency pursuant to this section if civil penalties are assessed against the local agency for the same detriment pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(f) Any recovery or settlement of money damages, including, but not limited to, civil penalties, arising out of any civil action filed and maintained by the Attorney General in the enforcement of this section shall be deposited in the Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund by the department.

(g) For purposes of this section, "local agency" includes any city, county, city and county, district, public authority, or other political subdivision.

SEC. 2. Section 5656 is added to the Fish and Game Code, to read:

5656. Any recovery or settlement of money damages, including, but not limited to, civil penalties arising out of any civil action filed and maintained by the Attorney General in the enforcement of this article shall be deposited in the Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund by the department.

SEC. 3. Section 12017 of the Fish and Game Code is amended to read:

12017. (a) The Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund is hereby created.

(b) Notwithstanding Section 13001, any recovery or settlement of money damages, including, but not limited to, civil penalties, arising out of any civil action filed and maintained by the Attorney General in the enforcement of any of the following laws shall be deposited in the Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund by the department:

(1) Section 2014.

(2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6.

(3) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and Navigation Code.

(c) Any money paid by the State Water Resources Control Board to the Department of Fish and Game pursuant to Section 13442 of the Water Code shall be deposited in the Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund by the department.

(d) 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 any provision of law specified in this subdivision or subdivision (b) or (c), or any combination thereof.

(e) 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.

(f) All funds in the Fish and Wildlife Pollution Cleanup and Abatement Account in excess of five hundred thousand dollars ($500,000) on June 30 of each fiscal year shall be used in the succeeding fiscal year for projects devoted to the preservation of California plants, wildlife, and fisheries, to the extent consistent with Section 9 of Article XVI of the California Constitution. These projects may include, but are not limited to, land acquisition, improvements to existing publicly owned land, and artificial propagation projects, except that an artificial propagation project may be funded only if the director has first determined that no feasible alternative exists for the protection of the species which is the object of the project. There is no requirement that the amount of any recovery or settlement be used solely to protect or improve the habitat of the species damaged by the activity resulting in the recovery or settlement.

SEC. 4. Section 153 is added to the Harbors and Navigation Code, to read:

153. Any recovery or settlement of money damages, including, but not limited to, civil penalties, arising out of any civil action filed and maintained by the Attorney General in the enforcement of this chapter shall be deposited in the Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund established pursuant to Section 12017 of the Fish and Game Code.

CHAPTER 978

An act to amend Section 13412 of the Water Code, relating to water quality.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 13412 of the Water Code is amended to read:

13412. No loan shall be made to a public agency unless it executes an agreement with the state board under which it agrees to repay the amount of the loan, with interest, within 25 years at 50 percent of the average interest rate paid by the state on general obligation bonds sold in the calendar year immediately preceding the year in which the loan agreement is executed.

CHAPTER 979

An act to amend Section 886.5 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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 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 consistent 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 expansion will not result in overcrowding of structures and that the facility will comply with the minimum standards during its period of expanded capacity.

This section shall be operative only until January 1, 1989, and on

that date is repealed unless a statute enacted on or before that date deletes or extends that date.

CHAPTER 980

An act to add Article 7 (commencing with Section 825) to Chapter 2 of Division 1 of, and to repeal Sections 827, as added by Chapter 659 of the Statutes of 1981, and 828 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Article 7 (commencing with Section 825) is added to Chapter 2 of Division 1 of the Elections Code, to read:

Article 7. Reimbursable Costs

825. From moneys appropriated by the Legislature, the Controller shall reimburse counties for additional costs incurred by counties for purging voter registration files pursuant to Article 6 (commencing with Section 800).

826. Any claim submitted to the Controller pursuant to this article shall state that the county had reimbursable costs and the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 607. The claims shall be made to the Controller by October 31 of the even-numbered year in which a direct primary and general election are held.

827. From moneys appropriated by the Legislature, the Controller shall allocate and disburse to the counties the amounts necessary to reimburse them for net costs incurred by them in complying with the voter registration provisions, including the provisions authorizing voter registration by mail and voter outreach programs, as set forth in Chapter 704 of the Statutes of 1975, as amended. The Secretary of State, in consultation with the Controller, shall develop a formula for the reimbursement of these costs. The Controller shall prescribe the forms for filing claims pursuant to this section. These claims shall be submitted to the Controller by October 31 in the year following the fiscal year in which the costs were incurred.

828. (a) The Secretary of State shall conduct a study for the purpose of making recommendations to the Legislature on an alternative to the former actual-cost reimbursement formula to counties for the purging of voter registration files as described in

Section 825.

(b) The study and subsequent recommendations shall take into consideration a fixed cost per registered voter and a percentage increase factor applied to future postal rate increases.

(c) The study shall be submitted to the Legislature no later than September 30, 1987.

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

SEC. 2. Section 827 of the Elections Code, as added by Chapter 659 of the Statutes of 1981, is repealed.

SEC. 3. The Controller shall reimburse counties for costs incurred for preelection residency confirmation procedures conducted for the June 1986 primary election. Reimbursement shall be made from moneys appropriated for that purpose in the 1986 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 that the procedure for purging voter registration files be reinstated, and that counties be reimbursed for these costs, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 981

An act to amend Section 20012 of, to add Sections 20009.12 and 20572 to, and to add Article 3.5 (commencing with Section 20540) to Chapter 4 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 20009.12 is added to the Government Code, to read:

20009.12. "Public agency" also includes a public health department or district which is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

SEC. 2. Section 20012 of the Government Code is amended to read:

20012. "Employee" means:

(a) Any person in the employ of the state, a county superintendent of schools, or the university whose compensation, or at least that portion of his or her compensation which is provided by

the state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. "Funds directly controlled by the state" includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency, and for the purposes of the Public Employees' Retirement Law, and where a county or city and county becomes a contracting agency, the employees and attachés of the superior court of the State of California in and for said county or city and county shall be considered employees of the contracting agency.

(c) City employees who prior to the effective date of the contract with the hospital are assigned to a hospital which became a contracting agency because of Section 20009.8 shall be deemed hospital employees from and after the effective date of the contract with the hospital for retirement purposes. City employees who after the effective date of the contract with the hospital become employed by such a hospital, shall be considered as new employees of such hospital for retirement purposes.

(d) Any person in the employ of a school employer.

(e) Public health department or district employees who were employees prior to the date of assumption of the contract by the governing body of a county of the 15th class shall be deemed public health department or district employees from and after the effective date of assumption of the contract for retirement purposes. Employees who after the effective date of assumption of the contract become employed by the public health department or district shall be considered as new employees for retirement purposes.

SEC. 3. Article 3.5 (commencing with Section 20540) is added to Chapter 4 of Part 3 of Division 5 of Title 2 of the Government Code, to read:

Article 3.5. Alternative Supplemental Service Retirement Plans for Local Miscellaneous Members of a Contracting Agency Which is a County of the 11th Class

20540. Notwithstanding any provision of this chapter, a contracting agency which is a county of the 11th class, as defined by Sections 28020 and 28032, as amended by Chapter 1204 of the Statutes of 1971, may, after executing an agreement therefor, separate and apart from the Meyers-Milias-Brown Act, with representatives of recognized employee organizations, as defined by subdivision (b) of Section 3501, amend its contract to provide the alternate benefit afforded by Section 20542 for its local miscellaneous members whose service is included in the federal system and the benefit afforded by Section 20543 for all its local miscellaneous members. The employer's contribution rate shall be fixed pursuant to this article.

Participation in the plan afforded by this article shall be available to any employee of the contracting agency who is a local miscellaneous member subject to Section 21251.13 on the day immediately preceding the effective date of a contract amendment entered into pursuant to this article.

Each contracting agency shall ensure that each eligible member receives sufficient information to permit an informed election, is counseled regarding the financial implications of the foregoing choices, and receives an election document. The election document shall be filed with the contracting agency.

A local miscellaneous member who is subject to this article shall also be subject to all other provisions of this part, provided, that in the event of a conflict, this article shall supersede and prevail over provisions or application of provisions otherwise contained in this part.

20541. A person who becomes a local miscellaneous member of a contracting agency on or after the effective date of the agency's contract to be subject to this article shall be subject to the benefits provided in Section 21251.13 but may, during an open 120-day period in each calendar year, to be determined by the contracting agency, make an irrevocable election to be subject, for all future local miscellaneous service with the contracting agency on and after the first of the month following the filing of the election with the employer, to the benefits provided by Section 20542 or Section 20543. A current member may make an irrevocable election to be subject to the benefits provided for in this article for all future local miscellaneous service with the contracting agency during an annual open 120-day period to be determined by the contracting agency and that shall be effective on the first of the month following the filing of the election with the employer.

Notwithstanding any other provision of this article, a member who has elected to be subject to Section 20542 may, at any annual open period next following the attainment of 10 years of credited service with the contracting agency, irrevocably elect to be subject, prospectively only, to the benefits provided by Section 21251.13 or Section 20543. Any person who makes that election may never thereafter change that election.

20542. The combined current and prior service pensions for a local miscellaneous member whose service is subject to this article is a pension derived from the contributions of the employee which, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement shall equal the fraction of one-hundredth of the member's final compensation set forth opposite the member's age at retirement taken to the preceding completed quarter year in the following table, multiplied by the member's number of years of local miscellaneous service subject to this article:

Age at Retirement	Fraction
55	.5000
55¼	.5250
55½	.5500
55¾	.5750
56	.6000
56¼	.6250
56½	.6500
56¾	.6750
57	.7000
57¼	.7250
57½	.7500
57¾	.7750
58	.8000
58¼	.8250
58½	.8500
58¾	.8750
59	.9000
59¼	.9250
59½	.9500
59¾	.9750
60	1.0000
60¼	1.0250
60½	1.0500
60¾	1.0750
61	1.1000
61¼	1.1250
61½	1.1500
61¾	1.1750
62	1.2000
62¼	1.2250
62½	1.2500
62¾	1.2750
63	1.3000
63¼	1.3250
63½	1.3500
63¾	1.3750
64	1.4000
64¼	1.4250
64½	1.4500
64¾	1.4750
65	1.5000

Notwithstanding any other provision of this part, the retirement allowance formula for any member subject to this section who has 35 years of credited service and attains age 55 years, is the fraction of

final compensation set forth above at age 65 multiplied by the current and prior service subject to this section that the member is credited with at retirement.

A local miscellaneous member subject to this section shall be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with five years of state service.

20543. The combined current and prior service pensions for a local miscellaneous member whose service is subject to this section is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of local miscellaneous service subject to this article, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	.688
50¼	.698
50½	.709
50¾	.719
51	.730
51¼	.741
51½	.753
51¾	.764
52	.776
52¼	.788
52½	.800
52¾	.813
53	.825
53¼	.839
53½	.852
53¾	.865
54	.879
54¼	.893
54½	.908
54¾	.923
55	.937
55¼	.953
55½	.969
55¾	.985
56	1.000
56¼	1.017
56½	1.034
56¾	1.050

57	1.067
57¼	1.084
57½	1.101
57¾	1.119
58	1.136
58¼	1.154
58½	1.173
58¾	1.191
59 and over	1.209

The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation which does not exceed four hundred dollars ($400) per month for all service of a member which has also been included in the federal system.

A local miscellaneous member subject to this section shall be retired for service upon his or her written applications to the board if he or she has attained age 50 and is credited with five years of state service.

20544. Notwithstanding any provision of Chapter 5 (commencing with Section 20600), the normal rate of contribution for a local miscellaneous member subject to Section 20542 shall be 2 percent of the compensation paid to the member. A contracting agency may pay all or a portion of the normal contributions required to be paid by a local miscellaneous member pursuant to Section 20615.

This section shall be construed as if it were a part of Chapter 5 (commencing with Section 20600).

20545. (a) The normal rate of contribution for a local miscellaneous member subject to Section 20543 whose service is not included in the federal system shall be 8.25 percent of the compensation per month paid to the member.

(b) The normal rate of contribution for a local miscellaneous member whose service is included in the federal system shall be 8.25 percent of compensation in excess of one hundred thirty-three dollars and thirty-three cents ($133.33) per month paid to the member. The rates of contribution established for local miscellaneous members in this section shall apply only to the compensation paid the member on and after the date that the member becomes subject to Section 20543.

This section shall be construed as if it were part of Chapter 5 (commencing with Section 20600).

20546. The employer contribution rate of a contracting agency subject to this article shall not be reduced because of concurrent coverage of social security.

SEC. 4. Section 20572 is added to the Government Code, to read:

20572. Notwithstanding any other provision of law, when the management of a health district is assumed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971, the contract shall

be construed as a continuation of the district's contract for all purposes of this part. Section 20759 shall not apply upon the execution of an agreement with the board and the governing body of the county for the assumption.

SEC. 5. It is the intent of the Legislature that the formulas extended to Riverside County by this act or any other optional "miscellaneous" retirement formulas, shall not be made available to any other contracting agency of the Public Employees' Retirement System until the Assembly Public Employees and Retirement Committee and the Senate Public Employment and Retirement Committee, as a result of a joint interim study on the subject of optional "miscellaneous" retirement formulas, make recommendations to the Legislature. There is hereby appropriated from the Public Employees' Retirement Fund to the Public Employees' Retirement System the sum of forty thousand dollars ($40,000) for expenditure to implement Section 3 of this act.

SEC. 7. 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 982

An act to amend Section 3718 of the Elections Code, to amend Sections 6591, 24355.2, 24356, 25103, 25356, 26909, 36815, 37208, and 50143 of, to add Sections 27208 and 61114.2 to, and to repeal Sections 24354, 24355, 24355.1, 29125.1, and 50021 of, the Government Code, to amend Sections 402.2, 2270, 2291.2, 2291.4, 4730.1, and 8952 of, and to add Section 2291.5 to, the Health and Safety Code, to amend Sections 5552 and 9413 of, and to add Section 5539.5 to, the Public Resources Code, to amend Sections 1604, 11005.6, and 30462.1 of the Revenue and Taxation Code, to amend Section 8313 of the Streets and Highways Code, and to amend Sections 38240 and 38241 of the Vehicle Code, relating to local government.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 3718 of the Elections Code is amended to read:

3718. The enacting clause of an ordinance submitted to the voters of a county shall be substantially in the following form:

"The people of the County of _____ ordain as follows:"

SEC. 2. Section 6591 of the Government Code is amended to read:

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.

(e) The bonds shall be sold by the authority at the time and in the manner set out in the authority's resolution. The sale may be a public or private sale, and for price or prices, and on terms and conditions as the authority determines proper, after giving due consideration to the recommendations of any local agency to be assisted from the proceeds of the bonds. Pending preparation of the definitive bonds, the authority may issue interim receipts, certificates, or temporary bonds which shall be exchanged for definitive bonds.

SEC. 3. Section 24354 of the Government Code is repealed.

SEC. 4. Section 24355 of the Government Code is repealed.

SEC. 5. Section 24355.1 of the Government Code is repealed.

SEC. 6. Section 24355.2 of the Government Code is amended to read:

24355.2. In counties using a mechanized management reporting system in reporting information for a uniform four-week period, the board of supervisors by ordinance may provide for the totaling of fees as required by Section 24352.

SEC. 7. Section 24356 of the Government Code is amended to read:

24356. The auditor shall file in his or her office the forms required by this chapter, and may dispose of them after five years in accordance with Section 26907.

SEC. 8. Section 25103 of the Government Code is amended to read:

25103. The records and minutes of the board, acting in any capacity, shall be signed by the chairperson and the clerk. The board may by resolution authorize the use of a facsimile signature of the chairperson of the board acting in any capacity, where the board sits as the governing body, agency, or entity on all papers, documents, or instruments requiring the signature of the chairperson of the board, including all resolutions, orders, ordinances, contracts, minutes, notices, deeds, leases, papers and records of the board except that the original copy thereof, or the copy thereof filed in the office of the clerk of the board, shall bear the personal signature of the chairperson or shall have been delivered to him or her, and those papers, documents, or instruments bearing the facsimile signature shall be accorded the same force and effect as though personally signed by the chairperson. A certificate by the clerk that a copy of that document has been delivered to the chairperson of the board shall be prima facie evidence of the delivery.

If, in order to be recorded by the county recorder, the paper, document, or instrument requires the acknowledgement or verification of the person by whom it is executed, then it shall be recordable when the clerk acknowledges his or her signature upon the certificate which indicates that a copy of the paper, document, or instrument has been delivered to the chairperson.

In the case of a public security or any instrument of payment, the provisions of the Uniform Facsimile Signature of Public Officials Act (Chapter 6 (commencing with Section 5500) of Division 6 of Title 1 of the Government Code) shall govern.

If the facsimile signature of the chairperson of the board of supervisors is affixed to any document prior to November 23, 1970, the document shall have the same force and effect from the time of affixing as if the facsimile signature had been affixed after that date.

SEC. 9. Section 25356 of the Government Code is amended to read:

25356. If any gift, bequest, or devise is unaccompanied by any provision prescribing or limiting the uses and purposes to which the property received, or the income or increase thereof, may be put, it may be put to any uses and purposes which the board prescribes, and the proceeds or income therefrom shall be paid into the general fund of the county.

SEC. 10. Section 26909 of the Government Code is amended to read:

26909. (a) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special purpose district within the county for which an audit by a certified public accountant

or public accountant is not otherwise provided. In each case, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(b) Where an audit of a district's accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards, and a report thereof shall be filed with the Controller and with the county auditor of the county in which the district is located. The report shall be filed within 12 months of the end of the fiscal year or years under examination.

(c) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special purpose district pursuant to this section shall be borne by the district and shall be a charge against any unencumbered funds of the district available for the purpose.

(d) For joint districts lying within two or more counties, the above provisions shall apply to the auditor of the county in which the treasury is located.

(e) The county controller, or ex officio county controller, shall effect this section in those counties having a county controller, or ex officio county controller.

A special district may, by unanimous request of the governing board of the special district, with unanimous approval of the board of supervisors, replace the annual special audit with a biennial audit covering a two-year period or, if the district's annual budget does not exceed an amount specified by the board of supervisors, an audit covering a five-year period.

Notwithstanding the foregoing provisions of this section to the contrary, districts shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

SEC. 11. Section 27208 is added to the Government Code, to read:

27208. If a paper or document has been microfilmed, the county recorder may destroy or otherwise dispose of any paper or document filed with or submitted to him or her more than one year previously, unless another provision of law requires a longer retention period or unless the recorder determines that there is a need for its retention. In determining where there is a need for retaining a paper or document, consideration shall be given to factors, including, but not limited to, future public need, the effect of statutes of limitation, and historical significance.

SEC. 12. Section 29125.1 of the Government Code is repealed.

SEC. 13. Section 36815 of the Government Code is amended to read:

36815. Any reference to "councilman" or "councilmen" shall also mean and include "councilwoman" or "councilwomen." A female

member of a city council may designate herself "councilwoman." Any member of a city council may designate himself or herself "councilmember."

SEC. 14. Section 37208 of the Government Code is amended to read:

37208. (a) Payroll warrants or checks need not be audited by the legislative body prior to payment. Payrolls shall be presented to the legislative body for ratification and approval at the first meeting after delivery of the payroll warrants or checks.

(b) Warrants or checks drawn in payment of demands certified or approved by the city clerk as conforming to a budget approved by ordinance or resolution of the legislative body need not be audited by the legislative body prior to payment.

(c) Notwithstanding subdivisions (a) and (b), budgeted payrolls and demands paid by warrants or checks may be presented to the legislative body for ratification and approval in the form of an audited comprehensive annual financial report.

SEC. 15. Section 50021 of the Government Code is repealed.

SEC. 16. Section 50143 of the Government Code is amended to read:

50143. When property is subject to a fee which has been or may be imposed under the authority of this article and also to a fee which has been or may be imposed under the authority of Article 5 (commencing with Section 66483) of Chapter 4 of Division 2 of Title 7, payment of either fee shall be deemed payment of both fees.

SEC. 17. Section 61114.2 is added to the Government Code, to read:

61114.2. Notwithstanding Section 61114, if the local agency formation commission approves a consolidation or reorganization pursuant to Section 56839 resulting in the formation of a district without an election, the board of supervisors may designate the members of the board of directors from the membership of the board of directors of any of the consolidated or reorganized districts. The terms of office of the directors shall be determined in accordance with Section 23506 of the Elections Code.

SEC. 18. Section 402.2 of the Health and Safety Code is amended to read:

402.2. (a) It shall be unlawful for any person to import into the state any exotic vector without written approval from the state department.

(b) The state department shall issue an applicant written authority to import into the state any exotic vector upon a determination by the state department that the public health and safety will not be endangered thereby.

(c) "Exotic vector" means a vector species that is not native to California and is not commonly found in the state.

(d) Any violation of this section is a misdemeanor.

SEC. 19. Section 2270 of the Health and Safety Code is amended to read:

2270. The district board may do all of the following:

(a) Take all necessary or proper steps for the control of mosquitoes, flies, or other vectors, either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other vectors may disperse from the territory into the district.

(b) Abate as nuisances all standing water and other breeding places for mosquitoes, flies, or other vectors, either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other vectors from the territory disperse into the district.

(c) Purchase the supplies and materials, employ the personnel and contract for the services which may be necessary or proper in furtherance of the objects of this chapter.

(d) If necessary or proper in the furtherance of the objects of this chapter, build, construct, repair, and maintain the necessary dikes, levees, cuts, canals, or ditches upon any land and acquire by purchase, condemnation, or by other lawful means, in the name of the district, any lands, rights-of-way, easements, property, or material necessary for any of those purposes.

(e) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the use or taking of property for dikes, levees, cuts, canals, or ditches.

(f) Enter upon any property without hinderance or notice, either within the district or so reasonably adjacent thereto that vectors may disperse into the district, for any of the following purposes:

(1) To inspect to ascertain the presence of vectors or their breeding places.

(2) To abate public nuisances in accordance with this article, either directly or by giving notice to the property owner to abate a nuisance.

(3) To ascertain if a notice to abate vectors has been complied with.

(4) To treat property with appropriate physical, chemical, or biological control measures.

(g) Sell or lease any service, land, rights-of-way, easements, property or material acquired by the district. Equivalent properties may be exchanged, if it is in the best interests of the district to do so.

(h) Borrow money in any fiscal year and repay it in the same or in the next ensuing fiscal year. The amount borrowed in any fiscal year shall not exceed fifteen cents ($0.15) on each one hundred dollars ($100) of assessed valuation of property in the district.

(i) Issue warrants payable at the time stated in the warrant to evidence the obligation to repay money borrowed or any other obligation incurred by the district. Warrants so issued shall draw interest at a rate fixed by the board not to exceed 5 percent per year, payable annually or semiannually as the board may prescribe.

(j) Provide a civil service system for any or all employees of the district.

(k) Assess civil penalties, as determined in the discretion of the board, but not to exceed five hundred dollars ($500) per day for each day that a notice or hearing order to abate a nuisance has not been complied with.

Any sum which may be collected shall become part of the district's general fund to be used solely for vector control purposes.

(*l*) Levy, by resolution or ordinance, a service charge against any or all parcels of land within the district to pay for the cost of vector surveillance and control. The schedule of charges shall be made, reviewed, and adopted annually after notice and hearing in connection with the schedule. Following the hearing, the board may classify parcels of property according to their use in relation to the cost of vector surveillance and control. The board may bill for the charges annually or more frequently. The charges shall be collected and paid by the county in the same manner as property taxes by the county. The service charge shall be reasonably related to the district's cost for providing vector surveillance and control and shall not be deemed a tax of any kind. Any sum collected shall be used solely for purposes of vector surveillance and control.

(m) Set the tax or assessment rates which are necessary to carry out the purposes of this article.

(n) Do any and all things necessary for, or incident to, the powers granted by, and to carry out the objects specified in, this chapter.

SEC. 20. Section 2291.2 of the Health and Safety Code is amended to read:

2291.2. (a) (1) The district board may institute projects for one or more zones, for the financing and execution of vector surveillance and control projects of common benefit to the zone or zones.

(2) Before beginning a project, the district board shall adopt a resolution which shall specify its intention to undertake the project, estimate the cost to be borne by the zones, state the duration of the assessment, state the general objectives of the surveillance or control project, and fix a time and place for a public hearing on the project. In the case of more than one zone, the resolution shall specify the proportionate cost to be borne by each of the zones.

(3) Notice of the hearing shall be given by publication once a week for two consecutive weeks prior to the hearing in a newspaper of general circulation in the zone or zones. The last publication of the notice shall be at least seven days before the hearing. If there is no newspaper, then notice shall be posted for two consecutive weeks prior to the hearing in five public places designated by the district board, in the zone or zones. The notice shall designate a public place in the zone or zones where a copy or copies of the resolution may be seen by any interested person. The resolution shall be posted in each of the public places designated in the notice at least two weeks prior to the hearing.

(b) At any time before the time set for the hearing, any owner of any property which is proposed to be assessed may make written protest against the proposed project and assessment. The written

protest shall contain a description of the property sufficient to identify the property. If the signer is not shown on the last equalized assessment roll as the owner of that property, the written protest shall contain written evidence that the signer is an owner of the property proposed to be assessed.

(c) At the time and place stated in the notice, the district board shall hear and consider any objections and protests to the proposed project and assessments.

The district board may continue the hearing from time to time. Any written protest may be withdrawn in writing by the person making the protest at any time before the conclusion of the hearing.

(d) If the district board finds that the written protests filed and not withdrawn represent 50 percent or more of the total amount of expected revenue from the proposed assessment, the board shall abandon the proposed project and assessment. If the district board finds that the written protests filed and not withdrawn represent less than 50 percent of the total amount of expected revenue from the proposed assessment, the district board may, at its discretion, proceed with or abandon the proposed project and assessment.

(e) The assessments levied pursuant to this section shall be collected at the same time and in the same manner as county taxes. The county may deduct its actual costs incurred for collecting the assessments before remitting the balance to the district. The assessments shall be a lien on all the property benefited thereby. Liens for the assessments shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

(f) For the purposes of an assessment levied under this section, the property so assessed within a given zone is equally benefited.

SEC. 21. Section 2291.4 of the Health and Safety Code is amended to read:

2291.4. In addition to the powers enumerated in Article 5 (commencing with Section 2300), the board may do any of the following:

(a) Levy taxes or assessments in each or any of the zones and participating zones to pay the cost and expenses of carrying out the projects within, or on behalf of, the respective zones, according to the benefits derived or to be derived by the respective zones, by a levy or assessment upon any or all property within a zone or participating zone, including land, improvements, and personal property.

It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

(b) Levy taxes or assessments by the method authorized by subdivision (a) in each or any of the zones, according to the special benefits derived or to be derived by the specific properties therein, to pay the cost and expenses of carrying out any of the projects within or on behalf of the respective zone or zones.

SEC. 22. Section 2291.5 is added to the Health and Safety Code, to read:

2291.5. Any ordinance or resolution adopted by a district prior to January 1, 1987, pursuant to subdivision (*l*) of Section 2270 which levies an assessment which otherwise meets the requirements of Section 2291.2, shall be deemed to satisfy the requirements of Section 2291.2 and shall continue to be levied and collected notwithstanding the amendment to subdivision (*l*) of Section 2270 by the chapter of the Statutes of 1986 which added this section.

SEC. 23. Section 4730.1 of the Health and Safety Code is amended to read:

4730.1. (a) Notwithstanding the provisions of Section 4730, the resolution of intention to form the district and the order of formation of the district may provide that the governing body of the sanitation district shall be constituted in accordance with this subdivision or subdivision (b) or (c).

(1) If the district includes no territory which is within a city, other sanitation district, or public agency, the county board of supervisors is the board of directors.

(2) If the district includes territory which is within a city, other sanitation district, or public agency, the board of directors shall be composed of the presiding officer of the governing body of each city, other sanitation district, and public agency and the chairman of the county board of supervisors. If the chairman of the county board of supervisors and the presiding officer of the governing body of each city, sanitation district, and public agency constitute an even number, a member of the county board of supervisors appointed by the board of supervisors or, in the alternate as determined by the board of directors, a resident of the district elected by the registered voters of the district for a four-year term, shall be a member of the board of directors of the district.

(3) The governing body of each county, city, sanitation district, and public agency having a representative on the board of directors may designate one of its members to act in the place of its regular member in his or her absence or his or her inability or refusal to act.

(4) The governing body of any city, sanitation district, or other public agency may designate a member of the county board of supervisors to serve as its representative member on the board of directors of the district in the place of the presiding officer of its governing body; in that case, the supervisor shall have one vote for each city, sanitation district, and public agency represented by him or her.

(b) (1) The board of directors may be composed of directors who are residents of the district elected by the registered voters of the district for four-year terms.

(2) The number of directors on an elected board shall be determined, subject to the requirements of Section 4730 and subdivision (c), by the board of directors of the district, if any, in existence prior to the election.

(c) (1) In the Arvin Sanitation District in Kern County only, if no board of directors is in existence prior to the election, the county board of supervisors shall determine, subject to the requirements of Section 4730 and subdivision (d), the number of directors on an elected board.

(2) The district shall reimburse the county for any reasonable costs incurred by it for the conduct of elections required by this subdivision.

(d) The governing body of a sanitation district is a board of directors composed of an odd number of not less than three members.

(e) "Public agency" as used in this section means any sanitary district, public utility district, resort district, county water district, municipal water district, sewer maintenance district, or county maintenance district, engaged in the collection, transportation, treatment, or disposal of sewage or any other public agency empowered to, and engaged in, the collection, transportation, treatment, or disposal of sewage.

SEC. 24. Section 8952 of the Health and Safety Code is amended to read:

8952. (a) Except as otherwise provided in subdivision (b), the trustees shall hold office for four years and until the appointment and qualifications of their successors. The trustees may provide, by ordinance or resolution, that each member may receive an amount not to exceed fifty dollars ($50) for attendance at each public meeting. However, no trustee shall receive more than one hundred dollars ($100) in compensation in any calendar month. The necessary expenses of each trustee for actual traveling in connection with meetings or business of the board of trustees shall be allowed and paid.

(b) The board of supervisors may stagger the terms of the trustees and to accomplish this purpose may appoint trustees, on or after January 1, 1987, for terms of less than four years. However, the board of supervisors shall not reduce the term of office of a trustee once the trustee has been appointed to that term, whether the appointment was made prior to, or on or after January 1, 1987.

SEC. 25. Section 5539.5 is added to the Public Resources Code, to read:

5539.5. For purposes of open space, parkland acquisition, and development, all provisions of the Improvement Act of 1911 (Division 7 (commencing with Section 5000), Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500), Streets and Highways Code), and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000), Streets and Highways Code), are applicable to a district. Whenever the public interest or convenience requires, a district may, at the discretion of the board of directors, use any or all provisions of these acts in order to carry out any purpose of the district.

SEC. 26. Section 5552 of the Public Resources Code is amended to read:

5552. The controller is the custodian of the funds of the district and shall make payments by check or by warrant drawn upon the district's depositories for obligations that have been first approved by a majority of the board of directors at a meeting of the board of directors. The board of directors also may, by resolution and under any terms and conditions which it may prescribe in the resolution, authorize the controller to pay demands against the district, without the prior, specific approval of the board, that are for any purpose for which an expenditure has been previously authorized in the district's adopted budget and which do not exceed the amount of expenditure so authorized. Demands so paid shall be presented to the board of directors at the next regular meeting for its review and approval. If the funds of the district are maintained solely in the county treasury, the county auditor shall exercise the powers otherwise conferred by this section on the controller.

The board of directors shall by ordinance or resolution authorize signatories for checks or warrants drawn in payment of obligations and demands against the district. Authorized signatories shall be selected from members of the board of directors of the district, the general manager of the district, the administrative secretary, or any other officers and employees which may be designated by the board. A minimum of two signatures shall be required on all checks and warrants.

The controller shall keep an account of all receipts and disbursements, and shall deposit all money received by him or her in a depository or depositories selected by the board of directors.

SEC. 27. Section 9413 of the Public Resources Code is amended to read:

9413. The directors shall develop districtwide comprehensive plans which shall include soil and water conservation, including the improvement of farm irrigation and land drainage, erosion control and flood prevention, and community watersheds within the district. Such comprehensive plans shall conform to the general plan and its elements for the area as adopted pursuant to Article 6 (commencing with Section 65350) of Chapter 3 of Division 1 of Title 7 of the Government Code.

SEC. 28. Section 1604 of the Revenue and Taxation Code is amended to read:

1604. (a) In counties of the first class, annually, on the fourth Monday in September, the county board shall meet to equalize the assessment of property on the local roll. The board shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

(b) In all other counties, annually, on the third Monday in July, the county board shall meet to equalize the assessment of property on the local roll. It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

Any taxpayer may petition the board for a reduction in an assessment and a proportionate reduction or refund of the taxes extended thereon by filing an application pursuant to Section 1603 or Section 5097.

The county board shall have no power to receive or hear any petition for a reduction in an escaped assessment made pursuant to Section 531.1 nor a penal assessment levied in respect thereto, nor to reduce those assessments.

(c) If the county assessment appeals board fails to hear evidence and fails to make a final determination on the application for reduction in assessment of property within two years of the timely filing of the application, the taxpayer's opinion of market value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year covered by the application, unless the taxpayer and the county assessment appeals board mutually agree in writing to an extension of time for the hearing. The reduction in assessment reflecting the taxpayer's opinion of market value shall not be made, however, until two years after the close of the filing period during which the timely application was filed. Further, this subdivision shall not apply to applications for reductions in assessments of property where the taxpayer has failed to provide full and complete information as required by law or where litigation is pending directly relating to the issues involved in the application. This subdivision is only applicable to applications filed on or after January 1, 1983.

(d) If, pursuant to subdivision (c), the applicant's opinion of value has been placed on the assessment roll, that value shall remain on the roll until the county board makes a final determination on the application. The value so determined by the county board, plus appropriate adjustments for the inflation factor, shall be entered on the assessment roll for the fiscal year in which the value is determined. No increased or escape taxes other than those required by a purchase, change in ownership, or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the county board failed to act.

SEC. 29. Section 11005.6 of the Revenue and Taxation Code is amended to read:

11005.6. Any city, county, or city and county may apply to the population research unit of the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Upon completion of the estimate, and if requested to do so by the city, county, or city and county, the Department of Finance shall file a certified copy thereof with the Controller. Such a certification may be made once each fiscal year.

All payments under Section 11005 for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until a subsequent certification is made by the

Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal special census or a subsequent census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him or her at the request of the city, city and county, or county for which the census or estimate was made and shall become effective on the first day of the month following receipt of the certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city, county, or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

Any population estimate prepared by the Department of Finance pursuant to the provisions of Section 2227 may be used for all purposes of this section if a written request for certification to the Controller is received from the city, city and county, or county within 45 days of completion of the estimate.

SEC. 30. Section 30462.1 of the Revenue and Taxation Code is amended to read:

30462.1. Any city may apply to the population research unit of the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Upon completion of the estimate, and if requested to do so by the city, the Department of Finance shall file a certified copy thereof with the Controller. This certification may be made once each fiscal year.

All payments under subparagraph (B) of paragraph (3) of subdivision (b) of Section 30462 for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal special census or a subsequent census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him or her at the request of the city for which the census or estimate was made and shall become effective on the first day of the month following receipt of the certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

Any population estimate prepared by the Department of Finance pursuant to Section 2227 may be used for all purposes of this section

if a written request for certification to the Controller is received from the city within 45 days of completion of the estimate.

SEC. 31. Section 8313 of the Streets and Highways Code is amended to read:

8313. (a) If the proposed vacation of a street, highway, or public service easement is within an area for which a general plan is adopted by a local agency, the legislative body of the public entity shall consider the general plan prior to vacating the street, highway, or public service easement.

(b) The procedure prescribed in Section 65402 of the Government Code shall be followed if that section applies to the proposed vacation. If Section 65402 of the Government Code does not apply to the proposed vacation, the legislative body may submit the proposed vacation to the local planning commission or planning agency and give the commission or agency an opportunity to report upon the proposed vacation.

SEC. 32. Section 38240 of the Vehicle Code is amended to read:

38240. (a) The Controller shall allocate the fees collected under Section 38230 in July and January of each fiscal year in the same manner as fees are allocated under subdivisions (c) and (d) of Section 11005 of the Revenue and Taxation Code.

(b) It is the intent of the Legislature that funds collected under Section 38230 be used for any one or more of the following purposes:

(1) Planning, acquiring, developing, constructing, maintaining, administering, operating, or conserving trails, areas, or other facilities for the use of off-highway motor vehicles.

(2) Controlling the operation of motor vehicles in areas off the highways where the operation of motor vehicles is restricted or prohibited.

(3) Otherwise carrying out the provisions of this division.

SEC. 33. Section 38241 of the Vehicle Code is amended to read:

38241. Any city, county, or city and county may apply to the population research unit of the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Upon completion of the estimate, and if requested to do so by the city, county, or city and county, the Department of Finance shall file a certified copy thereof with the Controller. This certification may be made once each fiscal year.

All payments under Section 38240 for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal special census or a subsequent census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him or her at the request of the city, city and county, or county for which the census or estimate was made and shall become effective on the

first day of the month following receipt of the certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city, county or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

Any population estimate prepared by the Department of Finance pursuant to Section 2227 of the Revenue and Taxation Code may be used for all purposes of this section if a written request for certification to the Controller is received from the city, city and county, or county within 45 days of completion of the estimate.

SEC. 34. Due to the unique circumstances concerning the Arvin Sanitation District in Kern County with respect to a board of directors, 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, and Section 25 of this act is necessary.

SEC. 35. Except for subdivision (c), the revision of Section 4730.1 of the Health and Safety Code by Section 25 of this act is for purposes of clarity only and makes no substantive change in the law.

SEC. 36. 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 983

An act to amend Section 13270 of, and to add Section 13272 to, the Welfare and Institutions Code, relating to refugee assistance.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 13270 of the Welfare and Institutions Code is amended to read:

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.

(d) (1) All public and private agencies seeking funds allocated by the department for provision of instruction in English as a second language under the county plan described in Section 13272 shall include in their request a provision for classes in English as a second language during nontraditional work hours at the same unit cost as the agency's daytime classes or an explanation as to why the classes will not be made available at all or cannot be provided at the level described in the county plan.

(2) The department may waive the requirements of this subdivision for any program that cannot provide instruction in English during nontraditional work hours.

(3) For purposes of this section, "nontraditional work hours" means any hours during the week except that period commencing with 8 a.m. and ending at 5 p.m. during Monday through Friday, inclusive.

(4) Vacancies in classes in English as a second language provided during nontraditional work hours shall be made available in the following order of priorities:

(A) First priority shall be for refugees with basic survival English language needs who are working in low paying or part-time jobs and receiving a supplemental welfare grant through the Refugee Cash Assistance Demonstration Project pursuant to Chapter 5.2

(commencing with Section 13200).

(B) Second priority shall be for refugees with English language deficiencies who are participating in non-English-as-a-second-language employment-related programs as part of federal, state, or county cash assistance program participation requirements.

SEC. 2. Section 13272 is added to the Welfare and Institutions Code, to read:

13272. The department shall require that the level of need for English as a second language in nontraditional work hours in each refugee-impacted county receiving Federal Refugee Resettlement Program Social Services Funds shall be included in each county plan for delivery of those services.

CHAPTER 984

An act to amend Sections 84200.7, 84200.8, and 84202.5 of, and to add Section 84202.7 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 84200.7 of the Government Code is amended to read:

84200.7. (a) Preelection statements for the June election period shall be filed as follows:

(1) For the period ending March 17, a statement to be filed no later than March 22.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the June election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the June election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(b) Preelection statements for the November election period shall be filed as follows:

(1) For the period ending September 30, a statement to be filed no later than October 5.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the November election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the November election shall file this statement by guaranteed overnight delivery service or

by personal delivery.

SEC. 1.5. Section 84200.7 of the Government Code is amended to read:

84200.7. (a) Preelection statements for the June election period shall be filed as follows:

(1) For the period ending March 17, a statement to be filed no later than March 22. However, for a special election called after March 17, or for which the period for filing nomination documents, as defined in Section 6489 of the Elections Code, ends after March 17, a preelection statement for the period ending 45 days before the election shall be filed no later than 40 days before the election.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the June election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the June election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(b) Preelection statements for the November election period shall be filed as follows:

(1) For the period ending September 30, a statement to be filed no later than October 5.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the November election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the November election shall file this statement by guaranteed overnight delivery service or by personal delivery.

SEC. 2. Section 84200.8 of the Government Code is amended to read:

84200.8. Preelection statements shall be filed under this section as follows:

(a) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election.

(b) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(c) For runoff elections held within 60 days of the qualifying election, an additional preelection statement for the period ending 17 days before the runoff election shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file

this statement by guaranteed overnight delivery service or personal delivery.

SEC. 3. Section 84202.5 of the Government Code is amended to read:

84202.5. (a) Any candidate or any committee pursuant to subdivision (a) of Section 82013 which makes contributions totaling five thousand dollars ($5,000) or more in connection with an election, including a runoff election, shall file a supplemental preelection statement no later than 12 days before the election, for the period ending 17 days before the election. This statement shall be filed with each office with which the candidate or committee filing the statement is required to file its next campaign statement pursuant to Section 84215.

(b) This section shall not apply to candidates or committees during any six-month period in which the candidate or committee is required to file preelection statements pursuant to Section 84200.5.

SEC. 4. Section 84202.7 is added to the Government Code, to read:

84202.7. (a) Except as provided in subdivision (b), during an odd-numbered year, any committee by virtue of Section 82013 which makes contributions totaling five thousand dollars ($5,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified below shall file campaign statements on the following dates:

(1) No later than April 30 for the period of January 1 through March 31.

(2) No later than October 31 for the period of July 1 through September 30.

(b) If a committee makes contributions totaling five thousand dollars ($5,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified in subdivision (a), and all of those contributions are reported pursuant to Section 84202.5 or Section 86116 on or before the time specified in subdivision (a), the committee shall not be required to file additional statements for that period pursuant to this section.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 84200.7 of the Government Code proposed by both this bill and AB 3495. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 84200.7 of the Government Code, and (3) this bill is enacted after AB 3495, in which case Section 1 of this bill shall not become operative.

SEC. 6. 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 (1) of Section 81012 of the Government Code.

CHAPTER 985

An act to add and repeal Article 4 (commencing with Section 23240) to Chapter 12 of Division 11 of the Vehicle Code, relating to driving offenses.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Article 4 (commencing with Section 23240) is added to Chapter 12 of Division 11 of the Vehicle Code, to read:

Article 4. Alcohol and Drug Problem Assessment Program

23240. (a) The Legislature finds and declares all of the following:

(1) Driving under the influence of an alcoholic beverage or a drug is a serious problem, constituting the largest group of misdemeanor violations in many counties.

(2) Studies of first offenders have found that more than half of first offenders are alcoholics or problem drinkers. There are higher percentages of problem drinkers among second offenders than among first offenders.

(3) As the link between the health and legal aspects of the problem has become recognized, the courts have sought more information on a presentence basis in determining the appropriate sentence.

(4) Laws relating to driving under the influence of an alcoholic beverage or a drug allow the courts to order a presentence investigation to determine whether a person can benefit from an education, training, or treatment program. The Legislature thus finds that, to adequately assess whether an individual arrested for driving under the influence of an alcoholic beverage or a drug is chemically dependent, it is important to develop and implement screening programs in order to continue to address the problem of driving under the influence of alcoholic beverages or drugs in the state.

(b) It is therefore the intent of the Legislature to establish an additional procedure to assist the courts in the use of presentence investigations of individuals convicted of driving under the influence of an alcoholic beverage or a drug and to enable the courts to make appropriate dispositions in these cases. As part of this process, the courts should obtain and consider a presentence investigation report detailing the defendant's driving and criminal record, and, where possible, an alcohol or drug problem assessment report. In all cases, an alcohol or drug problem assessment report should be completed by qualified personnel prior to the determination of an education or treatment plan and subsequent sentencing by the courts.

23241. A county may develop, implement, operate, and administer an alcohol and drug problem assessment program pursuant to this article by resolution of the board of supervisors. The alcohol and drug problem assessment program may include a referral and client tracking component.

23242. Any person convicted of a violation of Section 23152 or 23153 in a county that administers an alcohol and drug problem assessment program pursuant to this article shall participate in the program.

23243. An alcohol and drug problem assessment report shall be made on each person who participates in the program and the report may be used to determine the appropriate sentence for persons convicted of a violation of Section 23152 or 23153.

23244. (a) Notwithstanding any other provision of law, in addition to any other fine or penalty assessment, there shall be levied an assessment of not more than fifty dollars ($50) upon every fine, penalty, or forfeiture imposed and collected by the courts for a violation of Section 23152 or 23153 in any county that administers an alcohol and drug problem assessment program pursuant to this article.

(b) The court may determine if the defendant has the ability to pay all or part of the assessment. The court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court determines is 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.

(c) Notwithstanding Section 1463 or 1464 of the Penal Code or any other provision of law, all moneys collected pursuant to this section shall be deposited in a special account in the county treasury and shall be used exclusively to pay for the costs of developing, implementing, operating, maintaining, and evaluating alcohol and drug problem assessment programs.

(d) On January 15 of each year, the treasurer of each county that administers an alcohol and drug problem assessment program shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer those moneys into the general fund of the county.

(e) Any moneys remaining in the special account, if and when the alcohol and drug problem assessment program is terminated, shall be transferred into the general fund of the county.

(f) The county treasurer shall annually transfer an amount of money equal to the county's administrative cost incurred pursuant to this section, as he or she shall determine, from the special account to the general fund of the county.

23245. The Office of Traffic Safety shall promulgate rules and guidelines to implement this article.

23246. Any alcohol and drug problem assessment program established pursuant to this article may be terminated by the county on or before December 31, 1989.

23247. This article shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

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 986

An act to add and repeal Chapter 9 (commencing with Section 18150) of Part 2 of Division 13 of the Health and Safety Code, relating to the Mobilehome-Manufactured Housing Act of 1980.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Chapter 9 (commencing with Section 18150) is added to Part 2 of Division 13 of the Health and Safety Code, to read:

CHAPTER 9. MOBILEHOME OMBUDSMAN

18150. The Legislature finds and declares that increasing numbers of Californians live in manufactured homes and mobilehomes and that most of those manufactured home and mobilehome owners reside in mobilehome parks. Because of the growing number of problems and complaints dealing with various aspects of living in manufactured homes and mobilehomes, it is necessary to designate a Mobilehome Ombudsman within the Department of Housing and Community Development to better provide assistance to the public in handling and coordinating the resolution to those problems and complaints.

18151. (a) The position of Mobilehome Ombudsman is hereby established in the Department of Housing and Community Development.

(b) Except as provided in subdivision (c), the ombudsman shall provide assistance in taking complaints, and helping to resolve and coordinate the resolution of those complaints, from the public relating to manufactured homes and mobilehomes, including, but not limited to, problems of titling and registration, installation, warranties, financing, other than financing by a supervised financial organization, as defined in Section 1801.6 of the Civil Code, sales,

inspection of homes and parks, mobilehome accessories and improvements, and problems relating to the Mobilehome Residency Law, which is provided for in Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code.

(c) The ombudsman is not empowered to provide assistance in resolving or coordinating, or to help to resolve or coordinate, the resolution of cases or complaints involving mobilehome park rental agreements, leases, or rent disputes.

18152. The Governor shall designate a deputy director in the Department of Housing and Community Development to serve as the Mobilehome Ombudsman.

18153. The Mobilehome Ombudsman shall establish procedures to deal with complaints, including the publication of complaint forms and written materials which shall be made available to the public informing them of the functions of the Mobilehome Ombudsman and providing information on manufactured homes and mobilehomes. The ombudsman shall work with, and coordinate his or her efforts with, other divisions and sections of the department and with other agencies of state and local government.

18154. This chapter shall remain in effect until January 1, 1990, and is repealed as of that date, unless a later enacted statute which is enacted on or before January 1, 1990, deletes or extends that date.

SEC. 2. It is the intent of the Legislature that the implementation of Section 1 of this act shall not result in any additional cost to state government.

CHAPTER 987

An act to amend Sections 2, 7, 8, and 14 of, and to add Sections 19.6, 19.7, 19.8, 19.9, 19.10, 19.11, 19.12, 19.13, 19.14, 19.15, 19.16, 19.17, 19.18, 19.19, 19.20, 19.21, and 19.22 to, the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), relating to the Orange County Flood Control District.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 2 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control of the flood and storm waters of the district, and the flood and storm waters of streams that have their source outside of the district, but which streams and the flood waters thereof, flow into the district, and to conserve those waters for beneficial and useful purposes by spreading, storing, retaining, and causing them to percolate into the soil within the district, or without the district, or to save or conserve

in any manner all or any of those waters and protect from damage from those flood or storm waters, the harbors, waterways, public highways, and property in the district.

The Orange County Flood Control District is hereby declared to be a body corporate and politic and has all of the following powers:

1. To have perpetual succession.

2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise, or lease, and to hold, use, enjoy, and to sell, lease, exchange, or dispose of real or personal property of every kind, within or without the district, necessary to the full exercise of its powers.

5. To acquire, or contract to acquire, lands, rights-of-way, easements, privileges and property of every kind, and to construct, maintain, 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 to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as authorized in this act.

6. To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

7. To incur indebtedness, and to issue bonds in the manner provided in this act.

8. To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district in the manner provided in this act.

9. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in the district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities, or towns, easements for street and highway purposes, over, along, in, through, across, or under any real property owned by the district.

11. To remove, carry away, and dispose of any rubbish, trash, debris, or other inconvenient matter that may be dislodged, transported, conveyed, or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of the district or elsewhere.

12. To lease, sell, or dispose of any property (or any interest therein) whenever, in the judgment of the board of supervisors, the property, or any interest therein or part thereof, is no longer required for the purposes of the district, or property may be leased, or included in community leases embracing adjoining lands, for any purpose (including leases for mining or extracting oil, gas, hydrocarbon substances, or other minerals) without interfering with the use of the property for the purposes of the district. Whenever it appears that wells drilled upon private lands are draining or may

drain oil, gas, or other hydrocarbon substances from lands owned by the district and operations for the production of oil, gas, or other hydrocarbons on land owned by the district might interfere with the use of that land for the purposes of the district, the district may enter into agreements with the owners or operators of the wells for the payment of compensation to the district for drainage in lieu of drilling offset wells upon the land owned by the district, and to pay any compensation received therefor into the general fund of the district and use the compensation for the purposes of this act. However, nothing in this section authorizes the board of supervisors, or other governing body of the district, or any officer thereof, to sell, lease, or otherwise dispose of any water, water right, reservoir space, or storage capacity, or any interest or space therein, except as provided by Section 17 of this act. The district may also grant to the United States of America, or any agency thereof authorized to accept and pay for such land, such parcels of land as lie within any channel, dam, or reservoir site, improved or constructed, in whole or in part, with federal funds, upon the payment to the district of the actual cost thereof as determined by the board of supervisors of the distict. The district, by and through its board of supervisors, may warrant and guarantee the title of all lands so transferred to the United States under this section.

13. To monitor, test, or inspect drainage, flood, storm, or other waters within the district for the purpose of recording, determining, and reporting the quality of the waters to appropriate regional water quality control boards.

14. To assist the County of Orange and any city within the county in emergency operations to control or mitigate the effect of tides, waves, and ocean currents on the Orange County shoreline.

15. To carry on technical and other investigations, examinations, or tests of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, control of floods, use of water, water quality, nuisance, pollution, waste, and contamination of water, both within and without the district.

16. To regulate, prohibit, or control the discharge of pollutants, waste, or any other material into the district's facilities by requiring dischargers to obtain a permit from the district prior to any discharge and by prohibiting the discharge of pollutants or other material which does or may cause a nuisance into the district's facilities without first obtaining a permit from the district, but, if a federal permit has been issued for the discharge, a permit may be issued by the district at no fee to the discharger; except as provided in this act, to require a fee to be collected prior to the issuance of a discharge permit, if the amount of the fee does not exceed the cost of issuing the permit; to require all permitholders to indemnify the district from any and all damages, penalties, or other expenses imposed on or required of the district by state or federal agencies due to any discharge by the permitholders into the district facilities.

17. To establish compliance with any federal, state, or local law,

order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material into the district's facilities. For this purpose, any authorized representative of the district, upon presentation of his or her credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, has the right of entry to any premises on which a water pollution, waste, or contamination source is located for the purpose of inspecting the source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.

SEC. 2. Section 7 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:

Sec. 7. The board of supervisors shall, subject to this act, prescribe by ordinance or resolution the form of the bonds. The bonds shall be issued in registered form. The bonds shall be payable substantially in the following manner: The board of supervisors may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series; provided, that the earliest maturity of each issue or series, as the case may be, shall not be more than two years from the date of the bonds of that issue or series. The final maturity date of any bond shall not exceed 40 years from the date of the bond. The board of supervisors may determine in the resolution authorizing the issuance of the bonds that the principal amount of the bonds maturing each year shall be other than an amount equal to an equal annual proportion of the aggregate principal of the bonds, and it may determine that the amount of principal maturing in each year plus the amount of interest payable in that year shall as nearly as possible be an aggregate amount that is equal each year, except for the principal and interest due on the first series of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds, or it may make such other determination as to the amount of the aggregate principal of the bonds which shall mature in each year as it shall choose.

The bonds shall be issued in such denominations as the board of supervisors may determine, and shall be payable on the day and at the place fixed in the bonds, and with interest payable semiannually at the rate specified in the bonds, which rate shall not be in excess of the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code. The bonds shall be signed by the chairperson of the board of supervisors, and countersigned by the auditor of the County of Orange, and the seal of the district shall be affixed thereto. The bonds may be authenticated by a paying agent selected by the board of supervisors, and the signatures of the chairperson and

auditor thereon may be facsimile signatures. In case any officer whose signatures or countersignatures appear on the bonds shall cease to be such an officer before the delivery of the bonds to the purchaser, the signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds.

SEC. 3. Section 8 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:

Sec. 8. The board of supervisors may issue and sell the bonds of the district authorized as provided in this act at not less than 95 percent of par value. The proceeds of the sale of the bonds shall be placed in the treasury of the County of Orange to the credit of the district, and the proper record of the transactions shall be placed upon the books of the county treasury. The district fund shall be applied exclusively to the purposes and objects mentioned in the ordinance or resolution calling the special bond election or, if pursuant to Sections 19.6 to 19.16, inclusive, no election is required, in the resolution confirming the engineer's report. Payments from the district fund shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the County of Orange.

SEC. 4. Section 14 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:

Sec. 14. The board of supervisors of the district may, in any year, levy a tax or assessment upon taxable real property in the district, to carry out any of the objects or purposes of this act, and to pay the cost and expenses of constructing, maintaining, operating, extending, and repairing any works or improvements which are authorized by this act during the ensuing fiscal year. The board of supervisors may also levy such an assessment for payment of the local share of the cost of any works or improvements or project undertaken by the federal government or the state, or both, or payment of the annual amount of repayment of a loan or loans from the federal government or the state, or both, representing the local share of the cost of the works or improvements or project, or the district's annual share of the cost of the operation, maintenance, and repair of the works or improvements. The tax or assessment shall be levied and collected and become delinquent at the same time and in the same manner and have the same lien priority as the general tax levy for county purposes, and bear the same penalties and interest after delinquency. The revenues derived from the tax or assessment shall be paid into the county treasury to the credit of the construction and maintenance fund of the district, and the board of supervisors may control and order the expenditure thereof for those purposes. The maximum tax levied under this section for any one fiscal year shall not exceed twenty cents ($0.20) on each one hundred dollars ($100) of the assessed valuation of the taxable property in the district, exclusive of any tax levied to meet the bonded indebtedness of the district, and the interest thereon.

Assessments levied pursuant to this section shall be based upon the benefit which each parcel of real property to be assessed will derive from the works and improvements to be constructed, maintained, operated, extended, or repaired. For purposes of levying any assessment, the board of supervisors may establish one or more zones of benefit, including parcels of real property which benefit similarly from those works and improvements, and may levy different assessments within those zones. The zones of benefit shall be identified and described in a resolution adopted by the board of supervisors. In levying assessments pursuant to this section, the board of supervisors may employ any of the procedures provided for in Sections 19.6 to 19.14, inclusive, which it deems appropriate. Proceedings for levying assessments pursuant to this section may be combined with proceedings for levying assessments pursuant to Sections 19.6 to 19.14, inclusive, and the procedures prescribed by those sections shall be modified as the board of supervisors deems necessary to accommodate the combination of the proceedings.

SEC. 5. Section 19.6 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.6. The board of supervisors may determine that it may be necessary to sell bonds of the district to finance needed flood control improvements for the protection and benefit of portions of the district which the board determines cannot be financed from annual revenues from taxes or assessments, or both, over a period of years without selling bonds. The board of supervisors may also determine that it may be necessary to sell bonds of the district to finance the local share of the cost of any flood control improvements or projects undertaken by the federal government or the state, or both. The board of supervisors shall make these determinations by adopting a resolution indicating its intention to finance the improvements through the issuance of bonds, generally describing the improvements to be financed with the proceeds of the bonds and referring the improvements to an engineer selected by the board and therein named for the preparation and filing with the board of a report with regard to the proposed improvements. The portions of the district which will benefit from the sale of the bonds and the flood control improvements to be financed shall be designated in the resolution of the board making those determinations as the area of benefit for the specified project, or by some similar designation.

The report shall contain, among other things, all of the following:

(a) A general description of the improvements.

(b) Estimates of the cost of the improvements, the cost of land, rights-of-way, and easements, incidental expenses in connection with the improvements, and expenses in connection with the issuance of the bonds, and if part of the cost of the improvements will be paid from contributions from the federal government or the state, or both, an estimate of the expected total amount of those contributions.

(c) A map which shows the location of the proposed

improvements and lands, rights-of-way, easements, and property to be taken, acquired, or injured in carrying out the construction of the improvements, and any other information in regard to those matters as may be deemed useful. However, improvements, lands, rights-of-way, easements, and property which will be located outside the district or outside the area of benefit need not be shown on the map.

(d) A map or maps showing the location of the lots and parcels of property in the area of benefit which will derive special benefit from the proposed improvements and which are proposed to be assessed for the cost thereof.

(e) A listing by county assessor's parcel numbers of the lots and parcels of property within the area of benefit which will derive special benefit from the improvements and which are proposed to be assessed and pay annual assessments for the payment of principal and interest on the bonds, and the estimated maximum amount of the annual assessment to be levied on each lot or parcel.

(f) A general analysis of the engineer's determination as to how the lots and parcels proposed to be assessed in the area of benefit and each proposed zone of benefit therein will derive special benefit from the proposed improvements.

The engineer may propose in the report that parcels of property in the area of benefit which benefit similarly but differently from other parcels from the improvements be included in different zones of benefit which shall be identified by boundary lines on the map or maps specified in subdivision (d). If the engineer proposes in the report the establishment of different zones of benefit, the listing referred to in subdivision (e) shall also identify the zone of benefit in which each lot or parcel is proposed to be included.

SEC. 6. Section 19.7 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.7. If the improvements are proposed to provide protection against flooding in a floodway or flood plain designated on the general plan of the County of Orange or any city therein or a flood plain area or flood-risk zone established by the Secretary of Housing and Urban Development of the United States pursuant to Section 4101 et seq. of Title 42 of the United States Code, the fact that a lot or parcel of property is located within that floodway or flood plain or flood-risk area shall be conclusive evidence that it will derive special benefit from the improvements. Assessments based on special benefit may be levied on lots and parcels of property included in an area of benefit or in zones of benefit therein on the basis of proportionate stormwater runoff.

SEC. 7. Section 19.8 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.8. (a) When the report of the engineer is filed with the board of supervisors, the board may at a regular or special meeting approve the report and schedule a hearing thereon. The hearing shall be scheduled not earlier than 30 days and not later than 90 days

following approval of the report. Notice of the hearing shall be published pursuant to Section 6066 of the Government Code, and the first publication shall occur not later than 20 days before the date of the hearing. The notice to be published shall be entitled "Notice of Flood Control Improvements," shall include the time and place of the hearing on the proposed improvements and on the proposed bonds and annual assessments, shall generally describe the proposed improvements and the proposed area of benefit and refer to the report of the engineer for further particulars, shall state that the board of supervisors is considering issuing bonds to finance the cost of the proposed improvements, or the local share thereof, and the amount of the bonds which would be issued, shall also state that the board of supervisors is considering levying annual assessments on lots and parcels of property within the area of benefit to pay principal and interest on the bonds, and shall contain the name and telephone number of an officer or employee of the district to answer inquiries regarding the protest proceedings.

(b) A notice of the time and place of the hearing shall also be mailed, postage prepaid, to all persons owning real property proposed to be assessed as their names and addresses appear on the last equalized assessment roll for county taxes. The notices shall be mailed not later than 20 days before the date of the hearing. The notices to be mailed shall be entitled "Notice of Flood Control Improvements" and shall contain all of the following:

(1) A statement of the time, place, and purpose of the hearing on the improvements and the proposed annual assessments.

(2) A statement of the total estimated cost of the proposed improvements.

(3) A statement that the board of supervisors proposes to issue and sell bonds to finance the cost of the proposed improvements, or the local share thereof, and to levy annual assessments on lots and parcels of property within the area of benefit which will derive special benefit therefrom to pay the principal of, and interest on, the bonds.

(4) The estimated maximum amount of the annual assessment to be levied on the particular parcel of property to which the notice relates, and a statement that the annual assessment to be levied on the parcel may not exceed 110 percent of that estimated maximum amount.

(5) A statement that any owner of a lot or parcel of property proposed to be assessed for the cost of the improvements or the payment of the principal of and interest on the bonds may file a written protest with the clerk.

(6) The name and telephone number of an officer or employee of the district designated by the board of supervisors to answer inquiries regarding the protest proceedings.

(c) If the engineer's report proposes the designation of two or more zones of benefit within the area of benefit wherein parcels will be assessed different amounts of annual assessments, the notice shall also advise each owner of this and of the zone in which his or her lot

or parcel will be located.

SEC. 8. Section 19.9 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.9. Any owner of a lot or parcel of property proposed to be assessed annual assessments for the payment of the principal of and interest on the bonds may protest the proposed improvements, the extent of the area of benefit or any proposed zone of benefit, or the proposed maximum annual assessment against his or her lot or parcel by filing a written protest with the clerk at or before the time set for the hearing. Each protest shall contain a description of the lot or parcel in which each signer thereof has an ownership interest sufficient to identify the same and, if the signers are not shown on the last equalized assessment roll as the owners of the lot or parcel, the protest shall contain or be accompanied by written evidence that the signers are the owners of the property. The clerk shall endorse on each protest the date of its receipt, and at the time appointed for the hearing shall present to the board of supervisors all protests filed with the clerk.

SEC. 9. Section 19.10 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.10. At the time of the hearing, the engineer's report shall be summarized and the board of supervisors shall afford all persons who are present an opportunity to comment upon, object to, or present evidence with regard to, the proposed improvements, the proposed area of benefit and zones of benefit, the issuance and sale of the bonds, the proposed estimated maximum amount of annual assessment against any lot or parcel of property, or any other matter relating thereto. At the conclusion of the hearing, the board of supervisors may confirm the report of the engineer or direct its modification in any respect, and thereafter confirm the report as modified. The board may change the boundaries of the area of benefit or any zone of benefit identified in the report to exclude lots and parcels of property which it determines will not derive special benefit from the proposed improvements, but may not change the boundaries of the area of benefit or any zone of benefit therein to include lots and parcels which are not listed in the report. The hearing may be continued from time to time not exceeding a total of 180 days.

SEC. 10. Section 19.11 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.11. If the board of supervisors finds that written protests filed at or before the time of the hearing are signed by the owners of more than 25 percent of the area of land in the area of benefit or in any proposed zone of benefit therein, and protests are not withdrawn at the time of the hearing so as to reduce the percentage of protest for all proposed zones of benefit below that percentage, the board of supervisors shall either abandon the proceedings or by duly adopted resolution submit the propositions of the issuance of the bonds and the levy of the assessments to the voters within each zone

of benefit from which the protest was received and not so reduced, and shall not proceed further with the proceedings as to any zone of benefit unless a majority of the combined votes cast at the election in all zones of benefit wherein it is held are in favor of the issuance of bonds and the levy of assessments. The board of supervisors may elect to submit the question of the issuance of the bonds and the levy of the assessments to the voters in all zones of benefit.

SEC. 11. Section 19.12 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.12. The election may be called on any of the election dates prescribed by Section 2500 of the Elections Code, and the propositions regarding the issuance of the bonds and the levy of annual assessments for the payment of the principal of, and interest on, the bonds shall be combined in single ballot measure. The election shall be conducted as nearly as practicable in conformity with the general election law of the state. The election may be consolidated with any other elections which will be conducted on the same date within the zone or zones of benefit where the election will be held. The board of supervisors may form election precincts by adopting the precincts established for general elections or by consolidating precincts within the zone or zones of benefit where the election is to be held, and shall appoint only one inspector, two judges, and one clerk for each precinct. The district shall pay the county for costs incurred by the county in conducting the election.

SEC. 12. Section 19.13 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.13. If the board of supervisors abandons the proceedings rather than call an election, or if an election is held and the required approving vote is not received, it shall not initiate similar proceedings within a period of 180 days from the date of adoption of the resolution ordering abandonment of the proceedings or the date of the election.

SEC. 13. Section 19.14 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.14. If at the conclusion of the hearing the board of supervisors determines that protests received for the area of benefit and for each of the proposed zones of benefit therein are below the percentage set forth in Section 19.11 or if the propositions regarding issuance of the bonds and the levy of annual assessments are submitted to election in any zone of benefit and the combined votes cast in all zones of benefit wherein the election is held are in favor of the propositions, the board may adopt a resolution confirming the engineer's report, and, ordering the improvements, or payment of the local share of the cost thereof, if the improvements are to be undertaken by the federal government or the state, or both, and the issuance of the bonds. The board shall also establish in this resolution the boundaries of the area of benefit and all zones of benefit therein by reference to the map or maps contained in the confirmed engineer's report.

SEC. 14. Section 19.15 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.15. The board of supervisors may authorize the issuance of bonds on the basis of competitive bids or negotiated sale. The board of supervisors shall establish a process for selecting bond counsel, including at least two proposing firms. If the bonds are to be sold on the basis of a negotiated sale, the board of supervisors shall establish a process of selecting underwriters including at least five proposing underwriter firms, unless the board finds, four-fifths of its members concurring, that fewer than five underwriting firms are willing to submit proposals. If competitive bids are to be received, notice of the time and place of the receipt of bids shall be published in a financial journal of general circulation in the state as provided in Section 6066 of the Government Code. The bonds shall be issued and sold as provided in and be subject to Sections 7 to 9, inclusive.

SEC. 15. Section 19.16 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.16. After the authorization and sale of bonds pursuant to Sections 19.6 to 19.15, inclusive, the board of supervisors shall levy an assessment each year upon the lots and parcels of property identified and listed in the engineer's report based upon the special benefit to be derived thereby from the improvements as specified therein in a total amount sufficient to pay interest on the bonds for that year and that portion of the principal thereof as is to become due before the time for making the next general tax levy. The board may also include in the total amount of the assessment levied in any year the estimated amount of the district's cost of levying and collecting the assessments, the cost of registration, transfer, and payment of the bonds, the expected amount of delinquency in payment of assessments, and the amount, if any, needed to replenish the reserve fund for the bonds as a result of past delinquencies in payment of assessments. However, the amount of the annual assessment on any lot or parcel in any year shall not exceed 110 percent of the estimated amount of the maximum annual assessment set forth in the engineer's report for the lot or parcel. The annual assessments shall be levied, collected, and become delinquent at the same time and in the same manner and have the same lien priority and bear the same penalties and interest after delinquency as the general tax levy for county purposes. When collected, the assessments collected shall be paid into the county treasury of the County of Orange to the credit of the district, and be used for the payment of the principal of, and interest on the bonds, the replenishment of the reserve fund for the bonds, and the district's expenses incurred in collecting the assessments, and for no other purpose. The principal of, and interest on, the bonds shall be paid by the county treasurer of the county in the manner provided by law for the payment of principal of, and interest on, bonds of the county, except that the board of supervisors may determine in the resolution authorizing the issuance of the bonds that the principal and interest shall be paid by a paying agent,

other than the county treasurer, named therein.

SEC. 16. Section 19.17 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.17. The board of supervisors may include in the aggregate principal amount of the bonds an amount for a reserve fund for the payment of the principal of, and interest on, the bonds in the event that as a result of delinquencies in the payment of annual assessments levied on benefiting lots and parcels there is a deficiency in the amount needed for the payment of principal and interest. The amount to be included for the reserve fund shall not exceed 15 percent of the total principal amount of the bonds. The reserve fund and all interest earned thereon shall be used solely for the payment of the principal of, and interest on, the bonds, if there is a deficiency, and then only to the extent of the deficiency. Notwithstanding any other provision of this section, for the purposes of assuring that the bonds will not become arbitrage bonds as defined in the Internal Revenue Code of 1954 (Title 26 of the United States Code) and regulations promulgated thereunder by the Department of Treasury, and providing for a reduction of the amount of money in the special reserve fund during the term of the bonds, the board of supervisors may, by resolution adopted prior to the issuance of the bonds, provide that money in the reserve fund, including investment income, shall be transferred to the redemption fund for the bonds for advance retirement of the bonds. The balance remaining in the reserve fund at the time of the levy of the annual assessments for the payment of the principal of and interest on the last series of the bonds shall be transferred to the redemption fund and taken into consideration by the board of supervisors in determining the aggregate amount of the annual assessments to be levied for the payment of the principal and interest. In lieu of establishing a reserve fund or in addition thereto, the board of supervisors may, in determining the amount of the assessments to be levied on lots and parcels benefiting from the improvements in any year, include in the assessments a proportionate share of any expected amount of delinquency in payment of assessments, or a proportionate share of the amount needed to replenish the reserve fund as a result of past delinquencies in the payment of assessments.

Notwithstanding the preceding provisions of this section, if any amendment to the Internal Revenue Code of 1954 or the regulations of the Department of Treasury thereunder require a different allocation or utilization of the amount of the reserve fund or the earnings thereon than is herein provided, the board of supervisors shall order that action with regard to the reserve fund or the earnings thereon as is required by that code or regulations to avoid the interest on the bonds becoming taxable.

SEC. 17. Section 19.18 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.18. Sections 19.6 to 19.17, inclusive, provide alternative authorization and proceedings for making improvements, or paying

the local share of the cost thereof, and issuing bonds, and may be pursued by the board of supervisors in lieu of any other similar proceedings which are authorized by this act.

SEC. 18. Section 19.19 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.19. The validity of any proceedings for the issuance of bonds conducted pursuant to Sections 19.6 to 19.17, inclusive, shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the adoption by the board of supervisors of a resolution or resolutions confirming, or modifying and confirming as modified, the engineer's report and authorizing the issuance of bonds. An appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of judgment. Bonds issued pursuant to Sections 19.6 to 19.17, inclusive, shall be conclusive evidence of the regularity of all proceedings leading up to the issuance of the bonds.

SEC. 19. Section 19.20 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.20. An action to determine the validity of bonds issued pursuant to Sections 19.6 to 19.17, inclusive, and of the annual assessments to be levied on lots and parcels which will derive special benefit from the improvements to be financed therewith to pay the principal of and interest on the bonds, or to determine the validity of assessments levied pursuant to Section 14, may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 20. Section 19.21 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.21. The board of supervisors shall, upon confirming the engineer's report and establishing the boundaries of the area of benefit pursuant to Section 14 or Section 19.14, record with the County Recorder of the County of Orange a notice of the establishment of the area of benefit. The notice shall be captioned "Notice of Establishment of Area of Benefit for the _____ Project of the Orange County Flood Control District," and shall provide notice of the boundaries of the territory included in the area of benefit by reference to sections, townships, and ranges of the United States Government Survey of public lands, or a map or maps showing the boundaries which may be recorded with the notice. The notice shall further provide notice that all lots and parcels of land in the area of benefit are subject to the annual levy of assessments for the payment of the cost of the construction, maintenance, operation, extension, and repair of any works or improvements or the payment of principal and interest on bonds of the district sold to finance those improvements, or the local share of the cost thereof, and that the amount of annual assessment for any lot or parcel therein may be obtained from the chief engineer of the district. If the board of supervisors determines to provide notice of the boundaries of the territory included in the area of benefit by reference to the sections,

townships, and ranges of the United States Government Survey, it need not specifically identify the boundaries, but shall by that reference generally identify the territory included therein. The notice shall be signed on behalf of the district by the chairman of the board of supervisors or the chief engineer. The recording of the notice shall impart constructive notice of its contents to purchasers and mortgagees of property in the area of benefit.

Sec. 21. Section 19.22 is added to the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to read:

Sec. 19.22. The Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800) of the Streets and Highways Code) does not apply to assessments levied pursuant to Section 14 or Sections 19.6 to 19.14, inclusive.

SEC. 22. 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 988

An act to amend Section 29530 of, and to amend, repeal, and add Section 29534 to, the Government Code, and to amend Sections 99233.3, 99233.5, 99234, 99245, 99248, 99272, 99277, 99400, and 99407 of, to amend, repeal, and add Sections 99241, 99312, 99312.7, 99313, and 99314 of, to add Sections 99204.6 and 99212 to, and to repeal Section 99319.5 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 29530 of the Government Code is amended to read:

29530. If the board of supervisors so agrees by contract with the State Board of Equalization, the board of supervisors shall establish a local transportation fund in the county treasury and shall deposit in the fund all revenues transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, which are derived from that portion of the taxes imposed by the county at a rate in excess of 1 percent pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of that code, less an allocation of the cost of the services of the State Board of Equalization in administering the sales and use tax ordinance related to the rate in excess of 1 percent and of the Director of Transportation and the Controller in administering the responsibilities assigned to him or

her in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.

Any interest or other income earned by investment or otherwise of the local transportation fund shall accrue to and be a part of the fund.

SEC. 2. Section 29534 of the Government Code is amended to read:

29534. The county auditor shall keep records and make reports concerning the local transportation fund as the Director of Transportation shall prescribe.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 3. Section 29534 is added to the Government Code, to read:

29534. The county auditor shall keep records and make reports concerning the local transportation fund as the Director of Transportation or the Controller shall prescribe.

This section shall become operative on July 1, 1987.

SEC. 4. Section 99204.6 is added to the Public Utilities Code, to read:

99204.6. "Controller" means the Controller of the State of California.

SEC. 5. Section 99212 is added to the Public Utilities Code, to read:

99212. "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

SEC. 6. Section 99233.3 of the Public Utilities Code is amended to read:

99233.3. Two percent of the remaining money in the fund shall be made available to counties and cities for facilities provided for the exclusive use of pedestrians and bicycles unless the transportation planning agency finds that the money could be used to better advantage for the purposes stated in Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275), or for local street and road purposes in those areas where the money may be expended for such purposes, in the development of a balanced transportation system. Of the amount made available to a city or county pursuant to this section, 5 percent thereof may be expended to supplement moneys from other sources to fund bicycle safety education programs, but shall not be used to fully fund the salary of any one person.

SEC. 6.5. Section 99233.5 of the Public Utilities Code is amended to read:

99233.5. (a) Up to two percent of the remaining money in the fund for the areas under the jurisdiction of the transit development boards created pursuant to Division 11 (commencing with Section 120000) and Division 11.5 (commencing with Section 125000) shall be allocated for transportation planning pursuant to Sections 120300 and 125301 to the council of governments that is the transportation

planning agency for those areas.

(b) (1) Up to 10 percent of the remaining money for the area under the jurisdiction of a transit development board created pursuant to Division 11 (commencing with Section 120000) shall be allocated to the transit development board to carry out its administrative and planning powers, duties, and functions and its construction and acquisition programs.

(2) Thereafter, the remaining money for allocation in that area shall be allocated by the transportation planning agency to claimants as directed by the transit development board.

SEC. 7. Section 99234 of the Public Utilities Code is amended to read:

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles or for bicycle safety education programs shall be filed according to the rules and regulations adopted by the transportation planning agency.

(b) The money shall be allocated for the construction, including related engineering expenses, of those facilities pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction, or for bicycle safety education programs.

(c) The money may be allocated for the maintenance of bikeways which are closed to motorized traffic pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction.

(d) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(e) Facilities provided for the use of bicycles may include projects that serve the needs of commuting bicyclists, including, but not limited to, new bikeways serving major transportation corridors, secure bicycle parking at employment centers, park and ride lots, and transit terminals where other funds are unavailable.

(f) Within 30 days after receiving a request for a review from any city or county, the transportation planning agency shall review its allocations made pursuant to Section 99233.3.

SEC. 8. Section 99241 of the Public Utilities Code is amended to read:

99241. Except for allocations made for purposes of Section 99234 and subdivision (a) of Section 99400, which shall be subject to the rules and regulations adopted by the transportation planning agency, all matters necessary and convenient to the implementation of this chapter shall be subject to rules and regulations, consistent with statute, adopted by the department, with the advice and consent of the commission, and those rules and regulations may be revised from time to time.

The rules and regulations shall specify the procedures by which evaluation and review by the transportation planning agency of public transportation claims shall be accomplished, and shall require

submission of corresponding budgets or financial plans, certified financial statements, and other information required in connection therewith. The rules and regulations shall provide for the orderly and periodic distribution of moneys in the fund so that the areas served by the operator will be provided public transportation services on a continuing basis and so that there will be an orderly improvement and maintenance of the system of the operator. The rules and regulations shall provide for the approval of sufficient moneys from the fund to accomplish the intent of the Legislature as expressed in the findings and declarations in Section 99220.

The rules and regulations may require that the transportation planning agency, in reviewing claims, give due consideration to the level of the operator's passenger fares and charges, the efficiency of the operator's operations and operating policies and practices, the extent to which the operator is meeting the transportation needs of the area served, and the extent to which the operator is making full use of other available revenues and funds, including federal transportation grants.

Rules and regulations adopted by the department with respect to reporting and auditing procedures shall apply to all expenditures of funds allocated pursuant to this chapter.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 9. Section 99241 is added to the Public Utilities Code, to read:

99241. (a) Except for allocations made for purposes of Section 99234 and subdivision (a) of Section 99400, which shall be subject to the rules and regulations adopted by the transportation planning agency, all matters necessary and convenient to the implementation of this chapter shall be subject to rules and regulations, consistent with statute, adopted by the department, with the advice and consent of the commission, and those rules and regulations may be revised from time to time.

(b) The rules and regulations shall specify the procedures by which evaluation and review by the transportation planning agency of public transportation claims shall be accomplished, and shall require submission of corresponding budgets or financial plans, certified financial statements, and other information required in connection therewith. The rules and regulations shall provide for the orderly and periodic distribution of moneys in the fund so that the areas served by the operator will be provided public transportation services on a continuing basis and so that there will be an orderly improvement and maintenance of the system of the operator. The rules and regulations shall provide for the approval of sufficient moneys from the fund to accomplish the intent of the Legislature as expressed in the findings and declarations in Section 99220.

(c) The rules and regulations may require that the transportation planning agency, in reviewing claims, give due consideration to the

level of the operator's passenger fares and charges, the efficiency of the operator's operations and operating policies and practices, the extent to which the operator is meeting the transportation needs of the area served, and the extent to which the operator is making full use of other available revenues and funds, including federal transportation grants.

(d) The Controller shall annually review the rules and regulations adopted by the department with respect to reporting and auditing procedures and shall make written recommendations for revisions to the department. After consultation with the Controller, the director shall undertake to amend the rules and regulations in accordance with the recommendations.

(e) Rules and regulations adopted by the department with respect to reporting and auditing procedures shall apply to all expenditures of funds allocated pursuant to this chapter.

This section shall become operative on July 1, 1987.

SEC. 10. Section 99245 of the Public Utilities Code is amended to read:

99245. Each transportation planning agency, transit development board created pursuant to Division 11 (commencing with Section 120000), and county transportation commission shall be responsible to ensure that all claimants to whom it directs the allocation of funds pursuant to this chapter shall submit to it an annual certified fiscal audit conducted by an entity other than the claimant.

A report on the audit shall be submitted to the transportation planning agency, transit development board, county transportation commission, and to the Controller within 180 days after the end of the fiscal year. However, the responsible entity may grant an extension of up to 90 days as it deems necessary. The report shall include a certification that the funds allocated to the claimant pursuant to this chapter were expended in conformance with applicable laws and rules and regulations. Except for the first report, the report shall also include the audited amounts for the fiscal year prior to the fiscal year audited.

SEC. 11. Section 99248 of the Public Utilities Code is amended to read:

99248. No operator is eligible to receive an allocation under this chapter for any fiscal year until the transmittal of reports of its performance audit to the entity which determines the allocation to the operator, the transportation planning agency, and the director for the three-year period ending one year prior to the beginning of the fiscal year of the proposed allocation. The director shall compile the reports and make them available to interested parties.

In conformance with Section 99246, and prior to September 1 of each fiscal year, the transportation planning agency, county transportation commission, or metropolitan transit development board, as the case may be, shall provide to the director and Controller a schedule of performance audits to be submitted during

that fiscal year and a list of all operators or claimants who operated or commenced operations during the prior fiscal year.

SEC. 12. Section 99272 of the Public Utilities Code is amended to read:

99272. An operator that has a private pension plan shall be eligible for allocations under this article, on and after July 1, 1976, only if the operator does both of the following:

(a) Conducts periodic actuarial studies of its employee pension plans to determine the annual cost of future pension benefits.

(b) Sets aside and invests, on a current basis, funds sufficient to provide for the payment of future pension benefits.

SEC. 13. Section 99277 of the Public Utilities Code is amended to read:

99277. Claimants may contract on the basis of competitive bidding to provide community transit services.

SEC. 14. Section 99312 of the Public Utilities Code is amended to read:

99312. The funds transferred to the account pursuant to paragraph (1) of subdivision (a) of Section 7102 of the Revenue and Taxation Code shall be appropriated by the Legislature, as follows:

(a) To the director, 42 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

(b) To the director, 18 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(c) The remaining amount for public transportation purposes pursuant to Section 99315.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 15. Section 99312 is added to the Public Utilities Code, to read:

99312. The funds transferred to the account pursuant to paragraph (1) of subdivision (a) of Section 7102 of the Revenue and Taxation Code shall be appropriated by the Legislature, as follows:

(a) To the Controller, 42 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

(b) To the Controller, 18 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(c) The remaining amount for public transportation purposes pursuant to Section 99315.

This section shall become operative on July 1, 1987.

SEC. 16. Section 99312.7 of the Public Utilities Code is amended to read:

99312.7. Not later than each January 10th, the director shall send to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, an estimate of the amount of funds to be allocated to it during the next fiscal year pursuant to Sections 99313 and 99314.

Not later than each August 1st, on the basis of the amount appropriated in the Budget Act for purposes of Sections 99313 and 99314, the director shall send to each of the entities an estimate of the amount of funds to be allocated to it during the fiscal year.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 17. Section 99312.7 is added to the Public Utilities Code, to read:

99312.7. (a) Not later than each January 10th, the Controller shall send to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, an estimate of the amount of funds to be allocated to it during the next fiscal year pursuant to Sections 99313 and 99314.

(b) Not later than each August 1st, on the basis of the amount appropriated in the Budget Act for purposes of Sections 99313 and 99314, the Controller shall send to each of the entities an estimate of the amount of funds to be allocated to it during the fiscal year.

This section shall become operative on July 1, 1987.

SEC. 18. Section 99313 of the Public Utilities Code is amended to read:

99313. From the funds made available pursuant to subdivision (a) of Section 99312, an amount shall be allocated by the director to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, based on the ratio of the population of the area under its jurisdiction to the total population of the state.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 19. Section 99313 is added to the Public Utilities Code, to read:

99313. From the funds made available pursuant to subdivision (a) of Section 99312, an amount shall be allocated by the Controller to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, based on the ratio of the population of the area under its jurisdiction to the total population of the state.

This section shall become operative on July 1, 1987.

SEC. 20. Section 99314 of the Public Utilities Code is amended to read:

99314. (a) From funds made available pursuant to subdivision (b) of Section 99312, an amount shall be allocated by the director to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, based on the ratio of the total revenue of all the operators in the area under its jurisdiction during the prior fiscal year to the total revenue of all the operators in the state during the prior fiscal year.

(b) For purposes of this section and Section 99314.3, "revenue" means fare revenues and any other funds used by the operator for its transit operation, except federal and state funds which may only be used for transportation purposes and funds allocated pursuant to Section 99233. The revenue amount for each operator shall be determined from the annual report submitted to the Legislature by the Controller pursuant to Section 99243.5.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 21. Section 99314 is added to the Public Utilities Code, to read:

99314. (a) From funds made available pursuant to subdivision (b) of Section 99312, an amount shall be allocated by the Controller to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, based on the ratio of the total revenue of all the operators in the area under its jurisdiction during the prior fiscal year to the total revenue of all the operators in the state during the prior fiscal year.

(b) For purposes of this section and Section 99314.3, "revenue" means fare revenues and any other funds used by the operator for its transit operation, except federal and state funds which may only be used for transportation purposes and funds allocated pursuant to Section 99233. The revenue amount for each operator shall be determined from the annual report submitted to the Legislature by the Controller pursuant to Section 99243.5.

This section shall become operative on July 1, 1987.

SEC. 22. Section 99319.5 of the Public Utilities Code is repealed.

SEC. 23. Section 99400 of the Public Utilities Code is amended to read:

99400. Claims may be filed under this article with the transportation planning agency by counties and cities for the following purposes and by transit districts for the purposes specified in subdivisions (c) to (e), inclusive:

(a) Local streets and roads, and projects which are provided for use by pedestrians and bicycles.

(b) Payments to the National Railroad Passenger Corporation for passenger rail service under Section 403(b) of the Federal Rail Passenger Service Act (45 U.S.C. Sec. 563(b)).

(c) Payment to any entity which is under contract with a county, city, or transit district for public transportation or for transportation services for any group, as determined by the transportation planning

agency, requiring special transportation assistance.

If the county, city, or transit district is being served by an operator, the contract entered into by the county, city, or transit district shall specify the level of service to be provided, the operating plan to implement that service, and how that service is to be coordinated with the public transportation service provided by the operator. Prior to approving any claim filed under this section, the transportation planning agency, or the county transportation commission in a county with such a commission, shall make a finding that the transportation services contracted for under subdivision (c) are responding to a transportation need not otherwise being met within the community or jurisdiction of the claimant and that, where appropriate, the services are coordinated with the existing transportation service.

(d) Payments to counties, cities, and transit districts for their administrative and planning cost with respect to transportation services under subdivision (c).

(e) Notwithstanding any other provision of this chapter, a claimant for funds pursuant to subdivision (c) may also receive payments for capital expenditures to acquire vehicles and related equipment, bus shelters, bus benches, and communication equipment for the transportation services.

SEC. 24. Section 99407 of the Public Utilities Code is amended to read:

99407. Notwithstanding any other provision of this chapter, the transportation planning agency may approve claims filed by a city for the construction of facilities for the exclusive use of pedestrians and bicycles, if the city is not expected to be served by public transportation within three years of the filing of the claims.

CHAPTER 989

An act to amend Sections 44252, 44252.5, and 44830 of, and to add Sections 44252.8 and 44254.5 to, the Education Code, relating to credentialing.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 44252 of the Education Code is amended to read:

44252. (a) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(b) Commencing on February 1, 1983, the Commission on Teacher Credentialing shall not issue initially any credential, permit, certificate, or renewal of an emergency credential to any person to

serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language as provided in Section 44252.5. However, an emergency credential holder who has passed the basic skills proficiency test shall not be required to repeat the test in order to obtain a renewal of his or her emergency credential. The commission shall exempt from the basic skills proficiency test requirement any of the following persons:

(1) A person credentialed solely for the purpose of teaching adults in an apprenticeship program.

(2) An applicant for an adult education designated subject credential for other than an academic subject.

(3) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination which has been developed and administered by the school district offering that person employment, or by cooperating school districts, or by the appropriate county office of education. School districts administering a basic skills proficiency examination under this paragraph shall comply with the requirements of subdivision (h) of Section 44830. Such an applicant shall be granted a nonrenewable emergency credential, valid for not longer than one year, pending fulfillment of the basic skills proficiency requirement pursuant to Section 44252.5. The commission shall report to the Legislature no later than January 1, 1987, on the number of teachers receiving emergency credentials without fulfilling the basic skills proficiency requirement, the districts in which these teachers are employed, the number of teachers granted clear credentials after the expiration of an emergency credential granted under these conditions, and a comparison of success rate of these teachers on the basic skills test with the success rate of the general pool of credential applicants.

(4) An applicant for a child care center permit or a permit authorizing service in a development center for the handicapped, so long as the holder of the permit is not required to have a baccalaureate degree.

(5) The holder of a credential, permit, or certificate to teach, other than an emergency credential, who seeks an additional authorization to teach.

(6) An applicant for a credential to provide service in the health profession.

(c) By December 31, 1982, the Superintendent of Public Instruction shall adopt an appropriate state test to measure proficiency in these basic skills. In adopting the test, the superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The board shall also include representatives of local school boards, school administrators, parents, and postsecondary institutions.

The superintendent shall adopt any normed test that the

superintendent determines will sufficiently test basic skills for purposes of this section.

The superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to insure the effective implementation of this provision.

(d) Nothing in this section shall be construed as requiring the holders of, or applicants for, a designated subjects special subjects credential or vocational designated subject credential to pass the state basic skills proficiency test, unless the requirements for the specific credential required the possession of a baccalaureate degree. The governing board of each school district, or each governing board of a consortium of school districts, or each governing board involved in a joint powers agreement, which employs a holder of a designated subjects special subjects credential or vocational designated subject credential shall establish its own basic skills proficiency criteria for the holders of these credentials and shall arrange for those individuals to be assessed. The basic skills proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test.

(e) The commission shall compile data regarding the rate of passing the state basic skills proficiency test by persons who have been trained in various institutions of higher education. The data shall be available to members of the public, including to persons who intend to enroll in teacher education programs.

(f) Each applicant to an approved credential program, unless exempted by subdivision (b), shall take the state basic skills proficiency test in order to provide both the prospective applicant and the program with information regarding the applicant's proficiency level. Test results shall be forwarded to each California postsecondary institution to which the applicant has applied. The program shall use test results to ensure that upon admission, each applicant receives appropriate academic assistance necessary to pass the state basic skills proficiency test. Persons residing outside the state shall take the test no later than the second available administration following their enrollment in a credential program.

SEC. 2. Section 44252.5 of the Education Code is amended to read:

44252.5. (a) The commission shall administer the state basic skills proficiency test pursuant to Sections 44227, 44252, and 44830 in accordance with rules and regulations adopted by the commission. The adopted rules and regulations shall be promulgated by the commission before January 1, 1983, and shall be exempt from the requirements of Section 44232. A fee shall be charged to individuals being tested to cover the costs of the test, including the costs of

developing, administering, and grading the test. The commission shall establish the amount of this fee. However, the fee shall not exceed thirty dollars ($30) in the 1982–83 fiscal year, thirty-five dollars ($35) in the 1983–84 fiscal year, and forty dollars ($40) in subsequent fiscal years.

(b) The commission may enter into agreements with other states permitting the use of the state basic skills proficiency test as a requirement for the issuance of credentials or for teacher preparation program admission in those other states, provided that the use would advance the interests of the State of California and that the other states reimburse the Teacher Credentials Fund for a proportionate share of costs of the development and administration of the test.

(c) Any individual who passes the state basic skills proficiency test, as adopted by the Superintendent of Public Instruction, shall be considered proficient in the skills of reading, writing, and mathematics, and shall not be required to be retested by this test for purposes of meeting the proficiency requirements of Sections 44227, 44252, and 44830.

(d) Any individual who passes one or more components of the state basic skills proficiency test in the subjects of basic reading, writing, or mathematics, shall be deemed to have demonstrated his or her proficiency in these subject areas and shall not be required to be retested in these subjects during subsequent test administrations.

SEC. 3. Section 44252.8 is added to the Education Code, to read:

44252.8. (a) The commission may defer the state basic skills proficiency test requirement in any case when illness, a family death, or another similar and justifiable personal reason prevented a credential applicant who had registered to take the test from taking the test, or in any case when circumstances entirely beyond the control of the applicant prevented his or her receipt of proof of having passed the test. However, the commission shall not grant a deferral to any person who has failed the state basic skills proficiency test.

Any person granted a deferral pursuant to this section shall take the state basic skills proficiency test at the next available opportunity, or the deferral shall terminate. If any person granted a deferral fails to pass the test, the deferral shall terminate.

(b) The commission shall keep a record of deferrals granted, the persons to whom they were granted, and the reasons for the deferrals.

SEC. 4. Section 44254.5 is added to the Education Code, to read:

44254.5. (a) Commencing July 1, 1987, any person who does not hold a valid California teaching credential that requires a baccalaureate degree shall be required to pass the appropriate subject matter competency examination or examinations, pursuant to Article 5 (commencing with Section 44280), before he or she may be initially issued an emergency multiple or single subject teaching credential, except a 30-day emergency substitute teaching

credential, authorizing him or her to teach a subject that is specified in Section 44282.

(b) The commission may issue an emergency multiple or single subject teaching credential to an applicant who has not taken the appropriate subject matter competency test, provided the employing agency certifies all of the following to the commission:

(1) The applicant has not had an opportunity to take the test.

(2) The applicant will take the appropriate subject matter competency test at its next regularly scheduled administration.

(3) The employing agency will discontinue employment of the person eight weeks after the date on which the test is administered if he or she does not give the employing agency evidence of having passed the required subject matter competency test on that date.

(c) The emergency teaching credential issued pursuant to subdivision (b) shall expire on the next regular expiration date for emergency credentials, or on a date that is eight weeks after the date on which the required subject matter competency test was administered, whichever date comes first.

(d) The commission shall waive the requirements of this section for each applicant for each of the following:

(1) An emergency single subject teaching credential, if the applicant has completed at least 15 semester units of coursework, or six semester units of upper division or graduate coursework, at a regionally accredited institution of postsecondary education, in each subject to appear on the credential.

(2) An emergency multiple subject teaching credential, if the applicant has completed at least 10 semester units of coursework at a regionally accredited institution of postsecondary education in each of at least three of the four areas prescribed in Section 44314.

SEC. 5. 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.

CHAPTER 990

An act to amend Sections 18299, 18304, 18305, 18306, and 18307 of, to amend and renumber Section 18301 of, to add Section 18305.3 to, and to repeal Sections 18292, 18300, 18302, and 18303 of, the Welfare and Institutions Code, relating to domestic violence.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 18292 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 18299 of the Welfare and Institutions Code is amended to read:

18299. The centers shall maintain annual fiscal reports in a form to be prescribed by the county auditor and controller.

SEC. 3. Section 18300 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 18301 of the Welfare and Institutions Code is amended and renumbered to read:

18300. An annual report shall be prepared by each center for submission to the county board of supervisors. The report shall include, but not be limited to, the total number of persons requesting services of the centers, the number of persons served in the center by each type of service provided, and a description of the social and economic characteristics of persons receiving services by type of service provided. The report shall be made available to the public on request.

SEC. 5. Section 18302 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 18303 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 18304 of the Welfare and Institutions Code is amended to read:

18304. Any county may establish a program for reducing the incidence of domestic violence in the county by establishing or funding domestic violence programs which meet the requirements of this chapter.

Geographically adjacent counties may combine their respective

domestic violence programs special funds in order to establish one or more programs meeting the requirements of this chapter, in order to provide services to the clients of each county that combines its funds with another county.

SEC. 8. Section 18305 of the Welfare and Institutions Code is amended to read:

18305. At the time of issuance of a marriage license pursuant to Section 26840 of the Government Code, nineteen dollars ($19) of each fee paid shall be collected by the county clerk for deposit into the county domestic violence programs special fund. The fees collected in this special fund shall be disbursed to approved programs on a yearly or more frequent basis commencing July 1, 1980.

The board of supervisors shall direct the county clerk to deposit nineteen dollars ($19) of each fee into the county domestic violence programs special fund. The county domestic violence programs special fund shall fund programs established pursuant to Section 18304. No more than 8 percent of the funds shall be expended for the administrative costs associated with the collection and segregation of the additional marriage license fees, administration of the county special fund, monitoring of the programs, and meeting the other administrative requirements imposed by this chapter. Counties which do not participate in the establishing or funding of domestic violence programs pursuant to this chapter shall be entitled to retain up to 4 percent of the funds for the administrative costs associated with the collection and segregation of the additional marriage license fees and the deposit of these fees in the county domestic violence programs special fund.

SEC. 9. Section 18305.3 is added to the Welfare and Institutions Code, to read:

18305.3. The county board of supervisors shall consult with the local regional domestic violence coalition, consisting of representatives from existing domestic violence programs, in planning for the establishment of a new domestic violence center or for ongoing technical assistance for domestic violence centers already in the county.

SEC. 10. Section 18306 of the Welfare and Institutions Code is amended to read:

18306. In the event that a county does not have sufficient funds in the county domestic violence programs special fund to finance all the basic services specified in Section 18294 and community resources are not available to finance such basic services, the county may finance one or more of such basic services.

SEC. 11. Section 18307 of the Welfare and Institutions Code is amended to read:

18307. (a) Notwithstanding Section 18305, a county may carry over funds deposited in a county domestic violence programs special fund until such time as a domestic violence program is established to serve the needs of domestic violence victims of the county.

Records of these funds shall be available for public review upon request.

(b) Funds deposited in a county domestic violence programs special fund may be used only to finance all, or one or more, basic services specified in Section 18294. This subdivision is declaratory of existing law.

CHAPTER 991

An act relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. The Trustees of the California State University shall submit to the California Postsecondary Education Commission, by December 1, 1986, a study of the time required to attain an undergraduate degree by students who received undergraduate degrees between the period 1975 and 1985, to the extent data is available. The commission shall review and comment on the study, and make recommendations to the Governor and the education policy committees of the Legislature on or before March 15, 1987.

(a) The study shall identify the number and proportion of undergraduate students, by campus and ethnicity, who (1) graduated in four academic years, (2) graduated in between four and five academic years, (3) graduated in more than five academic years, and (4) were confronted with impacted majors after completing their lower division coursework.

(b) The study shall include a sample of students who took more than four years to graduate, to determine the reasons for their delay in completing an undergraduate degree program.

SEC. 2. The Regents of the University of California shall submit to the California Postsecondary Education Commission, by December 1, 1986, a study of the time required to attain an undergraduate degree by students who received undergraduate degrees between the period 1975 and 1985, to the extent data is available. The commission shall review and comment on the study, and make recommendations to the Governor and the education policy committees of the Legislature on or before March 15, 1987.

(a) The study shall identify the number and proportion of undergraduate students, by campus and ethnicity, who (1) graduated in four academic years, (2) graduated in between four and five academic years, (3) graduated in more than five academic years, and (4) were confronted with impacted majors after completing their lower division coursework.

(b) The study shall include a sample of students who took more than four years to graduate, to determine the reasons for their delay in completing an undergraduate degree program.

(c) No provision of this section shall apply to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

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 persistence study required by this act be completed as expeditiously as possible so that important issues involving the quality of undergraduate education at California's public colleges and universities may be addressed, it is necessary that this act take effect immediately.

CHAPTER 992

An act to amend Section 1328d of, and to add Section 872.5 to, the Penal Code, relating to evidence.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 872.5 is added to the Penal Code, to read:

872.5. The best evidence rule shall not apply to preliminary examinations.

SEC. 2. Section 1328d of the Penal Code is amended to read:

1328d. Notwithstanding Section 1328, a subpoena may be delivered by mail or messenger. Service shall be effected when the witness acknowledges receipt of the subpoena to the sender, by telephone, by mail, or in person, and identifies himself or herself by reference to his or her date of birth and his or her driver's license number or Department of Motor Vehicles identification card number. The sender shall make a written notation of the identifying information obtained during any acknowledgment by telephone or in person. A subpoena issued and acknowledged pursuant to this section shall have the same force and effect as a subpoena personally served. Failure to comply with a subpoena issued and acknowledged pursuant to this section may be punished as a contempt and the subpoena may so state; provided, that a warrant of arrest or a body attachment may not be issued based upon a failure to appear after being subpoenaed pursuant to this section.

A party requesting a continuance based upon the failure of a witness to appear in court at the time and place required for his or her appearance or testimony pursuant to a subpoena, shall prove to

the court that the party has complied with the provisions of this section. Such a continuance shall only be granted for a period of time which would allow personal service of the subpoena and in no event longer than that allowed by law, including the requirements of Sections 861 and 1382.

CHAPTER 993

An act to amend Section 25211 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 25211 of the Public Resources Code is amended to read:

25211. The commission may appoint a committee of not less than two members of the commission to carry on investigations, inquiries, or hearings which the commission has power to undertake or to hold. At least one member of the committee shall attend all public hearings or other proceedings held pursuant to Chapter 6 (commencing with Section 25500), and all public hearings in biennial report proceedings and rulemaking proceedings, except that, upon agreement of all parties to a proceeding who are present at the hearing or proceeding, the committee may authorize a hearing officer to continue to take evidence in the temporary absence of a commission member. Every order made by the committee pursuant to the inquiry, investigation, or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be the order of the commission.

CHAPTER 994

An act to amend Section 14010 of the Corporations Code, to amend Sections 15323, 15325, 15333, 15335.11, 15355, 15355.3, 15355.5, 15364.51, 15364.52, 15364.54, 15382, 15384, 15385, and 15394 of the Government Code, and to amend Section 2 of Chapter 1601 of the Statutes of 1985, relating to the Department of Commerce, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 14010 of the Corporations Code, as amended by Section 2 of Chapter 1235 of the Statutes of 1984, is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business development corporation created pursuant to this part.

(b) "Financial institution" means banking organizations including national banking associations and state-chartered commercial banks and trust companies; savings and loan associations; state insurance companies; mutual insurance companies; and other banking, loaning, retirement, and insurance organizations.

(c) "Economically disadvantaged area" means the area or areas within the region of a corporation consisting of those contiguous census tracts within urbanized areas as defined by the most recent federal decennial census, in which 20 percent or more of the families were reported by the most recent federal decennial census to have an annual income of less than the poverty level established by the Bureau of the Census, or comparable areas which, because of technical factors, cannot be isolated by census tracts. The definition set forth in this subdivision shall be reviewed periodically and the board shall recommend necessary changes to the Legislature and the Governor.

(d) "Area of high youth unemployment and high youth delinquency" shall be defined by the board.

(e) "Region" means an area containing a population of not less than 500,000 and including within its boundaries one or more economically disadvantaged areas, and in which members of a corporation conduct normal business operations.

(f) Unless otherwise defined by the board, "small business" means a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations, and including those businesses organized for agricultural purposes.

(g) "Employment incentive loan" means a loan for the purpose of attracting new business to, or expanding an existing business, which over the period of the loan will result in the new or continued employment of at least 15 persons who are either persons residing in economically disadvantaged areas or youths residing in areas of high youth unemployment and high youth delinquency.

(h) "Member" means any organization, individual, financial institution, nonprofit organization, or other business authorized to operate within this state which undertakes to make resources

available to a corporation in accordance with this chapter.

(i) "Resources" means monetary contributions, donation of consultants, personnel, facilities, equipment, loan services, and other items or services as defined by the corporation.

(j) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on every loan application pursuant to Article 7.5 (commencing with Section 14066).

(k) "Membership agreement" means an agreement between a corporation and any individual, financial institution, nonprofit organization, or other business under which agreement the individual, financial institution, nonprofit organization, or other business agrees to make available or contribute resources to the corporation in accordance with Article 8 (commencing with Section 14075).

(*l*) "Board of directors" means the board of directors of the corporation.

(m) "OSB" means the Office of Small Business.

(n) "Board" means the Small Business Development Board.

(o) "Department" means the Department of Commerce.

(p) "Executive director" means the Executive Director of the Office of Small Business.

(q) "UDC" means an urban development corporation.

(r) "RDC" means a rural development corporation.

(s) "Director" means the Director of Commerce.

(t) "Financial aid" means the infusion of risk capital to small businesses for use in the development and exploitation of specific inventions and products.

(u) "Invention" means any new process or new technique without regard to whether a patent has or could be granted.

(v) "Product" means any product, device, technique, or process, which is or may be exploitable commercially. That term shall not refer to pure research but shall be construed to apply to the products, devices, techniques, or processes which have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice.

(w) "Venture" means, without limitation, any contractual arrangement with any person whereby the corporation obtains rights from or in an invention or product or proceeds therefrom in exchange for granting of financial aid to that person.

SEC. 2. Section 14010 of the Corporations Code, as added by Section 6 of Chapter 770 of the Statutes of 1983, is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business development corporation created pursuant to this part.

(b) "Financial institution" means banking organizations including national banking associations and state-chartered

commercial banks and trust companies; savings and loan associations; state insurance companies; mutual insurance companies; and other banking, loaning, retirement, and insurance organizations.

(c) "Economically disadvantaged area" means the area or areas within the region of a corporation consisting of those contiguous census tracts within urbanized areas as defined by the most recent federal decennial census, in which 20 percent or more of the families were reported by the most recent federal decennial census to have an annual income of less than the poverty level established by the Bureau of the Census, or comparable areas which because of technical factors, cannot be isolated by census tracts. The definition set forth in this subdivision shall be reviewed periodically and the board shall recommend necessary changes to the Legislature and the Governor.

(d) "Area of high youth unemployment and high youth delinquency" shall be defined by the board.

(e) "Region" means an area containing a population of not less than 500,000 and including within its boundaries one or more economically disadvantaged areas, and in which members of a corporation conduct normal business operations.

(f) Unless otherwise defined by the board, "small business" means a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations, and including those businesses organized for agricultural purposes.

(g) "Employment incentive loan" means a loan for the purpose of attracting new business to, or expanding an existing business, which over the period of the loan will result in the new or continued employment of at least 15 persons who are either persons residing in economically disadvantaged areas or youths residing in areas of high youth unemployment and high youth delinquency.

(h) "Member" means any organization, individual, financial institution, nonprofit organization or other business authorized to operate within this state which undertakes to make resources available to a corporation in accordance with this chapter.

(i) "Resources" means monetary contributions, donation of consultants, personnel, facilities, equipment, loan services, and other items or services as defined by the corporation.

(j) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on every loan application pursuant to Article 7.5 (commencing with Section 14066).

(k) "Membership agreement" means an agreement between a corporation and any individual, financial institution, nonprofit organization, or other business under which agreement such individual, financial institution, nonprofit organization, or other business agrees to make available or contribute resources to the corporation in accordance with Article 8 (commencing with Section 14075).

(*l*) "Board of directors" means the board of directors of the corporation.

(m) "OSB" means the Office of Small Business.

(n) "Board" means the Small Business Development Board.

(o) "Department" means the Department of Commerce.

(p) "Executive director" means the Executive Director of the Office of Small Business.

(q) "UDC" means an urban development corporation.

(r) "RDC" means a rural development corporation.

(s) "Director" means the Director of Commerce.

SEC. 3. Section 15323 of the Government Code is amended to read:

15323. The director shall do all of the following:

(a) Perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the department.

(b) Keep all books and records necessary for proper and efficient administration of the department.

(c) Serve as the Governor's principal staff adviser on economic development.

(d) Serve as executive director of the state economic development regional commission as designated by the Secretary of the United States Department of Commerce pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended.

(e) Report on or before March 1 of each year to the Governor, the Legislature, and the Secretary of the Business, Transportation and Housing Agency regarding the efforts and activities of the department.

(f) Advise the Governor, the Legislature, and the Secretary of the Business, Transportation and Housing Agency on the problems, recommendations, and concerns of the business community, including the impact of governmental policies and regulations and the expected impact of proposed policies and regulations which may adversely affect beneficial economic development.

SEC. 4. Section 15325 of the Government Code is amended to read:

15325. The work of the department shall be divided into the following six offices:

(a) The Office of Economic Research.

(b) The Office of Local Development.

(c) The Office of Business Development.

(d) The Office of Tourism.

(e) The Office of Small Business.

(f) The California Film Office.

SEC. 5. Section 15333 of the Government Code is amended to read:

15333. The Office of Business Development shall perform the following functions and activities:

(a) Represent the Secretary of the Business, Transportation and Housing Agency in establishing clear lines of communication with California business.

(b) Advise the director on the problems and concerns of the business community, particularly those unique to California's small businesses.

(c) Review recommendations from the business community and advise the director on proposals affecting business conditions in California.

(d) Act as liaison between the business community and all departments of state government on issues affecting business development and insure that the findings and recommendations of each department are reported to the director.

(e) Cooperate with public and private agencies engaged in promoting and encouraging the location and development of new businesses in the state as well as the maintaining and expanding of existing businesses.

(f) Aid business concerns in their relationships with appropriate federal and state agencies such as procurement and lending agencies and the Small Business Administration.

(g) Market California as a cost-effective and advantageous place for businesses to locate or expand. This subdivision shall not be construed to require any local government to participate, except in a voluntary manner, in this program.

SEC. 6. Section 15335.11 of the Government Code is amended to read:

15335.11. The Office of Small Business shall include in the department's report to the Legislature and to the Governor, as required by subdivision (e) of Section 15323, the steps which have been taken to fulfill the purpose of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code, which report shall describe:

(a) Action taken to encourage the formation of small business, urban and rural, development corporations.

(b) Evaluation of corporations formed under this part, including the most recent annual financial statements of each corporation.

(c) The number of businesses financially assisted through small business and employment-incentive loans, and the number of jobs created or retained through employment-incentive loans made pursuant to this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(d) The number of persons requesting information and attending conferences cosponsored by the office, and the total number of publications issued or sold under this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(e) Recommendations for action by the Governor and the Legislature to carry out the purposes of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 7. Section 15355 of the Government Code is amended to read:

15355. The Director of Commerce, in cooperation with the advisory committee created pursuant to Section 15355.5, shall prepare and update an industrial marketing plan which shall contain all of the following:

(a) Identification of the industries, industry segments, geographic regions, or other groups and factors to be targeted by the marketing program.

(b) A listing of the themes or advertising messages to be presented to the target audiences.

(c) Identification of the means to be used to communicate information to the target groups. Possible communication mechanisms may include personal contact, direct mail, publication dissemination, trade show attendance, and print media and radio advertising.

(d) Summary of the market research upon which the development of the marketing plan was based.

(e) Methods to be used to test the effectiveness of the program.

(f) An expenditure and implementation plan which specifies the costs and timetable for carrying out the proposed marketing program.

SEC. 8. Section 15355.3 of the Government Code is amended to read:

15355.3. (a) The director shall report on or before March 1 of each year to the Governor and the Legislature on the industrial marketing program. The first annual report shall contain all of the following:

(1) The types of information and data to be available and used by the department in responding to corporations inquiring about industrial sites in California.

(2) The methods which the department will use to collect, update, and disseminate that information and data.

(3) The methods that the department will use to ensure that all regions of the state, particularly economically distressed and nonmetropolitan areas, have reasonable access to referrals of corporate inquires for which those regions may be well suited.

(b) Subsequent annual reports shall contain all of the following:

(1) The updated industrial marketing and inquiry response plans.

(2) Information on the impact of the marketing program on:

(A) Corporate inquiries.

(B) Plant locations and expansions, including data on their geographic distribution by county.

(C) Employment in the state.

(D) State and local tax receipts.

(E) Other factors as determined by the director in cooperation with the advisory committee.

(3) A record of the geographic distribution of inquiry referrals the department makes to local entities.

SEC. 9. Section 15355.5 of the Government Code is amended to read:

15355.5. (a) The director shall convene an advisory committee which shall make recommendations to the director on the implementation of this article including the preparation and updating of the industrial marketing plan.

(b) The committee members shall represent the diversity of people, regions, and industries of the state.

(c) The director shall consult with the following on the selection of the advisory committee members:

(1) The Lieutenant Governor.

(2) The Chairperson of the Assembly Committee on Economic Development and New Technologies.

(3) The Chairperson of the Joint Committee on the State's Economy.

SEC. 10. Section 15364.51 of the Government Code is amended to read:

15364.51. It is the intention of the Legislature in enacting this part to do all of the following:

(a) Reaffirm a commitment to the fostering of the economic activity inherent in tourism promotion as delineated as a mandate to the Department of Commerce and to the Office of Tourism.

(b) To provide for an effective means of promoting and marketing the State of California as a destination for tourists on a worldwide basis, to provide the private sector with a more effective means of promoting tourism efforts and a forum for removing obstacles to overall tourism growth in order for California to remain competitive in the world tourism marketplace.

(c) Optimize the contribution of the tourism-related industries to the state's economic prosperity and to expand employment opportunities.

(d) Make the opportunity for, and benefits of, tourism in the state accessible to its residents and visitors and insure that present and future generations are afforded adequate tourism resources and attractions.

(e) Encourage the preservation and use of California historic and scenic environments to enhance the state's appeal as a destination for domestic and international tourism.

(f) Encourage California residents to take maximum advantage of travel and tourism opportunities within the State of California by enabling them to obtain accurate, timely, up-to-date travel and tourism information benefiting both urban and rural travelers in various regions of the state.

(g) Contribute to personal growth, health, education, and intercultural appreciation of the geography, history, arts, and ethnicity of the State of California.

(h) Encourage the free and welcome entry of individuals traveling to the state in order to enhance international understanding and goodwill, consistent with immigration laws, the

laws protecting the public health, and laws governing the importation of goods into the United States and state law.

(i) Encourage investment in new tourism facilities and renovation of older facilities.

(j) Assist in the collection, analysis, and timely dissemination of data which accurately measure the economic and social impact of tourism to, and within, the state in order to facilitate planning in the public and private sectors.

(k) Harmonize, to the maximum extent possible, all state activities in support of tourism and recreation with the needs of the general public, local governments, and the private sector, and to give leadership to all concerned with tourism in California.

SEC. 11. Section 15364.52 of the Government Code is amended to read:

15364.52. (a) There is hereby created in state government a California Tourism Commission, located within the Department of Commerce, which shall consist of the Secretary of the Business, Transportation and Housing Agency, who shall serve as the chairperson of the commission; the Director of Commerce, who shall serve as vice chairperson of the commission and nine other members appointed as follows:

(1) Five members shall be appointed by the Governor who are able persons, professionally active in the tourism industry representing diverse segments of that industry.

(2) One Member of the Senate shall be appointed by the Senate Rules Committee and one Member of the Assembly shall be appointed by the Speaker of the Assembly. These members shall be ex officio, nonvoting members of the commission.

(3) Two members, who are able persons professionally active in the tourism industry representing diverse segments of that industry, shall be appointed one each by the Senate Rules Committee and the Speaker of the Assembly.

(b) The Director of the Office of Tourism shall serve as secretary to the commission, and shall keep the minutes and records of all commission meetings and provide staff and whatever supportive services necessary to the activities of the commission.

(c) The commission shall meet quarterly and at other times and places as the chairperson may designate for the purpose of transacting the commission's business. Each commission member shall serve without compensation but shall be reimbursed for traveling and other expenses necessarily incurred in the performance of duties.

(d) The commission shall, in cooperation with the Office of Tourism, the department, and the agency, adopt, and annually update, a tourism marketing plan for the State of California. The plan shall, to the extent practical and feasible, do all of the following:

(1) Serve as a guide for effectuating the California Tourism Policy Act, within available resources.

(2) Include an assessment of the activities and accomplishments

of the Office of Tourism.

(3) Outline the intended program of tourism promotion and visitor service activities for the oncoming year.

(4) Delineate the ways, means, and programs by which tourism shall be promoted, including any cost-effective marketing methods and techniques to be employed.

(5) Identify resources as are reasonably necessary, from all sources both public and private, to accomplish these promotion and marketing activities.

(6) Identify and articulate cooperative or shared cost programs, or opportunities for these ventures, with private entities.

(7) Contain other information, data, or recommendations which may be germane to the marketing efforts of California pursuant to the intent of this chapter.

(e) The commission, in cooperation with the Office of Tourism, may convene such committees consisting of qualified professionals and experts in various segments of the tourism industry as may be required to aid in the preparation of, or revision of, the marketing plan, or parts thereof, and as may from time to time be appropriate to further the purposes of this chapter.

(f) The commission shall work to the maximum extent practicable with those private associations, nonprofit corporations, organizations, or other private entities whose purpose includes the promotion of California tourism.

(g) Members of the California Tourism Commission and the staff of the Office of Tourism, when traveling to foreign countries or attending international travel trade shows, shall do so in cooperation with the California State World Trade Commission to preserve its ambassadorial function.

SEC. 12. Section 15364.54 of the Government Code is amended to read:

15364.54. The director shall report on or before March 1 of each year to the Governor, the Legislature, and the California Tourism Commission. Each report shall do all of the following:

(a) Detail the tourism marketing plan which has been adopted for the upcoming fiscal year.

(b) Assess the overall benefits and effectiveness of the tourism marketing and advertising program.

(c) Include documentation of the directly attributable benefits of the marketing program to all of the following:

(1) California's tourism industry.

(2) Employment in California.

(3) State and local tax revenues.

(4) The state's lesser known and underutilized destinations.

(d) Identify additional data which needs to be collected to further and adequately assess the benefits of the program.

(e) Establish standarized and accurate methods to annually measure California's share of the domestic and international tourism markets and assess the impact of the marketing program in terms of

California's changing market share.

SEC. 13. Section 15382 of the Government Code is amended to read:

15382. For the purposes of this chapter:

(a) "SBDC" means a Small Business Development Center as defined by federal Public Law 96-302.

(b) "SBDC plan" means the plan required by the federal Small Business Administration pursuant to federal Public Law 96-302.

(c) "CSBDC" means the California Small Business Development Center, the administrative unit of the program.

(d) "Local service centers" means branch centers or service delivery units.

(e) "Lead organization" means the Department of Commerce which is the formal applicant for the Small Business Development Center program pursuant to federal Public Law 96-302.

SEC. 14. Section 15384 of the Government Code is amended to read:

15384. There is hereby created within the department a California Small Business Development Center. The CSBDC shall be administered according to the SBDC plan. The department shall develop an SBDC plan for submission to the federal Small Business Administration. The SBDC plan shall be developed by the department with the assistance of the following:

(a) The Office of Small Business within the Department of Commerce.

(b) The Office of Small and Minority Business within the Department of General Services.

(c) The Employment Development Department.

(d) The Chancellor of the California Community Colleges.

(e) The Chancellor of the California State University.

(f) The President of the University of California.

(g) The California Private Industry Councils.

(h) The Chairpersons of the Assembly Select Committee on Small Business, the Senate Select Committee on Small Business Enterprises, the Assembly Committee on Economic Development and New Technologies, and the Joint Committee on the State's Economy.

The department may also solicit assistance from any other private, state, local, or federal entity which assists small businesses.

SEC. 15. Section 15385 of the Government Code is amended to read:

15385. In accordance with the plan developed pursuant to Sections 15383 and 15384, the Director of the CSBDC shall be appointed, upon the recommendation by the Director of Commerce, by the Governor. The director shall hold office at the pleasure of the Governor, and shall receive a salary as shall be fixed by the Director of Commerce with the approval of the Department of Personnel Administration.

The services to be provided by the local service centers as defined

in the SBDC plan may be performed by independent contractors or by interagency agreements with public institutions, as designated by the CSBDC.

SEC. 16. Section 15394 of the Government Code is amended to read:

15394. (a) There is hereby created the California Export Finance Board in the California Export Finance Office. The board shall consist of seven members as follows:

(1) The Director of Food and Agriculture or his or her designee.

(2) The Executive Director of the Office of Small Business or his or her designee.

(3) One appointment by the Governor. The appointee shall be knowledgeable about, and experienced in, the exporting and export finance needs of California agriculture.

(4) Two appointments from export firms, one each by the World Trade Commission and the Speaker of the Assembly.

(5) Two appointments from financial institutions, one each by the California State World Trade Commission and the President pro Tempore of the Senate.

Export representatives appointed under paragraph (4) shall be experienced in exporting, knowledgeable about the needs and problems of small and entrepreneurial exporters, and actively employed with an exporting firm, export trading company, or export management company.

Financial institution representatives appointed under paragraph (5) shall be experienced in export financing, knowledgeable about the export financing needs and problems of small and entrepreneurial exporters, and actively employed with a financial institution.

Appointments by the California State World Trade Commission shall be drawn, and all other appointments may be drawn, from the membership of the California State World Trade Commission and its advisory council.

(b) The appointed members to the board referred to in subdivision (a) shall be appointed within 30 days of the effective date of this chapter.

(c) Upon appointment of at least three members under paragraphs (3), (4), and (5) of subdivision (a), the board may commence formal action pursuant to this chapter, but in no case shall this be later than 60 days after the effective date of this chapter.

(d) The Chairperson of the California State World Trade Commission shall call the initial meeting of the board, serve as interim chair of the board until a chair has been elected, and provide other assistance related to the startup of the program as is necessary and reasonable.

(e) The initial appointments of the commission and the Governor under subdivision (a) shall be for three-year terms. The remaining appointments under subdivision (a) and all subsequent appointments shall be for two-year terms. Appointees shall serve at

the pleasure of the appointing authority and vacancies shall be filled by the appointing authority.

(f) Board members who are not employees of the state shall receive one hundred dollars ($100) for each day they attend board meetings, per diem equal to that received by state employees, or reimbursement for actual and necessary expenses in attending board meetings and conducting board business as determined by the board.

SEC. 17. Section 2 of Chapter 1601 of the Statutes of 1985 is amended to read:

Sec. 2. There is hereby appropriated the sum of seven hundred eighty-five thousand dollars ($785,000) from the General Fund to the Director of Commerce, without regard to fiscal years, for allocation as a grant to a nonprofit corporation for the purpose of implementing Phase II planning for the Hollywood Exposition and Museum. The nonprofit corporation to which these funds are granted shall have as its primary purpose the planning, construction, and operation of a Hollywood Exposition and Museum, which would include exhibits dealing with the past, present, and future of the entertainment industry. Phase II planning shall include the establishment of a fundraising committee and the completion of architectural and exhibit design work, including detailed cost estimates and construction and exhibit development schedules.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the technical revisions made by this bill to work with optimum efficiency, it is necessary for this act to take effect immediately.

CHAPTER 995

An act to amend Section 7068 of, and to amend, repeal, and add Section 7028.7 of, the Business and Professions Code, relating to contractors, and making an appropriation therefor.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. (a) It is the intent of the Legislature in enacting the contractors' license application amnesty program, as provided in this act, to improve compliance within the Contractors' State License Law. The Legislature hereby finds and declares that a public purpose is served by the acceptance of experience and knowledge gained without benefit of a valid California contractor's license, or obtained without meeting the requirements of Section 7068 of the Business

and Professions Code, in return for increasing the numbers of licensees regulated by, and subject to, the enforcement of the Contractors' State License Law.

The benefits gained by the program include, among other things, providing an opportunity for persons to use experience gained prior to January 1, 1987, to become licensed before increased penalties for unlicensed activity take effect in 1988. The state will also experience increased revenues from bringing into the license system persons who have legally evaded the expenses of conducting business, including, for example, state taxes, workers compensation coverage, and unemployment insurance. The Legislature hereby finds that the evasion of these expenses by unlicensed contractors has, in effect, created unfair advantages in competing with legally licensed contractors in this state.

(b) It is further the intent of the Legislature that an amnesty period be provided for, between January 1, 1987, and January 1, 1988, during which time any person contracting without benefit of a valid California contractor's license may apply to the Contractors' State License Board for that license and may use all valid experience gained prior to, but not after, January 1, 1987, to meet the experience or knowledge requirements of Section 7068 of the Business and Professions Code. If an order of abatement has been issued to that person, no experience gained after the order was issued shall be accepted.

(c) It is further the intent of the Legislature that the amnesty program shall be a one-time only occurrence which shall not be repeated in the future, since any expectations of future amnesty programs could have a counterproductive effect on compliance with the Contractors' State License Law.

(d) On and after January 1, 1988, subdivision (c) of Section 7068 of the Business and Professions Code shall be strictly enforced by the registrar and no experience or knowledge gained between January 1, 1987, and January 1, 1988, may be used to meet the experience or knowledge requirements of Section 7068 of the Business and Professions Code.

SEC. 2. Section 7028.7 of the Business and Professions Code is amended to read:

7028.7. If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person. Each citation shall be in writing and shall describe with particularity the basis of the citation. Each citation may contain an order of abatement and an assessment of a civil penalty in an amount not to exceed three thousand dollars ($3,000). With the approval of the Contractors' State License Board the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State

License Board shall adopt regulations covering the assessment of a civil penalty which shall give due consideration to the gravity of the violation, the good faith of the person cited, and any history of previous violations. The sanctions authorized under this section shall be separate from and in addition to all other remedies either civil or criminal.

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

SEC. 3. Section 7028.7 is added to the Business and Professions Code, to read:

7028.7. If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person. Each citation shall be in writing and shall describe with particularity the basis of the citation. Each citation shall contain an order of abatement and an assessment of a civil penalty in an amount not less than one thousand five hundred dollars ($1,500) nor more than four thousand five hundred dollars ($4,500). With the approval of the Contractors' State License Board the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State License Board shall adopt regulations covering the assessment of a civil penalty which shall give due consideration to the gravity of the violation, and any history of previous violations. The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

This section shall become operative January 1, 1988.

SEC. 4. Section 7068 of the Business and Professions Code is amended to read:

7068. (a) The board shall require an applicant to show such degree of knowledge and experience in the classification applied for, and such general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(b) An applicant shall qualify in regard to his or her experience and knowledge in one of the following ways:

(1) If an individual, he or she shall qualify by personal appearance or by the appearance of his or her responsible managing employee who is qualified for the same license classification as the classification being applied for.

(2) If a copartnership or a limited partnership, it shall qualify by the appearance of a general partner or by the appearance of a responsible managing employee who is qualified for the same license classification as the classification being applied for.

(3) If a corporation, or any other combination or organization, it shall qualify by the appearance of a responsible managing officer or

responsible managing employee who is qualified for the same license classification as the classification being applied for.

(c) Any work required by this chapter to be performed by a licensed contractor which was performed on or after January 1, 1987, by an applicant who was neither licensed nor exempted from licensure may not be used to meet the experience or knowledge requirements of this section.

(d) A responsible managing employee for the purpose of this chapter shall mean an individual who is a bona fide employee of the applicant and is actively engaged in the classification of work for which that responsible managing employee is the qualifying person in behalf of the applicant.

Any work required by this chapter to be performed by a licensed contractor which was performed prior to January 1, 1987, by an applicant who was neither licensed nor exempted from licensure may be used until January 1, 1988, to meet the knowledge and experience requirements of this section.

(e) The board shall, in addition, require an applicant who qualifies by means of a responsible managing employee under either paragraph (1) or (2) of subdivision (b) to show his or her general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(f) Except in accordance with Section 7068.1, no person qualifying on behalf of an individual or firm under paragraph (1), (2), or (3) of subdivision (b) shall hold any other active contractor's license while acting in the capacity of a qualifying individual pursuant to this section.

(g) At the time of application for renewal of a license, the responsible managing individual shall file a statement with the registrar, on a form prescribed by the registrar, verifying his or her capacity as a responsible managing individual to the licensee.

(h) Statements made by or on behalf of an applicant as to the applicant's experience in the classification applied for shall be verified by a qualified and responsible person. In addition, the registrar shall, as specified by board regulation, randomly review a percentage of such statements for their veracity.

(i) Any licensee who has qualified for a license prior to January 1, 1980, by means of a responsible managing employee or officer, shall be permitted to continue as a licensee until January 1, 1982, during which time that licensee shall convert his or her qualifying status to conform with the requirements of this section as amended at the 1979–80 Regular Session of the Legislature.

(j) The registrar shall review experience gained by applicants from other states to determine whether all of that experience was gained in accordance with the contractors' licensing laws of that state.

SEC. 5. (a) The sum of seven hundred twenty-four thousand dollars ($724,000) is hereby appropriated from the Contractors'

License Fund to the Contractors' State License Board for the 1986–87 fiscal year for allocation for purposes of administering the contractors' license amnesty program, and for purposes of personnel and operating expenses necessary to implement the amnesty program.

(b) It is the intent of the Legislature that funding for the contractors' license amnesty program during the 1987–88 and 1988–89 fiscal years shall be included in the annual budget process for those fiscal years.

CHAPTER 996

An act to amend Section 980 of the Government Code, relating to public works contracts.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 980 of the Government Code is amended to read:

980. Whenever a request for payment from a local entity pursuant to the terms of a contract for the construction of a public works project as defined in Section 1720 of the Labor Code is properly filed and the validity of the claim is not disputed or has been settled or agreed upon, payment of the claim by the disbursing officer of the local public entity shall include interest at the legal rate of 7 percent per annum commencing on the date upon which the claim was submitted if payment has not been made by the 60th day after the proper submission of the claim.

SEC. 2. 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 997

An act to amend Sections 2550, 2551, 2554, and 2555 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 2550 of the Streets and Highways Code is amended to read:

2550. A Service Authority for Freeway Emergencies may be established in any county if the board of supervisors of the county and the city councils of a majority of the cities within the county having a majority of the population of cities within the county adopt resolutions providing for the establishment of the authority. The resolutions may designate the county transportation commission for the county, created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code, as the Service Authority for Freeway Emergencies. The powers of a commission so designated are limited to those of the Service Authority for Freeway Emergencies.

SEC. 2. Section 2551 of the Streets and Highways Code is amended to read:

2551. An authority, other than a county transportation commission designated pursuant to Section 2550, shall have 7 members, with 2 members selected by the board of supervisors and 5 members selected jointly by the city councils of cities within the county.

SEC. 3. Section 2554 of the Streets and Highways Code, as amended by Chapter 124 of the Statutes of 1986, is amended to read:

2554. (a) Except as provided by subdivision (b), the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance, and operation of an emergency motorist aid system for emergency call boxes, including the lease or lease-purchase of facilities and equipment for the system, on the portions of the California Freeway and Expressway System located within the county in which the authority is established. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of an emergency motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

An authority or any other public entity may construct and maintain, and lease or lease-purchase on such terms and conditions as it deems appropriate, the facilities of an emergency motorist aid system or it may contract with a private person or entity or public

entity to do so. The governing body of any public entity may provide contributions toward the costs and expenses of any work done under this chapter, or for any related lease or lease-purchase.

(b) If leases or lease-purchase agreements are entered into pursuant to subdivision (a), or if revenue bonds are issued and sold pursuant to Section 2555, the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used to the extent necessary to make lease payments or to pay the principal of, and interest on, the amount of bonded indebtedness outstanding, as the case may be. Facilities and equipment acquired through the expenditure of proceeds from the sale of those bonds shall have a useful life at least equal to the term of the bonds.

SEC. 3.5. Section 2554 of the Streets and Highways Code, as amended by Chapter 124 of the Statutes of 1986, is amended to read:

2554. (a) Except as provided by subdivision (b), the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance, and operation of an emergency motorist aid system for emergency call boxes, including the lease or lease-purchase of facilities and equipment for the system, on the portions of the California Freeway and Expressway System, and on state highway routes that connect segments of the system, which are located within the county in which the authority is established and over which the Department of the California Highway Patrol has law enforcement responsibility. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of an emergency motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

An authority or any other public entity may construct and maintain, and lease or lease-purchase on such terms and conditions as it deems appropriate, the facilities of an emergency motorist aid system or it may contract with a private person or entity to do so.

(b) If leases or lease-purchase agreements are entered into pursuant to subdivision (a), or if revenue bonds are issued and sold pursuant to Section 2555, the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used to the extent necessary to make lease payments or to pay the principal of, and interest on, the amount of bonded indebtedness outstanding, as the case may be. Facilities and equipment acquired through the expenditure of proceeds from the sale of those bonds shall have a useful life at least equal to the term of the bonds.

SEC. 4. Section 2555 of the Streets and Highways Code is amended to read:

2555. (a) Subject to subdivision (b), any service authority may issue revenue bonds pursuant to Chapter 6 (commencing with Section 54300) of Division 2 of Title 5 of the Government Code, or

Chapter 5 (commencing with Section 4950) of Part 3 of Division 5 of the Health and Safety Code, as nearly as practicable, for the implementation and maintenance of an emergency motorist aid system for emergency call boxes and pledge revenues to be received from fees referred to in Section 2553. In addition, a service authority which has entered into one or more leases or lease-purchase agreements for facilities of an emergency motorist aid system may also pledge, as security for the payment of amounts due under such lease or agreements, revenues to be received from those fees. Bond proceeds shall not be used for operation of an emergency motorist aid system for emergency call boxes.

(b) A service authority may issue revenue bonds only during the two-year period immediately following the imposition of a fee pursuant to Section 2553.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 2554 of the Streets and Highways Code proposed by both this bill and AB 3660. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 2554 of the Streets and Highways Code, and (3) this bill is enacted after AB 3660, in which case Section 3 of this bill shall not become operative.

CHAPTER 998

An act to add Section 12026.1 to the Penal Code, relating to crime.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 12026.1 is added to the Penal Code, to read:

12026.1. (a) Section 12025 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle other than the utility or glove compartment.

(2) The firearm is carried by the person directly to or from any motor vehicle for any lawful purpose and, while carrying the firearm, the firearm is contained within a locked container .

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(c) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

CHAPTER 999

An act to add Section 1797.188 to the Health and Safety Code, relating to health.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 1797.188 is added to the Health and Safety Code, to read:

1797.188. (a) As used in this section:

(1) "Emergency medical technician" means Emergency Medical Technicians-I, Emergency Medical Technicians-II, Emergency Medical Technician-Paramedics, lifeguards and firefighters, and peace officers, as defined or described by Sections 1797.80, 1797.82, 1797.84, 1797.182, and 1797.183, respectively.

(2) "Reportable disease or condition" or "a disease or condition listed as reportable" means those diseases prescribed by Subchapter 1 (commencing with Section 2500) of Chapter 4 of Title 17 of the California Administrative Code, as may be amended from time to time.

(3) "Exposed" means at risk for contracting the disease, as defined by regulations of the state department.

(4) "Health facility" means a health facility, as defined in Section 1250, including a publicly operated facility.

(b) All emergency medical technicians, whether volunteers, partly paid, or fully paid who have provided emergency medical or rescue services and have been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, shall be notified that they have been exposed to the disease and should contact the county health officer if all the following are satisfied:

(1) The emergency medical technician, who has rendered emergency medical or rescue services and has been exposed to a person afflicted with a reportable disease or condition, provides the health facility with his or her name and telephone number at the time the patient is transferred from the emergency medical technician to the admitting health facility; or the party transporting the person afflicted with the reportable disease or condition provides that health facility with the name and telephone number of the emergency medical technician who provided the emergency

medical or rescue services.

(2) The health facility reports the name and telephone number of the emergency medical technician to the county health officer upon determining that the person to whom the emergency medical technician provided the emergency medical or rescue services is diagnosed as being afflicted with a reportable disease or condition.

(c) The county health officer shall immediately notify the emergency medical technician who has provided emergency medical or rescue services and has been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, upon receiving the report from a health facility pursuant to paragraph (1) of subdivision (b). The county health officer shall not disclose the name of the patient or other identifying characteristics to the emergency medical technician.

Nothing in this section shall be construed to authorize the further disclosure of confidential medical information by the health facility or any of the emergency medical technicians described in this section except as otherwise authorized by law.

In the event of the demise of the person afflicted with the reportable disease or condition, the health facility or county health officer shall notify the funeral director, charged with removing the decedent from the health facility, of the reportable disease prior to the release of the decedent from the health facility to the funeral director.

Notwithstanding Section 1798.206, violation of this section is not a misdemeanor.

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 1000

An act to amend Section 704.730 of the Code of Civil Procedure, relating to homesteads.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 704.730 of the Code of Civil Procedure is amended to read:

704.730. (a) The amount of the homestead exemption is one of the following:

(1) Thirty thousand dollars ($30,000) unless the judgment debtor or spouse of the judgment debtor who resides in the homestead is a person described in paragraph (2) or (3).

(2) Forty-five thousand dollars ($45,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead a member of a family unit, and there is at least one member of the family unit who owns no interest in the homestead or whose only interest in the homestead is a community property interest with the judgment debtor.

(3) Sixty thousand dollars ($60,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead either a person 65 years of age or older, or a person physically or mentally disabled and as a result of that disability is unable to engage in substantial gainful employment. There is a rebuttable presumption affecting the burden of proof that a person receiving disability insurance benefit payments under Title II or supplemental security income payments under Title XVI of the federal Social Security Act satisfies the requirements of this paragraph.

(b) Notwithstanding any other provision of this section, the combined homestead exemptions of spouses on the same judgment shall not exceed the amount specified in paragraph (2) or (3), whichever is applicable, of subdivision (a), regardless of whether the spouses are jointly obligated on the judgment and regardless of whether the homestead consists of community or separate property or both. Notwithstanding any other provision of this article, if both spouses are entitled to a homestead exemption, the exemption of proceeds of the homestead shall be apportioned between the spouses on the basis of their proportionate interests in the homestead.

CHAPTER 1001

An act to amend Section 704.730 of the Code of Civil Procedure, relating to homestead exemptions.

[Approved by Governor September 20, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 704.730 of the Code of Civil Procedure is amended to read:

704.730. (a) The amount of the homestead exemption is one of the following:

(1) Thirty thousand dollars ($30,000) unless the judgment debtor

or spouse of the judgment debtor who resides in the homestead is a person described in paragraph (2) or (3).

(2) Forty-five thousand dollars ($45,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead a member of a family unit, and there is at least one member of the family unit who owns no interest in the homestead or whose only interest in the homestead is a community property interest with the judgment debtor.

(3) Sixty thousand dollars ($60,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead either a person 65 years of age or older, or a person physically or mentally disabled and as a result of that disability is unable to engage in substantial gainful employment. There is a rebuttable presumption affecting the burden of proof that a person receiving disability insurance benefit payments under Title II or supplemental security income payments under Title XVI of the federal Social Security Act satisfies the requirements of this paragraph.

(b) Notwithstanding any other provision of this section, the combined homestead exemptions of spouses on the same judgment shall not exceed the amount specified in paragraph (2) or (3), whichever is applicable, of subdivision (a), regardless of whether the spouses are jointly obligated on the judgment and regardless of whether the homestead consists of community or separate property or both. Notwithstanding any other provision of this article, if both spouses are entitled to a homestead exemption, the exemption of proceeds of the homestead shall be apportioned between the spouses on the basis of their proportionate interests in the homestead.

CHAPTER 1002

An act to add Section 17043 to the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. The Legislature finds and declares that a seriously inadequate supply of safe, sanitary, and affordable housing accommodations exists throughout the State of California. This shortage of residential housing is of serious concern to the citizens of the state and has deleterious consequences for all our residents, the housing industry, and the economy.

The Legislature further finds that the shortage of available housing

has brought about an epidemic of homelessness that continues to grow unabated. This homelessness is found in urban and rural areas of the state, resulting in an increasing number of persons having no homes other than cardboard boxes and caves.

The Legislature further finds that the reduced level of funding from the federal government has exacerbated this housing shortage and requires that the state consider all available sources of funding to help fill this vacuum.

SEC. 2. The Department of Housing and Community Development shall conduct at least four public hearings during the 1987 calendar year to determine the need which exists for migrant farmworker housing in the state, and the appropriate roles for the state and private sector in the provision of housing for migrant farmworkers in California. The hearings shall be held in farmworker populated areas of the state, as determined by the department, and at a time and place to ensure farmworker and grower participation, as determined by the department. The department shall report to the legislature on or before February 15, 1988, on its findings based on the testimony at those hearings, including the recommendations of the department as to actions and resources needed to ensure the provision of decent housing for migrant farmworkers.

SEC. 3. Section 17043 is added to the Health and Safety Code, to read:

17043. Notwithstanding any other provision of law, if the condition rendering any of the accommodations in a labor camp substandard is the overcrowding of the accommodations, the enforcement agency shall provide notice to the affected residents of the condition and shall give the residents of the accommodations a reasonable opportunity to correct the violation prior to the commencement of any action or proceeding pursuant to this part. If the enforcement agency determines to institute proceedings to correct the overcrowded condition, the residents may appear and be heard at a hearing convened as part of the proceedings. If the enforcement agency permits the owner or operator of the labor camp to appeal the initial notice of violation or order to abate, the residents shall also be permitted to appeal the initial notice of violation or order to abate. On appeal, if the enforcement agency determines that the only means of abatement is the vacation of the accommodations, the enforcement agency shall consider the availability of alternative housing for the residents, and shall, if alternative housing is not available, grant the residents a reasonable period of time, as determined by the enforcement agency, to find alternative housing.

SEC. 4. 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.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There is a shortage of affordable housing for farmworker families in California. In order to prevent the removal of farmworker families as soon as possible from labor camps because of overcrowding before alternative housing can be found, it is necessary for this act to take effect immediately.

CHAPTER 1003

An act to add Section 671.5 to the Streets and Highways Code, relating to highway encroachments.

[Approved by Governor September 21, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 671.5 is added to the Streets and Highways Code, to read:

671.5. The department shall either approve or deny an application from an applicant for an encroachment permit within 60 days of receiving a completed application, as determined by the department. An application for an encroachment permit is complete when all other statutory requirements, including the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), have been complied with. The department's failure to notify the applicant within that 60-day period that the permit is denied shall be deemed to constitute approval of the permit. Thereafter, upon notifying the department, the applicant may act in accordance with its permit application, as if the permit had been approved.

If the department denies an application for an encroachment permit, it shall, at the time of notifying the applicant of the denial, furnish to the applicant a detailed explanation of the reason for the denial.

CHAPTER 1004

An act to add Chapter 7.8 (commencing with Section 25882) to Division 20 of the Health and Safety Code, relating to electrical generators.

[Approved by Governor September 21, 1986 Filed with Secretary of State September 22, 1986]

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

SECTION 1. Chapter 7.8 (commencing with Section 25882) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 7.8. ELECTRICAL GENERATORS

25882. (a) The Legislature intends to prevent electricity generated by permanent or portable electric generators from backfeeding into a utility electrical distribution system by the enactment of this chapter.

(b) Any portable electrical generator that is capable of being connected temporarily to a customer's electrical system, which is normally supplied by an electrical corporation or state or local public agency, shall be connected only after opening the customer's main switch so as to isolate the customer's electrical system from that of the electrical corporation or state or local agency.

(c) Any electrical generator, other than a generator designed to run in parallel with the system of the serving utility and approved by that utility, that is capable of being permanently connected to a customer's electrical system shall be connected only by means of a double throw switch so as to isolate the customer's electrical system from that of the electrical corporation or state or local agency.

25882.5. (a) Every manufacturer of a portable or permanent electrical generator that is capable of being connected either permanently or temporarily to a commercial, industrial, or residential structure's electrical system, shall include a warning statement in the generator's instruction manual and a legible warning label on the generator which states the requirement of Section 25882 and explains the electrical hazards of backfeed into a utility's distribution system. The same warning information shall be included in all advertisements offering portable electric generators.

(b) No person or public agency shall sell, rent to another person or public agency, or offer for sale or rent to another person or public agency a portable electrical generator unless the legible warning label is on a visible surface of the generator.

25883. (a) Every public utility or utility district shall notify all electrical service customers of the electrical backfeed hazards of portable and permanent electric generators.

(b) Any owner, renter, or lessee who possesses an electric

generator shall notify the utility of the presence of the generator on the premises.

25883.5. (a) Any person who violates Sections 25882 to 25883, inclusive, is guilty of a misdemeanor, and subject to a fine of not more than five hundred dollars ($500) or not more than six months' imprisonment.

(b) For purposes of this section, "person" shall not include public agencies, officers or employees of public agencies, or public utilities.

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 1005

An act to add Section 1182.9 to the Labor Code, relating to labor.

[Approved by Governor September 21, 1986. Filed with Secretary of State September 22, 1986]

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

SECTION 1. Section 1182.9 is added to the Labor Code, to read:

1182.9. An employer engaged in the operation of a licensed hospital or providing personnel for the operation of a licensed hospital who institutes, pursuant to an applicable order of the commission, a regularly scheduled workweek that includes no more than three working days of no more than 12 hours each within any workweek, shall make a reasonable effort to find an alternative work assignment for any employee who participated in the vote which authorized the schedule and is unable to work 12-hour workday schedules. An employer shall not be required to offer an alternative work assignment to an employee if an alternative work assignment is not available or if the employee was hired after the adoption of the 12-hour, 3-day workweek schedule.

CHAPTER 1006

An act to add Sections 24616, 24617, and 24618 to the Education Code, relating to public schools.

[Approved by Governor September 21, 1986 Filed with Secretary of State September 22, 1986.]

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

SECTION 1. Section 24616 is added to the Education Code, to read:

24616. To recover an amount overpaid, the corrected monthly allowance may be reduced by no more than 5 percent if the overpayment was due to error by system staff, the county superintendent of schools, a school district, or a community college district, and by no more than 15 percent if the error was due to inaccurate information provided by the recipient of the allowance.

This section shall not apply to the collection of overpayments due to fraud or intentional misrepresentation of facts by the recipient of the allowance.

SEC. 2. Section 24617 is added to the Education Code, to read:

24617. The system shall annually report to the board the following information:

(a) The amount of underpayment made to recipients.

(b) The amount to be recovered because of overpayments and the number of overpayments.

(c) The actions taken by the board and the system to reduce the number and amount of over and under payments.

SEC. 3. Section 24618 is added to the Education Code, to read:

24618. The system shall report monthly to the board concerning outstanding death benefits that have not been paid within six months of the notification of the death of the member.

CHAPTER 1007

An act to amend Sections 1625 and 1626 of, and to add Sections 1602.1, 1625.1, and 1627 to, the Health and Safety Code, relating to blood.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 1602.1 is added to the Health and Safety Code, to read:

1602.1. (a) No person shall engage in the production of

cytapheresis products unless the products are collected, prepared, and stored in accordance with the specifications set forth in the edition of "Standards for Blood Banks and Transfusion Services," as published by the American Association of Blood Banks, in effect on July 1, 1986.

One copy of the appropriate edition of that volume, together with any modifications thereto adopted pursuant to subdivision (b), shall be readily available in the licensed facility, and one copy shall be kept on file in the department.

(b) The department may establish and require compliance with standards in addition to or in lieu of those published by the American Association of Blood Banks as it deems appropriate to reflect changing technology and to improve the safety of cytapheresis products.

SEC. 2. Section 1625 of the Health and Safety Code is amended to read:

1625. As used in this article:

(a) "Blood" means human whole blood or components of human blood, including plasma, which are prepared from human whole blood by physical, rather than chemical processes, but does not include blood derivatives manufactured or processed for industrial use.

(b) "Cytapheresis" means the separation and collection of blood cells by hemapheresis.

(c) "Hemapheresis" means the removal of whole blood from a donor, separation of the blood into components, retention of the desired components, and return of the recombined remaining elements to the donor.

(d) "Industrial use" means a use of blood in which the blood is modified by physical or chemical means to produce derivatives for therapeutic or pharmaceutic biologics, laboratory reagents, or in vitro diagnostics.

(e) "Paid donor" means a person who donates blood and who receives payment in return for the donation of such blood.

(f) "Payment" means the transfer by a blood bank to any person of money or any other valuable consideration which can be converted to money by the recipient, except that payment shall not include any of the following:

(1) Cancellation or refund of the nonreplacement fees or related blood transfusion charges.

(2) Blood assurance benefits to a person as a result of a blood donation to a donor club or blood assurance program.

(3) Time away from employment, with or without pay, granted by an employer to an employee in order to donate blood.

(g) "Person" means any individual, blood bank, hospital, firm, corporation, or any other entity.

(h) "Transfusion" means a use of blood in which the blood is administered to a human being for treatment of sickness or injury.

SEC. 3. Section 1625.1 is added to the Health and Safety Code, to

read:

1625.1. In addition to the requirements of Section 1602.1, subdivisions (a) to (c), inclusive, of Section 1002 of Title 17 of the California Administrative Code, and any other requirements identified by the State Department of Health Services, hemapheresis donors shall provide a medical history questionnaire completed by a trained interviewer who questions and verifies the accuracy of responses before every donation.

The department may require testing or examinations to reflect changing technology and to increase the safety of blood products.

SEC. 4. Section 1626 of the Health and Safety Code is amended to read:

1626. (a) Except as provided in subdivisions (b) and (c), on or after January 1, 1987, it shall be unlawful, in any transfusion of blood, to use any blood which was obtained from a paid donor.

(b) Subdivision (a) shall not be applicable to any transfusion of blood which was obtained from a paid donor if the physician performing the transfusion has determined, taking into consideration the condition of the patient who is the recipient of the transfusion, that other blood of a type compatible with the blood type of the patient cannot reasonably be obtained for the transfusion.

(c) After March 15, 1987, and on or before December 31, 1989, subdivision (a) shall not apply to blood platelets secured from donors through the hemapheresis process if all of the following requirements are satisfied:

(1) The blood platelets are ordered by a doctor holding a valid California physician's and surgeon's certificate.

(2) The blood platelets are secured from a single donor and are sufficient to constitute a complete platelet transfusion.

(3) The donor's identification number is recorded on the label provided for in Section 1627 and is kept in the records of the entity providing the blood platelets for a minimum of five years.

(4) The donor has been examined by a doctor holding a valid California physician's and surgeon's certificate, and a repeat donor is reexamined at least annually.

(5) The transfusion is performed in a general acute care hospital.

(6) The blood platelets are processed according to standards issued by the American Association of Blood Banks, pursuant to Section 1602.1.

(7) The donor and blood are tested in accordance with regulations issued by the State Department of Health Services.

(8) The entity providing the blood platelets is licensed by the State Department of Health Services.

(9) The information that the donor of the blood platelets was compensated is printed on the label in accordance with Sections 1603.5 and 1627.

SEC. 5. Section 1627 is added to the Health and Safety Code, to read:

1627. (a) Notwithstanding the requirement contained in

subdivision (a) of Section 1603.5 that the letters on the label be at least one inch high, the labeling of containers of blood from a hemapheresis donor shall meet the applicable federal labeling requirements, as set forth in federal Food and Drug Administration regulations or guidelines in effect on July 1, 1986.

(b) All of the other requirements of Section 1603.5 shall continue to apply to labeling requirements for hemapheresis donors.

SEC. 6. 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. However, other reimbursement to local agencies and school districts for other 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 1008

An act to amend Section 13895.5 of the Government Code, and to amend Section 2 of Chapter 1146 of the Statutes of 1985, relating to studies.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 13895.5 of the Government Code is amended to read:

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 June 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.

SEC. 2. Section 2 of Chapter 1146 of the Statutes of 1985 is amended to read:

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 July 1, 1987.

CHAPTER 1009

An act to add and repeal Section 5090.11 of the Public Resources Code, to amend Section 8352.6 of, and to add Section 8352.8 to, the Revenue and Taxation Code, and to amend Sections 38001 and 38020 of, and to add Section 42001.9 to, the Vehicle Code, relating to off-highway vehicles.

[Approved by Governor September 22, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 5090.37 is added to the Public Resources Code, to read:

5090.37. Funds allocated pursuant to Section 8352.8 of the Revenue and Taxation Code shall be expended by the division solely for the following activities on lands in the system:

(a) Conservation activities carried out for the prevention or reduction of soil loss, wildlife loss, and habitat loss.

(b) Enforcement activities consisting of employing, equipping, and supervising peace officers, and the construction of physical barriers and other means of traffic control.

SEC. 2. Section 8352.6 of the Revenue and Taxation Code is amended to read:

8352.6. (a) Subject to Sections 8352 and 8352.1, on the first day of every month, there shall be transferred from money deposited in the Motor Vehicle Fuel Account to the Off-Highway Vehicle Fund created by Section 38225 of the Vehicle Code an amount determined on the basis of the estimate contained in the most recent report prepared pursuant to this section.

(b) The amount transferred pursuant to subdivision (a) represents the portion of receipts in the Motor Vehicle Fuel Account that is attributable to taxes imposed upon distributions of motor vehicle fuel used in the off-highway operation of vehicles identified by being currently registered as off-highway vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(c) On or before August 15, 1973, and every two years thereafter, the Department of Transportation shall prepare, or cause to be prepared, in cooperation with the Department of Parks and Recreation, a report setting forth the current estimate of the amount of money credited to the Motor Vehicle Fuel Account that is attributable to taxes imposed on distributions of motor vehicle fuel used in the off-highway operation of vehicles identified by being currently registered as off-highway vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code for which a refund has not been claimed, and shall submit a copy of the report to the Legislature.

SEC. 3. Section 8352.8 is added to the Revenue and Taxation Code, to read:

8352.8. (a) The Conservation and Enforcement Services Account is hereby established as a subaccount in the Motor Vehicle Fuel Account. Subject to the provisions of Sections 8352 and 8352.1, on the first day of every month, there shall be transferred from

money deposited in the Motor Vehicle Fuel Account to the Conservation and Enforcement Services Account an amount determined on the basis of the estimate contained in the most recent report prepared pursuant to this section.

(b) On or before August 15, 1987, and every two years thereafter, the Department of Transportation shall prepare, or cause to be prepared, in cooperation with the Department of Parks and Recreation, a report setting forth the current estimate of the amount of money credited to the Motor Vehicle Fuel Account that is attributable to taxes imposed upon distributions of motor vehicle fuel estimated to have been used in the off-highway operation of vehicles required to be registered as off-highway vehicles by Division 16.5 (commencing with Section 38000) of the Vehicle Code, but which were not so registered, and shall submit a copy of the report to the Legislature.

(c) Funds in the Conservation and Enforcement Services Account shall be allocated to the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for expenditure when appropriated by the Legislature for the purposes of Section 5090.37 of the Public Resources Code.

(d) Funds accruing to the Motor Vehicle Fuel Account on and after January 1, 1987, which are otherwise subject to Section 8352.6, shall, until the first day of the month following the month in which an estimate is prepared pursuant to subdivision (b), be transferred to the Off-Highway Vehicle Fund in accordance with Section 8352.6.

SEC. 4. Section 38001 of the Vehicle Code is amended to read:

38001. (a) Except as otherwise provided, this division applies to off-highway motor vehicles, as defined in Section 38006, on lands, other than a highway, which are open and accessible to the public, including any land acquired, developed, operated, or maintained, in whole or in part, with money from the Off-Highway Vehicle Fund, except private lands under the immediate control of the owner or his agent where permission is required and has been granted to operate a motor vehicle. For purposes of this division, the term "highway" does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.

(b) Privately owned and maintained parking facilities that are generally open to the public are exempt from this division, unless the facilities are specifically declared subject to this division by the procedure specified in Section 21107.8.

SEC. 5. Section 38020 of the Vehicle Code is amended to read:

38020. Except as otherwise provided in this division, no person shall operate, transport, or leave standing any off-highway motor vehicle subject to identification under this code which is not registered under the provisions of Division 3 (commencing with Section 4000), unless it is identified under the provisions of this chapter. A violation of this section is an infraction. This section shall not apply to the operation, transportation, or leaving standing of an

off-highway vehicle pursuant to a valid special permit.

SEC. 6. Section 42001.9 is added to the Vehicle Code, to read:

42001.9. Every person convicted for a violation of Section 38020 shall be punished by a fine of not less than twenty-five dollars ($25) for a first offense, and not less than fifty dollars ($50) for every subsequent offense.

CHAPTER 1010

An act to add Section 1946.5 to the Civil Code, and to add Section 602.3 to the Penal Code, relating to real property.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 1946.5 is added to the Civil Code, to read:

1946.5. (a) The hiring of a room by a lodger on a periodic basis within a dwelling unit occupied by the owner may be terminated by either party giving written notice to the other of his or her intention to terminate the hiring, at least as long before the expiration of the term of the hiring as specified in Section 1946. The notice shall be given in a manner prescribed in Section 1162 of the Code of Civil Procedure or by certified or registered mail, restricted delivery, to the other party, with a return receipt requested.

(b) Upon expiration of the notice period provided in the notice of termination given pursuant to subdivision (a), any right of the lodger to remain in the dwelling unit or any part thereof is terminated by operation of law. The lodger's removal from the premises may thereafter be effected pursuant to the provisions of Section 602.3 of the Penal Code or other applicable provisions of law.

(c) As used in this section, "lodger" means a person contracting with the owner of a dwelling unit for a room or room and board within the dwelling unit personally occupied by the owner, where the owner retains a right of access to all areas of the dwelling unit occupied by the lodger and has overall control of the dwelling unit.

(d) This section applies only to owner-occupied dwellings where a single lodger resides. Nothing in this section shall be construed to determine or affect in any way the rights of persons residing as lodgers in an owner-occupied dwelling where more than one lodger resides.

SEC. 2. Section 602.3 is added to the Penal Code, to read:

602.3. (a) A lodger who is subject to Section 1946.5 of the Civil Code and who remains on the premises of an owner-occupied dwelling unit after receipt of a notice terminating the hiring, and expiration of the notice period, provided in Section 1946.5 of the Civil Code is guilty of an infraction and may, pursuant to Section 837, be

arrested by the owner for the offense. Notwithstanding Section 853.5, the requirement of that section for release upon a written promise to appear shall not preclude an assisting peace officer from removing the person from the owner-occupied dwelling unit.

(b) The removal of a lodger from a dwelling unit by the owner pursuant to subdivision (a) is not a forcible entry under the provisions of Section 1159 of the Code of Civil Procedure and shall not be a basis for civil liability under that section.

(c) Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3 of the Civil Code applies to any personal property of the lodger which remains on the premises following the lodger's removal from the premises pursuant to this section.

(d) Nothing in this section shall be construed to limit the owner's right to have a lodger removed under other provisions of law.

(e) Except as provided in subdivision (b), nothing in this section shall be construed to limit or affect in any way any cause of action an owner or lodger may have for damages for any breach of the contract of the parties respecting the lodging.

(f) This section applies only to owner-occupied dwellings where a single lodger resides. Nothing in this section shall be construed to determine or affect in any way the rights of persons residing as lodgers in an owner-occupied dwelling where more than one lodger resides.

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 1011

An act to amend Sections 18060, 18119, 18321, and 18507 of, and to add Section 18003.5 to, the Financial Code, relating to the Industrial Loan Law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 18003.5 is added to the Financial Code, to read:

18003.5. "Insured company" means a thrift and loan company licensed by the commissioner under this division, the investment certificates of which are insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance

Corporation under applicable federal law.

SEC. 2. Section 18060 of the Financial Code is amended to read:

18060. (a) Except as provided in subdivision (b), industrial loan company which issues thrift certificates shall not use any thrift advertisement which refers to the industrial loan company's ownership by, or affiliation with, any other entity unless the advertisement also discloses in as prominent a manner and as large a type size as the referenced ownership or affiliation was stated, whether or not the owner or affiliate so named guarantees thrift certificates issued by the industrial loan company.

(b) (1) Subdivision (a) applies to an insured company when the other entity guarantees the thrift certificates issued by the insured company.

(2) Subdivision (a) does not apply to an insured company when the other entity does not guarantee the thrift certificates issued by the insured company and the advertisement referring to the insured company's ownership by, or affiliation with, the other entity does not state or imply that the assets or reserves of the other entity may be used to guarantee thrift certificates of the insured company.

SEC. 3. Section 18119 of the Financial Code is amended to read:

18119. Within 30 days after an application is filed for authorization to establish an industrial loan company which intends to sell and issue its investment certificates, the commissioner shall give written notice of the filing of the application to each industrial loan company subject to this division.

SEC. 4. Section 18321 of the Financial Code is amended to read:

18321. Nothing in this division authorizes an industrial loan company to receive deposits or issue certificates of deposit. Every investment certificate issued by an industrial loan company pursuant to this division, other than an insured company, shall bear the endorsement on the face of the instrument, "this is not a certificate of deposit."

SEC. 5. Section 18507 of the Financial Code is amended to read:

18507. In order to permit Guaranty Corporation to fulfill its obligations under this chapter, the commissioner shall furnish to Guaranty Corporation a list of all industrial loan companies that are not insured companies which have outstanding thrift obligations and one copy of the independent audit report on each such industrial loan company filed with him as of the preceding December 31 and not later than April 1 of each year.

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 allow California corporations to comply, as quickly as possible, with federal laws regarding thrift and loan companies, industrial loan companies, and insured companies, it is necessary that this act take effect immediately.

CHAPTER 1012

An act to amend Section 2356 of, and to add Chapter 6 (commencing with Section 1950) to Part 3 of Division 4 of, the Probate Code, relating to sterilization.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Chapter 6 (commencing with Section 1950) is added to Part 3 of Division 4 of the Probate Code, to read:

CHAPTER 6. STERILIZATION

1950. The Legislature recognizes that the right to exercise choice over matters of procreation is fundamental and may not be denied to an individual on the basis of disability. This chapter is enacted for the benefit of those persons with developmental disabilities who, despite those disabilities, are capable of engaging in sexual activity yet who, because of those disabilities, are unable to give the informed, voluntary consent necessary to their fully exercising the right to procreative choice, which includes the right to choose sterilization.

However, the Legislature further recognizes that the power to sterilize is subject to abuse and, historically, has been abused. It is the intent of the Legislature that no individual shall be sterilized solely by reason of a developmental disability and that no individual who knowingly opposes sterilization be sterilized involuntarily. It is further the intent of the Legislature that this chapter shall be applied in accord with the overall intent of Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code that persons with developmental disabilities be provided with those services needed to enable them to live more normal, independent, and productive lives, including assistance and training that might obviate the need for sterilization.

1951. (a) No person who has the ability to consent to his or her sterilization shall be sterilized pursuant to this chapter.

(b) For the purposes of this chapter, the following terms have the meanings given:

(1) "Consent to sterilization" means making a voluntary decision to undergo sterilization after being fully informed about, and after fully understanding the nature and consequences of, sterilization.

(2) "Voluntary" means performed while competent to make the decision, and as a matter of free choice and will and not in response to coercion, duress, or undue influence.

(3) "Fully understanding the nature and consequences of sterilization," includes, but is not limited to, the ability to understand

each of the following:

(A) That the individual is free to withhold or withdraw consent to the procedure at any time before the sterilization without affecting the right to future care or treatment and without loss or withdrawal of any publicly funded program benefits to which the individual might be otherwise entitled.

(B) Available alternative methods of family planning and birth control.

(C) That the sterilization procedure is considered to be irreversible.

(D) The specific sterilization procedure to be performed.

(E) The discomforts and risks that may accompany or follow the performing of the procedure, including an explanation of the type and possible effects of any anesthetic to be used.

(F) The benefits or advantages that may be expected as a result of the sterilization.

(G) The approximate length of the hospital stay.

(H) The approximate length of time for recovery.

The court shall appoint a facilitator or interpreter if such a person's assistance would enable the person named in the petition to understand any of these factors.

1952. The conservator of an adult, or any person authorized to file a petition for the appointment of a conservator under paragraphs (2) to (5), inclusive, of subdivision (a) of Section 1820, may file a petition under this chapter for appointment of a limited conservator authorized to consent to the sterilization of an adult with a developmental disability. The content of the petition under this chapter shall conform to the provisions of Section 1821 and in addition allege that the person for whom sterilization is proposed has a developmental disability as defined in Section 1420 and shall allege specific reasons why court-authorized sterilization is deemed necessary. A petition under this chapter shall be considered separately from any contemporaneous petition for appointment of a conservator under this division.

1953. At least 90 days before the hearing on the petition under this chapter, notice of the time and place of the hearing and a copy of the petition shall be served on the person named in the petition and, if the petitioner is not the conservator of the person, on the conservator, if any. Service shall be made in the manner provided in Section 415.10 or Section 415.30 of the Code of Civil Procedure or in such manner as may be authorized by the court.

1954. In any proceeding under this chapter, if the person named in the petition for court authorization to consent to sterilization has not retained legal counsel and does not plan to retain legal counsel, the court shall immediately appoint the public defender or private counsel to represent the individual for whom sterilization is proposed. Counsel shall undertake the representation with the presumption that the individual opposes the petition.

1954.5. (a) The court shall appoint a facilitator for the person

named in the petition, who shall assist the person named in the petition to do all of the following:

(1) Understand the nature of the proceedings.

(2) Understand the evaluation process required by Section 1955.

(3) Communicate his or her views.

(4) Participate as fully as possible in the proceedings.

(b) All of the following factors shall be considered by the court in appointing a facilitator:

(1) The preference of the person named in the petition.

(2) The proposed facilitator's personal knowledge of the person named in the petition.

(3) The proposed facilitator's ability to communicate with the person named in the petition, when that person is nonverbal, has limited verbal skills, or relies on alternative modes of communication.

(4) The proposed facilitator's knowledge of the developmental disabilities service system.

The petitioner shall not be appointed as the facilitator.

1955. (a) The court shall request the director of the appropriate regional center for the developmentally disabled to coordinate an investigation and prepare and file a written report thereon. The appropriate regional center for purposes of this section is (1) the regional center of which the person named in the petition is a client, (2) if the individual named in the petition is not a client of any regional center, the regional center responsible for the area in which the individual is then living, or (3) such other regional center as may be in the best interests of the individual. The report shall be based upon comprehensive medical, psychological, and sociosexual evaluations of the individual conducted pursuant to subdivisions (b) and (c), and shall address, but shall not be limited to, each of the factors listed in Section 1958. A copy of the report shall be provided to each of the parties at least 15 days prior to the hearing.

(b) Prior to the hearing on the issue of sterilization, the person who is proposed to be sterilized shall be personally examined by two physicians, one of whom shall be a surgeon competent to perform the procedure, and one psychologist or clinical social worker, each of whom has been mutually agreed to by the petitioner and counsel for the person named in the petition or, if agreement is not reached, appointed by the court from a panel of qualified professionals. At the request of counsel for the person named in the petition, the court shall appoint one additional psychologist, clinical social worker, or physician named by counsel. Any psychologist or clinical social worker and, to the extent feasible, any physicians conducting an examination shall have had experience with persons who have developmental disabilities. To the extent feasible, each of the examiners shall also have knowledge and experience relating to sociosexual skills and behavior. The examinations shall be at county expense subject to Section 1963.

(c) The examiners shall consider all available alternatives to

sterilization and shall recommend sterilization only if no suitable alternative is available. Each examiner shall prepare a written, comprehensive report containing all relevant aspects of the person's medical, psychological, family, and sociosexual conditions. Each examiner shall address those factors specified in Section 1958 related to his or her particular area of expertise. In considering the factors in subdivision (a) of, and paragraph (1) of subdivision (d) of, Section 1958, each examiner shall include information regarding the intensity, extent, and recentness of the person's education and training, if any, regarding human sexuality, including birth control methods and parenting skills, and in addition, shall consider whether the individual would benefit from training provided by persons competent in education and training of persons with comparable intellectual impairments. If an examiner recommends against sterilization, the examiner shall set forth in his or her report available alternatives, including, as warranted, recommendations for sex education, parent training, or training in the use of alternative methods of contraception. Copies of each report shall be furnished at least 30 days prior to the hearing on the petition to the person or persons who filed the petition, the conservator, if any, and counsel for the person proposed to be sterilized, the regional center responsible for the investigation and report required under this section, and such other persons as the court may direct. The court may receive these reports in evidence.

(d) The contents of the reports prepared pursuant to this section shall be confidential. Upon judgment in the action or the proceeding becoming final, the court shall order the contents of the reports sealed.

(e) Regional centers for the developmentally disabled shall compile and maintain lists of persons competent to perform the examinations required by this section. These lists shall be provided to the court. If the person named in the petition resides at a state hospital or other residential care facility, no person conducting an examination pursuant to subdivision (b) shall be an employee of the facility.

(f) Any party to the proceedings has the right to submit additional reports from qualified experts.

(g) Any person who has written a report received in evidence may be subpoenaed and questioned by any party to the proceedings or by the court and when so called shall be subject to all rules of evidence including those of legal objections as to the qualification of expert witnesses.

(h) No regional center or person acting in his or her capacity as a regional center employee may file a petition under Section 1952.

1956. The person to whom the petition applies shall be present at the hearing except for reason of medical inability. Emotional or psychological instability is not good cause for the absence of the proposed conservatee from the hearing unless, by reason of the instability, attendance at the hearing is likely to cause serious and

immediate physiological damage to the proposed conservatee.

1957. To the greatest extent possible, the court shall elicit and take into account the views of the individual for whom sterilization is proposed in determining whether sterilization is to be authorized.

1958. The court may authorize the conservator of a person proposed to be sterilized to consent to the sterilization of that person only if the court finds that the petitioner has established all of the following beyond a reasonable doubt:

(a) The person named in the petition is incapable of giving consent to sterilization, as defined in Section 1951, and the incapacity is in all likelihood permanent.

(b) Based on reasonable medical evidence, the individual is fertile and capable of procreation.

(c) The individual is capable of engaging in, and is likely to engage in sexual activity at the present or in the near future under circumstances likely to result in pregnancy.

(d) Either of the following:

(1) The nature and extent of the individual's disability as determined by empirical evidence and not solely on the basis of any standardized test, renders him or her permanently incapable of caring for a child, even with appropriate training and reasonable assistance.

(2) Due to a medical condition, pregnancy or childbirth would pose a substantially elevated risk to the life of the individual to such a degree that, in the absence of other appropriate methods of contraception, sterilization would be deemed medically necessary for an otherwise nondisabled woman under similar circumstances.

(e) All less invasive contraceptive methods including supervision are unworkable even with training and assistance, inapplicable, or medically contraindicated. Isolation and segregation shall not be considered as less invasive means of contraception.

(f) The proposed method of sterilization entails the least invasion of the body of the individual.

(g) The current state of scientific and medical knowledge does not suggest either (1) that a reversible sterilization procedure or other less drastic contraceptive method will shortly be available, or (2) that science is on the threshold of an advance in the treatment of the individual's disability.

(h) The person named in the petition has not made a knowing objection to his or her sterilization. For purposes of this subdivision, an individual may be found to have knowingly objected to his or her sterilization notwithstanding his or her inability to give consent to sterilization as defined in Section 1951. In the case of persons who are nonverbal, have limited verbal ability to communicate, or who rely on alternative modes of communication, the court shall ensure that adequate effort has been made to elicit the actual views of the individual by the facilitator appointed pursuant to Section 1954.5, or by any other person with experience in communicating with developmentally disabled persons who communicate using similar

means.

1959. The fact that, due to the nature or severity of his or her disability, a person for whom an authorization to consent to sterilization is sought may be vulnerable to sexual conduct by others that would be deemed unlawful, shall not be considered by the court in determining whether sterilization is to be authorized under this chapter.

1960. If the person named in the petition already has a conservator the court may authorize that person to consent to sterilization or may appoint another person as limited conservator under the provisions of this chapter. The court shall ensure that the person or agency designated as conservator under this chapter is capable of adequately representing and safeguarding the interests of the conservatee.

1961. A sterilization procedure authorized under this chapter shall not include hysterectomy or castration. However, if the report prepared under Section 1955 indicates that hysterectomy or castration is a medically necessary treatment, regardless of the need for sterilization, the court shall proceed pursuant to Section 2357.

1962. (a) Any court order granting a petition under this chapter shall be accompanied by a written statement of decision pursuant to Section 632 of the Code of Civil Procedure detailing the factual and legal bases for the court's determination on each of the findings required under Section 1958.

(b) When a judgment authorizing the conservator of a person to consent to the sterilization is rendered, an appeal is automatically taken by the person proposed to be sterilized without any action by that person, or by his or her counsel. The Judicial Council shall provide by rule for notice of and procedure for the appeal. The appeal shall have precedence over other cases in the court in which the appeal is pending.

1963. (a) At the conclusion of the hearing, the court, after inquiring into financial ability, may make an order based upon their ability that any or all of the following persons pay court costs and fees in whole or in part as in the opinion of the court is proper and in any installments and manner which is both reasonable and compatible with ability to pay:

(1) The person to whom the petition applies.

(2) The petitioner.

(3) Any person liable for the support and maintenance of the person to whom the petition applies.

(b) Execution may be issued on any order under subdivision (a) in the same manner as on a judgment in a civil action.

(c) For the purposes of this section, court costs and fees include the costs of any examination or investigation ordered by the court, expert witnesses' fees, and the costs and fees of the court-appointed public defender or private counsel representing the person to whom the petition applies.

(d) Any fees and costs not ordered to be paid by persons under

subdivision (a) shall be a charge against and paid out of the treasury of the county on order of the court.

1964. An order of the court authorizing a conservator to consent to sterilization which is upheld on appeal automatically expires in one year from the final determination on appeal unless earlier terminated by the court. A conservatorship established for the sole purpose of authorizing a conservator to consent to sterilization under this chapter shall automatically terminate upon completion of the sterilization procedure or upon expiration of the court's order authorizing the conservator to consent to sterilization, whichever occurs first. If, upon the expiration of the court's order under this chapter, the person named as conservator determines that the conservatorship is still required for the purpose of this chapter, he or she may petition the court for reappointment as conservator for a succeeding six-month period upon a showing of good cause as to why any sterilization authorized by the court has not been completed.

1965. Any court order made pursuant to this chapter granting authority to consent to sterilization shall be stayed pending a final determination on appeal.

1966. After the filing of a first petition for sterilization pursuant to this chapter and a determination by the court that any one or more of the conditions required in Section 1958 has not been proven beyond a reasonable doubt, and that therefore authorization for the proposed sterilization should not be given by the court, a subsequent petition may be filed only on the showing of a material change in circumstances.

1967. (a) The sterilization of a person in accordance with this chapter shall not render the petitioner or any person participating in the conservatorship proceedings or sterilization liable, either civilly or criminally, except for any injury caused by negligent or willful misconduct in the performance of the sterilization.

(b) Notwithstanding the provisions of subdivision (a), any individual who petitions for authorization to consent to sterilization knowing that the person to whom the petition relates is capable of giving consent to sterilization as defined in Section 1951 is guilty of a misdemeanor, and may be civilly liable to the person concerning whom sterilization was sought.

1968. This chapter does not prohibit medical treatment or surgery required for other medical reasons and in which sterilization is an unavoidable or medically probable consequence, but is not the object of the treatment or surgery.

1969. Nothing in this chapter shall infringe on the right of persons with developmental disabilities who are capable of giving consent to sterilization to give that consent without the necessity of a court order or substitute decisionmaker.

SEC. 2. Section 2356 of the Probate Code is amended to read:

2356. (a) No ward or conservatee shall be placed in a mental health treatment facility under this division against the will of the ward or conservatee. Involuntary civil mental health treatment for

a ward or conservatee shall be obtained only pursuant to Chapter 2 (commencing with Section 5150) or Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Nothing in this subdivision precludes the placing of a ward in a state hospital under Section 6000 of the Welfare and Institutions Code upon application of the guardian as provided in that section. The Director of Mental Health shall adopt and issue regulations defining "mental health treatment facility" for the purposes of this subdivision.

(b) No experimental drug as defined in Section 26668 of the Health and Safety Code may be prescribed for or administered to a ward or conservatee under this division. Such an experimental drug may be prescribed for or administered to a ward or conservatee only as provided in Article 4 (commencing with Section 26668) of Chapter 6 of Division 21 of the Health and Safety Code.

(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on a ward or conservatee under this division. Convulsive treatment may be performed on a ward or conservatee only as provided in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

(d) No minor may be sterilized under this division.

(e) This chapter is subject to any valid and effective directive of the conservatee under Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code (Natural Death Act).

SEC. 3. (a) Commencing in 1988, and annually thereafter, by March 1 of each year, the clerks of all courts of record shall submit the following information regarding the implementation of Chapter 6 (commencing with Section 1950) of Part 3 of Division 4 of the Probate Code during the preceding calendar year to the State Department of Developmental Services, in the format specified by the department:

(1) The number of petitions filed in the aggregate, and, of that number, the number filed in which a regional center client is named.

(2) The number of petitions which resulted in a court order authorizing a conservator to consent to sterilization.

(3) The number of appeals from a court order denying authority to consent to sterilization and their results.

(4) For each petition, the relationship of the petitioner to the person who is the subject of the petition.

(5) Copies of all statements of decision issued pursuant to Section 1962.

The name, addresses, and other identifying information concerning the persons named in petitions shall be deleted from all records prior to providing the records to the department.

(b) Commencing in 1988, and annually thereafter, by July 1 of each year, the State Department of Developmental Services shall compile the information received from clerks of courts of record

pursuant to subdivision (a), and submit that compilation to the appropriate policy committees of the Legislature.

(c) This section 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.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act, except for costs which may 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, 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 1013

An act to amend Sections 25159.15, 25159.16, 25159.17, and 25159.18 of the Health and Safety Code and to amend Sections 13260, 13263.5, 13264, 13267, and 13360 of the Water Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 25159.15 of the Health and Safety Code is amended to read:

25159.15. (a) Notwithstanding any other provision of law, on or after January 1, 1986, a person shall not discharge hazardous waste into an injection well which commences operation on or after January 1, 1986, and after January 1, 1988, a person shall not discharge hazardous waste into an injection well which commenced operation before January 1, 1986, unless all of the following conditions are met:

(1) Unless granted an exemption pursuant to subdivision (b), no point along the length of the injection well, as measured either horizontally or vertically, is located within one-half mile of drinking water.

(2) The person has received a hazardous waste facilities permit for the well issued pursuant to Section 25200.6.

(3) The injection well does not discharge hazardous waste into or above a formation which contains a source of drinking water within one-half mile of the well.

(b) A person may apply to the department to exempt an injection well from paragraph (1) of subdivision (a) if the person has received a hazardous waste facilities permit and the person has filed a report

pursuant to Section 25159.18 with the department on or before January 1, 1987, which has been approved by the department, pursuant to Section 25159.18. If the person proposes to commence operation of an injection well on or after January 1, 1986, the person shall file the request for an exemption and the report at least one year before any proposed discharge or injection.

(c) The department shall either grant or deny an exemption from paragraph (1) of subdivision (a) on or before December 31, 1987, or within one year after receipt of the application for a proposed injection well. The department may grant an exemption from paragraph (1) of subdivision (a) only if the department makes all of the following written findings, and supports these findings by citing specific evidence presented in the report or provided to the department:

(1) The hydrogeology report prepared pursuant to Section 25159.18 is current, accurate, and complete.

(2) No hazardous waste constituents have migrated from that portion of the injection well located above the injection zone or have migrated from the injection zone.

(3) Practical alternative technologies, other than well injection, do not exist to reduce, treat, or dispose of the hazardous wastes which are to be discharged.

(4) Continuing or commencing the operation of the injection well does not pose a potential of hazardous waste constituents migrating from that portion of the injection well located above the injection zone or migrating from the injection zone and a monitoring program pursuant to subdivision (c) of Section 25159.17 has been installed, or for a proposed injection well, the monitoring program has been designed and will be installed before any discharge or injections into the well.

(d) An exemption granted pursuant to subdivision (c) shall not be effective for more than five years. Applications for an exemption, or a renewal of an exemption, shall be accompanied by the fee specified in the fee schedules adopted by the department pursuant to Section 25159.19. The department shall not renew the exemption unless it makes all of the findings in subdivision (c).

(e) The department shall revoke an exemption granted pursuant to subdivision (c) if the department determines that there is migration of hazardous wastes, or a threat of migration of hazardous wastes, from the well into any strata or the waters of the state outside the injection zone. The department shall then prohibit the discharge of any hazardous waste into the injection well, require appropriate removal and remedial actions by the person granted the exemption, and require the responsible parties to take appropriate removal and remedial actions.

(f) The state board, the regional boards, and the department shall establish procedures providing for the interagency transfer and review of applications for exemption received pursuant to subdivision (b).

(g) This section applies only to injection wells into which hazardous waste is discharged.

SEC. 2. Section 25159.16 of the Health and Safety Code is amended to read:

25159.16. (a) If the department or regional board determines that there is migration of hazardous waste constituents, or a threat of migration of hazardous waste constituents, from an injection well into any strata or waters of the state outside the injection zone, the department shall prohibit the discharge of any hazardous waste into the injection well until removal and remedial actions have been conducted to abate the migration or threat.

(b) The department shall determine, after the remedial and removal actions required pursuant to subdivision (a) are completed, whether the injection well should be continued to be used for the discharge of hazardous wastes. The department shall not approve the continued use of the injection well for the discharge of hazardous waste unless the department makes both of the following determinations:

(1) The removal or remedial action abated the contamination, or threat of contamination, from the migration or threat of migration.

(2) There is no potential, in continuing the operation of the injection well, for any future migration of hazardous waste constituents, from that portion of the injection well located above the injection zone, or from the injection zone.

The department shall make these determinations pursuant to a public hearing for which the department shall provide notice to all residents in the affected area, as determined by the department, and by mail to all persons listed on any mailing lists compiled by the department, using any appropriate mailing lists compiled by the regional board.

(c) If the department determines, pursuant to subdivision (b), that an injection well should not continue to be used for the discharge of hazardous wastes, the department shall require that all hazardous waste discharges be permanently terminated at the well and that the owner of the well take all actions necessary to prepare the injection well for closure pursuant to subdivision (d) and for postclosure maintenance which are required pursuant to the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the regulations adopted by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act for proper closure, plugging, and monitoring of injection wells, and the regulations adopted by the state board and the department for closure of hazardous waste management units.

(d) Before any injection well used for the discharge of hazardous waste is closed, the department shall require the owner to certify that the well is in a state of static equilibrium, all defects or damages in the well casing are corrected prior to closure, that closure is sufficient to prevent the movement of fluids from the injection zone, and that all closure will commence within six months from the date

the department orders closure. The injection well shall also be closed in accordance with the following requirements:

(1) Fluids and gases shall be confined to the stratum in which they occur by the use of cement grout or other suitable material. The amount, type, kind of material, and method of placement shall be approved by the department and the well shall be filled from bottom to top with the approved material.

(2) No well shall be sealed without the prior approval of the department. The person responsible for well closure shall submit a sealing plan to the department at least 90 days prior to the proposed date of sealing. The department may require that a representative of the department observe that sealing.

(e) The department shall consult with the regional board and the Division of Oil and Gas, where necessary, to fulfill the requirements of subdivision (d).

(f) This section applies only to injection wells into which hazardous waste is discharged.

SEC. 3. Section 25159.17 of the Health and Safety Code is amended to read:

25159.17. (a) The department shall make an inspection at least once each year of all facilities with injection wells into which hazardous waste is discharged. The owner shall tabulate the monitoring data recovered, pursuant to subdivision (c), monthly. The department shall review the data specified in paragraphs (1), (2), and (3), of subdivision (c) monthly and the data specified in paragraph (4) of subdivision (c) quarterly to ensure that all injection wells into which hazardous waste is discharged comply with this chapter and that any equipment or programs required pursuant to this article are operating properly.

(b) The department shall require complete mechanical integrity testing of the well bore at least once a year and shall require pressure tests at least once every six months. The testing program shall be designed to detect defects, damage, and corrosion in the well, well casings, injection tube, packer, cement, and the screened or perforated portion of the well.

(c) The operator of an injection well into which hazardous waste is discharged shall conduct monitoring of the surface equipment, the well, and the movement of injected wastes, in the following manner:

(1) Injection fluids shall be sampled and analyzed at least monthly to yield representative data of their characteristics at all injection wells located at onsite facilities. If the injection well is located at an offsite facility, the fluids shall be sampled and analyzed every time the composition of the hazardous waste discharged into the injection well is different than the waste discharged immediately prior to the new discharge.

(2) Pressure gauges shall be installed and maintained in proper operating condition at all times on the injection tubing and annulus.

(3) Continuous recording devices shall be installed and maintained in proper operating condition at all times to record

injection temperatures and pressures, injection flow rates, injection volumes, and annulus pressure.

(4) The monitoring system, including all monitoring wells, shall be constructed and operated in accordance with the standards specified in subdivision (p) of Section 25159.18. The design of the monitoring system and location and number of monitoring wells shall be approved by the department. Monitoring wells shall be sufficient in number and location for compliance with the monitoring requirements specified in subdivision (p) of Section 25159.18, the federal regulations adopted pursuant to the Safe Drinking Water Act, and for determining all of the following:

(A) The direction and rate of regional groundwater movement.

(B) Any upward migration of hazardous wastes and changes in water quality in the water bearing formation immediately above the injection zone.

(C) Any changes in water quality of drinking water within at least one-half mile of the well.

(D) The direction, rate, hydraulic effects, alteration, and characteristics of wastes injected into the injection zone, and any changes of pressure within or above the injection zone.

(d) The operator of an injection well shall equip the surface facilities of an injection well into which hazardous waste is discharged with shutoff devices, alarms, and fencing.

(e) The department shall require all abandoned water wells within three miles of a facility to be closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81.

(f) The department may require any subsurface structure or hole which is contaminated, may become contaminated, provides a potential conduit for contamination, or penetrates a formation containing drinking water to be closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81. If the subsurface structure or hole is an oil or gas well, the well shall be closed in accordance with standards at least as stringent as the regulations adopted by the Division of Oil and Gas. If the subsurface structure is an injection well into which hazardous waste is discharged, the injection well shall be closed in accordance with the procedures specified in subdivision (d) of Section 25159.16.

(g) The regional board shall revise any existing waste discharge requirements, issued for any injection well into which hazardous waste is discharged, pursuant to Section 13263 of the Water Code, based upon a review of the report.

(h) This section applies only to injection wells into which hazardous waste is discharged.

SEC. 4. Section 25159.18 of the Health and Safety Code is amended to read:

25159.18. Any person who applies to the department for a hazardous waste facilities permit, or for the renewal or revision of a

hazardous waste facilities permit, for the discharge of hazardous wastes into an injection well, including any proposed injection well, shall submit a hydrogeological assessment report to the department and to the appropriate regional board six months before applying for a hazardous waste facilities permit. A qualified person shall be responsible for the preparation of the report and shall certify its completeness and accuracy. The department shall not approve the report unless the department finds that the report is current, accurate, and complete, and that no hazardous waste constituents have migrated from the portion of the injection well located above the injection zone or have migrated from the injection zone. The report shall be accompanied by the fee established pursuant to Section 25159.19. The report shall contain, for each injection well, including any proposed injection well, any information required by the department, and all of the following information:

(a) A description of the injection well, including all of the following:

(1) Physical characteristics.

(2) A log of construction activities, including dates and methods used.

(3) A description of materials used in the injection well, including tubing, casing, packers, seals and grout.

(4) Design specifications and a drawing of the well as completed.

(5) An analysis of the chemical and physical compatability of the materials used with the wastes injected.

(6) Annulus fluid composition, level, and pressure at the time of well completion through the present time.

(b) A description of both of the following:

(1) The volume, temperature, pH, and radiological characteristics, and composition of hazardous waste constituents placed in the well, based on a statistically significant representative chemical analysis of each specific hazardous waste type, so that any variations in hazardous waste constituents over time are documented.

(2) The pressure and rate at which fluid is injected into the well.

(c) A map showing the distances, within the facility, to the nearest surface water bodies and springs, and the distances, within three miles from the facility's perimeter, to the nearest surface water bodies and springs.

(d) Tabular data from each surface water body and spring shown on the map specified in subdivision (c), within one mile from the facility's perimeter, which indicate its flow and a representative water analysis. The report shall include an evaluation and characterization of seasonal changes and, if substantive changes result from season to season, the tabular data shall reflect these seasonal changes.

(e) A map showing the location of all existing and abandoned wells, dry holes, mines, and quarries within the facility and within three miles of the facility's perimeter. The report shall include, for

each well shown on the map a description of the present use of the well, a representative water analysis from any existing wells, any known physical characteristics, and a determination as to whether the well, if abandoned, has been closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81, or, if the well is an oil or gas well, in accordance with standards at least as stringent as the regulations of the Division of Oil and Gas. The report shall also include, when possible, the water well driller's report or well log.

(f) A map showing the structural geology and stratigraphy within three miles of the facility's perimeter that can influence the direction of the groundwater flow or the movement of the discharged wastes. The report shall include a description of folds, domes, basins, faults, seismic activity, fractures, and joint patterns and a geologic cross section and general description of the subsurface rock units, including stratigraphic position, lithology, thickness, and areal distribution.

(g) An analysis for all of the following:

(1) The vertical and lateral extent of any water-bearing strata which could be affected by leakage from the injection well.

(2) The vertical and lateral extent of any strata through which the well is drilled.

(3) The vertical and lateral limits of the confining beds above, below, and adjacent to, the injection well.

(h) The analysis specified in subdivision (g) shall include all of the following:

(1) A map and cross section of all hydrogeologic units.

(2) Maps showing contours of equal elevation of the water surface for perched water, unconfined water, and confined groundwater required to be analyzed by this subdivision.

(3) An estimate of the flow, and flow direction of, the water in all water-bearing formations shown on both the maps and the subsurface geologic cross sections.

(4) An estimate of the transmissivity, permeability, porosity, and storage coefficient for each perched zone of water and water-bearing formations identified on the maps specified in paragraph (1).

(5) A determination of the water quality of each zone of the water-bearing formations and perched water which is identified on the maps specified in paragraph (1) which is under, or above and adjacent to, the well. This determination shall be conducted by taking samples either upgradient of the injection well or from another location which has not been affected by leakage from the injection well.

(i) A determination as to whether the groundwater is contiguous with regional bodies of groundwater and the depth measured from the injection zone and well casing to the groundwater, including the depth measured to perched water and water-bearing strata identified on the maps specified in subdivision (h).

(j) All of the following information for the receiving formation:

(1) A description of the chemical and physical properties of the receiving formation, including its lithology, thickness, composition, structure, porosity, storage capacity, permeability, compressibility, density, subsurface stress, vertical and lateral continuity and extent, fluid temperature, pressure, composition, and the measurement of the minimum pressure which would fracture the receiving formation.

(2) The effect of the injection pressure on the receiving formation.

(3) The geologic stability and long-term integrity of the receiving formation.

(4) An assessment of compatibility of waste, formation fluids, and formation lithology. This shall include a description of short range and long range changes anticipated in the physical and chemical state of the receiving formation in its fluids through chemical reaction and interaction with injection fluids.

(k) All of the following information for the confining zone:

(1) A description of its chemical and physical properties, including its age, composition, thickness, vertical and lateral continuity, unconformities, permeability, transmissivity, compressibility, porosity, density, and subsurface stress.

(2) The minimum amount of pressure which would fracture the confining zone, calculated specifically for the particular confining zone, a description of the number and types of existing fractures, faults, and cavities, and an analysis as to whether fractures were created or enlarged by past injection of wastes.

(3) The geologic stability and long-term integrity of the confining zone.

(4) Anticipated short range and long range changes in the physical state of the confining zone through chemical reaction and interaction with injection fluids.

(5) An estimate of the rate of migration of the hazardous waste constituents through the confining zone.

(*l*) A geologic cross section and description of the composition of each stratum through which the injection well is drilled. This description shall include a physical, chemical, and hydrogeological characterization of both the consolidated and unconsolidated rock material, including lithology, mineralogy, texture, bedding, thickness, and permeability. It shall also include an analysis for pollutants, including those constituents discharged into the injection well. The report shall arrange all monitoring data in a tabular form so that the dates, the constituents, and the concentrations are readily discernible.

(m) A description of surface facilities, including, but not limited to, pressure gauges, automatic shutoff devices, alarms, fencing, specifications for valves and pipe fittings, and operator training and requirements.

(n) A description of contingency plans for well failures and shutdowns to prevent migration of contaminants from the well.

(o) A description of the monitoring being conducted to detect migration of hazardous waste constituents, including the number and positioning of the monitoring wells, the monitoring wells' distances from the injection well, the monitoring wells' design data, the monitoring wells' installation, the monitoring development procedures, the sampling and analytical methodologies, the sampling frequency, and the chemical constituents analyzed. The design data of the monitoring wells shall include the monitoring wells' depth, the monitoring wells' diameters, the monitoring wells' casing materials, the perforated intervals within the well, the size of the perforations, the gradation of the filter pack, and the extent of the wells' annular seals.

(p) Documentation demonstrating that the monitoring system and methods used at the facility can detect any seepage, including any leaks, cracks, or malfunctions in the well or a breach of the confining zone, before the hazardous waste constituents migrate from the well above the injection zone or from the confining zone. This documentation shall include, but is not limited to, substantiation of all of the following:

(1) The monitoring system is effective enough, and includes a sufficient number of monitoring wells in the major water bearing zones, which are located close enough to the injection well casing and to the injection zone, to verify that no lateral and vertical migration of any constituents discharged into the well is occurring outside of the injection zone.

(2) Monitoring wells are not located within the influence of any adjacent pumping wells which might impair their effectiveness.

(3) Monitoring wells are only screened in the aquifer to be monitored and are monitored for both pressure and water quality.

(4) The chosen casing material does not adversely react with the potential contaminants of major concern at the facility.

(5) The casing diameter allows an adequate amount of water to be removed during sampling and allows full development of the monitor well.

(6) Monitoring wells are constructed so as not to provide potential conduits for migration of pollution, and the wells' construction features, including annular seals, prevent pollutants from migrating up or down the monitoring well.

(7) The methods of water sample collection require that the samples are transported and handled in accordance with the United States Geological Survey's "National Handbook of Recommended Methods for Water-Data Acquisition," which provides guidelines for collection and analysis of groundwater samples for selected unstable constituents and any additional procedures specified by the department. For all monitoring wells, except those extending into the injection zone, the sample shall be collected after at least five well volumes have been removed from the well.

(8) The hazardous waste constituents selected for analysis are specific to the facility, taking into account the chemical composition

of hazardous wastes previously discharged into the injection well. The monitoring data shall be arranged in tabular form so that the date, the constituents, and the concentrations are readily discernible.

(9) The frequency of monitoring is sufficient to give timely warning of migration of hazardous waste constituents so that remedial action can be taken prior to any adverse changes in the quality of the groundwater.

(10) A written statement from the qualified person preparing the report indicating whether any constituents have migrated into the surface water bodies or any strata outside the injection zone, including water-bearing strata.

(11) A written statement from the qualified person preparing the report indicating whether any migration of hazardous waste constituents into surface water bodies or any strata outside the injection zone, including water-bearing strata is likely or not likely to occur within five years, and any evidence supporting that statement.

(q) This section applies only to injection wells into which hazardous waste is discharged.

SEC. 5. Section 13260 of the Water Code is amended to read:

13260. (a) All of the following persons shall file with the regional board of that region a report of the discharge, containing the information which may be required by the regional board:

(1) 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.

(2) 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.

(3) Any person operating or proposing to construct an injection well.

(b) No report need be filed pursuant to subdivision (a) if the 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. 6. Section 13263.5 of the Water Code is amended to read:

13263.5. (a) When the regional board issues waste discharge requirements pursuant to Section 13263, or revises waste discharge requirements pursuant to subdivision (g) of Section 23159.17 of the Health and Safety Code, for any injection well into which hazardous waste is discharged, the waste discharge requirements shall be based upon the information contained in the hydrogeological assessment report prepared pursuant to Section 25159.18 of the Health and Safety Code and shall include conditions in the waste discharge requirements to ensure that the waters of the state are not polluted or threatened with pollution.

(b) If the state board applies to the federal Environmental Protection Agency to administer the Underground Injection Control Program pursuant to Part 145 (commencing with Section 145.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations, that application shall not include a request to administer the Underground Injection Control Program for any oil, gas, or geothermal injection wells supervised or regulated by the Division of Oil and Gas pursuant to Section 3106 or 3714 of the Public Resources Code.

SEC. 7. Section 13264 of the Water Code is amended to read:

13264. (a) No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

(1) The issuance of waste discharge requirements pursuant to Section 13263.

(2) The expiration of 120 days after compliance with Section 13260.

(3) The regional board's waiver pursuant to Section 13269.

(b) The Attorney General, at the request of a regional board, shall petition the superior court for the issuance of a temporary restraining order, preliminary injunction, or permanent injunction, or combination thereof, as may be appropriate, prohibiting any person who is violating or threatening to violate this section from doing any of the following, whichever is applicable:

(1) Discharging the waste or fluid.

(2) Making any material change in the discharge.

(3) Constructing the injection well.

SEC. 8. Section 13267 of the Water Code is amended to read:

13267. (a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within its region.

(b) In conducting an investigation specified in subdivision (a), the regional board may require that any person discharging or

proposing to discharge waste within its region or any citizen or domiciliary, or political agency or entity of this state discharging or proposing to discharge waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, those technical or monitoring program reports as the board may specify. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

(c) In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is refused, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be made without consent or the issuance of a warrant.

(d) The state board or a regional board may require any person, including a person subject to a waste discharge requirement under Section 13263, who is discharging, or who proposes to discharge, wastes or fluid into an injection well, to furnish the state board or regional board with a complete report on the condition and operation of the facility or injection well, or any other information that may be reasonably required to determine whether the injection well could affect the quality of the waters of the state.

SEC. 9. Section 13360 of the Water Code is amended to read:

13360. (a) No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner. However, the restrictions of this section shall not apply to waste discharge requirements or orders or decrees with respect to any of the following:

(1) Discharge of solid waste to disposal sites other than evaporation ponds from which there is no drainage or seepage which requires the installation of riprap, the construction of walls and dikes, the installation of surface and underground drainage facilities to prevent runoff from entering the disposal area or leakage to

underground or surface waters, or other reasonable requirements to achieve the above or similar purposes.

(2) Discharges of waste or fluid to an injection well, except any well which is regulated by the Division of Oil and Gas in the Department of Conservation pursuant to Division 3 (commencing with Section 3000) of the Public Resources Code and Subpart F of Part 147 of Title 40 of the Code of Federal Regulations and is in compliance with that division and Subpart A (commencing with Section 146.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations.

(b) If the court, in an action for an injunction brought under this division, finds that the enforcement of an injunction restraining the discharger from discharging waste would be impracticable, the court may issue any order reasonable under the circumstances requiring specific measures to be undertaken by the discharger to comply with the discharge requirements, order, or decree.

SEC. 10. It is the intent of the Legislature, in amending Section 25159.17 of the Health and Safety Code and Section 13263.5 of the Water Code, as set forth in Sections 3 and 6, to eliminate language that duplicates existing law. It is not the intent of the Legislature to relieve the State Water Resources Control Board or the California regional water quality control boards of any existing requirements of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000)) of the Water Code to issue waste discharge requirements or to ensure that the waters of the state are not polluted or threatened with pollution.

SEC. 11. 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. 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:

Because of the need to quickly implement the Toxic Injection Well Control Act of 1985, and thus protect the public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 1014

An act to amend Sections 1255.3 and 13028 of the Unemployment Insurance Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 1255.3 of the Unemployment Insurance Code is amended to read:

1255.3. (a) Except as provided by subdivisions (c) and (d), the amount of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which that individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of the individual shall be reduced, but not below zero, by an amount equal to the amount of the pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to that week.

(b) Subdivision (a) shall be operative only during such time as Section 3304 of the Federal Unemployment Tax Act requires that state unemployment insurance laws contain those provisions as a condition of certification of state unemployment insurance laws by the Secretary of Labor.

(c) Subdivision (a) shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if both of the following are met:

(1) The pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period or chargeable employer.

(2) In the case of such a payment not made under the federal Social Security Act or the federal Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for the employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar periodic payment.

(d) (1) Subdivision (a) shall not apply to any pension, retirement or retired pay, annuity or other similar periodic payment if the individual has made any contribution to the pension, retirement or retired pay, annuity, or other similar periodic payment.

(2) The amendments made to this subdivision during the 1986 portion of the 1985–86 Regular Session shall apply to new claims filed with an effective date beginning on or after January 1, 1987.

(e) Except as otherwise provided in subdivision (f), the amendments made to subdivision (c) of this section during the 1985 portion of the 1985–86 Regular Session shall apply retroactively to all unemployment compensation benefits, extended duration benefits, and federal-state extended benefits, payable to an individual for any week which begins after November 1, 1980.

(f) Notwithstanding Section 1341, the retroactive application of subdivision (c), as provided in subdivision (e), shall be limited to benefits payable to claimants who are alive on September 29, 1985.

SEC. 2. Section 13028 of the Unemployment Insurance Code is amended to read:

13028. (a) For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division) pensions, annuities, and other deferred income, as described in Section 3405 of the Internal Revenue Code, are wages and subject to withholding under this division.

(b) If an individual makes an election under Section 3405(a)(2) or Section 3405(b)(3) of the Internal Revenue Code not to have tax withheld, that election shall apply to withholding under this division, unless the individual elects, with the consent of the payer, to have those payments subject to withholding under this division. If an individual has not made an election under Section 3405(a)(2) or Section 3405(b)(3) of the Internal Revenue Code, that individual may elect to exclude those payments from withholding under this division. Elections provided in this subdivision shall be made pursuant to regulations of the director.

(c) Where Section 3405 of the Internal Revenue Code provides that tables or other computational procedures shall be prescribed by the Secretary of the Treasury, for the purposes of this division, any of the following amounts may be withheld, upon election of the payer:

(1) An amount determined by the method prescribed under Section 13020.

(2) A designated dollar amount as requested by the payee.

(3) Ten percent of the amount of federal withholding computed pursuant to Section 3405 of the Internal Revenue Code.

(d) Where the amount of withholding computed pursuant to subdivision (b) is less than ten dollars ($10) per month, the payer shall not be required to withhold that amount.

(e) This section shall not apply to pensions, annuities, and other deferred income of payees with addresses outside this state, as shown on the most current records of the payer.

(f) The department shall, in consultation with the affected payers and payees, issue regulations to implement this section.

Those regulations shall provide for delay (but not beyond July 1, 1987) of the application of this section with respect to any payer or class of payers until such time as the payers are able to comply without undue hardship with the requirements of this section. In that

case, no retroactive compliance shall be required.

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 effectuate savings in state government as soon as possible, and in order to prevent the federal government from determining that the state's unemployment insurance compensation system is out of conformity with federal law, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1015

An act to amend Sections 7521 and 7536 of the Business and Professions Code, relating to private security services.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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.

(g) A security guard or security officer, within the meaning of this chapter, is an employee of a private patrol operator who performs the functions as described in subdivision (b) on or about the premises owned or controlled by the customer of the private patrol operator or in the company of persons being protected.

(h) A street patrolman, within the meaning of this chapter, is a security guard or security officer employed by a private patrol operator who performs the functions described in subdivision (b) by street patrol service utilizing foot patrol, motor patrol, or other means of transportation in public areas, streets or public

thoroughfares in order to serve multiple customers. "Street patrolman" does not include management or supervisory employees of the private patrol operator moving from one customer location to another to inspect personnel or security guard or security officers.

SEC. 2. Section 7536 of the Business and Professions Code is amended to read:

7536. (a) The business of each licensee shall be operated under the active direction, control, charge, or management, in this state, of the licensee, if he or she is qualified, or the person who is qualified to act as the licensee's manager, if the licensee is not qualified.

(b) No person shall act as a qualified manager of a licensee until he or she has complied with each of the following:

(1) Demonstrated his or her qualifications by a written or oral examination, or a combination of both, if required by the director.

(2) Made a satisfactory showing to the director that he or she has the qualifications prescribed in Section 7526 and that none of the facts stated in Section 7538 or 7538.5 exist as to him or her.

CHAPTER 1016

An act to amend Sections 1503.5, 1508, 1523, 1526.5, 1538, 1550, 1596.80, 1596.853, and 1596.885 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 22, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 1503.5 of the Health and Safety Code is amended 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 local or state ombudsman, or placement, adult protective services, or child protective services agency 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 a current 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 a current valid 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 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 fee is for the purpose of financing a portion of the application and renewal processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

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, and 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. 3.5. Section 1523 of the Health and Safety Code, as amended by Section 5 of Senate Bill 2531, 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 fee is for the purpose of financing a portion of the application and renewal processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

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) Certified family homes of foster family agencies, 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, and 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. 4. Section 1526.5 of the Health and Safety Code is amended 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. Foster family homes are exempt from the provisions of this subdivision.

(b) After the inspection required by subdivision (a), the department may 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.

SEC. 5. Section 1538 of the Health and Safety Code is amended to read:

1538. (a) Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state 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 such facility pursuant to Section 9701 of the Welfare and Institutions Code. 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 state 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 community care facility, the state department shall make a preliminary review and, unless the state 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, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.

SEC. 6. Section 1550 of the Health and Safety Code is amended to read:

1550. The state department may suspend or revoke any license, registration, or special permit issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee, registrant, or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct 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 1522, at any time during licensure, of a crime as defined in Section 1522.

(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol on the licensed premises.

The director may temporarily suspend any license, registration, or special permit, prior to any hearing when, in the opinion of the director, the 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, registrant, or holder of the special permit of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, registrant, or holder of the special permit, 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 the notice. The temporary suspension shall remain in effect until the time 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.

SEC. 7. 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 a current valid license therefor as provided in this act.

SEC. 8. 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, except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including but not limited to, law enforcement agencies.

(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. 9. Section 1596.885 of the Health and Safety Code is

amended to read:

1596.885. The department may suspend or revoke any license, registration, or special permit issued under this act upon any of the following grounds and in the manner provided in this act:

(a) Violation by the licensee, registrant, or holder of a special permit of this act or of the rules and regulations promulgated under this act.

(b) Aiding, abetting, or permitting the violating of this act or of the rules and regulations promulgated under this act.

(c) Conduct 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 this state.

(d) The conviction of a licensee, or other person specified in Section 1596.871, at any time during licensure, of a crime as defined in Section 1596.871.

SEC. 10. Section 3.5 of this bill incorporates amendments to Section 1523 of the Health and Safety Code proposed by both this bill and SB 2531. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 1523 of the Health and Safety Code, and (3) this bill is enacted after SB 2531, in which case Section 1523 of the Health and Safety Code, as amended by Section 5 of SB 2531, 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. 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 1017

An act to amend Sections 1540, 1600, 1601, 2358, and 2670 of, to repeal and add Section 1513 of, and to add Sections 1513.1, 1516, and 2360 to, the Probate Code, relating to guardianships.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 1513 of the Probate Code is repealed.

SEC. 2. Section 1513 is added to the Probate Code, to read:

1513. (a) Unless waived by the court, a court investigator, probation officer, or domestic relations investigator shall make an

investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a probate court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians.

(b) The report shall be read and considered by the court prior to ruling on the petition for guardianship, and shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(c) If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a report is provided to the probate court.

(d) The report required by this section shall be confidential and shall only be made available to persons who have been served in the proceedings or their attorneys. The county clerk shall make provisions for the limitation of the report exclusively to persons entitled to its receipt.

(e) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

SEC. 3. Section 1513.1 is added to the Probate Code, to read:

1513.1. (a) Promptly following the close of each fiscal year, the Controller shall determine the statewide average cost per investigation or review by the court investigator, probation officer,

or domestic relations investigator incurred by each county pursuant to Section 1513 during each fiscal year.

(b) Except as provided in Section 6102 of the Government Code, each county shall annually assess (1) the parent, parents, or other person charged with the support and maintenance of the proposed ward, and (2) the guardian, proposed guardian, or the estate of the proposed ward, for county expenses for any investigation or review conducted by the court investigator, probation officer, or domestic relations investigator incurred pursuant to Section 1513 at a rate to be determined by the Controller pursuant to subdivision (a). A county may waive any or all of an assessment against the guardianship on the basis of hardship.

(c) Any amount chargeable as state-mandated local costs incurred by a county for the cost of the investigation or review pursuant to Section 1513 shall be reduced by any assessments actually collected pursuant to subdivision (b) during that fiscal year.

SEC. 4. Section 1516 is added to the Probate Code, to read:

1516. In each case involving a petition for guardianship of the person, the petitioner shall mail a notice of the hearing and a copy of the petition to the State Director of Social Services at the director's office in Sacramento at least 15 days prior to the hearing. The local social services agency providing child protection services shall screen the name of the guardian for prior referrals of neglect or abuse of minors. The results of this screening shall be provided to the court having jurisdiction over the case.

This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

SEC. 5. Section 1540 of the Probate Code is amended to read:

1540. This article does not apply in any of the following cases:

(a) Where the petition is for guardianship of the estate exclusively.

(b) Where the proposed guardian is a relative of the proposed ward.

(c) Where the Director of Developmental Services is appointed guardian pursuant to Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(d) Where the director of the department designated by the board of supervisors to provide social services is appointed guardian.

(e) Where the public guardian is appointed guardian.

(f) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

SEC. 6. Section 1600 of the Probate Code is amended to read:

1600. (a) A guardianship of the person or estate or both terminates when the ward attains majority or dies.

(b) A guardianship of the person terminates upon the adoption or marriage of the ward.

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 1018

An act to add Sections 19417.9, 19596.10, 19596.11, and 19596.12 to the Business and Professions Code, to add Section 4512 to the Food and Agricultural Code, and to add Section 11007.8 to, and Article 2.6 (commencing with Section 16379.5) to Chapter 2 of Part 2 of Division 4 of Title 2 of, the Government Code, relating to public agencies, and making an appropriation therefor.

[Approved by Governor September 22, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. The Legislature hereby declares its intent to comply with the provisions of the law relating to state-supported fairs, that the state's fair system shall be financially supported and that the fairgrounds in this state shall be maintained to the standard equal to that of other state owned properties, that the public health and safety be protected while on a state-supported fairground and that where there are state-supported fairs which are in need of repairs which could jeopardize the health and safety of our public, the Legislature declares that funds be made available to fund the repair of these projects.

It is the intent of the Legislature that the Department of Food and Agriculture continue to use existing resources, as well as resources provided by this act, to make health and safety improvements at state-supported fairgrounds until the fairgrounds are improved to a reasonable standard for public use.

SEC. 2. Section 19417.9 is added to the Business and Professions Code, to read:

19417.9. For purposes of this chapter, "county fair" includes fairs administered by a district agricultural association.

SEC. 3. Section 19596.10 is added to the Business and Professions Code, to read:

19596.10. All of the costs of administering the account in the Fair and Exposition Fund created in subdivision (c) of Section 19596.5 shall be charged to the account.

SEC. 4. Section 19596.11 is added to the Business and Professions Code, to read:

19596.11. For purposes of subdivision (c) of Section 19596.5,

"health and safety repair projects at fairs" means fire and life safety improvement projects, California Administrative Code compliance projects, and long-term deferred maintenance projects at fairs.

SEC. 5. Section 19596.12 is added to the Business and Professions Code, to read:

19596.12. Notwithstanding subdivision (c) of Section 19596.5, the Director of Food and Agriculture may not make an allocation for purposes of paragraph (4) of that subdivision until projects in paragraph (3) of that subdivision have been funded.

SEC. 6. Section 4512 is added to the Food and Agricultural Code, to read:

4512. (a) The department shall assist each fair in the development of a long-term maintenance schedule, subject to annual review by the department. The review is for the purpose of ensuring that the schedule is established so individual project costs, project descriptions, and projected completion dates are readily available for public agency review.

(b) The department shall develop an appeal process which allows individual fairs to request funding for projects and to present information concerning needed projects at their fairgrounds.

SEC. 7. Section 11007.8 is added to the Government Code, to read:

11007.8. (a) If a state agency is authorized to procure insurance, that agency may operate and administer a self-insurance program. The agency may contract with the Department of General Services for the development and administration of a self-insurance program.

(b) The department may develop and administer self-insurance programs for any state agency pursuant to its authority under Section 11007.7.

SEC. 8. Article 2.6 (commencing with Section 16379.5) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 2.6. California Fairs Insurance Fund

16379.5. (a) "Fund" means the California Fairs Insurance Fund.

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

16379.6. (a) The California Fairs Insurance Fund is hereby created in the State Treasury.

(b) The department shall be responsible for administering the fund, and for processing, investigating, and settling all claims against the fund. The department shall be fully reimbursed from the fund for all costs incurred from the performance of these functions.

(c) The department's role with respect to the fund shall not imply liability on the part of the state for any claims that are made against participating fairs.

16379.7. Funds collected by the department pursuant to this article shall be deposited in the fund. Notwithstanding Section 13340, the funds in the fund are continuously appropriated to the

department to administer this article.

16379.8. The department shall direct the Treasurer to deposit surplus funds in the fund in the Surplus Money Investment Fund. Interest earned on these funds shall be deposited in the fund.

16379.9. The California Exposition and State Fair, district agricultural associations, county fairs, and citrus fruit fairs may participate in the self-insurance program established by this article. The department shall administer this article so as to continue the California Fair Insurance Authority Program, which was established administratively, in order to provide pooled insurance coverage to participating parties.

SEC. 9. Notwithstanding any other provision of law, the addition of Section 19596.12 to the Business and Professions Code made by Section 5 of this act shall not affect the appropriation made in Item 8560-011-192 of the Budget Act of 1986 (Chapter 186 of the Statutes of 1986).

CHAPTER 1019

An act to amend Sections 8202.5, 25080, 25210.3, 25210.3a, 25210.3b, 25210.8, 25351, 25502.3, 25502.5, 25621, 25622, 50532, 54900, 54900.1, 54990, 56101, 56118, 56151, 56700.5, 56706, 56844, 57079.5, 65940, 66478.1, and 70047.5 of, to add Section 56160 to, and to repeal Sections 25210.71 and 65940 of, the Government Code, to amend Sections 4177, 13833.5, 13950, 13952, 13953, and 40708 of the Health and Safety Code, to amend Sections 20120 and 20139 of, and to amend and renumber Sections 21000, 21001, 21002, 21100, 21101, 21102, 21103, 21104, 21105, 21106, 21107, 21108, 21109, 21110, 21200, 21201, 21202, 21203, 21204, 21205, 21206, 21207, 21208, 21209, 21210, 21211, 21212, 21213, 21214, and 21215 of the Public Contract Code, to amend Section 22855 of the Vehicle Code, to amend Section 51342 of the Water Code, and to amend Section 63 of Chapter 303 of the Statutes of 1951, relating to local government.

[Approved by Governor September 22, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 8202.5 of the Government Code is amended to read:

8202.5. The Secretary of State may appoint and commission the number of state, city, county, and public school district employees as notaries public to act for and on behalf of the governmental entity for which appointed which the Secretary of State deems proper. Whenever a notary is appointed and commissioned, a duly authorized representative of the employing governmental entity shall execute a certificate that the appointment is made for the

purposes of the employing governmental entity, and whenever the certificate is filed with any state or county officer, no fees shall be charged by the officer for the filing or issuance of any document in connection with the appointment.

The state or any city, county, or school district for which the notary public is appointed and commissioned pursuant to this section may pay from any funds available for its support the premiums on any bond and the cost of any stamps, seals, or other supplies required in connection with the appointment, commission, or performance of the duties of the notary public.

Any fees collected or obtained by any notary public whose documents have been filed without charge and for whom bond premiums have been paid by the employer of the notary public shall be remitted by the notary public to the employing agency which shall deposit the funds to the credit of the fund from which the salary of the notary public is paid.

SEC. 1.5. Section 25080 of the Government Code is amended to read:

25080. Except as otherwise provided by state law, all meetings of the board of supervisors shall be public.

SEC. 2. Section 25210.3 of the Government Code is amended to read:

25210.3. This chapter provides an alternative method for providing governmental services by counties within unincorporated areas. This chapter shall not affect or limit any other provisions of law authorizing or providing for the furnishing of governmental services within unincorporated areas.

When any proceedings are commenced under this chapter, for the establishment of a county service area or for providing additional types of services within an established county service area, this chapter and no other provisions shall apply to the proceedings. Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code shall apply to all of these proceedings and the term "district" as used in that Chapter 8 shall be deemed to include a county service area for the purposes of that chapter only.

SEC. 3. Section 25210.3a of the Government Code is amended to read:

25210.3a. No proceedings for the establishment of a county service area may be instituted until the approval of the local agency formation commission is first obtained pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 5.

SEC. 4. Section 25210.3b of the Government Code is amended to read:

25210.3b. Territory may be annexed to, or detached from, a county service area and a county service area may be dissolved, consolidated, or reorganized. All proceedings therefor shall be taken under and pursuant to the Cortese-Knox Local Government

Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 5.

SEC. 5. Section 25210.8 of the Government Code is amended to read:

25210.8. Notwithstanding any other provision in this chapter, the board of supervisors may establish zones within any county service area with tax rates, service charges, or connection charges varying with the extent of benefit to each zone derived from services provided to the property within each zone or with the availability of other funds within a zone.

SEC. 6. Section 25210.71 of the Government Code is repealed.

SEC. 7. Section 25351 of the Government Code is amended to read:

25351. The board may construct, lease, build, rebuild, furnish, refurnish, or repair buildings for a hospital, almshouse, courthouse, jail, historical museum, aquarium, library, art gallery, art institute, exposition building for exhibiting and advertising farming, mining, manufacturing, livestock raising, and other resources of the county, stadium, coliseum, sports arena, or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibition, spectacles and other public meetings, and such other public buildings as are necessary to carry out the work of the county government.

SEC. 8. Section 25502.3 of the Government Code is amended to read:

25502.3. In counties having a population of less than 200,000, the board of supervisors may authorize the purchasing agent to engage independent contractors to perform services for the county or county officers, with or without the furnishing of material, when the aggregate cost does not exceed ten thousand dollars ($10,000).

SEC. 9. Section 25502.5 of the Government Code is amended to read:

25502.5. In counties having a population of 200,000 or more the board of supervisors may authorize the purchasing agent to engage independent contractors to perform services for the county or county officers, with or without the furnishing of material, when the aggregate cost does not exceed twenty-five thousand dollars ($25,000).

The board of supervisors may establish rules and regulations to effectuate the purposes of this section.

SEC. 10. Section 25621 of the Government Code is amended to read:

25621. The board of supervisors may appoint a county board of forestry, to consist of no less than three persons who shall serve without compensation.

SEC. 11. Section 25622 of the Government Code is amended to read:

25622. In any county in which a planning commission has been created, the board of supervisors may appoint a county board of

forestry, to consist of the members of the planning commission, who, in addition to their powers and duties as members of the planning commission, shall exercise all the powers and duties of a forestry board except the protection of the county from forest, grass, grain, brush, or other fires.

SEC. 12. Section 50532 of the Government Code is amended to read:

50532. The legislative body of the local agency in which the land is located shall first adopt a resolution declaring its intention to erect a public building on the public square or the legislative body of the city shall adopt a resolution declaring its intention to grant or lease the land to the county for the erection of a public building. The resolution shall be referred to the city or county planning agency, as the case may be, for a report and recommendation thereon pursuant to Section 65402.

SEC. 13. Section 54900 of the Government Code is amended to read:

54900. When there is a change in boundaries (1) of a city, (2) of a district, or special zone thereof, within a city the tax levy of which is carried on the regular city assessment roll, or (3) of a district, or special zone thereof, the tax or special assessment levy of which is carried on the regular county assessment roll, or when a city or any district, or special zone thereof, is created the tax or special assessment levy of which is carried on the regular county assessment roll, or when a district previously levying and collecting taxes or special assessments based upon its own assessment utilizes the regular city or county assessment roll, the tax or assessment levying authority of the city or district shall file or cause to be filed a statement of the creation or change, or of the exterior boundaries of the district and the special zones therein newly utilizing the regular city or county assessment roll. The city or district shall prepare the statement and forward it to the tax or assessment levying authority for filing.

Any filing as required by this section by the executive officer of a local agency formation commission pursuant to Section 57204 shall be deemed to satisfy the requirements of this chapter.

SEC. 14. Section 54900.1 of the Government Code is amended to read:

54900.1. The tax or assessment levying authority as used in this chapter shall be the governmental body required to levy taxes or assessments by the principal act of the city or district as defined in Section 56065.

SEC. 15. Section 54990 of the Government Code is amended to read:

54990. Notwithstanding any other provision of law, when a local agency charges fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings

under the Cortese-Knox Local Government Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 5; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 or under any other authority; those fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

SEC. 16. Section 56101 of the Government Code is amended to read:

56101. This division does not apply to any proceeding for a change of organization or reorganization for which the application shall have been accepted for filing by the executive officer pursuant to Section 56828 prior to 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.

SEC. 17. Section 56118 of the Government Code is amended to read:

56118. Except for a proposal for the merger of a then existing subsidiary district, any proposal for a merger or establishment of a subsidiary district 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.

SEC. 18. Section 56151 of the Government Code is amended to read:

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.

SEC. 19. Section 56160 is added to the Government Code, to read:

56160. The failure of any person or entity to receive notice given pursuant to this division shall not constitute grounds for any court to

invalidate any action taken for which the notice was given.

SEC. 20. Section 56700.5 of the Government Code is amended to read:

56700.5. (a) Before circulating any petition for change of organization for a city with a population of more than 100,000 which is located in a county with a population of over 4,000,000, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Section 56153. The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to _____ territory to the City of _____. The reasons for the proposal are:

(b) Within five days after the date of publication, the chief petitioners shall file with the clerk of the city and the executive officer a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(c) After the filing required pursuant to subdivision (b), the petition may be circulated for signatures.

SEC. 21. Section 56706 of the Government Code is amended to read:

56706. Within 30 days after the date of receiving 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.

SEC. 22. Section 56844 of the Government Code is amended to

read:

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 district 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.

SEC. 23. Section 57079.5 of the Government Code is amended to read:

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.

(4) Order the proposed annexation subject to an election.

SEC. 24. Section 65940 of the Government Code, as amended by Section 1 of Chapter 84 of the Statutes of 1982, is amended to read:

65940. Each state agency and each local agency shall compile one or more lists which shall specify in detail the information which will be required from any applicant for a development project. Copies of the information shall be made available to all applicants for development projects and to any person who requests the information.

SEC. 25. Section 65940 of the Government Code as amended by Section 1 of Chapter 84 of the Statutes of 1982 is amended to read:

65940. Each state agency and each local agency shall compile one or more lists which shall specify in detail the information which will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5. Copies of the information shall be made available to all applicants for development projects and to any person who requests the information.

SEC. 26. Section 65940 of the Government Code, as added by Section 2 of Chapter 84 of the Statutes of 1982, is repealed.

SEC. 27. Section 66478.1 of the Government Code is amended to read:

66478.1. It is the intent of the Legislature, by the provisions of Sections 66478.1 through 66478.10 of this article to implement Section 4 of Article X of the California Constitution insofar as Sections 66478.1 through 66478.10 are applicable to navigable waters.

SEC. 28. Section 70047.5 of the Government Code is amended to read:

70047.5. (a) In Sonoma County, for the 1985–86 fiscal year each regular official reporter shall be paid an annual salary of thirty-four thousand five hundred thirty-six dollars ($34,536), which salary shall include payment for his or her services in reporting all proceedings in the superior court, before the grand jury, the coroner, and the district attorney. In order that the salary provided for in this section shall remain equitable and competitive, the salary provided for in this section shall be adjusted and increased by the same, general across-the-board salary adjustment percentage enacted by the county in the salary ordinance for other unrepresented employees.

(b) Reporters pro tempore shall be paid fifty-five dollars ($55) per half day and one hundred dollars ($100) per full day for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties.

(c) Regular official reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave and other benefits allowed to employees in the clerical nonsupervisory representation unit of the county.

(d) In Sonoma County the fee required by Section 70053 shall be twenty dollars ($20).

(e) In addition to any fee otherwise required, in civil cases that last longer than one judicial day, a fee equal to the per diem rate for official reporters pro tempore shall be charged per day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(f) All parties shall deposit their pro rata share of such fees with the clerk at the beginning of the second and each succeeding day's court session.

(g) The fees shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court.

SEC. 29. Section 4177 of the Health and Safety Code is amended to read:

4177. If, from the testimony given before the board of supervisors, it appears to that board that the public necessity or welfare requires the formation of the district, it shall, by an order entered on its minutes, declare that to be its finding, and shall further declare and order that the territory within the boundaries so fixed and determined be organized as a district, under an appropriate

name to be selected by the board of supervisors. The name shall be descriptive of the functions of the district.

SEC. 30. Section 13833.5 of the Health and Safety Code is amended to read:

13833.5. Upon the completion of a change of organization, as defined in Section 56021 of the Government Code, or a reorganization, as defined in Section 56073 of the Government Code, which involves the annexation of inhabited territory to a fire protection district organized under this part, the number of directors of the annexing district shall be increased from three to five, or from five to seven, provided that both of the following conditions are met:

(a) The board of directors of the annexing district consents, by unanimously adopted resolution, to the increase.

(b) The local agency formation commission conditions, pursuant to Sections 56843 and 56844 of the Government Code, its approval of the change of organization upon the increase.

For purposes of this section, the board of supervisors shall, within 30 days of the effective date of the change of organization, appoint the two new directors, one of whom shall serve for a three-year term, and the other for a two-year term.

SEC. 31. Section 13950 of the Health and Safety Code is amended to read:

13950. Whenever all of the territory in a district is annexed to, or otherwise included within, any city, the district may be dissolved. Such dissolution shall be effective upon the filing with the State Board of Equalization, the governing body of the district, the county clerk or registrar of voters, and the county assessor, of copies of a resolution of the legislative body of the city, describing the district and declaring such district dissolved; provided, that if the district is not dissolved within one year after the effective date of the inclusion, the district may be dissolved thereafter only pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 contained in Division 3 (commencing with Section 56000) of Title 5 of the Government Code. Upon the dissolution of the district, the property of the district becomes the property of the city.

SEC. 32. Section 13952 of the Health and Safety Code is amended to read:

13952. Whenever any portion of a district is included within a city by annexation that portion may be withdrawn from the district. The legislative body of the city may within one year after the annexation proceedings are complete provide by resolution that such territory shall be withdrawn from the district.

Immediately after adoption of the resolution, the clerk of the legislative body of the city shall file a copy of the resolution, describing the territory withdrawn and declaring its withdrawal, with the governing body of the district and with the tax levying authority of the district. Whenever a copy of such resolution is filed with the governing body of the district, the tax levying authority of the district shall comply with the requirements of Chapter 8

(commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

The withdrawal shall be effective on the date fixed by the legislative body of the city, which date shall not be more than two years after the annexation proceedings are complete. Where the withdrawal is effective on or before January 1st of the fiscal year the district shall furnish fire protection services to the territory until the first day of July next succeeding. Where the withdrawal is effective subsequent to January 1st of the fiscal year and where the territory is subject to district taxation and assessment the district shall furnish fire protection services to the territory until the 30th day of June of the fiscal year next succeeding.

If the portion of the district included within a city by annexation is not withdrawn within two years after the annexation is complete, it may be withdrawn thereafter only by detachment proceedings taken pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 contained in Division 3 (commencing with Section 56000) of Title 5 of the Government Code.

SEC. 33. Section 13953 of the Health and Safety Code is amended to read:

13953. Whenever any portion of a district is included within a city by reason of the incorporation of the city, such portion may be withdrawn from the district by resolution of the governing body of the city within one year after the effective date of the incorporation of the city. If not withdrawn within one year, it may be withdrawn thereafter only by detachment proceedings taken pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 contained in Division 3 (commencing with Section 56000) of Title 5 of the Government Code.

If the withdrawal is made within one year after the effective date of the incorporation of the city, the clerk of the legislative body of the city shall file a copy of the resolution, describing the territory withdrawn, declaring its withdrawal, and specifying the date of its withdrawal, with the governing body of the district and with the tax levying authority of the district. Whenever a copy of the resolution is filed with the governing body of the district, the tax levying authority of the district shall comply with the requirements of Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 34. Section 40708 of the Health and Safety Code is amended to read:

40708. The Cortese-Knox Local Government Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 5 of the Government Code, shall not be applicable to the districts.

SEC. 35. Section 20120 of the Public Contract Code is amended to read:

20120. This article applies to public works contracts awarded by counties subject to Title 3 (commencing with Section 23000) of the Government Code.

SEC. 36. Section 20139 of the Public Contract Code is amended to read:

20139. The board shall not pay or become liable for any extra work done on, or extra material furnished for, any building or structure in the course of performance of a contract let pursuant to this article except in accordance with Section 20142, unless the contract specifically provides for such payment or the contract is changed or modified in the manner provided for in this article.

SEC. 37. Section 21000 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22000. This chapter shall be known and may be cited as the "Uniform Public Construction Cost Accounting Act."

SEC. 38. Section 21001 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22001. The Legislature finds and declares that there is a statewide need to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in the state. This chapter provides for the development of cost accounting standards and an alternative method for the bidding of public works projects by public entities.

SEC. 39. Section 21002 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22002. (a) "Public agency" for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries.

(b) "Representatives of the construction industry" for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.

(c) "Public project" means any of the following:

(1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.

(2) Painting or repainting of any publicly owned, leased, or operated facility.

(3) In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(d) "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:

(1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its

intended purposes.

(2) Minor repainting.

(3) Resurfacing of streets and highways at less than one inch.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

(5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(e) For purposes of this chapter, "facility" means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.

SEC. 40. Section 21100 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22010. There is hereby created the California Uniform Construction Cost Accounting Commission. The commission is comprised of 14 members appointed by the Controller as follows:

(a) Three members who shall each have at least 10 years of experience with, or providing professional services to, a general contracting firm engaged, during that period, in public works construction in California.

(b) Two members who shall each have at least 10 years of experience with, or providing professional services to, a firm or firms engaged, during that period, in subcontracting for public works construction in California.

(c) Two members who shall each be a member in good standing of, or have provided professional services to, an organized labor union with at least 10 years of experience in public works construction in California.

(d) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively, and two representing school districts (one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000), and one member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.

SEC. 41. Section 21101 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22011. The Controller, in an effort to select highly qualified commission members, shall solicit from organized representatives of the construction industry and public agencies recommendations for appointments to the commission.

SEC. 42. Section 21102 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and

renumbered to read:

22012. At least one commission member of the six representing the construction industry and at least one of the six representing public agencies shall have previous accounting experience.

SEC. 43. Section 21103 of the Public Contract Code is amended and renumbered to read:

22013. The commission members shall select a chairperson from among its membership. The chairperson shall serve as chair for a term of one year from the date of selection or February 1, whichever comes first. In no event shall two consecutive chairpersons be appointees representing either the construction industry or public agencies.

SEC. 44. Section 21104 of the Public Contract Code is amended and renumbered to read:

22014. (a) The members of the commission shall hold office for terms of three years, and until their successors are appointed, except as otherwise provided for in this section.

(b) In the case of members initially appointed by the Controller, two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1985; two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1986; and three representing the construction industry and three representing public agencies shall be appointed to serve until July 1, 1987.

(c) Members may be reappointed for subsequent terms of three years.

(d) The Controller shall, within 45 days after the expiration of any term, appoint a replacement to fill the vacancy on the commission.

SEC. 45. Section 21105 of the Public Contract Code is amended and renumbered to read:

22015. (a) The Controller shall make available for the conduct of the commission's business, such staff and other support as does not conflict with the accomplishment of the other business of the office of the Controller.

(b) Each member of the commission shall serve without compensation, but shall be reimbursed for travel and other expenses necessarily incurred in the performance of the member's duties.

(c) The commission may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this chapter.

SEC. 46. Section 21106 of the Public Contract Code is amended and renumbered to read:

22016. The commission shall meet not less than once each year, at a time and place chosen by its membership.

SEC. 47. Section 21107 of the Public Contract Code is amended and renumbered to read:

22017. The commission shall do all of the following:

(a) After due deliberation and study, recommend for adoption by

the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects. The procedures shall, to the extent deemed feasible and practicable by the commission, incorporate, or be consistent with construction cost accounting procedures and reporting requirements utilized by state and federal agencies on public projects, and be uniformly applicable to all public agencies which elect to utilize the uniform procedures. As part of its deliberations and review, the commission shall take into consideration relevant provisions of Office of Management and Budget Circular A-76.

(b) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in Section 22032.

(c) Submit its recommendations to the Controller not later than January 1, 1985. The commission shall report to the Legislature, no later than June 30, 1984, concerning its progress in the development and implementation of the uniform construction cost accounting procedures. Thereafter, the commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.

SEC. 48. Section 21108 of the Public Contract Code is amended and renumbered to read:

22018. The Controller shall, upon receipt of the commission's recommendations, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission by the commission.

SEC. 49. Section 21109 of the Public Contract Code is amended and renumbered to read:

22019. Upon determining that the recommended uniform construction cost accounting procedures will serve the best interests of the state and public agencies, and upon formal adoption by the Controller, the Controller shall promulgate the uniform procedure for all public agencies electing to participate, together with instructions for their adoption and implementation by any public agency.

SEC. 50. Section 21110 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22020. In accordance with procedures and standards adopted pursuant to Section 22017, every five years the commission shall consider whether there have been material changes in public construction costs and make recommendations to the Controller regarding adjustments in the monetary limits prescribed by Section 22032, but in no case shall the amount, as adjusted, be less than fifteen thousand dollars ($15,000). Any adjustment shall be effective beginning with the fiscal year which commences not less than 60 days following the Controller's notification to affected public agencies of the adjustment.

SEC. 51. Section 21200 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22030. This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.

SEC. 52. Section 21201 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22031. Nothing in this article shall prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

SEC. 53. Section 21202 of the Public Contract Code, as amended by Section 3 of Chapter 758 of the Statutes of 1984, is amended and renumbered to read:

22032. (a) Public projects of fifteen thousand dollars ($15,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

(b) Public projects of fifty thousand dollars ($50,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than fifty thousand dollars ($50,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

SEC. 54. Section 21203 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22033. It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

SEC. 55. Section 21204 of the Public Contract Code, as amended by Section 4 of Chapter 758 of the Statutes of 1984, is amended and renumbered to read:

22034. Each public agency which elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010), shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:

(a) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission.

(b) All contractors on the list for the category of work being bid and/or all construction trade journals specified in Section 22036 shall be mailed a notice inviting informal bids unless the product or service is proprietary.

(c) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.

(d) The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(e) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

SEC. 56. Section 21205 of the Public Contract Code is amended and renumbered to read:

22035. In cases of great emergency, as determined by the governing body of the public agency, including, but not limited to, states of emergency defined in Section 8558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of the operation or services of a public agency or to avoid danger to life or property, the governing body by majority vote, may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contract, or by a combination of the two. The governing body, by majority vote, may delegate to the appropriate county administrative officer or city manager the power to declare a public emergency subject to confirmation by the governing body, by a four-fifths vote, at its next meeting.

SEC. 57. Section 21206 of the Public Contract Code is amended and renumbered to read:

22036. The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed notice of all informal and formal construction contracts being bid for work within the specified county.

SEC. 58. Section 21207 of the Public Contract Code is amended and renumbered to read:

22037. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the public agency; or, if there is no newspaper printed and published within the jurisdiction of the public agency, in a newspaper of general circulation which is circulated within the jurisdiction of the public agency, or, if there is no newspaper which is circulated within the jurisdiction of the public agency, publication shall be by posting the notice in at least three places within the jurisdiction of the public

agency as have been designated by ordinance or regulation of the public agency as places for the posting of its notices. The notice inviting formal bids shall also be mailed to all construction trade journals specified in Section 22036. The notice shall be mailed at least 30 calendar days before the date of opening the bids. In addition to notice required by this section, the public agency may give such other notice as it deems proper.

SEC. 59. Section 21208 of the Public Contract Code, as amended by Section 1 of Chapter 993 of the Statutes of 1984, is amended and renumbered to read:

22038. (a) In its discretion, the public agency may reject any bids presented. If after the first invitation for bids all bids are rejected, the public agency shall state the reasons for the rejection, and after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

(1) Abandoning the project or readvertising for bids in the manner described by this article.

(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

(c) If no bids are received, the project may be performed by employees of the public agency by force account, or by informal bidding procedures set forth in Section 22034 without further complying with this article.

(d) Any statement of reasons for the rejection of all bids made pursuant to subdivision (a) shall not constitute a new cause of action separate and apart from any existing remedies which may be available to the bidders.

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. 60. Section 21208 of the Public Contract Code, as added by Section 2 of Chapter 993 of the Statutes of 1984, is amended and renumbered to read:

22038. (a) In its discretion, the public agency may reject any bids presented. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

(1) Abandoning the project or readvertising for bids in the manner described by this article.

(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

(b) If a contract is awarded, it shall be awarded to the lowest

responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

(c) If no bids are received, the project may be performed by the employees of the public agency by force account, or by informal bidding procedures set forth in Section 22034 without further complying with this article.

This section shall become operative on January 1, 1991.

SEC. 61. Section 21209 of the Public Contract Code is amended and renumbered to read:

22039. The governing body of the public agency shall adopt plans, specifications, and working details for all public projects of more than fifty thousand dollars ($50,000).

SEC. 62. Section 21210 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22040. Any person may examine the plans, specifications, or working details, or all of these, adopted by the public agency for any project.

SEC. 63. Section 21211 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22041. This article does not apply to the construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches, or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to those camps, ranches, or homes.

SEC. 64. Section 21212 of the Public Contract Code, as added by Section 1 of Chapter 1054 of the Statutes of 1983, is amended and renumbered to read:

22042. The commission shall review the accounting procedures of any participating public agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following categories:

(a) Is to be performed by a public agency after rejection of all bids, claiming work can be done less expensively by the public agency.

(b) Exceeded the force account limits.

(c) Has been improperly classified as maintenance.

SEC. 65. Section 21213 of the Public Contract Code is amended and renumbered to read:

22043. In those circumstances as set forth in subdivision (a) of Section 22042, a request for commission review shall be in writing, sent by certified or registered mail received by the commission postmarked not later than five business days from the date the public agency has rejected all bids. In those circumstances set forth in subdivision (b) or (c) of Section 22042, a request for commission review shall be by letter received by the commission not later than

five days from the date an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 30 days from the receipt of the request for commission review. During the review of a project that falls within subdivision (a) of Section 22042, the agency shall not proceed on the project until a final decision is received by the commission.

SEC. 66. Section 21214 of the Public Contract Code is amended and renumbered to read:

22044. The commission shall prepare written findings. Should the commission find that the provisions of this chapter or of the uniform cost accounting procedures provided for in this chapter were not complied with by the public agency, the following steps shall be implemented by that agency:

(a) On those projects set forth in subdivision (a) of Section 22042, the public agency has the option of either (1) abandoning the project, or (2) awarding the project to the lowest responsible bidder.

(b) On those projects set forth in subdivision (b) or (c) of Section 22042, the public agency shall present the commission's findings to its governing body and that governing body shall conduct a public hearing with regard to the commission's findings within 30 days of receipt of the findings.

SEC. 67. Section 21215 of the Public Contract Code is amended and renumbered to read:

22045. (a) No later than January 1, 1985, the commission shall recommend, for adoption by the Controller, written procedures implementing the accounting procedures review provided for in this article.

(b) The Controller shall, upon receipt of the commission's recommendation, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission of the commission.

SEC. 68. Section 22855 of the Vehicle Code is amended to read:

22855. The following persons shall have the authority to make appraisals of the value of vehicles for purposes of this chapter, subject to the conditions stated in this chapter:

(a) Any member of the California Highway Patrol designated by the commissioner.

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county.

(c) Any regularly employed and salaried police officer or other employee designated by the chief of police of any city.

(d) Any officer or employee of the Department of Motor Vehicles designated by the director of that department.

(e) Any member of the California State Police designated by the chief thereof.

(f) Any regularly employed and salaried police officer or other employee of the University of California Police Department designated by the chief thereof.

(g) Any regularly salaried employee of a city, county, or city and

county designated by a board of supervisors or a city council pursuant to subdivision (a) of Section 22669.

(h) Any regularly employed and salaried police officer or other employee of the police department of a California State University designated by the chief thereof.

(i) Any regularly employed and salaried security officer or other employee of a transit district security force designated by the chief thereof.

(j) Any regularly employed and salaried peace officer or other employee of the Department of Parks and Recreation designated by the director of that department.

SEC. 69. Section 51342 of the Water Code is amended to read:

51342. The rate of interest on unpaid operation and maintenance assessments is 1 percent per month commencing from the date of delinquency unless the board, by resolution, adopts a lesser rate and files a certified copy of the resolution with the county treasurer for insertion in the operation and maintenance assessment roll.

SEC. 70. Section 63 of Chapter 303 of the Statutes of 1951 is amended to read:

Sec. 63. The district may require that its charges be payable in advance. In case any charges remain unpaid at the time specified for fixing the tax rate of the district, if the property is owned, controlled, or in the possession of the same person who owned, controlled, or was in possession of it during the time the charges were incurred, or if the only transfers made of the property since the date the charges were incurred, have been transfers by gift, descent, bequest, or devise, the amount due for the charges may be collected at the same time and in the same manner as annual taxes levied against the land served by the district facilities. The charges shall constitute a lien on the land. If the taxes are divided and made payable in two installments, the unpaid charges may be added to, and become a part of, the first installment. The board shall include in the statement of tax rate transmitted to the county auditor the amount of the charges to be levied against the land served, and the county auditor shall include the charges in the tax bills. Alternatively, charges, for any services and facilities which the district is authorized to provide and for which it is authorized to collect charges, may be collected in the manner provided by Section 5473 of the Health and Safety Code in accordance with the procedures set forth in other applicable provisions of Article 4 (commencing with Section 5470) of Chapter 6 of Division 5 of the Health and Safety Code.

SEC. 71. The Legislature finds and declares with respect to the amendments made by this act to Section 56700.5 of the Government Code 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 the uniquely complex relationships which exist among cities, special districts, and unincorporated communities in the state's most populous county. In light of these complex relationships, proposals to alter the boundaries

of large cities require additional procedures which are not applicable to other local agencies.

SEC. 72. Section 26 of this bill incorporates amendments to Section 65940 of the Government Code proposed by both this bill and AB 3750. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 65940 of the Governement Code, and (3) this bill is enacted after AB 3750, in which case Section 25 of this bill shall not become operative.

SEC. 73. 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.

SEC. 74. No reimbursement is required by Section 28 of 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. 75. No reimbursement is required by Section 23 of 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 1020

An act to amend Sections 4117 and 4457 of the Welfare and Institutions Code, relating to crime.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 4117 of the Welfare and Institutions Code is amended to read:

4117. (a) Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, subdivision (f) of Section 2960 of the Penal Code, Section 7361

of this code, or former Section 6316.2 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the county clerk of the county in which the trial or hearing is had shall make out a statement of all mental health treatment costs and shall make out a separate statement of all nontreatment costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statements shall be properly certified by a judge of the superior court of that county and the statement of mental treatment costs shall be sent to the Department of Mental Health and the statement of all nontreatment costs shall be sent to the Controller for approval. After approval, the department shall cause the amount of mental health costs incurred on or after July 1, 1987, to be paid to the county mental health director or his or her designee where the trial or hearing was held out of the money appropriated for this purpose by the Legislature. In addition the Controller shall cause the amount of all nontreatment costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(b) Whenever a hearing is held pursuant to Section 1604, 1608, or 1609 of the Penal Code, all transportation costs to and from a state hospital or a facility designated by the community program director during the hearing shall be paid by the Controller as provided in this subdivision. The county clerk of the county in which a hearing is held shall make out a statement of all transportation costs incurred by the county which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. The Controller shall cause the amount of transportation costs incurred on and after July 1, 1987, to be paid to the county treasurer of the county where the hearing was had out of the money appropriated by the Legislature.

As used in this subdivision the community program director is the person designated pursuant to Section 1605 of the Penal Code.

SEC. 2. Section 4457 of the Welfare and Institutions Code is amended to read:

4457. Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, or subdivision (f) of Section 2960 of the Penal Code, or Section 7361 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the county clerk of the county in which the trial or hearing is had shall make out a statement of all costs incurred by the county

for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. After the court approval, the Controller shall cause the amount of the costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

SEC. 3. Sections 1 and 2 of this act shall become operative on July 1, 1987.

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 1021

An act to add Section 5096.102 to the Public Resources Code, and to amend Section 11 of Chapter 1087 of the Statutes of 1985, relating to public property, and making an appropriation therefor.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 5096.102 is added to the Public Resources Code, to read:

5096.102. Pursuant to Section 5096.96, the City of Palm Springs may authorize the use, for flood control structures, of the part of Tahquitz Regional Park adjoining Tahquitz Creek, which was acquired with a grant of state funds appropriated in Item 412A (200) of the Budget Act of 1974 (Chapter 1522, Statutes of 1974) and disbursed pursuant to Agreement Number 33-0007, subject to all of the following conditions:

(a) The City of Palm Springs and the Riverside County Flood Control and Water Conservation District shall jointly fund the construction of a storage, curatorial, and interpretive facility within Tahquitz Regional Park. The plans and specifications of the facility shall be agreed upon by the city, the district, and the Agua Caliente Band of Cahuilla Indians, acting through its Tribal Council.

(b) The city shall enter into an agreement with the Agua Caliente Band of Cahuilla Indians, acting through its Tribal Council, that requires the city to transfer title to the remainder of Tahquitz

Regional Park to the United States in trust for the Agua Caliente Band of Cahuilla Indians and requires the Tribal Council on behalf of the tribe to maintain and operate, at no cost to the city, except as specified in the agreement, any recreational facilities at the park and the storage, curatorial, and interpretive facilities in perpetuity and for the use and benefit of the general public. This agreement shall be made part of the deed or other instrument transferring title. No consideration shall be paid for the real property consisting of Tahquitz Regional Park and all improvements thereon, but the city shall be reimbursed by the Agua Caliente Band of Cahuilla Indians, acting through its Tribal Council, for all reasonable costs directly incurred in making the transfer, as specified in the agreement.

(c) Prior to entering into the agreements specified in subdivisions (a) and (b), the City Council of Palm Springs shall hold at least one public hearing on using part of Tahquitz Regional Park for flood control structures and on the proposed storage, curatorial, and interpretive facility and any proposed recreational facilities.

(d) The Department of Parks and Recreation shall review and approve the agreement specified in subdivision (b) and the plans and specifications for the proposed storage, curatorial, and interpretive facility, as agreed to pursuant to subdivision (a).

SEC. 2. Section 11 of Chapter 1087 of the Statutes of 1985 is amended to read:

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 or improve, with funds from nonstate sources only, substitute parklands or substitute park facilities in accordance with the provisions of the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400) of Division 5 of the Public Resources Code).

(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 or park facilities to be acquired or improved.

(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 or park facilities to be acquired or improved.

SEC. 3. The Director of General Services, with the approval of the State Public Works Board, may 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 the following real property:

Parcel 1. Approximately 5.92 acres of vacant land, fronting on Lincoln Avenue between Maude and Horace Streets and known as 3044 Horace Street, Riverside.

Parcel 2. Approximately 2.21 acres with a structure known as 1500 Petaluma Boulevard, Petaluma.

Parcel 3. Approximately 25.0 acres of vacant land abutting U.S. Highway 50 and the Southern Pacific Transportation Co. right-of-way in Rancho Cordova, County of Sacramento.

Parcel 4. Approximately 2.13 acres of vacant land, known as Ranney Well Site No. 1, lying between Front Street and the Sacramento River at the approximate westerly extension of S Street, City of Sacramento.

Parcel 5. Approximately 1.8 acres of vacant land in three parcels in the block bounded by Broadway, Terrace Street, Olympia Avenue, and San Lucas Street in the City of Seaside.

Parcel 6. Approximately 9.39 acres with a structure known as the Hawthorne Warehouse, 14724 Aviation Boulevard, in the City of Hawthorne.

SEC. 4. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, may 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 0.28 acre of paved land, being a portion of Pan Pacific State Historic Park, abutting Gardner Street, City of Los Angeles.

SEC. 5. 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, the following real property:

Parcel 1. Approximately 0.24 acre being a portion of Assessor's Parcel Number 017-360-23 at Jug Handle State Reserve. This parcel shall be exchanged only for a private easement for pathway and roadway purposes that currently encumbers approximately 0.37 acre of Jug Handle State Reserve.

Parcel 2. Approximately 0.27 acre, consisting of Assessor's Parcel Numbers 70-051-17 and 70-051-18, being a portion of Folsom Lake State Recreation Area fronting on Leidesdorff Street, between Wool and Decatur Streets, in the City of Folsom.

SEC. 6. 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 transfer to the City of Santa Cruz, for park purposes, approximately 6.28 acres of vacant land consisting of a strip parcel extending easterly from Natural Bridges State Beach and bounded by West Cliff Drive, Swift Drive, Swanton Boulevard, and the Pacific Ocean in the City of Santa Cruz. Upon any breach of the conditions of this transfer, the state may reenter the property,

and upon that reentry, the interest of the City of Santa Cruz shall terminate and all right, title, and interest in the property shall revert to the state.

SEC. 7. Notwithstanding Section 1 of Chapter 1384 of the Statutes of 1984, the Director of General Services, with the approval of the State Public Works Board and the Director of Forestry, is hereby authorized to transfer, at no cost, to the Calaveras County Historical Society, for historic resources preservation purposes, approximately 0.58 acre of land with a structure in the northeast corner of the Altaville Forest Fire Station in Calaveras County, subject to the condition that the Calaveras County Historical Society enters into an agreement with the Department of Forestry providing for the operation, maintenance, and public use of the land and structure transferred pursuant to this section and requiring the historical society to rehabilitate and restore the historical Altaville schoolhouse within a period of time to be specified in the agreement and at no cost to the state and, when rehabilitated and restored, to be kept open for public use.

The deed to the historical society shall provide that upon any breach of the conditions of this transfer, the state may reenter the property, and upon that reentry, the interest of the historical society shall terminate and all right, title, and interest in the property shall revert to the state.

SEC. 8. Notice of every public auction or bid opening shall be posted on the property to be sold under this act 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 e reimbursed from the proceeds of that disposition. All costs associated with the transfer authorized by Section 6 of this act shall be reimbursed by the City of Santa Cruz.

(b) Subject to subdivision (a), any moneys received from the disposition of any parcel described in this act shall be paid into the General Fund, except as follows:

(1) The net proceeds of any sale of state park property shall be deposited as provided in Section 5003.15 of the Public Resources Code.

(2) The net proceeds from the sale of Parcel 5, as specified in Section 3 of this act, shall be deposited in the Clearing Account in the Unemployment Fund, for transfer to the Unemployment Fund Account.

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.

CHAPTER 1022

An act relating to parks and recreation.

[Approved by Governor September 22, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. (a) Pursuant to Section 5096.96 of the Public Resources Code, the City of Orange is hereby authorized to convert a portion of West Olive Park, which was acquired with a grant of state funds appropriated in category (118) of Item 414 of the Budget Act of 1976 (Chapter 320, Statutes 1976) and disbursed pursuant to Agreement Number 30-0052, if the City of Orange does either of the following:

(1) Acquires substitute parklands which are of equal or greater fair market value than the portion of West Olive Park converted and which are generally usable by the same persons who use West Olive Park.

(2) Develops new recreational facilities on existing parklands which are generally usable by the same persons who use West Olive Park and expends for those facilities an amount that is not less than the fair market value of the portion of West Olive Park converted.

(b) Prior to making the conversion, the City of Orange shall enter into an agreement with the Department of Parks and Recreation, governing the use of the substitute parklands to be acquired or the new recreational facilities to be developed.

CHAPTER 1023

An act to amend Sections 18114.1 and 18124 of the Health and Safety Code, relating to the Mobilehome-Manufactured Housing Act of 1980, and making an appropriation therefor.

[Approved by Governor September 22, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 18114.1 of the Health and Safety Code is amended 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) Any transportable section of a manufactured home or mobilehome registered pursuant to this part and located on a private parcel owned by the registered owner of the manufactured home or mobilehome shall be exempt from the fee imposed by subdivision (a), if the owner provides documentation or a written statement, signed under penalty of perjury, which establishes to the satisfaction of the department that the manufactured home or mobilehome is located on a private parcel owned by the registered owner of the manufactured home or mobilehome.

(c) There is hereby appropriated from the Mobilehome-Manufactured Home Revolving Fund the sum of eighty-five thousand dollars ($85,000) to the Department of Housing and Community Development for administrative costs pursuant to subdivision (b).

(d) This section shall remain in effect only until January 1, 1989, and, except as provided in subdivision (e), 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.

(e) Notwithstanding subdivision (d), 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.

SEC. 2. Section 18124 of the Health and Safety Code is amended to read:

18124. The department, the Department of the California Highway Patrol, or any regularly employed and salaried police officer or deputy sheriff may take possession of any certificate, card, permit, transportation decal, or registration decal issued under this

part which has expired, been revoked, cancelled, or suspended; which is fictitious, or which has been unlawfully or erroneously issued or affixed.

This section shall not be applicable to any insignia issued pursuant to Section 18026 or to any manufactured home or mobilehome label issued pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

Any document or decal seized shall be expeditiously delivered to the department with a brief written explanation of the circumstances.

CHAPTER 1024

An act to amend Section 9978 of the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 22, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 9978 of the Business and Professions Code is amended to read:

9978. (a) No employment agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisements.

(b) All advertisements of an employment agency shall contain the licensed name of the employment agency and one of the following:

(1) The address of the agency.

(2) The telephone number of the agency as registered with the Bureau of Personnel Services.

(3) The license number of the agency.

(c) Every employment agency, except a licensed nurses' registry and an employment counseling service, shall use, as part of its licensed name, either the designation "agency" or "personnel service."

(d) No employment agency shall give any false information or make any false promises or representations concerning an engagement or employment to any applicant who registers or applies for an engagement or employment or help.

CHAPTER 1025

An act to amend Sections 25191 and 25292 of, and to add Sections 25281.5 and 25291.5 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 22, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 25281.5 is added to the Health and Safety Code, to read:

25281.5. (a) Notwithstanding subdivision (i) of Section 25281, for purposes of this chapter "pipe" means all parts of any pipeline or system of pipelines, used in connection with the storage of hazardous substances, including, but not limited to, valves and other appurtenances connected to the pipe, pumping units, fabricated assemblies associated with pumping units, and metering and delivery stations and fabricated assemblies therein, but does not include any of the following:

(1) An interstate pipeline subject to 49 Code of Federal Regulations, Part 195.

(2) An intrastate pipeline subject to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code.

(3) Unburied delivery hoses, vapor recovery hoses, and nozzles which are subject to unobstructed visual inspection for leakage.

(4) Vent lines, vapor recovery lines, and fill pipes which are designed to prevent, and do not hold, standing fluid in the pipes or lines.

(b) In addition to the exclusions specified in subdivision (r) of Section 25281, "underground storage tank" does not include vent lines, vapor recovery lines, and fill pipes which are designed to prevent, and do not hold, standing fluid in the pipes or lines.

SEC. 2. Section 25291 of the Health and Safety Code is amended to read:

25291. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) The underground storage tank shall be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the maximum volume of a 24-hour rainfall as determined by a 25-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary containment set forth in this section if the outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells; the system is capable of detecting the entry of hazardous substances from the inner container into the space; and the system is capable of detecting water intrusion into the space from the outer shell.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the underground storage tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system designed to provide early leak detection and response, and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25292.

(E) Pressurized piping systems connected to tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25292 also meet the conditions of this subdivision if the tank meets the conditions of subparagraphs (A) to (D), inclusive. However, any pipe connected to an underground storage tank installed after July 1, 1987, shall be equipped with secondary containment which complies with paragraphs (1) to (6), inclusive.

(b) The underground storage tank shall be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into

the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, the underground storage tank shall have a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

(d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, those substances shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(g) Before the underground storage tank is placed in service, the underground storage systems shall be tested in operating condition using a precision test as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(h) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

SEC. 3. Section 25291.5 is added to the Health and Safety Code, to read:

25291.5. On or before July 1, 1987, the board shall review and on or before April 1, 1988, revise where appropriate, existing regulations prescribing performance standards for pipes used in connection with

the storage of hazardous substances. On or before May 1, 1988, the board shall provide the Legislature with a report regarding the review, assessment, and revision of regulations performed pursuant to this section. The review of existing regulations shall include, but not be limited to, an assessment of all of the following components:

(a) Minimum design and construction requirements for new pipes, or for relocating, replacing, or otherwise changing existing systems.

(b) Compatibility of substances flowing through the pipeline system.

(c) Installation of new or used pipes.

(d) Leak detection.

SEC. 4. Section 25292 of the Health and Safety Code is amended to read:

25292. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, the following actions shall be taken:

(a) On or before July 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Precision testing as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank and piping system at time intervals specified by the board.

(2) A groundwater monitoring well or wells which are downgradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well.

(3) A continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the local agency.

(4) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if all of the following requirements are met:

(A) Inventory records are kept on file for one year and are reviewed quarterly.

(B) The tank is tested, using the precision test as defined by the National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and

Combustible Solids," as amended, for proving the integrity of an underground storage tank at time intervals specified by the board and whenever there is a shortage greater than the amount which the board shall specify by regulation.

(C) If a pressurized pump system is connected to the tank system, the system has a leak detection device to monitor for leaks in the piping. The leak detection device shall be installed in a manner designed to resist unauthorized tampering and to clearly show by visual inspection if tampering has occurred. The leak detection device shall be tested annually, at a minimum, and all devices found to be not performing in conformance with the manufacturer's leak detection specifications shall be promptly repaired or replaced.

(c) The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

SEC. 5. Section 25292 of the Health and Safety Code is amended to read:

25292. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, the following actions shall be taken:

(a) On or before July 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Precision testing as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank and piping system at time intervals specified by the board.

(2) A groundwater monitoring well or wells which are downgradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well.

(3) A continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the local agency.

(4) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if all of the following requirements are met:

(A) Inventory records are kept on file for one year and are reviewed quarterly.

(B) The tank is tested, using the precision test as defined by the National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Solids," as amended, for proving the integrity of an underground storage tank at time intervals specified by the board and whenever there is a shortage greater than the amount which the board shall specify by regulation.

(C) If a pressurized pump system is connected to the tank system, the system has a leak detection device to monitor for leaks in the piping. The leak detection device shall be installed in a manner designed to resist unauthorized tampering and to clearly show by visual inspection if tampering has occurred. The leak detection device shall be tested annually, at a minimum, and all devices found to be not performing in conformance with the manufacturer's leak detection specifications shall be promptly repaired or replaced.

(5) For monitoring underground storage tanks which are located on farms and which store motor vehicle or heating fuels used primarily for agricultural purposes, alternative monitoring methods include the following:

(A) If the tank has a capacity of greater than 1,100 gallons but of 5,000 gallons or less, the tank shall be tested using the precision test, as defined by the National Fire Protection Association Pamphlet 329, at least once every three years, and the owner shall utilize tank gauging on a monthly or more frequent basis, as required by the local agency, subject to the specifications provided in paragraph (7) of subdivision (c) of Section 2641 of Title 23 of the California Administrative Code, as that section read on August 13, 1985.

(B) If the tank has a capacity of more than 5,000 gallons, the tank shall be monitored pursuant to the methods for all other tanks specified in this subdivision.

(c) The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

SEC. 6. Section 5 of this bill incorporates amendments to Section 25292 of the Health and Safety Code proposed by both this bill and AB 3570. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 25292 of the Health and Safety Code, and (3) this bill is enacted after AB 3570, in which case Section 4 of this bill shall not become operative.

SEC. 7. 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 1026

An act to amend Sections 11366.5, 11366.6, and 11550 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 11366.5 of the Health and Safety Code is amended to read:

11366.5. (a) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

(b) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly allows the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the sale of any amount of cocaine, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide and who obtains excessive profits from the use of the building, room, space, or enclosure shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Any person who violates subdivision (a) after previously being convicted of a violation of subdivision (a) shall be punished by imprisonment in the state prison for two, three, or four years.

(d) For the purposes of this section, "excessive profits" means the receipt of consideration of a value substantially higher than fair market value.

SEC. 2. Section 11366.6 of the Health and Safety Code is amended to read:

11366.6. Any person who utilizes a building, room, space, or enclosure specifically designed to suppress law enforcement entry in order to sell, manufacture, or possess for sale any amount of cocaine, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 3. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section shall prevent diversion pursuant to Penal Code Section 1000.

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 1027

An act to repeal and add Section 51260 of, the Education Code, and to add Section 11372.7 to the Health and Safety Code, relating to drug education, and making an appropriation therefor.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 51260 of the Education Code, as added by Section 2 of Chapter 1002 of the Statutes of 1981, is repealed.

SEC. 2. Section 51260 is added to the Education Code, to read:

51260. (a) Instruction shall be given in the elementary and secondary schools by appropriately trained instructors on drug education and the effects of the use of tobacco, alcohol, narcotics, dangerous drugs, as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

For purposes of this chapter, an "appropriately trained instructor" is one who, based upon the determination of the site administrator, demonstrates competencies in interacting in a positive manner with children and youth; demonstrates knowledge of the properties and effects of tobacco, alcohol, narcotics, and dangerous drugs; and who demonstrates skills in conducting affective education, which include methods and techniques for helping children and youth to freely express ideas and opinions in a responsible manner and to gain an awareness of their values as they affect decisions related to drug use and misuse.

In grades 1 through 6, instruction on drug education should be conducted in conjunction with courses given on health pursuant to subdivision (f) of Section 51210.

In grades 7 to 12, inclusive, instruction on drug education shall be conducted in conjunction with courses given on health or in any appropriate area of study pursuant to Section 51220.

Such instruction shall be sequential in nature and suited to meet the needs of students at their respective grade level.

(b) Services provided under this section shall be in addition to, but shall not be duplicative of, services provided pursuant to Article 2 (commencing with Section 11960) of Part 3 of Division 10.5 of the Health and Safety Code.

SEC. 3. Section 11372.7 is added to the Health and Safety Code, to read:

11372.7. (a) Except as otherwise provided in subdivision (e), each person who is convicted of a violation of this chapter shall pay a drug program fee in an amount not to exceed one hundred dollars ($100) for each separate offense. The court shall increase the total fine, if necessary, to include this increment, which shall be in addition to any other penalty prescribed by law.

(b) The court shall determine whether the person who is convicted of a violation of this chapter has the ability to pay all or part of the fee. The court may set the amount to be reimbursed and order the person to pay that sum to the county in a manner that the court believes is reasonable and compatible with the person's financial ability. In its determination of whether a person has the ability to pay, the court shall take into account the amount of any fine imposed upon that person and any amount that person has been ordered to pay in restitution.

(c) The county treasurer shall maintain a drug program fund. For every drug program fee assessed pursuant to subdivision (a), an amount equal to this assessment shall be deposited into the fund for every conviction pursuant to this chapter, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Sections 11372.5 and 11502. These deposits shall be made prior to any transfer pursuant to Section 11502. Amounts deposited in the drug program fund shall be allocated by the administrator of the county's drug program to drug abuse programs in the schools and the community, subject to the

approval of the board of supervisors, as follows:

(1) The moneys in the fund shall be allocated through the planning process established pursuant to Sections 11983, 11983.1, 11983.2, and 11983.3.

(2) A minimum of 33 percent of the fund shall be allocated to primary prevention programs in the schools and the community. Primary prevention programs developed and implemented under this article shall emphasize cooperation in planning and program implementation among schools and community drug abuse agencies, and shall demonstrate coordination through an interagency agreement between the county offices of education or local school district and the county drug program administrator. These primary prevention programs may include:

(A) School- and classroom-oriented programs, including, but not limited to, programs designed to encourage sound decisionmaking, an awareness of values, an awareness of drugs and their effects, enhanced self-esteem, social and practical skills that will assist students toward maturity, enhanced or improved school climate and relationships among all school personnel and students, and furtherance of cooperative efforts of school- and community-based personnel.

(B) School- or community-based nonclassroom alternative programs, or both, including, but not limited to, positive peer group programs, programs involving youth and adults in constructive activities designed as alternatives to drug use, and programs for special target groups, such as women, ethnic minorities, and other high-risk, high-need populations.

(C) Family-oriented programs, including, but not limited to, programs aimed at improving family relationships and involving parents constructively in the education and nurturing of their children, as well as in specific activities aimed at preventing drug abuse.

(d) Moneys deposited into a county drug program fund pursuant to this section shall supplement, and shall not supplant, any local funds made available to support the county's drug abuse prevention and treatment efforts.

(e) This section shall not apply to any person convicted of a violation of subdivision (b) of Section 11357 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 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 1028

An act to amend, add, and repeal Section 11100 of, and to add Section 11106 to, the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 11100 of the Health and Safety Code is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the Department of Justice of all of those transactions:

(1) Phenyl-2-propanone
(2) Methylamine
(3) Ethylamine
(4) D-lysergic acid
(5) Ergotamine tartrate
(6) Diethyl malonate
(7) Malonic acid
(8) Ethyl malonate
(9) Barbituric acid
(10) Piperidine
(11) N-acetylanthranilic acid
(12) Pyrolidine
(13) Phenylacetic acid
(14) Anthranilic acid.
(15) Morpoline.

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes such substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes such substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes such substance to a licensed pharmacy, physician, dentist, podiatrist,

or veterinarian.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subdivision (a) to a person in this state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction to the Department of Justice. However, the Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that either of the following exist:

(1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance.

(2) The recipient has established a record of utilization of the substance for lawful purposes.

(e) The Department of Justice shall grant an exemption from the reporting requirements of this section to any person who supplies a substance specified in subdivision (a) who can demonstrate, to the department's satisfaction, that the recipient requires the substance for a lawful purpose and that special circumstances prevent the supplier from reporting the transaction to the department not less than 21 days prior to delivery.

(f) (1) Any person specified in subdivision (d) who does not submit a report as required by that subdivision shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five thousand dollars ($5,000) or by both the fine and imprisonment.

(2) Any person specified in subdivision (d) who has been previously convicted of a violation of subdivision (d) who subsequently does not submit a report as required by subdivision (d) shall be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one hundred thousand dollars ($100,000), or by both the fine and imprisonment.

This section shall be operative until April 1, 1987, and on that date is repealed.

SEC. 2. Section 11100 is added to the Health and Safety Code, to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the Department of Justice of all of those transactions:

(1) Phenyl-2-propanone.
(2) Methylamine.
(3) Ethylamine.
(4) D-lysergic acid.
(5) Ergotamine tartrate.
(6) Diethyl malonate.

(7) Malonic acid.
(8) Ethyl malonate.
(9) Barbituric acid.
(10) Piperidine.
(11) N-acetylanthranilic acid.
(12) Pyrrolidine.
(13) Phenylacetic acid.
(14) Anthranilic acid.
(15) Morpholine.

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) (1) Any manufacturer, wholesaler, retailer, or other person shall, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to a person in this state, require proper identification from the purchaser.

(2) For the purposes of this subdivision, "proper identification" means a motor vehicle operator's license or other official state-issued identification of the purchaser which contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of any motor vehicle owned or operated by the purchaser, a letter of authorization from the business for which any substance specified in subdivision (a) is being furnished, which includes the business license number and address of the business, a full description of how the substance is to be used, and the signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in subdivision (a) shall affix his or her signature as a witness to the signature and identification of the purchaser.

(3) A violation of this subdivision is a misdemeanor.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subdivision (a) to a person in this state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision (c), to the Department of Justice. However, the Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that either of the following exist:

(1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of

the substance.

(2) The recipient has established a record of utilization of the substance for lawful purposes.

(e) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(f) (1) Any person specified in subdivision (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five thousand dollars ($5,000) or by both the fine and imprisonment.

(2) Any person specified in subdivision (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one hundred thousand dollars ($100,000), or by both the fine and imprisonment.

This section shall become operative on April 1, 1987, and shall be operative until October 1, 1987, and on that date is repealed.

SEC. 3. Section 11100 is added to the Health and Safety Code, to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the Department of Justice of all of those transactions:

(1) Phenyl-2-propanone.
(2) Methylamine.
(3) Ethylamine.
(4) D-lysergic acid.
(5) Ergotamine tartrate.
(6) Diethyl malonate.
(7) Malonic acid.
(8) Ethyl malonate.
(9) Barbituric acid.
(10) Piperidine.
(11) N-acetylanthranilic acid.
(12) Pyrrolidine.
(13) Phenylacetic acid.
(14) Anthranilic acid.
(15) Morpholine.
(16) Ephedrine.

(17) Pseudoephedrine; norpseudoephedrine; and phenylpropanolamine.

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) (1) Any manufacturer, wholesaler, retailer, or other person shall, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to a person in this state, require proper identification from the purchaser.

(2) For the purposes of this subdivision, "proper identification" means a motor vehicle operator's license or other official state-issued identification of the purchaser which contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of any motor vehicle owned or operated by the purchaser, a letter of authorization from the business for which any substance specified in subdivision (a) is being furnished, which includes the business license number and address of the business, a full description of how the substance is to be used, and the signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in subdivision (a) shall affix his or her signature as a witness to the signature and identification of the purchaser.

(3) A violation of this subdivision is a misdemeanor.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subdivision (a) to a person in this state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision (c), to the Department of Justice. However, the Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that either of the following exist:

(1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance.

(2) The recipient has established a record of utilization of the substance for lawful purposes.

(e) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(4) Sales consistent with federal law of any proprietary product containing substances listed in paragraph 16 or 17 of subdivision (a).

(f) (1) Any person specified in subdivision (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five thousand dollars ($5,000) or by both the fine and imprisonment.

(2) Any person specified in subdivision (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one hundred thousand dollars ($100,000), or by both the fine and imprisonment.

This section shall become operative on October 1, 1987.

SEC. 2. Section 11106 is added to the Health and Safety Code, to read:

11106. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in subdivision (a) of Section 11100 to a person in this state or who receives from a source outside of the state any substance specified in subdivision (a) of Section 11100 shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Applications for permits shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(c) The department may grant permits on forms prescribed by it, which shall be effective for not more than one year from the date of issuance. Applications and permits shall be uniform throughout the state, on forms prescribed by the department.

(d) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department which shall not exceed the application processing costs of the department.

(e) A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the department.

(f) Selling, transferring, or otherwise furnishing, or receiving any substance specified in subdivision (a) of Section 11100 without a permit, is a misdemeanor or a felony.

(g) This section shall become operative on April 1, 1987.

SEC. 3. The sum of one hundred forty-eight thousand dollars ($148,000) is hereby appropriated from the General Fund to the Controller for disbursement to the Department of Justice for sufficient personnel to develop, implement, and maintain a comprehensive controlled substances precursor regulatory system which includes, but is not limited to, the issuance of permits, a precursor reporting system, site inspections, auditing, and the investigation of suspected violations.

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 1029

An act to add and repeal Chapter 12 (commencing with Section 11640) to Division 10 of the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Chapter 12 (commencing with Section 11640) is added to Division 10 of the Health and Safety Code, to read:

CHAPTER 12. CLANDESTINE LABORATORY ENFORCEMENT PROGRAM

11640. The Legislature finds and declares that there has been a recent and rapid expansion in clandestine laboratories illegally producing a variety of controlled substances. These are increasingly sophisticated operations, frequently located in rural areas or working across jurisdictional lines, which pose substantial dangers to the general public from fire, explosion, and the toxic chemicals involved. The controlled substances these laboratories produce, such as analogs of fentanyl, phencyclidine, and methamphetamine, are extremely difficult to detect and analyze and have caused numerous deaths and serious injuries to those who use them.

The Legislature further finds and declares that, given the number and nature of clandestine laboratories, local law enforcement officials in most jurisdictions lack the training, specialized equipment, and resources to adequately enforce existing law. As a result, the public is increasingly endangered by the laboratories themselves while the controlled substances they produce pose a

grave danger to those who use them.

It is the intent of the Legislature in establishing the Clandestine Laboratory Enforcement Program to provide increased funding for special training, equipment, personnel, and financial assistance to state and local law enforcement officials targeted on the investigation and prosecution of clandestine laboratories. The program shall also increase public awareness of the problems posed by clandestine laboratories and the products they produce.

11641. The Department of Justice shall establish a Clandestine Laboratory Enforcement Program to assist state and local law enforcement and prosecutorial agencies in apprehending and prosecuting persons involved in the unlawful manufacture of controlled substances.

11642. (a) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

(b) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for law enforcement personnel expenses, not exceeding ten thousand dollars ($10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to, the Asset Forfeiture Program, (Section 11489), the California Career Criminal

Apprehension Program (Section 13851 of the Penal Code), or the federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

(c) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs incurred by, or at the direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

(d) For the purposes of this section, the population of a county shall be as determined by Section 28020 of the Government Code.

(e) Reimbursement under this section may be provided only with respect to costs incurred on or after January 1, 1987.

11643. To the extent moneys are available therefor, the Bureau of Narcotic Enforcement in the Department of Justice shall do the following:

(a) In cooperation with the Commission on Peace Officer Standards and Training provide advanced training to state and local law enforcement personnel on the unique skills, such as detection and identification of chemical substances, and safety precautions, such as safe handling, storage, and disposal of toxic substances, necessary to investigate clandestine laboratories illegally manufacturing controlled substances.

(b) Make safety equipment, such as protective clothing and breathing apparatus, available to local law enforcement officials, as needed, on a case-by-case basis in connection with investigation and abatement of laboratories illegally manufacturing controlled substances.

(c) Establish enhanced enforcement teams assigned to the investigation of clandestine laboratories illegally manufacturing controlled substances, particularly targeting cabals operating in multiple local jurisdictions. These teams shall include special agents trained in investigating clandestine laboratories, criminalists to analyze the chemicals involved, auditors to conduct financial investigations and initiate forfeiture proceedings pursuant to Chapter 8 (commencing with Section 11470) where warranted, and analysts to monitor the overall pattern and network of these clandestine laboratories across the state, to develop further cases, and to target law enforcement efforts where needed.

11644. To the extent moneys are available therefor, the Crime Prevention Center of the Department of Justice shall prepare and disseminate informational materials on the unique dangers posed by clandestine laboratories and the controlled substances they produce. The Crime Prevention Center shall increase public awareness in areas such as the health dangers created by the laboratories themselves, including how to identify and report them, and the unusual effects and dangers of synthetic substances such as analogs of fentanyl, MPPP, phencyclidine, and methamphetamines.

11646. The Attorney General shall adopt rules and regulations for the administration and enforcement of this chapter.

11647. The Department of Justice shall prepare and submit an interim report to the Legislature on or before January 10, 1988, and shall submit a final report to the Legislature on or before January 10, 1989, setting forth the findings and accomplishments of the Clandestine Laboratory Enforcement Program.

11648. 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. 2. The sum of one million nine hundred twenty-five thousand dollars ($1,925,000) is hereby appropriated from the General Fund for expenditure during the last six months of the 1986–87 fiscal year in accordance with the following schedule:

(a) To the Controller for allocation to counties with a population under 1,250,000 to reimburse prosecution costs pursuant to subdivision (a) of Section 11642 of the Health and Safety Code	$ 50,000
(b) To the Controller for allocation to counties witha a population under 1,250,000 to reimburse law enforcement costs pursuant to subdivision (b) of Section 11642 of the Health and Safety Code	355,000
(c) To the Controller for allocation to counties with a population under 1,250,000 to reimburse costs of toxic waste removal and disposal or storage pursuant to subdivision (c) of Section 11642 of the Health and Safety Code	250,000
(d) To the Department of Justice for programs of the Bureau of Narcotic Enforcement specified in Section 11643 of the Health and Safety Code	1,200,000
(e) To the Department of Justice for programs of the Crime Prevention Center specified in Section 11644 of the Health and Safety Code	70,000

CHAPTER 1030

An act to amend Section 11370 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 11370 of the Health and Safety Code is amended to read:

11370. (a) Any person convicted of violating Section 11350, 11351, 11352, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, or 11368, or of committing any offense referred to in those sections, shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court, if he or she has been previously convicted of any offense described in subdivision (c).

(b) Any person who was 18 years of age or over at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use such a controlled substance in violation of law shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

(d) The existence of any previous conviction or fact which would make a person ineligible for suspension of sentence or probation under this section 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 a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

CHAPTER 1031

An act to amend Sections 11470.1, 11479, and 11479.2 of, and to add Sections 11374.5 and 25354.5 to, the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 11374.5 is added to the Health and Safety Code, to read:

11374.5. (a) Any manufacturer of a controlled substance who disposes of any hazardous substance that is a controlled substance or chemical used in the manufacture of a controlled substance in violation of any law regulating the disposal of hazardous substances or hazardous waste is guilty of a public offense punishable by imprisonment in the state prison for two, three, or four years or in the county jail not exceeding one year.

(b) As used in this section:

(1) "Dispose" means to abandon, deposit, intern, or otherwise discard as a final action after use has been achieved or a use is no longer intended.

(2) "Hazardous substance" has the meaning as set forth in Section 25316.

SEC. 1.5. Section 11470.1 of the Health and Safety Code is amended to read:

11470.1. (a) The expenses of seizing, eradicating, destroying, or taking remedial action with respect to, any controlled substance or its precursors shall be recoverable from:

(1) Any person who manufactures or cultivates a controlled substance or its precursors in violation of this division.

(2) Any person who aids and abets or who knowingly profits in any manner from the manufacture or cultivation of a controlled substance or its precursors on property owned, leased, or possessed by the defendant, in violation of this division.

(b) The expenses of taking remedial action with respect to any controlled substance or its precursors shall also be recoverable from any person liable for the costs of that remedial action under Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(c) It shall not be necessary to seek or obtain a criminal conviction prior to the entry of judgment for the recovery of expenses. However, if criminal charges are pending against the defendant for the unlawful manufacture or cultivation of any controlled substance or its precursors, an action brought pursuant to this section shall, upon a defendant's request, be continued while the criminal charges are pending.

(d) The action may be brought by the district attorney, county counsel, city attorney, the State Department of Health Services, or Attorney General. All expenses recovered pursuant to this section shall be remitted to the law enforcement agency which incurred them.

(e) (1) The burden of proof as to liability shall be on the plaintiff and shall be by a preponderance of the evidence in an action alleging that the defendant is liable for expenses pursuant to paragraph (1) of subdivision (a). The burden of proof as to liability shall be on the plaintiff and shall be by clear and convincing evidence in an action alleging that the defendant is liable for expenses pursuant to paragraph (2) of subdivision (a). The burden of proof as to the amount of expenses recoverable shall be on the plaintiff and shall be by a preponderance of the evidence in any action brought pursuant to subdivision (a).

(2) Notwithstanding paragraph (1), for any person convicted of a criminal charge of the manufacture or cultivation of a controlled substance or its precursors there shall be a presumption affecting the burden of proof that that person is liable.

(f) Only expenses which meet the following requirements shall be recoverable under this section:

(1) The expenses were incurred in seizing, eradicating, or destroying the controlled substance or its precursors or in taking remedial action with respect to a hazardous substance. These expenses may not include any costs incurred in use of the herbicide paraquat.

(2) The expenses were incurred as a proximate result of the defendant's manufacture or cultivation of a controlled substance in violation of this division.

(3) The expenses were reasonably incurred.

(g) For purposes of this section, "remedial action" shall have the meaning set forth in Section 25322.

(h) For the purpose of discharge in bankruptcy, a judgment for recovery of expenses under this section shall be deemed to be a debt for willful and malicious injury by the defendant to another entity or to the property of another entity.

(i) Notwithstanding Section 526 of the Code of Civil Procedure, the plaintiff may be granted a temporary restraining order or a preliminary injunction, pending or during trial, to restrain the defendant from transferring, encumbering, hypothecating, or otherwise disposing of any assets specified by the court, if it appears by the complaint that the plaintiff is entitled to the relief demanded and it appears that the defendant may dispose of those assets to thwart enforcement of the judgment.

(j) The Legislature finds and declares that civil penalties for the recovery of expenses incurred in enforcing the provisions of this division shall not supplant criminal prosecution for violation of those provisions, but shall be a supplemental remedy to criminal enforcement.

(k) Any testimony, admission, or any other statement made by the defendant in any proceeding brought pursuant to this section, or any evidence derived from the testimony, admission, or other statement, shall not be admitted or otherwise used in any criminal proceeding arising out of the same conduct.

(*l*) No action shall be brought or maintained pursuant to this section against a person who has been acquitted of criminal charges for conduct which may be the basis for an action under this section if, in the criminal action, there has been a finding of factual innocence by the court pursuant to standards set forth in subdivision (b) of Section 851.8 of the Penal Code.

SEC. 2. Section 11479 of the Health and Safety Code is amended to read:

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

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 10 pounds required above. When the suspected controlled substance consists of growing or harvested marijuana plants, at least one 10 pound sample (which may include stalks, branches, or leaves) and five representative samples consisting of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed.

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

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

(d) The gross weight of the suspected controlled substance or suspected hazardous chemical has been determined, either by actually weighing the suspected controlled substance or suspected hazardous chemical, or by estimating such weight after dimensional

measurement of the total suspected controlled substance or container of the suspected hazardous chemical.

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

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

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

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

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

SEC. 3. Section 11479.2 of the Health and Safety Code is amended to read:

11479.2. Notwithstanding the provisions of Sections 11473, 11473.5, 11474, 11479, and 11479.1, at any time after seizure by a law enforcement agency of a suspected controlled substance, except marijuana, any amount, as determined by the court, in excess of 57 grams may, by court order, be destroyed by the chief of a law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following

requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. Those samples shall be in addition to the 57 grams required above and each sample shall weigh not less than one gram at the time the sample is collected.

(b) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance.

(d) In cases involving controlled substances suspected of containing cocaine or methamphetamine, an analysis has determined the qualitative and quantitative nature of the suspected controlled substance.

(e) The law enforcement agency with custody of the controlled substance sought to be destroyed has filed a written motion for the order of destruction in the court which has jurisdiction over any pending criminal proceeding in which a defendant is charged by accusatory pleading with a crime specifically involving the suspected controlled substance sought to be destroyed. The motion shall, by affidavit of the chief of the law enforcement agency or designated subordinate, recite the applicable information required by subdivisions (a), (b), (c), and (d), together with information establishing the location of the suspected controlled substance and the title of any pending criminal proceeding as defined in this subdivision. The motion shall bear proof of service upon all parties to any pending criminal proceeding. No motion shall be made when a defendant is without counsel until the defendant has entered his or her plea to the charges.

(f) The order for destruction shall issue pursuant to this section upon the motion and affidavit in support of the order, unless within 20 days after application for the order, a defendant has requested, in writing, a hearing on the motion. Within 10 days after the filing of that request, or a longer period of time upon good cause shown by either party, the court shall conduct a hearing on the motion in which each party to the motion for destruction shall be permitted to call and examine witnesses. The hearing shall be recorded. Upon conclusion of the hearing, if the court finds that the defendant would not be prejudiced by the destruction, it shall grant the motion and make an order for destruction. In making the order, the court shall ensure that the representative samples to be retained are of sufficient quantities to allow for qualitative analyses by both the prosecution and the defense. Any order for destruction pursuant to this section shall include the applicable information required by subdivisions (a), (b), (c), (d), and (e) and the name of the agency responsible for the destruction. Unless waived, the order shall

provide for a 10-day delay prior to destruction in order to allow expert analysis of the controlled substance by the defense.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which ordered destruction stating the location of the retained, suspected controlled substance and specifying the date and time of destruction.

This section does not apply to seizures involving hazardous chemicals or controlled substances in mixture or combination with hazardous chemicals.

SEC. 4. Section 25354.5 is added to the Health and Safety Code, to read:

25354.5. Notwithstanding any other provision of law, for any hazardous substance that is an illegal controlled substance or a precursor of a controlled substance believed to have been used in the unlawful manufacture of controlled substances, upon notice that the hazardous substance has been disposed of contrary to law, the State Department of Health Services shall take remedial action with respect to that hazardous substance. Further, the State Department of Health Services may spend funds from the Hazardous Substances Account for costs incurred in taking remedial action under this section, provided that, within 30 days after initiating any expenditures pursuant to this section, the director shall notify the Chairperson of the Joint Legislative Budget Committee and the Director of Finance, in writing, of the purpose for, and the amount of, these expenditures.

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 1032

An act to amend Sections 11488.4, 11488.5, and 11489 of, to amend and repeal Sections 11470 and 11488 of, to add Sections 11470 and 11488 to, and to add and repeal Section 11473.3 to, the Health and Safety Code, relating to controlled substance forfeiture proceedings.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 23, 1986]

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. 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 , all proceeds traceable to such an exchange, and all moneys, negotiable instruments, securities, or other things of value 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, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

(h) Subject to Section 1538.5 of the Penal Code and compliance

with the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6 or 11382 in accordance with the burden of proof set forth in subdivision (j) of Section 11488.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

(i) Except as otherwise provided in this subdivision, upon seizure by any peace officer of this state, all moneys, negotiable instruments, or other cash equivalents seized in accordance with Section 11488, shall, immediately upon being seized, come under the jurisdiction of the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or the superior court of the county in which the property subject to forfeiture has been seized. These moneys, negotiable instruments, or other cash equivalents shall be handled in accordance with subdivision (b) of Section 11488.

This subdivision applies only to the Los Angeles Police Department and the Los Angeles Sheriff's Department and does not apply (1) when the property seized exceeds a value of fifty thousand dollars ($50,000), (2) in any case where the seizure was made in the course of a criminal investigation in which federal law enforcement agents participated, or (3) in any case in which the underlying or related criminal action or proceeding is brought in federal court.

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 11470 of the Government Code, as amended by Section 2 of Chapter 534 of the Statutes of 1986, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. 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 14.25 grams or more of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine hydrochloride or methamphetamine; or a substance containing 14.25 grams or more of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine hydrochloride or methamphetamine; or 14.25 grams or more of a substance containing cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 57 grams or more of a substance containing cocaine hydrochloride as specified in paragraph (6) of subdivision (b) of Section 11055 or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. 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 a 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 , all proceeds traceable to such an exchange, and all moneys, negotiable instruments, securities, or other things of value used or intended to be used to facilitate any violation of Section 11351, 11351.5, 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, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be

subject to forfeiture.

(h) Subject to Section 1538.5 of the Penal Code and compliance with the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 in accordance with the burden of proof set forth in subdivision (j) of Section 11488.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

(i) Except as otherwise provided in this subdivision, upon seizure by any peace officer of this state, all moneys, negotiable instruments, or other cash equivalents seized in accordance with Section 11488, shall, immediately upon being seized, come under the jurisdiction of the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or the superior court of the county in which the property subject to forfeiture has been seized. These moneys, negotiable instruments, or other cash equivalents shall be handled in accordance with subdivision (b) of Section 11488.

This subdivision applies only to the Los Angeles Police Department and the Los Angeles Sheriff's Department and does not apply (1) when the property seized exceeds a value of fifty thousand dollars ($50,000), (2) in any case where the seizure was made in the course of a criminal investigation in which federal law enforcement agents participated, or (3) in any case in which the underlying or related criminal action or proceeding is brought in federal court.

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.

SEC. 3. Section 11470 is added to the Health and Safety Code, 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 14.25 grams or more of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine hydrochloride or methamphetamine; or a substance containing 14.25 grams or more of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine hydrochloride or methamphetamine; or 14.25 grams or more of a substance containing cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 57 grams or more of a substance containing cocaine hydrochloride as specified in paragraph (6) of subdivision (b) of Section 11055 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, 11351.5, 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, 11351.5, 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, 11351.5, 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.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

This section shall become operative January 1, 1989, unless the act enacting this section or a later enacted statute provides otherwise.

SEC. 4. Section 11473.3 is added to the Health and Safety Code, to read:

11473.3. (a) When authorized by a final judgment of forfeiture, items of property seized pursuant to subdivision (b), (c), or (d) of Section 11470 may be utilized by the seizing public entity in its law enforcement program.

(b) A certified copy of the judgment of forfeiture issued by the court as a result of the forfeiture proceedings shall serve to vest title to any property specified in subdivision (a) in the seizing law enforcement agency.

(c) The same authority with respect to transfer or sale of property as is specified in Section 11473.2 shall apply to property subject to this section.

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.

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

11488. (a) Any peace officer of this state, subsequent to making or attempting to make an arrest for a violation of Section 11351, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, purchase for the purpose of 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) Except as provided in this subdivision, the peace officer shall immediately turn over all moneys, negotiable instruments, or other cash equivalents to the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or the superior court of the county in which the property subject to forfeiture has been seized or to the Attorney General or district attorney to hold for that court. These moneys, negotiable instruments, or other cash equivalents shall not be transferred to any other agency, local, state, or federal, except upon court order. The

peace officer shall also 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).

This subdivision applies only to the Los Angeles Police Department and the Los Angeles Sheriff's Department and does not apply (1) when the property seized exceeds a value of fifty thousand dollars ($50,000), (2) in any case where the seizure was made in the course of a criminal investigation in which federal law enforcement agents participated, or (3) in any case in which the underlying or related criminal action or proceeding is brought in the federal court.

(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.

(c) 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.

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 11488 of the Government Code, as amended by Section 6 of Chapter 1098 of the Statutes of 1985, shall have the same force and effect as if this temporary provision had not been enacted.

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, 11351.5, 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, purchase for the purpose of 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) Except as provided in this subdivision, the peace officer shall immediately turn over all moneys, negotiable instruments, or other cash equivalents to the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or the superior court of the county in which the property subject to forfeiture has been seized or to the Attorney General or district attorney to hold for that court. These moneys, negotiable instruments, or other cash equivalents shall not be transferred to any other agency, local, state, or federal, except upon court order. The

peace officer shall also 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).

This subdivision applies only to the Los Angeles Police Department and the Los Angeles Sheriff's Department and does not apply (1) when the property seized exceeds a value of fifty thousand dollars ($50,000), (2) in any case where the seizure was made in the course of a criminal investigation in which federal law enforcement agents participated, or (3) in any case in which the underlying or related criminal action or proceeding is brought in the federal court.

(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.

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.

SEC. 7. Section 11488 is added to the Health and Safety Code, 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, 11351.5, 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.

This section shall become operative January 1, 1989, unless the act

enacting this section or a later enacted statute provides otherwise.

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

11488.4. (a) If the Department of Justice or the local governmental entity determines that the factual circumstances do warrant that the moneys, negotiable instruments, securities, or other things of value seized come within the provisions of subdivision (e), (f), or (g) of Section 11470, the Attorney General or district attorney shall file a petition of forfeiture with the superior court of the county in which the defendant has been charged with the underlying criminal offense or in which the property subject to forfeiture has been seized. If the petition alleges that real property is forfeitable, the prosecuting attorney shall cause a lis pendens to be recorded in the office of the county recorder of each county in which the real property is located.

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

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

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

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

(f) All notices shall set forth the time within which a claim of interest in the property seized is required to be filed pursuant to Section 11488.5.

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

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

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

(i) (1) With respect to property described in subdivision (e) of Section 11470 for which forfeiture is sought, the state or local governmental entity shall have the burden of proving beyond a reasonable doubt that the property for which forfeiture is sought was used, or intended to be used, to facilitate a violation of one of the offenses enumerated in subdivision (f) of Section 11470.

(2) In the case of property described in subdivision (f) of Section 11470, except cash, negotiable instruments, or other cash equivalents, for which forfeiture is sought, the state or local governmental entity shall have the burden of proving beyond a reasonable doubt that the property for which forfeiture is sought meets the criteria for forfeiture described in subdivision (f) of Section 11470.

(3) In the case of property described in paragraphs (1) or (2), the exchange, violation, or other conduct which is the basis for the forfeiture shall be in connection with an underlying offense specified in subdivision (f) of Section 11470, for which a conviction is obtained and which occurred within five years of the arrest leading to the conviction. If the defendant is found guilty of the underlying criminal offense, the issue of forfeiture shall be tried before the same jury, if the trial was by jury, or tried before the same court, if trial was by court, unless waived by all parties.

(4) In the case of property described in subdivision (f) of Section 11470 that is cash or negotiable instruments of a value of not less than twenty-five thousand dollars ($25,000), the state or local governmental entity shall have the burden of proving by clear and convincing evidence that the property for which forfeiture is sought is such as is described in subdivision (f) of Section 11470. There is no requirement for forfeiture thereof that a criminal conviction be obtained in a related or underlying criminal offense.

(5) If there is a related criminal action, and a criminal conviction is required before a judgment of forfeiture may be entered, the issue of forfeiture shall be tried in conjunction therewith. Trial shall be by jury unless waived by all parties. If there is no related criminal action, the presiding judge of the superior court shall assign the action brought pursuant to this chapter for trial.

(j) The Attorney General or the district attorney of the county in which property is subject to seizure under Section 11470 may, pursuant to this subdivision, order forfeiture of personal property not

exceeding twenty-five thousand dollars ($25,000) in value. The Attorney General or district attorney shall provide notice of proceedings under this subdivision pursuant to subdivisions (c), (d), (e), and (f), including:

(1) A description of the property.

(2) The appraised value of the property.

(3) The date and place of seizure.

(4) The violation of law alleged with respect to forfeiture of the property.

(5) The instructions for filing of a claim pursuant to Section 11488.5 and time limits for filing a claim.

The Attorney General or the district attorney shall provide the seizing agency and the petitioner with a written decision on each claim within 30 days of the claim, unless the circumstances require additional time. If no claims are timely filed, the Attorney General or the district attorney shall prepare a written declaration of forfeiture of the subject property to the state and dispose of the property in accordance with Section 11489. A written declaration of forfeiture signed by the Attorney General or district attorney under this subdivision shall be deemed to provide good and sufficient title to the forfeited property.

If a claim is timely filed, then the Attorney General or district attorney shall file a petition of forfeiture pursuant to this section within 30 days of the receipt of the claim. The petition of forfeiture shall then proceed pursuant to other provisions of this chapter.

(k) If in any underlying criminal action or proceeding, in which a petition for forfeiture has been filed pursuant to this section, and a criminal conviction is required before a judgment of forfeiture may be entered, the defendant willfully fails to appear as required there shall be no requirement of a criminal conviction as a prerequisite to forfeiture. In these cases, forfeiture shall be ordered as against the defendant and judgment entered upon default, upon application of the state or local governmental entity. In its application for default, the state or local governmental entity shall be required to give notice to the defendant's attorney of record, if any, in the underlying criminal action, and to make a showing of due diligence to locate the defendant. In moving for a default judgment pursuant to this section, the state or local governmental entity shall be required to establish a prima facie case in support of its petition for forfeiture.

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 11488.4 of the Health and Safety Code, as amended by Section 3 of Chapter 534 the Statutes of 1986, shall have the same force and effect as if this temporary provision had not been enacted.

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

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

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

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

(b) (1) If, at the end of the time set forth in subdivision (a), there is no claim on file, the court, upon motion, shall declare the property seized pursuant to subdivision (e), (f), or (g) of Section 11470 forfeited to the state upon satisfaction of the requirements set forth in subdivision (i) of Section 11488.4.

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

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

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

(d) (1) At the hearing, the state or local governmental entity shall have the burden of establishing beyond a reasonable doubt that the owner of any interest in the seized property consented to the use of the property with knowledge that it would be or was used for a purpose for which forfeiture is permitted, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

(2) No interest in the seized property shall be affected by a forfeiture decree under this section unless the state or local governmental entity has proven that the owner of such interest consented to the use of the property with knowledge that it would be or was used for the purpose charged. Forfeiture shall be ordered

when, at the hearing, the state or local governmental entity has shown that the assets in question are subject to forfeiture pursuant to Section 11470, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

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

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

(f) All seized property which was the subject of the forfeiture hearing and which was not released by the court to a claimant shall, upon motion, be declared by the court forfeited proof by the state or local governmental entity that the assets in question are subject to forfeiture pursuant to Section 11470, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4. Except as provided in Section 11473.2, the clerk of the court shall dispose of the forfeited property as set forth in Section 11489.

(g) All seized property which was the subject of the forfeiture hearing and which was not forfeited shall remain subject to any order to withhold issued with respect to the property by the Franchise Tax Board.

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 11488.5 of the Health and Safety Code, as amended by Section 4 of Chapter 534 of the Statutes of 1986, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 10. Section 11489 of the Health and Safety Code is amended to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the

state or local governmental entity as follows:

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

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

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

(2) The remaining funds shall be distributed as follows:

(A) Sixty-five percent to the state, local, or state and local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency.

(B) Ten percent to the prosecutorial agency which processes the forfeiture action.

(C) Twenty percent to the State Department of Mental Health for deposit in the Mental Health Primary Prevention Fund for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981. There is hereby created in the State Treasury the Mental Health Primary Prevention Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Mental Health Primary Prevention Fund are hereby continuously appropriated to the State Department of Mental Health to expend for primary prevention programs in accordance with Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. Expenditures may include administrative costs incurred by the department. These administrative costs are not to exceed 5 percent of the fund. Notwithstanding the provisions of Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the Mental Health Primary Prevention Fund.

(D) Five percent to eligible nonprofit organizations established for the purposes of aiding those seizures and forfeitures. Moneys shall be used to fund the operations of those organizations where it has been determined that information provided by the organization resulted in the seizure of these funds. In all other instances these moneys shall be deposited into the Narcotics Assistance and Relinquishment by Criminal Offenders Fund. The eligibility criteria and amount of funds to be allocated under this subparagraph shall be determined by each county pursuant to county ordinance.

(c) Notwithstanding Item 0820-101-469 of the Budget Act of 1985, all funds allocated to the Department of Justice pursuant to subparagraph (A), shall be deposited into the Department of Justice Special Deposit Fund-State Asset Forfeiture Account and used for the law enforcement efforts of state and local governments pursuant

to Section 11493.

All funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offender Fund and used for state and local law enforcement efforts pursuant to Section 11493.

Funds which are not deposited pursuant to the above paragraph shall be deposited into the Department of Justice Special Deposit Fund-Federal Asset Forfeiture Account.

(d) All the funds distributed to the state or local governmental entity pursuant to subparagraphs (A) and (B) shall not supplant any state or local funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies.

Each governmental agency seeking a claim under this subdivision shall petition the court and the court shall order the forfeiture proceeds distributed to the state, local, or state and local governmental entity.

(e) Notwithstanding any other provision of law, moneys specified in subparagraphs (C) and (D) of paragraph (2) of subdivision (b) and those moneys specified in subdivision (c) shall not become available for encumbrance until appropriated by the Legislature and shall be subject to the annual budgetary process.

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

All property seized and all proceeds from the sale of property seized pursuant to this chapter prior to October 2, 1985, shall be distributed in accordance with the provisions of this section.

SEC. 11. (a) Section 2 of this bill incorporates amendments to Section 11470 of the Health and Safety Code proposed by both this bill and SB 1960. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11470 of the Health and Safety Code, and (3) this bill is enacted after SB 1960, in which case Section 1 of this bill shall not become operative.

(b) Section 3 of this bill shall not become operative on the date specified therein unless Section 2 of this bill becomes operative in accordance with subdivision (a).

SEC. 12. (a) Section 6 of this bill incorporates amendments to Section 11488 of the Health and Safety Code proposed by both this bill and SB 1960. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11488 of the Health and Safety Code and (3) this bill is enacted after SB 1960, in which case Section 5 of this bill shall not become operative.

(b) Section 7 of this bill shall not become operative on the date specified therein, unless Section 6 of this bill becomes operative in accordance with subdivision (a).

SEC. 13. 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 1033

An act to amend Sections 11056 and 11377 of the Health and Safety Code, relating to drugs.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) The controlled substances listed in this section are included in Schedule III.

(b) 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, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine.

(3) Chlorphentermine.

(4) Clortermine.

(5) Mazindol.

(6) Phendimetrazine.

(c) 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:

(1) Any compound, mixture, or preparation containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

(4) Chlorhexadol.

(5) Lysergic acid.

(6) Lysergic acid amide.

(7) Methyprylon.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, 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:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts. Additionally, oral liquid preparations of dihydrocodeinone containing the above specified amounts may not contain as its nonnarcotic ingredients two or more antihistamines in combination with each other.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized

therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Anabolic steroids. Any material, compound, mixture, or preparation containing an anabolic steroid, including, but not limited to, the following:

(1) Methandrostenolone.

(2) Stanozolol.

(3) Ethylestrenol.

(4) Nandrolone phenpropionate.

(5) Nandrolone deconoate.

(6) Testosterone propionate.

(7) Chorionic gonadotropin.

SEC. 2. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in subdivision (b) or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or (3) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

(b) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of such a violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

SEC. 3. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in subdivision (b) or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

(b) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of such a

violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

SEC. 4. Section 3 of this bill incorporates amendments to Section 11377 of the Health and Safety Code proposed by both this bill and SB 1960. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11377 of the Health and Safety Code, and (3) this bill is enacted after SB 1960, in which case Section 2 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 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 1034

An act to amend Section 1001.16 of the Penal Code, relating to diversion programs.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 1001.16 of the Penal Code is amended to read:

1001.16. In addition to the fees authorized or required by other provisions of law, a judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, by a defendant accused of a misdemeanor to cover the cost of any criminal laboratory analysis in a case involving a violation of the California Uniform Controlled Substances Act under Division 10 (commencing with Section 11000) of the Health and Safety Code and the cost of processing a request or application for diversion, not to exceed one hundred dollars ($100). The fee shall be payable at the time of enrollment in the diversion program. The court shall take into consideration the defendant's ability to pay, and no defendant shall be denied diversion because of his or her inability to pay.

In counties served by criminalistics laboratories of the Department of Justice, amounts deposited in the criminalistics laboratories funds, 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 General Fund, and shall be exempted from the expenditure requirements otherwise prescribed by this section.

This section shall apply to all misdemeanor pretrial diversion

programs established pursuant to this title.

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 1035

An act to amend Sections 11353, 11361, 11380, and 11380.5 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 11353 of the Health and Safety Code is amended to read:

11353. (a) Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance which is specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, or offers to sell, any such controlled substance to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give, any such controlled substance to a minor under 14 years of age, shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) Every person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any controlled substance specified in subdivision (a) to a minor 14 years of age or over shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 2. Section 11361 of the Health and Safety Code is amended to read:

11361. (a) Every person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, or offers to sell, any marijuana to a minor, or who

furnishes, administers, or gives, or offers to furnish, administer, or give any marijuana to a minor under 14 years of age, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) Every person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any marijuana to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 3. Section 11380 of the Health and Safety Code is amended to read:

11380. (a) Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are (1) classified in Schedule III, IV, or V and which are not narcotic drugs or (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), or specified in subdivision (d), (e), or (f) of Section 11055, except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving those controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish those controlled substances to a minor under 14 years of age shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) Every person 18 years of age or over who unlawfully furnishes, offers to furnish, or attempts to furnish the controlled substances specified in subdivision (a) to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(c) Nothing in this section applies to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 4. Section 11380.5 of the Health and Safety Code is amended to read:

11380.5. (a) Every person 18 years of age or over who violates any provision of this chapter involving phencyclidine or any of its analogs which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055, or its precursors as specified in subparagraphs (A) and (B) of paragraph (2) of subdivision (f) of Section 11055 by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving the controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish the controlled substances to a minor under 14 years of age shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) Every person 18 years of age or over who unlawfully furnishes, offers to furnish, or attempts to furnish the controlled substances specified in subdivision (a) to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(c) Nothing contained in this section applies to a registered pharmacist furnishing controlled substances pursuant to a prescription.

CHAPTER 1036

An act to amend Section 11550 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal 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 1037

An act to amend Section 11550 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days. In no event does

the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this subdivision and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 2. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 3. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in

paragraph (1) or (2) of subdivision (d) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this subdivision and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 4. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the

direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by both this bill and AB 2818. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 11550 of the Health and Safety Code, and (3) SB 1960 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2818, in which case Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by both this bill and SB 1960. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 11550 of the Health and Safety Code, (3) AB 2818 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1960 in which case Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by this bill, AB 2818, and SB 1960. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1987, (2) all three bills amend Section 11550 of the Health and Safety Code, (3) this bill is enacted after AB 2818 and SB 1960, in which case Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 1038

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

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 11353.5 of the Health and Safety Code is amended to read:

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

CHAPTER 1039

An act to amend and repeal Section 7471 of the Government Code, and to amend and repeal Section 186.2 of, and to add and repeal Chapter 10 (commencing with Section 186.9) to Title 7 of Part 1 of, and Title 11 (commencing with Section 14160) to Part 4 of, the Penal Code, relating to financial transactions, and making an appropriation therefor.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 7471 of the Government Code is amended to read:

7471. (a) Except in accordance with requirements of Title 11 (commencing with Section 14160) of Part 4 of the Penal Code or Section 7473, 7474, 7475, or 7476 of this code, no financial institution, or any director, officer, employee, or agent of a financial institution, may provide or authorize another to provide to an officer, employee, or agent of a state or local agency or department thereof, any financial records, copies thereof, or the information contained therein, if the director, officer, employee or agent of the financial institution knows or has reasonable cause to believe that such

financial records or information are being requested in connection with a civil or criminal investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

(b) This section is not intended to prohibit disclosure of the financial records of a customer or the information contained therein incidental to a transaction in the normal course of business of such financial institution if the director, officer, employee or agent thereof making or authorizing the disclosure has no reasonable cause to believe that the financial records or the information contained in the financial records so disclosed will be used by a state or local agency or department thereof in connection with an investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

(c) This section shall not preclude a financial institution, in its discretion, from initiating contact with, and thereafter communicating with and disclosing customer financial records to, appropriate state or local agencies concerning suspected violation of any law.

(d) A financial institution which refuses to disclose the financial records of a customer, copies thereof or the information contained therein, in reliance in good faith upon the prohibitions of subdivision (a) shall not be liable to its customer, to a state or local agency, or to any other person for any loss or damage caused in whole or in part by such refusal.

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 enacted before January 1, 1992, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1992, pursuant to Section 9611 of the Government Code, Section 7471 of the Government Code, as added by Section 5 of Chapter 1320 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 1.5. 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) Money laundering, as defined in Section 186.10.

(22) 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.

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 enacted before January 1, 1992, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1992, pursuant to Section 9611 of the Government Code, Section 186.2 of the Penal Code, as amended by Section 2 of Chapter 1205 of the Statutes of 1985, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Chapter 10 (commencing with Section 186.9) is added to Title 7 of Part 1 of the Penal Code, to read:

CHAPTER 10. MONEY LAUNDERING

186.9. As used in this chapter:

(a) "Conducts" includes, but is not limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction.

(b) "Financial institution" means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act, any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any agency, agent or branch of a foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of travelers' checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Corporations under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of

subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(c) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (d), by, through, or to, a financial institution as defined by subdivision (b).

(d) "Monetary instrument" means United States currency and coin; the currency and coin of any foreign country; any bank check, cashier's check, traveler's check, money order, stock, investment security, or negotiable instrument in bearer form or otherwise in such form that title thereto passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires. "Monetary instrument" does not include bank checks, cashier's checks, traveler's checks, or money orders made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements.

(e) "Criminal activity" means a criminal offense punishable under the laws of this state by death or imprisonment in the state prison or from a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction by death or imprisonment for a term exceeding one year.

186.10. (a) Any person who conducts or attempts to conduct a transaction involving a monetary instrument or instruments of a value exceeding five thousand dollars ($5,000) through a financial institution (1) with the intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal activity, or (2) knowing that the monetary instrument represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity, is guilty of the crime of money laundering. In consideration of the constitutional right to counsel afforded by the Sixth Amendment to the United States Constitution and Section 15 of Article 1 of the California Constitution, when a case involves an attorney who accepts a fee for representing a client in a criminal investigation or proceeding, the prosecution shall additionally be required to prove that the monetary instrument was accepted by the attorney with the intent to disguise or aid in disguising the source of the funds or the nature of the criminal activity.

A violation of this subdivision shall be punished by imprisonment in the county jail for not more than one year or in the state prison, by a fine of not more than two hundred fifty thousand dollars ($250,000) or twice the value of the property transacted, whichever is greater, or by both that imprisonment and fine. However, for a second or subsequent conviction for a violation of this section, the maximum fine that may be imposed is five hundred thousand dollars

($500,000) or five times the value of the property transacted, whichever is greater.

(b) Notwithstanding any other provision of law, for purposes of this section each individual transaction conducted shall constitute a separate, punishable offense.

This chapter 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.

SEC. 3. Title 11 (commencing with Section 14160) is added to Part 4 of the Penal Code, to read:

TITLE 11. RECORDS AND REPORTS OF MONETARY INSTRUMENT TRANSACTIONS

14160. (a) It is the purpose of this title to require certain reports or records of transactions involving monetary instruments as defined herein where those reports or records have a high degree of usefulness in criminal investigations or proceedings.

(b) The Attorney General shall adopt rules and regulations for the administration and enforcement of this title.

(c) It is the intent of the Legislature that the rules and regulations prescribed by the Attorney General for the administration and enforcement of this title shall be designed to minimize the cost and difficulty of compliance and shall, to the greatest extent possible, result in report and record-keeping forms consistent with those in use for compliance with Sections 5311 et seq. of Title 31 of the United States Code, Section 6050 I of Title 26 of the United States Code, and regulations adopted thereunder.

(d) Nothing in this title shall be construed to give rise to a private cause of action for relief or damages.

14161. As used in this title:

(a) "Financial institution" means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act, any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of travelers' checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Corporations

under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(b) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, or exchange of currency, or a monetary instrument, as defined by subdivision (d), by, through, or to, a financial institution, as defined by subdivision (a). "Transaction" does not include the purchase of gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires by a bona fide dealer therein, and does not include the sale of gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires by a bona fide dealer therein in exchange for other than a monetary instrument, and does not include the exchange of gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires by a bona fide dealer therein for gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires.

(c) "Monetary instrument" means United States currency and coin; the currency and coin of any foreign country; any bank check, cashier's check, traveler's check, money order, stock, investment security or negotiable instrument in bearer form or otherwise in such form that title thereto passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires. "Monetary instrument" does not include bank checks, cashier's checks, traveler's checks or money orders made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements.

(d) "Department" means the Department of Justice.

(e) "Criminal justice agency" means the Department of Justice and any district attorney's office, sheriff's department, police department, or city attorney's office of this state.

14162. (a) A financial institution shall make and keep a record of each transaction by, through, or to, the financial institution which involves currency of more than ten thousand dollars ($10,000) or which results in the exchange of a monetary instrument or instruments of a value in excess of ten thousand dollars ($10,000) for

another monetary instrument or instruments. A financial institution shall file a report of such a transaction with the department in a form and at the time as the department, by regulation, shall require. The filing with the department within the time specified in its regulations of a duplicate copy of a report of the transaction required by Section 6050I of Title 26 of the United States Code, and any regulations adopted thereunder, shall satisfy the reporting requirements of this subdivision. This subdivision does not apply to a financial institution, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(b) A financial institution, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions, shall file with the department, at any time as the department by regulation shall require, a duplicate copy of each report required by Sections 5313 and 5314 of Title 31 of the United States Code and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto. The filing pursuant to this subdivision shall satisfy all reporting and recordkeeping requirements of this title.

14163. Except as otherwise provided, a financial institution may exempt from the reporting requirements of Section 14162 monetary instrument transactions exempted from the reporting requirements of Section 5313 of Title 31 of the United States Code. However, the exemption shall be approved in writing and with the signature of two or more officers of the financial institution and subject to review and disapproval for reasonable cause by the department. An exemption disapproved by the department in writing shall be effective to require reporting pursuant to Section 14162 within five business days of the time the disapproval is communicated to the financial institution. The department may require, by regulation, the maintenance, and may provide for the inspection, of records of exemptions granted under this section.

14164. (a) A financial institution, or any officer, employee, or agent thereof, that keeps and files a record in reliance on Section 14162, shall not be liable to its customer, to a state or local agency, or to any person for any loss or damage caused in whole or in part by the making, filing, or governmental use of the report, or any information contained therein.

(b) This title does not preclude a financial institution, in its discretion, from instituting contact with, and thereafter communicating with and disclosing customer financial records to, appropriate federal, state, or local law enforcement agencies when the financial institution has reason to suspect that the records or information demonstrate that the customer has violated any provision of this title or Section 186.10.

14165. (a) The department shall analyze the reports required by Section 14162 and shall report any possible violations indicated by

this analysis to the appropriate criminal justice agency.

(b) The department may, in the discretion of the Attorney General, make a report or information contained in a report filed under Section 14162 available to a district attorney in this state, upon request made personally by the district attorney. The report or information shall be available only for a purpose consistent with this title and subject to regulations prescribed by the Attorney General, which shall require the district attorney seeking such a report or information contained in the report to specify in writing the specific reasons for believing that a provision of this title or Section 186.10 has been violated.

(c) The department shall destroy a report filed with it under Section 14162 at the end of the fifth calendar year after receipt of the report, unless either of the following is true:

(1) The report or information contained in the report is known by the department to be the subject of an existing criminal proceeding.

(2) The department has received subsequent reports concerning the person or persons involved in the reported transaction.

If a report is retained beyond five years pursuant to paragraph (2), the department shall destroy the report at the end of the 10th calendar year after receipt of the report, unless the report or information contained in the report is the subject of existing criminal proceedings.

14166. Any person (a) who willfully violates any provision of this title or any regulation adopted to implement Section 14162, (b) who, knowingly and with the intent either (1) to disguise the fact that a monetary instrument was derived from criminal activity or (2) to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal activity, furnishes or provides to a financial institution or any officer, employee, or agent thereof or to the department, any false, inaccurate, or incomplete information or conceals a material fact in connection with a transaction for which a report is required to be filed pursuant to Section 14162 or in connection with an exemption prescribed in Section 14163, or (c) who, knowingly and with the intent either (1) to disguise the fact that a monetary instrument was derived from criminal activity or (2) to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal activity, conducts a monetary instrument transaction or series of transactions by or through one or more financial institutions as part of a scheme and with the intent to avoid the making or filing of a report required under Section 14162, shall be punished by imprisonment in the county jail for not more than one year or in the state prison, by a fine of not more than the greater of two hundred fifty thousand dollars ($250,000) or twice the monetary value of the financial transaction or transactions, or by both that imprisonment and fine.

Notwithstanding any other provision of law, any violation of this section as to each monetary instrument transaction or exemption

constitutes a separate, punishable offense.

14167. Any report, record, information, analysis, or request obtained by the department or any agency pursuant to this title is not a public record as defined in Section 6252 of the Government Code and is not subject to disclosure under Section 6253 of the Government Code.

This title 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.

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. The sum of two hundred forty thousand dollars ($240,000) is appropriated from the General Fund to the Department of Justice as an advance for the purposes of this act. This advance shall be repaid from available moneys in the Federal Forfeiture Account established for the Department of Justice in the Special Deposit Fund.

CHAPTER 1040

An act to add Article 2.3 (commencing with Section 11060) to Chapter 1 of Title 1 of Part 4 of the Penal Code, relating to criminal investigations, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986]

I am reducing the $947,000 General Fund appropriation contained in Senate Bill No 2390 to $347,000.

The Attorney General concurs that the remaining appropriation together with current budget resources in the Department of Justice should be sufficient to cover the high priority needs in this area

With this reduction, I approve Senate Bill No 2390.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 2.3 (commencing with Section 11060) is added to Chapter 1 of Title 1 of Part 4 of the Penal Code, to read:

Article 2.3. California Criminalistics Institute

11060. There is hereby established in the Bureau of Forensic Services of the Department of Justice the California Criminalistics Institute.

The purposes of the institute shall include, but need not be limited to, the facilitation of a comprehensive and coordinated approach to meet the high technology forensic science needs of crime laboratories operated by the department and local law enforcement agencies, the provision of a statewide upgrading of advanced laboratory services incorporating new and developing technologies, the provision of training and methodology development for all law enforcement agencies, and the handling of advanced casework laboratory referral services.

The California Criminalistics Institute is intended for use by state and local forensic scientists and law enforcement personnel. Priorities regarding training and methodology development shall be established and monitored by a users' advisory board to be chaired by the Chief of the Bureau of Forensic Services of the Department of Justice and shall be comprised of representatives from the California Association of Criminalistics (CAC), the California Association of Crime Laboratory Directors (CACLD), the California Association of Toxicologists (CAT), the California Division of the International Association of Identification (IAI), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), and the Peace Officers Standards and Training (POST). Members of the users' advisory board shall be selected by member organizations.

SEC. 2. The sum of nine hundred forty-seven thousand three hundred eighty-five dollars ($947,385) is hereby appropriated from the General Fund to the Department of Justice for purposes of funding the California Criminalistics Institute established under Article 2.3 (commencing with Section 11060) of Chapter 1 of Title 1 of Part 4 of the Penal Code for the 1986–87 fiscal year.

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 establishment of the California Criminalistics Institute pursuant to Article 2.3 (commencing with Section 11060) of Chapter 1 of Title 1 of Part 4 of the Penal Code at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1041

An act relating to state lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. (a) Notwithstanding any other provision of law, the Governor, prior to January 1, 1987, may at his option transfer to the Joint Rules Committee of the Legislature total or partial possession and control of the property owned by the State of California described in subdivision (b).

(b) The property subject to this section is that portion of the block in Sacramento, California, bounded by 14th, 15th, N and O Streets, which on the effective date of this act is utilized as a State of California employee parking facility. The Department of General Services shall not take action to change the use of the property prior to January 1, 1987.

(c) If the Governor exercises his authority under this act, the Department of General Services shall enter into any necessary interagency agreements with the Joint Rules Committee, and cooperate in any other manner necessary to effectuate the total or partial transfer of possession and control. For any period following such a transfer that the property continues to be utilized as a parking facility, the receipts from that utilization shall be deposited and expended in accordance with the Budget Act.

(d) Management of any structure constructed on the property described in subdivision (b) shall reside with the Joint Rules Committee.

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 authorize the Governor and Joint Rules Committee to take action regarding a critical need for legislative office space, it is necessary that this act take effect immediately.

CHAPTER 1042

An act to amend Sections 11026, 11055, and 11122 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986]

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

SECTION 1. Section 11026 of the Health and Safety Code is amended to read:

11026. "Practitioner" means any of the following:

(a) A physician, dentist, veterinarian, podiatrist, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1.

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(c) A scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

SEC. 2. 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-phenylpiperi-

dine.

(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).

(g) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the Federal Food and Drug Administration.

SEC. 3. 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.

(5) Glutethimide.

(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).

(g) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the Federal Food and Drug Administration.

SEC. 4. Section 11122 of the Health and Safety Code is amended to read:

11122. (a) A controlled substance shall be stored only in a warehouse which is licensed by the Board of Pharmacy.

(b) This section shall not apply to any of the following:

(1) Any pharmacy or other person who is licensed or authorized by this state to sell or furnish the controlled substance upon the written prescription of a practitioner, as defined in subdivision (a) of Section 11026.

(2) Any practitioner, as defined in subdivision (a) of Section 11026, who possesses a controlled substance for administration to his or her patients.

(3) Any licensed laboratory in this state which is authorized to receive and use the controlled substance.

(4) Any licensed hospital in this state.

(5) Any person who obtains the controlled substance upon the prescription of a practitioner, as defined in subdivision (a) of Section 11026, for his or her personal use.

(6) Any agent or employee of any licensed manufacturer or wholesaler who possesses the controlled substance for display purposes or furnishes controlled substances as a sample at no cost to a licensed pharmacist or practitioner, as defined in subdivision (a) of Section 11026.

(7) A manufacturer licensed pursuant to Section 26685 of this code or Section 4084 or 4084.6 of the Business and Professions Code.

(8) A wholesaler licensed pursuant to Section 4084 or 4084.6 of the Business and Professions Code.

(9) Any emergency medical technician-II, emergency medical technician-paramedic, or mobile intensive care nurse, certified or authorized pursuant to Division 2.5 (commencing with Section 1797) to provide prehospital limited advanced life support or advanced life support as part of a local emergency medical services system, who, in a secure manner and according to policies and procedures established by the local emergency medical services agency as part of the local emergency medical services plan, transports, stores, or administers controlled substances acting within his or her scope of practice.

(10) Any emergency medical response or transport unit which has been approved by the local emergency medical services agency and is operating as part of the local emergency medical services system according to policies and procedures established by the local medical services agency for the emergency medical treatment and transport of patients, upon which, controlled substances authorized by the scope of practice of the prehospital personnel approved to staff the unit are stored or transported in a secure manner according to policies and procedures established by the local emergency medical services agency.

SEC. 5. Section 3 of this bill incorporates amendments to Section 11055 of the Health and Safety Code proposed by both this bill and AB 1207. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 11055 of the Health and Safety Code, and (3) this bill is enacted after AB 1207, in which case Section 11055 of the Health and Safety Code, as amended by AB 1207, 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.

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 maintain the availability of a pharmaceutical product used by cancer chemotherapy patients in California it is necessary that this act go into immediate effect.

CHAPTER 1043

An act to amend Sections 11570 and 11581 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 23, 1986.]

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

SECTION 1. Section 11570 of the Health and Safety Code is amended to read:

11570. Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, or giving away controlled substances, as defined in this division, and every building or place wherein or upon which those acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

SEC. 1.5. Section 11570 of the Health and Safety Code is amended to read:

11570. Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division, and every building or place wherein or upon which those acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

SEC. 2. Section 11581 of the Health and Safety Code is amended to read:

11581. (a) If the existence of the nuisance is established in the action, an order of abatement shall be entered as a part of the judgment, which order shall direct the removal from the building or place of all fixtures, musical instruments, and other movable property used in conducting, maintaining, aiding, or abetting the nuisance and shall direct their sale in the manner provided for the sale of chattels under execution.

(b) The order shall provide for the effectual closing of the

building or place against its use for any purpose, and for keeping it closed for a period of one year. This subdivision is intended to give priority to closure. Any alternative to closure may be considered only as provided in this section.

(c) (1) If the court finds that any vacancy resulting from closure of the building or place may create a nuisance or that closure is otherwise harmful to the community, in lieu of ordering the building or place closed, the court may order the person who is responsible for the existence of the nuisance, or the person who knowingly permits controlled substances to be unlawfully sold, served, stored, kept, or given away in or from a building or place he or she owns, to pay damages in an amount equal to the fair market rental value of the building or place for one year to the city or county in whose jurisdiction the nuisance is located for the purpose of carrying out their drug prevention and education programs. If awarded to a city, eligible programs may include those developed as a result of cooperative programs among schools, community agencies, and the local law enforcement agency. If awarded to a county, funds shall be used for those programs that are part of the drug program plan, as specified in Section 11983.2. These funds shall not be used to supplant existing city, county, state, or federal resources used for drug prevention and education programs.

(2) For purposes of this subdivision, the actual amount of rent being received for the rental of the building or place, or the existence of any vacancy therein, may be considered, but shall not be the sole determinant of the fair market rental value. Expert testimony may be used to determine the fair market rental value.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 11570 of the Health and Safety Code proposed by both this bill and SB 2167. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11570 of the Health and Safety Code, and (3) this bill is enacted after SB 2167, in which case Section 1 of this bill shall not become operative.

CHAPTER 1044

An act to amend Sections 11054, 11055, 11350, 11352, 11353, 11354, 11355, 11364, 11365, 11366, 11366.6, 11370, 11370.2, 11370.4, 11372, 11372.5, 11377, 11378, 11379, 11380, 11380.5, 11470, 11488, 11550, and 11590 of, and to add Section 11351.5 to, the Health and Safety Code, and to amend Sections 186.2, 999e, 1203.07, and 1203.073 of the Penal Code, relating to controlled substances.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 23, 1986.]

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

SECTION 1. 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) Acetylmethadol.
(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 thiophene 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.

(f) 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, including its salts, isomers, and salts of isomers:

(1) Cocaine (except as cocaine hydrochloride).

(2) Fenethylline.

(3) N-Ethylamphetamine.

SEC. 2. 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 hydrochloride.

(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.

(5) Glutethimide.

(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. 2.5. 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 hydrochloride.

(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.

(5) Glutethimide.

(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).

(g) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration.

SEC. 3. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

(b) Except as otherwise provided in this division, every person

who possesses any controlled substance specified in subdivision (e) of Section 11054 shall be punished by imprisonment in the county jail for not more than one year or in the state prison.

SEC. 3.5. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

(b) Except as otherwise provided in this division, every person who possesses any controlled substance specified in subdivision (e) of Section 11054 shall be punished by imprisonment in the county jail for not more than one year or in the state prison.

SEC. 4. Section 11351.5 is added to the Health and Safety Code, to read:

11351.5. Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale cocaine which is specified in paragraph (1) of subdivision (f) of Section 11054, shall be punished by imprisonment in the state prison for a period of 3, 4, or 5 years.

SEC. 5. Section 11352 of the Health and Safety Code is amended to read:

11352. Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 5.5. Section 11352 of the Health and Safety Code is amended to read:

11352. Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of

subdivision (d) of Section 11054, or specified in subdivision (b), (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 6. Section 11353 of the Health and Safety Code is amended to read:

11353. Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance which is specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of 3, 5, or 7 years.

SEC. 6.5. Section 11353 of the Health and Safety Code is amended to read:

11353. Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance which is specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of 3, 5, or 7 years.

SEC. 7. Section 11354 of the Health and Safety Code is amended to read:

11354. (a) Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified

in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison.

(b) This section is not intended to affect the jurisdiction of the juvenile court.

SEC. 7.5. Section 11354 of the Health and Safety Code is amended to read:

11354. (a) Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle (1) any controlled substance specified in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison.

(b) This section is not intended to affect the jurisdiction of the juvenile court.

SEC. 8. Section 11355 of the Health and Safety Code is amended to read:

11355. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or who offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and who then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 8.5. Section 11355 of the Health and Safety Code is amended to read:

11355. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give (1)

any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or who offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and who then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 9. Section 11364 of the Health and Safety Code is amended to read:

11364. It is unlawful to possess an opium pipe or any device, contrivance, instrument or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

SEC. 10. Section 11365 of the Health and Safety Code is amended to read:

11365. It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring.

SEC. 11. Section 11366 of the Health and Safety Code is amended to read:

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 12. Section 11366.6 of the Health and Safety Code is amended to read:

11366.6. Any person who utilizes a building, room, space, or enclosure specifically designed to suppress law enforcement entry in

order to sell or possess for sale any amount of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine hydrochloride, heroin, or phencyclidine, shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 12.5. Section 11366.6 of the Health and Safety Code is amended to read:

11366.6. Any person who utilizes a building, room, space, or enclosure specifically designed to suppress law enforcement entry in order to sell, manufacture, or possess for sale any amount of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine hydrochloride, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 13. Section 11370 of the Health and Safety Code is amended to read:

11370. (a) Any person convicted of violating Section 11350, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, or 11368, or of committing any offense referred to in those sections, shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court, if he or she has been previously convicted of any offense described in subdivision (c).

(b) Any person who was 18 years of age or over at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use such a controlled substance in violation of law shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

SEC. 13.5. Section 11370 of the Health and Safety Code is amended to read:

11370. (a) Any person convicted of violating Section 11350, 11351, 11351.5, 11352, 11353, 11355, 11357, 11359, 11360, 11361, 11363,

11366, or 11368, or of committing any offense referred to in those sections, shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court, if he or she has been previously convicted of any offense described in subdivision (c).

(b) Any person who was 18 years of age or over at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance which is (1) specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use such a controlled substance in violation of law shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

(d) The existence of any previous conviction or fact which would make a person ineligible for suspension of sentence or probation under this section 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 a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 14. Section 11370.2 of the Health and Safety Code is amended to read:

11370.2. (a) Any person convicted of a violation of Section 11351, 11351.5, or 11352 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment.

(b) Any person convicted of a violation of Section 11378.5, 11379.5, 11379.6, 11380.5, or 11383 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of Section 11351, 11351.5, 11352, 11378, 11378.5,

11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment.

(c) The enhancements provided for in this section shall be pleaded and proven as provided by law.

SEC. 15. Section 11370.2 of the Health and Safety Code is amended to read:

11370.2. (a) Any person convicted of a violation of Section 11351, 11351.5, or 11352 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment.

(b) Any person convicted of a violation of Section 11378.5, 11379.5, 11379.6, 11380.5, or 11383 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment.

(c) Any person convicted of a violation of Section 11378 or 11379 with respect to any substance containing a controlled substance specified in paragraph (1) or (2) of subdivision (d) of Section 11055 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment.

(d) The enhancements provided for in this section shall be pleaded and proven as provided by law.

SEC. 16. Section 11370.4 of the Health and Safety Code is amended to read:

11370.4. (a) Any person convicted of a violation of Section 11351, 11351.5, or 11352 with respect to a substance containing heroin, cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, or cocaine hydrochloride shall receive an additional term as follows:

(1) Where the substance exceeds three pounds by weight, the person shall receive an additional term of three years.

(2) Where the substance exceeds 10 pounds by weight, the person shall receive an additional term of five years.

(3) Where the substance exceeds 25 pounds by weight, the person shall receive an additional term of 10 years.

(b) The additional terms provided in this section shall not be imposed unless the allegation that the weight of the substance containing heroin, cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, or cocaine hydrochloride exceeds the amounts provided in this section is charged in the accusatory

pleading and admitted or found to be true by the trier of fact.

(c) The additional terms provided in this section shall be in addition to any other punishment provided by law.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment for 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.

SEC. 17. Section 11370.4 of the Health and Safety Code is amended to read:

11370.4. (a) Any person convicted of a violation of Section 11351, 11351.5, or 11352 with respect to a substance containing heroin, cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, or cocaine hydrochloride shall receive an additional term as follows:

(1) Where the substance exceeds three pounds by weight, the person shall receive an additional term of three years.

(2) Where the substance exceeds 10 pounds by weight, the person shall receive an additional term of five years.

(3) Where the substance exceeds 25 pounds by weight, the person shall receive an additional term of 10 years.

(b) Any person convicted of a violation of Section 11378, 11378.5, 11379, or 11379.5 with respect to a substance containing methamphetamine, amphetamine, phencyclidine (PCP) and its analogs shall receive an additional term as follows:

(1) Where the substance exceeds three pounds by weight, or nine gallons by liquid volume, the person shall receive an additional term of three years.

(2) Where the substance exceeds 10 pounds by weight, or 33⅓ gallons by liquid volume, the person shall receive an additional term of five years.

(3) Where the substance exceeds 25 pounds by weight, or 62½ gallons by liquid volume, the person shall receive an additional term of 10 years.

In computing the quantities involved in this subdivision, plant or vegetable material seized shall not be included.

(c) The additional terms provided in this section shall not be imposed unless the allegation that the weight of the substance containing heroin, cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine hydrochloride, methamphetamine, amphetamine, or phencyclidine (PCP) and its analogs exceeds the amounts provided in this section is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(d) The additional terms provided in this section shall be in addition to any other punishment provided by law.

(e) Notwithstanding any other provision of law, the court may strike the additional punishment for 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.

SEC. 18. Section 11372 of the Health and Safety Code is amended to read:

11372. In addition to the term of imprisonment provided by law for persons convicted of violating Section 11350, 11351, 11351.5, 11352, 11353, 11355, 11359, 11360, or 11361 of this code, the trial court may impose a fine not exceeding twenty thousand dollars ($20,000) for each such offense. In no event shall such fine be levied in lieu of or in substitution for the term of imprisonment provided by law for any of such offenses.

SEC. 19. 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, 11351.5, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, 11390, 11391, 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 Section 11350, 11351, 11351.5, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, 11390, 11391, 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. The deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of this 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 the 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 those surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

SEC. 19.5. 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, 11351.5, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550 or subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code 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 shall, 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 Section 11350, 11351, 11351.5, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550, subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county

treasurer pursuant to Section 11502. The deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of this 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 the 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 those surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

SEC. 20. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be

punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 20.5. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in subdivision (b) or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

(b) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of such a violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

SEC. 21. Section 11378 of the Health and Safety Code is amended to read:

11378. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d), (e), or (f), except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), of Section 11055, shall be punished by imprisonment in the state prison.

SEC. 22. Section 11379 of the Health and Safety Code is amended to read:

11379. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section

11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years.

SEC. 23. Section 11380 of the Health and Safety Code is amended to read:

11380. (a) Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are (1) classified in Schedule III, IV, or V and which are not narcotic drugs or (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), specified in paragraph (2) or (3) or subdivision (f) of Section 11054, or specified in subdivision (d), (e), or (f) of Section 11055, except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving those controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish those controlled substances to a minor shall be punished by imprisonment in the state prison for a period of 3, 5, or 7 years.

(b) Nothing in this section applies to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 24. Section 11380.5 of the Health and Safety Code is amended to read:

11380.5. (a) Every person 18 years of age or over who violates any provision of this chapter involving phencyclidine or any of its analogs which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055, or its precursors as specified in subparagraphs (A) and (B) of paragraph (2) of subdivision (f) of Section 11055 by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving any of those controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish any of those controlled substances to a minor shall be punished by imprisonment in the state prison for a period of 3, 5, or 7 years.

(b) Nothing contained in this section applies to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 25. 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 cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, or a substance containing 14.25 grams or more of heroin or cocaine as specified in paragraph (1) of subdivison (f) of Section 11054, or 14.25 grams or more of a substance containing heroin or cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, 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 hydrochloride or methamphetamine; or a substance containing 28.5 grams or more of cocaine hydrochloride or methamphetamine; or 57 grams or more of a substance containing cocaine hydrochloride 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, 11351.5, 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, 11351.5, 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, 11351.5, 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.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

SEC. 25.5. 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 cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, or a substance containing 14.25 grams or more of heroin or cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, or 14.25 grams or more of a substance containing heroin or cocaine as specified in paragraph (1) of subdivision (f) of Section 11054, 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 hydrochloride or methamphetamine; or a substance containing 28.5 grams or more of cocaine hydrochloride or methamphetamine; or 57 grams or more of a substance containing cocaine hydrochloride or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. 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 , all proceeds traceable to such

an exchange, and all moneys, negotiable instruments, securities, or other things of value used or intended to be used to facilitate any violation of Section 11351, 11351.5, 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, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

(h) Subject to Section 1538.5 of the Penal Code and compliance with the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 in accordance with the burden of proof set forth in subdivision (j) of Section 11488.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

(i) Except as otherwise provided in this subdivision, upon seizure by any peace officer of this state, all moneys, negotiable instruments, or other cash equivalents seized in accordance with Section 11488, shall, immediately upon being seized, come under the jurisdiction of the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or the superior court of the county in which the property subject to forfeiture has been seized. These moneys, negotiable instruments, or other cash equivalents shall be handled in accordance with subdivision (b) of Section 11488.

This subdivision applies only to the Los Angeles Police Department and the Los Angeles Sheriff's Department and does not apply (1) when the property seized exceeds a value of fifty thousand dollars ($50,000), (2) in any case where the seizure was made in the course of a criminal investigation in which federal law enforcement agents participated, or (3) in any case in which the underlying or

related criminal action or proceeding is brought in federal court.

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.

SEC. 25.7. Section 11470 is added to the Health and Safety Code, 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 14.25 grams or more of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine hydrochloride or methamphetamine; or a substance containing 14.25 grams or more of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine hydrochloride or methamphetamine; or 14.25 grams or more of a substance containing cocaine as specified in paragraph (1) of subdivision (f) of Section 11054; or 57 grams or more of a substance containing cocaine hydrochloride as specified in paragraph (6) of subdivision (b) of Section 11055 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, 11351.5, 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, 11351.5, 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, 11351.5, 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.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

This section shall become operative January 1, 1989, unless the act enacting this section or a later enacted statute provides otherwise.

SEC. 26. 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, 11351.5, 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. 26.5. Section 11488 of the Health and Safety Code is amended to read:

11488. (a) Any peace officer of this state, subsequent to making or attempting to make an arrest for a violation of Section 11351, 11351.5, 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, purchase for the purpose of 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) Except as provided in this subdivision, the peace officer shall immediately turn over all moneys, negotiable instruments, or other cash equivalents to the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or the superior court of the county in which the property subject to forfeiture has been seized or to the Attorney General or district attorney to hold for that court. These moneys, negotiable instruments, or other cash equivalents shall not be transferred to any other agency, local, state, or federal, except upon court order. The peace officer shall also 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)

This subdivision applies only to the Los Angeles Police Department and the Los Angeles Sheriff's Department and does not apply (1) when the property seized exceeds a value of fifty thousand dollars ($50,000), (2) in any case where the seizure was made in the course of a criminal investigation in which federal law enforcement agents participated, or (3) in any case in which the underlying or related criminal action or proceeding is brought in the federal court.

(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.

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.

SEC. 26.7. Section 11488 is added to the Health and Safety Code, 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, 11351.5, 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.

This section shall become operative January 1, 1989, unless the act enacting this section or a later enacted statute provides otherwise.

SEC. 27. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of

subdivision (e) of Section 11055, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail.

SEC. 27.1. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code.

SEC. 27.2. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in

Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section shall prevent diversion pursuant to Penal Code Section 1000.

SEC. 27.3. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a

period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this subdivision and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 27.4. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code.

SEC. 27.5. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the

direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 27.6. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating

subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this subdivision and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 27.7. Section 11550 of the Health and Safety Code is amended to read:

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require, as a condition thereof, that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

Nothing in this section prevents diversion of a person under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code shall be ineligible for diversion.

SEC. 28. Section 11590 of the Health and Safety Code is amended to read:

11590. (a) Any person who, on or after the effective date of this section, is convicted in the State of California of any offense defined in Section 11350, 11351, 11351.5, 11352, 11353, 11354, 11355, 11357, 11358, 11359, 11360, 11361, 11363, 11366, 11368, or 11550, or any person who is, on or after such date, discharged or paroled from a penal institution where he was confined because of the commission of any such offense, or any person who is, on or after such date, 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 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time, register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

(b) Any person who, on or after the effective date of this section is convicted in any federal court of any offense which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in subdivision (a) shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time, register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

(c) This section does not apply to a conviction of a misdemeanor under Section 11357 or 11360.

SEC. 29. 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, 11351.5, 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. 29.5. 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, 11351.5, 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) Money laundering, as defined in Section 186.10.

(22) 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.

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 enacted before January 1, 1992, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1992, pursuant to Section 9611 of the Government Code, Section 186.2 of the Penal Code, as amended by Section 2 of Chapter 1205 of the Statutes of 1985, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 30. Section 999e of the Penal Code is amended to read:

999e. (a) An individual shall be the subject of career criminal prosecution efforts who is under arrest for the commission or attempted commission of one or more of the following felonies: robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351, 11351.5, or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto, and lewd or lascivious conduct upon a child; and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of such felonies, or has suffered at least one conviction during the preceding 10 years for any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (2) of this subdivision:

(1) Robbery as defined in Section 211, burglary of the first degree, arson as defined in Section 451, unlawfully causing a fire as defined in Section 452, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder.

(2) Grand theft, grand theft auto, receiving stolen property, robbery other than that described in paragraph (1) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon or instrument, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of such one or more felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the following: (1) the character, background, and prior criminal background of the

defendant; and (2) the number and the seriousness of the offenses currently charged against the defendant.

SEC. 31. 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 phencyclidine or any of its analogs as 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, or any of the precursors of phencyclidine as specified in paragraph (2) of subdivision (f) 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, or offering to transport for sale, import for sale, or administer, or by attempting to import for sale or transport for sale, phencyclidine or any of its analogs or precursors.

(6) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by selling or offering to sell phencyclidine or any of its analogs or precursors.

(7) Any person who is convicted of violating Section 11379.6 of the Health and Safety Code by manufacturing or offering to perform an act involving the manufacture of phencyclidine or any of its analogs or precursors.

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 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to act as an agent to manufacture, compound, or sell any controlled substance specified in subdivision (d) of Section 11054 of the Health and Safety Code, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), or specified in subdivision (d), (e), or (f) of Section 11055 of the Health and Safety Code, except paragraph (3) of subdivision (e) and

subparagraphs (A) and (B) of paragraph (2) of subdivision (f).

(9) 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 or precursors.

(10) Any person who is convicted of violating subdivision (b) of Section 11383 of the Health and Safety Code by possessing piperidine, pyrrolidine, or morpholine, and cyclohexanone, with intent to manufacture phencyclidine or any of its analogs.

(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. 32. Section 1203.073 of the Penal Code is amended to read:

1203.073. (a) A person convicted of a felony specified in subdivision (b) may be granted probation only in an unusual case where the interests of justice would best be served; when probation is granted in such a case, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Except as provided in subdivision (a), probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale, or Section 11352 of the Health and Safety Code by selling, 28.5 grams or more of cocaine hydrochloride, or a substance containing 28.5 grams or more of cocaine hydrochloride, or 57 grams or more of a substance containing cocaine hydrochloride.

(2) Any person who is convicted of violating Section 11378 of the Health and Safety Code by possessing for sale, or Section 11379 of the Health and Safety Code by selling, 28.5 grams or more of methamphetamine, or a substance containing 28.5 grams or more of methamphetamine, or 57 grams or more of a substance containing methamphetamine.

(3) Any person who is convicted of violating subdivision (a) of Section 11379.6 of the Health and Safety Code, except those who manufacture phencyclidine, or who is convicted of an act which is punishable under subdivision (b) of Section 11379.6 of the Health and Safety Code, except those who offer to perform an act which aids in the manufacture of phencyclidine.

(4) Except as otherwise provided in Section 1203.07, any person who is convicted of violating Section 11353 or 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to manufacture, compound, or sell heroin,

cocaine as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, cocaine hydrochloride, or methamphetamine.

(5) Any person who is convicted of violating Section 11351.5 of the Health and Safety Code by possessing for sale 14.25 grams or more of cocaine as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(6) Any person who is convicted of violating Section 11352 of the Health and Safety Code by transporting for sale, importing for sale, or administering, or by offering to transport for sale, import for sale, or administer, or by attempting to import for sale or transport for sale, cocaine as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(7) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell cocaine as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

As used in this section, the term "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.

SEC. 33. Section 2.5 of this bill incorporates amendments to Section 11055 of the Health and Safety Code proposed by both this bill and AB 3102. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 11055 of the Health and Safety Code, and (3) this bill is enacted after AB 3102, in which case Section 11055 of the Health and Safety Code, as amended by AB 3102, 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 this bill shall not become operative.

SEC. 34. Section 3.5 of this bill incorporates amendments to Section 11350 of the Health and Safety Code proposed by both this bill and AB 3102. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 11350 of the Health and Safety Code, and (3) this bill is enacted after AB 3102, in which case Section 11350 of the Health and Safety Code, as amended by AB 3102, 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. 35. Section 5.5 of this bill incorporates amendments to Section 11352 of the Health and Safety Code proposed by both this bill and AB 3102. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 11352 of the Health and Safety Code, and (3) this bill is enacted after AB 3102, in which case Section 11352 of the Health and Safety Code, as amended by AB 3102, shall remain

operative only until the operative date of this bill, at which time Section 5.5 of this bill shall become operative, and Section 5 of this bill shall not become operative.

SEC. 36. Section 6.5 of this bill incorporates amendments to Section 11353 of the Health and Safety Code proposed by both this bill and AB 3102. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 11353 of the Health and Safety Code, and (3) this bill is enacted after AB 3102, in which case Section 11353 of the Health and Safety Code, as amended by AB 3102, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

SEC. 37. Section 7.5 of this bill incorporates amendments to Section 11354 of the Health and Safety Code proposed by both this bill and AB 3102. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 11354 of the Health and Safety Code, and (3) this bill is enacted after AB 3102, in which case Section 11354 of the Health and Safety Code, as amended by AB 3102, shall remain operative only until the operative date of this bill, at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative.

SEC. 38. Section 8.5 of this bill incorporates amendments to Section 11355 of the Health and Safety Code proposed by both this bill and AB 3102. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 11355 of the Health and Safety Code, and (3) this bill is enacted after AB 3102, in which case Section 11355 of the Health and Safety Code, as amended by AB 3102, shall remain operative only until the operative date of this bill, at which time Section 8.5 of this bill shall become operative, and Section 8 of this bill shall not become operative.

SEC. 39. Section 12.5 of this bill incorporates amendments to Section 11366.6 of the Health and Safety Code proposed by both this bill and AB 3162. It shall become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11366.6 of the Health and Safety Code, and (3) this bill is enacted after AB 3162, in which case Section 12 of this bill shall not become operative.

SEC. 40. Section 13.5 of this bill incorporates amendments to Section 11370 of the Health and Safety Code proposed by both this bill and AB 4209. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11370 of the Health and Safety Code, and (3) this bill is enacted after AB 4209, in which case Section 13 of this bill shall not become operative.

SEC. 41. Section 15 of this bill incorporates amendments to Section 11370.2 of the Health and Safety Code proposed by both this

bill and AB 2362. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11370.2 of the Health and Safety Code, and (3) this bill is enacted after AB 2362, in which case Section 14 of this bill shall not become operative.

SEC. 42. Section 17 of this bill incorporates amendments to Section 11370.4 of the Health and Safety Code proposed by both this bill and AB 2362. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11370.4 of the Health and Safety Code, and (3) this bill is enacted after AB 2362, in which case Section 16 of this bill shall not become operative.

SEC. 43. Section 19.5 of this bill incorporates amendments to Section 11372.5 of the Health and Safety Code proposed by both this bill and AB 3642. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11372.5 of the Health and Safety Code, and (3) this bill is enacted after AB 3642, in which case Section 19 of this bill shall not become operative.

SEC. 44. Section 20.5 of this bill incorporates amendments to Section 11377 of the Health and Safety Code proposed by both this bill and AB 4029. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11377 of the Health and Safety Code, and (3) this bill is enacted after AB 4029, in which case Section 20 of this bill shall not become operative.

SEC. 45. (a) Section 25.5 of this bill incorporates amendments to Section 11470 of the Health and Safety Code proposed by both this bill and AB 4145. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11470 of the Health and Safety Code, and (3) this bill is enacted after AB 4145, in which case Section 25 of this bill shall not become operative.

(b) Section 25.7 of this bill shall not become operative on the date specified therein unless Section 25.5 of this bill becomes operative in accordance with subdivision (a).

SEC. 46. (a) Section 26.5 of this bill incorporates amendments to Section 11488 of the Health and Safety Code proposed by both this bill and AB 4145. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 11488 of the Health and Safety Code, and (3) this bill is enacted after AB 4145, in which case Section 26 of this bill shall not become operative.

(b) Section 26.7 of this bill shall not become operative on the date specified therein, unless Section 26.5 of this bill becomes operative in accordance with subdivision (a).

SEC. 47. (a) Section 27.1 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by both this bill and AB 2818. It shall only become operative if (1) both bills are

enacted and become effective January 1, 1987, (2) each bill amends Section 11550 of the Health and Safety Code, and (3) AB 3162 and SB 1806 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2818, in which case Sections 27, 27.2, 27.3, 27.4, 27.5, 27.6, and 27.7 of this bill shall not become operative.

(b) Section 27.2 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by both this bill and AB 3162. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 11550 of the Health and Safety Code, (3) AB 2818 and SB 1806 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 3162 in which case Sections 27, 27.1, 27.3, 27.4, 27.5, 27.6, and 27.7 of this bill shall not become operative.

(c) Section 27.3 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by both this bill and SB 1806. It shall only become operative if (1) both bills are enacted and become effective January 1, 1987, (2) each bill amends Section 11550 of the Health and Safety Code, (3) AB 2818 and AB 3162 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1806, in which case Sections 27, 27.1, 27.2, 27.4, 27.5, 27.6, and 27.7 of this bill shall not become operative.

(d) Section 27.4 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by this bill, AB 2818, and AB 3162. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1987, (2) all three bills amend Section 11550 of the Health and Safety Code, (3) SB 1806 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2818 and AB 3162, in which case Sections 27, 27.1, 27.2, 27.3, 27.5, 27.6, and 27.7 of this bill shall not become operative.

(e) Section 27.5 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by this bill, AB 2818, and SB 1806. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1987, (2) all three bills amend Section 11550 of the Health and Safety Code, and (3) AB 3162 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2818 and SB 1806, in which case Sections 27, 27.1, 27.2, 27.3, 27.4, 27.6, and 27.7 of this bill shall not become operative.

(f) Section 27.6 of this bill incorporates amendments to Section 11550 of the Health and Safety Code proposed by this bill, AB 3162, and SB 1806. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1987, (2) all three bills amend Section 11550 of the Health and Safety Code, (3) AB 2818 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3162 and SB 1806, in which case Sections 27, 27.1 27.2, 27.3, 27.4, 27.5, and 27.7 of this bill shall not become operative.

(g) Section 27.7 of this bill incorporates amendments to Section

11550 of the Health and Safety Code proposed by this bill, AB 2818, AB 3162, and SB 1806. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1987, (2) all four bills amend Section 11550 of the Health and Safety Code, and (3) this bill is enacted after AB 2818, AB 3162, and SB 1806, in which case Sections 27, 27.1, 27.2, 27.3, 27.4, 27.5, and 27.6 of this bill shall not become operative.

SEC. 48. Section 29.5 of this bill incorporates amendments to Section 186.2 of the Penal Code proposed by both this bill and SB 1470. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 186.2 of the Penal Code, and (3) this bill is enacted after SB 1470, in which case Section 29 of this bill shall not become operative.

SEC. 49. 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 1045

An act to amend Section 612.5 of the Code of Civil Procedure, and to amend Section 1093 of, the Penal Code, relating to trials.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 612.5 of the Code of Civil Procedure is amended to read:

612.5. Upon the jury retiring for deliberation, the court shall advise the jury of the availability of a written copy of the jury instructions. The court may, at its discretion, provide the jury with a copy of the written instructions given. However, if the jury requests the court to supply a copy of the written instructions, the court shall supply the jury with a copy.

SEC. 2. Section 1093 of the Penal Code is amended to read:

1093. The jury having been impaneled and sworn, unless waived, the trial shall proceed in the following order, unless otherwise directed by the court:

(a) If the accusatory pleading be for a felony, the clerk shall read it, and state the plea of the defendant to the jury, and in cases where it charges a previous conviction, and the defendant has confessed the same, the clerk in reading it shall omit therefrom all that relates to such previous conviction. In all other cases this formality may be dispensed with.

(b) The district attorney, or other counsel for the people, may make an opening statement in support of the charge. Whether or not the district attorney, or other counsel for the people, makes an opening statement, the defendant or his or her counsel may then make an opening statement, or may reserve the making of an opening statement until after introduction of the evidence in support of the charge.

(c) The district attorney, or other counsel for the people shall then offer the evidence in support of the charge. The defendant or his or her counsel may then offer his or her evidence in support of the defense.

(d) The parties may then respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

(e) When the evidence is concluded, unless the case is submitted on either side, or on both sides, without argument, the district attorney, or other counsel for the people, and counsel for the defendant, may argue the case to the court and jury; the district attorney, or other counsel for the people, opening the argument and having the right to close.

(f) The judge may then charge the jury, and shall do so on any points of law pertinent to the issue, if requested by either party; and the judge may state the testimony, and he or she may make such comment on the evidence and the testimony and credibility of any witness as in his or her opinion is necessary for the proper determination of the case and he or she may declare the law. At the beginning of the trial or from time to time during the trial, and without any request from either party, the trial judge may give the jury such instructions on the law applicable to the case as the judge may deem necessary for their guidance on hearing the case. Upon the jury retiring for deliberation, the court shall advise the jury of the availability of a written copy of the jury instructions. The court may, at its discretion, provide the jury with a copy of the written instructions given. However, if the jury requests the court to supply a copy of the written instructions, the court shall supply the jury with a copy.

CHAPTER 1046

An act to add Section 4384.5 to the Civil Code, and to add Section 29416 to the Government Code, relating to family law.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986]

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

SECTION 1. Section 4384.5 is added to the Civil Code, to read:

4384.5. Any party may renew a judgment for child or spousal support by filing an application for renewal of the judgment in the manner specified in Article 2 (commencing with Section 683.110) of Title 9 of Part 2 of the Code of Civil Procedure. Notwithstanding subdivision (b) of Section 683.110 of the Code of Civil Procedure, such a judgment shall not be renewed if the application is filed within five years from the time the judgment was previously renewed.

SEC. 2. Section 29416 is added to the Government Code, to read:

29416. Notwithstanding any other provision of law, the budget of each county shall indicate the amount appropriated for child and spousal support enforcement; that amount shall be stated separately from the amount appropriated for the support of the district attorney. All such moneys shall be available for expenditure for capital and operational expenses.

SEC. 3. 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 1047

An act to amend Section 739.2 of, and to add Section 728.7 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 24, 1986]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The divestiture of the American Telephone and Telegraph Corporation of its local telephone corporations has spawned an environment in which long-distance telephone service is provided

by several different long-distance telephone corporations. That situation has required the Public Utilities Commission to regulate both local and long-distance telephone corporations and the relations between those corporations in order to ensure to subscribers reliable and accessible telephone service at affordable rates.

(b) Long-distance telephone service is useful to most customers only to the extent that it can be accessed via local telephone corporation facilities.

(c) The growth and stability of both the long-distance and local telephone industries are dependent upon the subscriber's ability to utilize, without undue burdens, long-distance telephone corporation services which are accessed through local telephone corporation facilities.

(d) The commission shall ensure that local telephone rates and charges do not unduly burden telephone subscribers in an effort by the telephone corporations to reduce the cost of, and payments by, long-distance telephone corporations for the use of local telephone corporation facilities, thereby reducing the cost of long-distance telephone service and increasing local telephone rates and charges, and to this end, the Legislature has enacted this act.

SEC. 2. Section 728.7 is added to the Public Utilities Code, to read:

728.7. (a) Prior to authorizing any change in the amount of the payment required of a telephone corporation which provides service between service areas to a telephone corporation which provides service within a service area for the use of its telephone lines, and prior to assigning to subscribers of a telephone corporation operating within a service area any charge, surcharge, or rate increase that is a result of a decrease in the amount of that payment, the commission shall do all of the following:

(1) Require the telephone corporation requesting authorization to increase subscriber rates or to impose a charge or surcharge on subscribers as a result of a change in the payments, to notify its subscribers, whenever the commission commences a proceeding on its own motion or in response to a petition to authorize a change in the amount of those payments or to impose that charge, surcharge, or rate increase as a result of a change in the amount of those payments.

(2) Require the telephone corporation to provide its subscribers with an exact description of, and explanation for, the change in the amount of the payment or the imposition of a charge, surcharge, or rate increase, within 90 days of the authorized change in the amount of payment or charge, surcharge, or rate increase. The description and explanation shall include a reasonably accurate quantitative assessment of the results of, and the reasons for, the change in the amount of payment or imposition of a charge, surcharge, or rate increase for each class of subscriber.

(b) The commission shall provide the Legislature with the information required of a telephone corporation pursuant to

paragraph (2) of subdivision (a), for any change in payments, or imposition of a charge, surcharge, or rate increase as a result of a change in payment, made prior to January 1, 1987, within 60 days after that date.

SEC. 3. Section 739.2 of the Public Utilities Code is amended to read:

739.2. (a) The commission shall annually designate a class of universal telephone service necessary to meet minimum residential communications needs, including access to telephone service for emergency communications with public agencies and private medical services and for additionally maintaining necessary social contacts by the elderly, the handicapped, and the infirm. The commission shall take into account differentials in communication needs among customers, costs of acquiring service caused by geographical differences in the locales of residences, personal income of customers, and other factors appropriate in designating the characteristics of a class of universal telephone service. The commission shall annually issue its decision designating the characteristics of a class of universal telephone service and the rates and charges for that service, and eligibility criteria for that service.

(b) The universal service rates shall be as follows:

(1) In a residential subscriber's service area where measured service is not available, the universal service rates shall not be greater than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential customer.

(2) In a residential subscriber's service area where measured service is available, the subscriber may elect either of the following:

(A) A universal service measured rate of not more than 50 percent of the basic rate for measured service, exclusive of federally mandated end user access charges, available to the residential subscriber.

(B) A universal flat rate discounted by not less than the rate reduction in dollars received by universal service subscribers choosing the service in subparagraph (A) and by not more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end user access charges, available to the residential subscriber.

(3) In addition to paragraphs (1) and (2) of this subdivision, every subscriber shall be given an allowance equal to the then current or announced federally mandated residential end user access charges.

(c) The commission shall require every telephone corporation providing telephone service within a service area to file a schedule of rates and charges providing a class of universal telephone service. Every telephone corporation providing service within a service area shall inform all eligible subscribers of the availability of universal telephone service, and how they may qualify for and obtain this service, and shall accept applications for universal telephone service according to procedures specified by the commission.

(d) Nothing in this section precludes the commission from changing any rate established pursuant to subdivision (a) either specifically or pursuant to any general restructuring of all telephone rates, charges, and classifications.

(e) A telephone universal service subscriber shall not be provided with more than one single party line in his or her principal place of residence. An applicant for universal telephone service may report only one address in this state as the principal place of residence. Individual members of a family maintaining together one principal place of residence and additional places of residence, which are not principal, are eligible for universal telephone service only at their principal place of residence, and they shall not be provided with more than one single party line if any family member residing at the principal place of residence receives universal telephone service.

(f) As used in this section, "residential" means residential use and excludes industrial, commercial, and every other category of end use.

(g) The Universal Telephone Service Fund is hereby created and administered pursuant to Part 22 (commencing with Section 44000) of Division 2 of the Revenue and Taxation Code.

(i) This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which this section becomes inoperative and 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 1048

An act to amend and repeal Section 65940 of, and to add Section 65962.5 to, the Government Code, relating to development projects.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 65940 of the Government Code as amended by Section 1 of Chapter 84 of the Statutes of 1982, is amended to read:

65940. Each state agency and each local agency shall compile one or more lists which shall specify in detail the information which will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5. Copies of the information shall be made available to all

applicants for development projects and to any person who requests the information.

SEC. 1.5. Section 65940 of the Government Code, as amended by Section 1 of Chapter 84 of the Statutes of 1982, is amended to read:

65940. Each state agency and each local agency shall compile one or more lists which shall specify in detail the information which will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5. Copies of the information shall be made available to all applicants for development projects and to any person who requests the information.

SEC. 1.7. Section 65940 of the Government Code, as added by Section 2 of Chapter 84 of the Statutes of 1982, is repealed.

SEC. 2. Section 65962.5 is added to the Government Code, to read:

65962.5. (a) The State Department of Health Services shall compile and update as appropriate, but at least annually, and shall submit to the Office of Planning and Research, a list of all of the following:

(1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

(2) All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(3) All information received by the State Department of Health Services pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

(4) All sites listed pursuant to Section 25356 of the Health and Safety Code.

(5) All sites included in the Abandoned Site Assessment Program.

(6) A list of all public drinking water wells which contain detectable levels of organic contaminants and which are subject to water analysis pursuant to Section 4026.2 or 4026.3 of the Health and Safety Code.

(b) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Office of Planning and Research, a list of all of the following:

(1) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

(2) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the State Department of Health Services pursuant to subdivision (e) of Section 13273 of the Water Code.

(3) All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section

13304 of the Water Code, which concern the discharge of wastes which are hazardous materials.

(c) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Administrative Code, shall compile as appropriate, but at least annually, and shall submit to the California Waste Management Board, a list of all solid waste disposal facilities from which there is a known migration of hazardous waste. The California Waste Management Board shall compile the local lists into a statewide list which shall be submitted to the Office of Planning and Research and shall be available to any person who requests the information.

(d) The Office of Planning and Research shall consolidate the information submitted pursuant to this section and distribute it in a timely fashion to each city and county in which sites on the lists are located.

(e) Before a local agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project is located on a site which is included on any of the lists compiled pursuant to this section. If the site is included on a list, the list shall be specified on the statement.

(f) This section shall become operative on July 1, 1987.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 65940 of the Government Code proposed by both this bill and AB 4350. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 65940 of the Government Code, and (3) this bill is enacted after AB 4350, 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 self-financing authority is provided in Section 19132.3 of the Health and Safety Code to cover any costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

CHAPTER 1049

An act to amend Sections 1053, 6651, 7852, 7852.3, 7885, 7890, 7921, 8022, 8025, 8059, 8060, 8061, 8062, 8063, 8064, 8065, 8067, 8068, 8069, 8254, 8306.8, 8394.5, 8461, and 15101 of, to amend and renumber Sections 8011, 8013, 8014, 8015, 8045, and 8047, of, to amend and renumber the heading of Article 7 (commencing with Section 8040) of, and to add Article 7 (commencing with Section 8030) to, Chapter 1 of Part 3 of Division 6 of, to add Sections 8050, 8052, 8550.5, 9055, and 9070.5 to, to amend, repeal, and add Sections 8567 and 8586.3 of, to repeal Sections 7889, 8012, 8018, 8019, 8020, 8021, 8023, 8024, 8043, 8044, 8045.5, 8045.8, 8046, and 8048 of, and to repeal and add Sections 8040, 8041, and 8042 of, the Fish and Game Code, relating to commercial fishing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. This act shall be known and may be cited as the Felando-Polanco Fisheries Act of 1986.

SEC. 1.5. Section 1053 of the Fish and Game Code is amended to read:

1053. (a) Not more than one license or not more than the number of license tags authorized by statute or regulation of the same class shall be issued to or purchased by a person for the same license year, except upon:

(1) The expiration of the license.

(2) The filing of an affidavit showing the loss or destruction of an unexpired license or license tag previously issued and, except as provided in paragraphs (3) or (4), payment of the full fee if the department has no copy of an unexpired license or license tag.

(3) The filing of an affidavit showing the loss or destruction of an unexpired commercial fishing license or an unexpired license issued pursuant to Article 7 (commencing with Section 8030) of Chapter 1 of Part 3 of Division 6 and payment of a fee equal to 20 percent of the fee for the license if the department has a copy of an unexpired license.

(4) The filing of an affidavit showing the loss or destruction of an unexpired sport fishing or hunting license, and payment of a fee of three dollars ($3). Duplicate sportfishing or hunting licenses issued pursuant to this subdivision shall be issued only by the department.

(b) Any person authorized by the department to issue licenses may administer the oath for purposes of the affidavit without any fee. Each of the affidavits provided for under subdivision (a) shall be filed with the department at the times and in the manner prescribed by the department.

SEC. 2. Section 6651 of the Fish and Game Code is amended to read:

6651. A license granting the privilege to harvest kelp or other aquatic plants shall be issued and delivered upon application and the payment of a fee of fifty dollars ($50) to the department. The license shall be valid for a term of one year from the date of issuance.

This chapter does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Division 12 (commencing with Section 15000).

SEC. 3. Section 7852 of the Fish and Game Code is amended to read:

7852. A commercial fishing license entitles the holder to take fish from April 1st to March 31st of the year following, or, if issued after the beginning of that term, for the remainder thereof. The license fee is fifty dollars ($50). The license shall be in the licensee's possession, or immediately available to the licensee, at all times when engaged in any activity required to be licensed pursuant to Section 7850 or Article 7 (commencing with Section 8030) of Chapter 1 of Part 3 of Division 6.

SEC. 4. Section 7852.3 of the Fish and Game Code is amended to read:

7852.3. (a) Notwithstanding Section 7852, 7852.5, or 7860 a commercial fishing license shall be issued under this article by the department for a fee of twenty-five dollars ($25), and a commercial fishing salmon stamp shall be issued under this article for the total of one-half of the fee determined under Section 7852.5 and one-half of the fee determined under Section 7860 to a person, if all of the following conditions are met:

(1) The person provides the following information to the State Department of Education, which, upon verification of the information, shall issue the person a work permit for the work program:

(A) The person is 18 years of age or younger.

(B) The person is a student who is working during summer vacation or other school vacation on a vessel.

(C) The work is part of an authorized schoolwork program.

(D) The person has the written permission of his or her parent or guardian.

(2) The person provides the department with a copy of the work permit issued under paragraph (1) and provides the department with information that the vessel on which the person intends to work is operated under one of the following conditions:

(A) By a family member.

(B) By a nonfamily member and the owner or operator has insurance providing indemnification to the person in case of accident or injury while working on the vessel.

(b) For purposes of this section, "family member" means any of the following relations of the person who is applying for a license or stamp under this section:

(1) A spouse.

(2) A mother, father, grandmother, grandfather, great-grandmother, great-grandfather, or the present spouse of that lineal ancestor.

(3) A child or child's spouse.

(4) An aunt or uncle, by blood or marriage.

(5) A nephew or niece, or that person's spouse.

(c) The department shall not issue a license under subdivision (a) if the person has been issued a license under subdivision (a) in each of the preceding three years.

SEC. 5. Section 7885 of the Fish and Game Code is amended to read:

7885. Registration number plates shall remain the property of the state, and shall not be intentionally defaced, mutilated, or destroyed. If any such registration number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel upon which the number plate has been placed shall immediately make application for and may obtain a duplicate, upon furnishing the department with the pertinent facts and a payment of twenty-five dollars ($25).

SEC. 6. Section 7889 of the Fish and Game Code is repealed.

SEC. 6.5. Section 7890 of the Fish and Game Code is amended to read:

7890. Upon payment of a fee of one hundred sixty-five dollars ($165) and filing of the required statement by the owner or operator of the vessel, the department shall issue a certificate of boat registration which is valid for the period April 1st to March 31st of the year following, or, if issued after the beginning of that term, for the remainder thereof. This certificate shall be carried aboard the vessel at all times posted in a conspicuous place.

SEC. 7. Section 7921 of the Fish and Game Code is amended to read:

7921. The license shall be valid during the period from April 1st to March 31st of the year following, or, if issued after the beginning of that term, for the remainder thereof, and for a fee of fifty dollars ($50) shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7890.

SEC. 8. Section 8011 of the Fish and Game Code is amended and renumbered to read:

8043. Every commercial fisherman who sells or delivers fish that he or she has taken to any person who is not licensed under Article 7 (commencing with Section 8030), and every person who is required to be licensed under Article 7 (commencing with Section 8030) to conduct the activities of a fish receiver, as described in Section 8033, shall make a legible record in the form of a landing receipt on forms to be furnished by the department.

The landing receipt shall show:

(a) The weight of the species of fish received, as designated pursuant to Section 8045.

(b) The name of the fisherman.
(c) The department registration number of the boat.
(d) The name of the recipient.
(e) The date of receipt.
(f) The price paid.
(g) The department origin block number where the fish were caught.
(h) The type of gear used.
(i) Such other statistical information as the department may prescribe.

SEC. 9. Section 8012 of the Fish and Game Code is repealed.

SEC. 10. Section 8013 of the Fish and Game Code is amended and renumbered to read:

8045. The names used in the landing receipt made under Section 8043 for designating the species of fish dealt with shall be those in common usage unless otherwise designated by the department.

SEC. 11. Section 8014 of the Fish and Game Code is amended and renumbered to read:

8046. (a) The original signed copy of the landing receipt made under Section 8043 shall be delivered to the commercial fisherman at the time of the purchase or receipt of the fish. That copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time during that period by the department. A copy of the landing receipt shall be kept by the person licensed pursuant to Article 7 (commencing with Section 8030) who filled out the landing receipt for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be delivered to the department on or before the first and 16th day of each month.

(b) On delivery of sardines, anchovies, mackerel, or squid intended to be processed, a copy of the landing receipt 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 commercial fisherman receiving the original copy. The person licensed pursuant to Article 7 (commencing with Section 8030) who filled out the landing receipt, upon request of the authorized agent, shall notify the authorized agent of the unloading and weighing of the fish and shall permit the authorized agent to be present at all times during the weighing of the fish.

SEC. 12. Section 8015 of the Fish and Game Code is amended and renumbered to read:

8047. (a) A person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish shall make a legible record in the form of the landing receipt as required by Section 8043 at the time the fish are brought ashore. The original signed copy of the landing receipt shall be retained by the licensee for a period of four years and shall be available for inspection at any time within that

period by the department. A copy of the landing receipt shall be delivered by the licensee to the department on or before the first and 16th day of each month.

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Section 8043 and shall be subject to the tax imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month.

(c) (1) Every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, shall fill out a transportation receipt on forms provided by the department at the time the fish are brought ashore.

(2) The name of the person transporting the fish shall be entered on the transportation receipt.

(3) The original signed copy of the transportation receipt shall be retained by the commercial fisherman who filled it out for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the transportation receipt shall be given to and retained by the person transporting the fish until the fish are sold fresh, processed, or otherwise disposed of. A copy of the transportation receipt shall be delivered to the department on or before the first and 16th day of each month.

(4) The transportation receipt is required only for transit purposes.

(5) A person transporting fish from the point of first landing under a transportation receipt is not required to be licensed to conduct the activities of a fish receiver as described in Section 8033.

SEC. 13. Section 8018 of the Fish and Game Code is repealed.

SEC. 14. Section 8019 of the Fish and Game Code is repealed.

SEC. 15. Section 8020 of the Fish and Game Code is repealed.

SEC. 16. Section 8021 of the Fish and Game Code is repealed.

SEC. 17. Section 8022 of the Fish and Game Code is amended to read:

8022. The receipts, reports, or other records filed with the department pursuant to Article 2 (commencing with Section 7700)

to Article 7.5 (commencing with Section 8040), inclusive, and the information contained therein, shall, except as otherwise provided in this section, be confidential, and the records shall not be public records. Insofar as possible, the information contained in the records shall be compiled or published as summaries, so as not to disclose the individual record or business of any person.

SEC. 18. Section 8023 of the Fish and Game Code is repealed.

SEC. 19. Section 8024 of the Fish and Game Code is repealed.

SEC. 20. Section 8025 of the Fish and Game Code is amended to read:

8025. The commission, upon recommendation of the department, 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 8030) convicted of a violation of this article.

SEC. 21. Article 7 (commencing with Section 8030) is added to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 7. Commercial Fish Business Licenses

8030. Any person who engages in any business for profit involving fish shall be licensed pursuant to this article, except as follows:

(a) A commercial fisherman who sells fish only to persons licensed under this article to purchase or receive fish from commercial fishermen and who does not engage in any activity described in Section 8034, 8035, or 8036 unless licensed to engage in both activities.

(b) A person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait.

(c) A person who sells fish only at retail to the ultimate consumer if that person does not conduct any activities described in Section 8033, 8035, or 8036.

(d) Pursuant to Division 12 (commencing with Section 15000), a person who deals only in products of aquaculture.

8031. The following definitions govern the construction of this article:

(a) "Process fish" means any activity for profit of preserving fish or preparing fish for sale or delivery to other than the ultimate consumer, including, but not limited to, cleaning, cutting, gutting, scaling, shucking, peeling, cooking, curing, salting, canning, breading, packaging, or packing fish. "Process fish" also means the activity for profit of manufacturing fish scraps, fish meal, fish oil, or fertilizer made from fish. "Process fish" does not include the cleaning, beheading, gutting, or chilling of fish by a licensed commercial fisherman which is required to preserve the fish while aboard a fishing vessel and which is to prevent deterioration, spoilage, or waste of the fish before they are landed and delivered to a person licensed to purchase or receive fish from a commercial fisherman.

(b) "Wholesale" means the purchase of fish from persons licensed

to purchase or receive fish from a commercial fisherman, from processors, from importers, or from any other wholesaler for the purpose of resale to other than the ultimate consumer.

(c) "Import" means receiving or purchasing fish taken outside of this state which are not landed in this state by a licensed commercial fisherman.

(d) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

8032. (a) A commercial fish business license shall be issued which authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The annual fee for this license is seven hundred fifty dollars ($750).

(b) Specialty licenses for part of, but not all, activities described in subdivision (a) shall be issued in four classes, as follows:

(1) Fish receivers license, issued to any person engaged in the business of receiving fish as provided in Section 8033.

(2) Fish processors license, issued to any person engaged in the business of processing fish as provided in Section 8034.

(3) Fish wholesalers license, issued to any person who is engaged in the business of wholesaling fish as provided in Section 8035.

(4) Fish importers license, issued to any person who is engaged in the business of importing fish as provided in Section 8036.

8033. Except as provided in Section 8033.5 or in subdivision (c) of Section 8047, any person who purchases or receives fish for commercial purposes from a fisherman who is required to be licensed under Section 7850, or any person who removes fish from the point of the first landing that that person has caught for his or her own processing or sale shall obtain a fish receiver's license. The annual fee for a fish receiver's license is three hundred dollars ($300). A cooperative association of fishermen may be licensed as fish receivers.

8033.5. Any commercial fisherman who sells fish that he or she has taken to the ultimate consumer of that fish shall obtain a fisherman's retail license. The annual fee for a fisherman's retail license is twenty-five dollars ($25).

Any person required to obtain a license under this section who engages in any activity described in Section 8033, 8034, 8035, or 8036 shall also obtain an appropriate license to engage in those activities.

8034. Any person who processes fish for profit shall obtain a fish processor's license. The annual fee for a fish processor's license is three hundred dollars ($300).

Any person required to obtain a license under this section who takes his or her own fish shall also obtain a fish receiver's license or a commercial fish business license.

8035. Excepting a person exempt under Section 8030 or an importer licensed under Section 8036, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish from another person, who is required to be licensed as

a fish receiver, fish processor, fish importer, or fish wholesaler under this article, shall obtain a fish wholesaler's license. The annual fee for a fish wholesaler's license is two hundred dollars ($200).

8036. Any person who purchases or receives fish, which are taken outside of this state and brought into this state by a person who is not a licensed commercial fisherman, for the purpose of resale to other than the ultimate consumer shall obtain a fish importer's license. The annual fee for a fish importer's license is three hundred dollars ($300).

8037. A person who engages in business involving fish which business activity would require more than one class of license under this article shall obtain either a commercial fish business license issued under subdivision (a) of Section 8032 or each of the specialty licenses which are required for the classes of activities engaged in. Each plant, facility, or other place of business in which an activity occurs which is required to be licensed shall have a copy of the required license.

8038. (a) A license issued under this article is valid from July 1 to June 30 of the year following, or if issued after the beginning of that term, for the remainder thereof.

(b) Application for a license for the next, subsequent year may be accepted from an existing licensee by the department on or after April 30 of the license year preceding the license year for which the application is made.

(c) Any person who desires to engage, or to continue engaging, in any business that is required to be licensed pursuant to this article and who is the holder of a valid, unrevoked license that was issued under former Section 8040, 8041, 8042, or 8044 before January 1, 1987, shall obtain the applicable license and pay the fee required by this article before January 1, 1987, and that licensee shall receive a credit for the fees paid for that former license for a license issued under this article for the 1986–87 license year. No credit shall be allowed, however, for any fee required by this article that is paid on or after January 1, 1987.

(d) Any person who is not the holder of a valid, unrevoked license, as described in subdivision (c), and who desires to engage, or to continue engaging, in any business which is required to be licensed pursuant to this article shall obtain the applicable license and pay the amount of the annual fee specified in this article.

SEC. 22. The heading of Article 7 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code is amended and renumbered to read:

Article 7.5. Landing Taxes

SEC. 23. Section 8040 of the Fish and Game Code is repealed.

SEC. 24. Section 8040 is added to the Fish and Game Code, to read:

8040. The following definitions govern the construction of this

article.

(a) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) "Landing tax" means a privilege tax imposed pursuant to this article.

SEC. 25. Section 8041 of the Fish and Game Code is repealed.

SEC. 26. Section 8041 is added to the Fish and Game Code, to read:

8041. (a) The following persons shall pay the landing tax determined pursuant to Section 8042:

(1) Any person who is required to be licensed as a fish receiver, and any person who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

(2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

(b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live freshwater fish for bait to such a licensed person, is exempt from the landing tax imposed under this article.

SEC. 27. Section 8042 of the Fish and Game Code is repealed.

SEC. 28. Section 8042 is added to the Fish and Game Code, to read:

8042. The amount of the landing tax under this article shall be determined by multiplying the tax rate for the type of fish delivered by a commercial fisherman in this state in accordance with the schedule in Section 8051 by the number of pounds, or fraction thereof, delivered. If the tax is imposed based upon weight in the round, and the fish is cleaned, gutted, beheaded, or otherwise not in the round at the time of delivery, the taxes shall be adjusted by a conversion factor as determined by the department by regulation.

SEC. 29. Section 8043 of the Fish and Game Code is repealed.

SEC. 30. Section 8044 of the Fish and Game Code is repealed.

SEC. 31. Section 8045 of the Fish and Game Code is amended and renumbered to read:

8051. The landing tax imposed pursuant to Section 8041 shall be determined pursuant to Section 8042 by using the tax rates in the following schedule:

	Rate per pound
(a) All fish, except as otherwise specified in this section	$0.0013
(b) Mollusks and crustaceans excluding squid and crab	0.0125
(c) Crab and squid	0.0019
(d) Salmon, except imported salmon offal, based only on the weight in the round	0.0500
(e) Sardines	0.0063

(f) The following fish 0.0125
(1) Barracuda
(2) Bluefin
(3) Flying fish
(4) Frogs
(5) Giant sea bass
(6) Halibut
(7) Saltwater worms
(8) White sea bass
(9) Yellowtail
(g) Anchovy 0.0006
Provided, however, that when the price paid as stated on the fish receipt required in accordance with Section 8043 is in excess of fifty dollars ($50) per ton, the tax on anchovy shall be $0.0013 per pound.
(h) Herring 0.0100
(i) Thresher shark, bonito (mako) shark, or angel shark, based only on the weight in the round 0.0113
(j) Swordfish, based only on the weight in the round .. 0.0125

SEC. 32. Section 8045.5 of the Fish and Game Code is repealed.

SEC. 33. Section 8045.8 of the Fish and Game Code is repealed.

SEC. 34. Section 8046 of the Fish and Game Code is repealed.

SEC. 35. Section 8047 of the Fish and Game Code is amended and renumbered to read:

8053. Landing taxes imposed by this article shall be paid monthly to the department within 60 days after the close of each month.

If any landing tax is not paid within 60 days after the close of the month for which it is due, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department and "the date on which the tax became due and payable" means that date 60 days after the close of the month for which it is due.

SEC. 36. Section 8048 of the Fish and Game Code is repealed.

SEC. 37. Section 8050 is added to the Fish and Game Code, to read:

8050. (a) In addition to the receipt required in Section 8043, every person licensed under Article 7 (commencing with Section 8030), and any commercial fisherman who sells fish to persons who are not licensed under Article 7 (commencing with Section 8030), and any person who deals in fresh or frozen fish for profit, shall keep accounting records in which all of the following shall be recorded:

(1) A full and correct record, in the English language, of all fish purchased, received, or taken, regardless of the source.

(2) The names of the different species.

(3) The number of pounds purchased, received, or taken of each

different species.

(4) The name of the person from whom the fish were purchased or received.

(5) The name of the recipient.

(6) The date of receipt.

(7) The price paid.

(8) The intended use.

(b) The accounting records shall be maintained for a period of three years and upon request, shall be open for inspection during normal business hours by the department. The accounting records shall be maintained within the State of California.

(c) The names used for designating the species of fish shall be those in common usage unless otherwise designated by the department.

SEC. 38. Section 8052 is added to the Fish and Game Code, to read:

8052. Landing taxes shall be used only for the administration of laws relating to the commercial fishing industry, except as follows:

(a) Not less than 87 percent of the landing tax on herring taken for roe shall be expended for research and management activities to maintain and enhance the herring resources within the waters of this state.

(b) Not less than 90 percent of the landing tax on thresher shark or bonito (mako) shark shall be expended for the study required by, and for the costs of administering, Article 16 (commencing with Section 8560) of Chapter 2.

SEC. 39. Section 8059 of the Fish and Game Code is amended to read:

8059. Every claim for refund or credit for overpayment of a landing tax shall be in writing and shall state the specific grounds upon which the claim is founded.

SEC. 40. Section 8060 of the Fish and Game Code is amended to read:

8060. Failure to file a claim for refund or credit within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment of a landing tax or taxes.

SEC. 41. Section 8061 of the Fish and Game Code is amended to read:

8061. Within 30 days after disallowing any claim for refund or credit for overpayment of a landing tax in whole or in part, the department shall serve notice of its action on the claimant, either personally or by mail. If served by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the licensee at his address as it appears in the records of the department, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

SEC. 42. Section 8062 of the Fish and Game Code is amended to read:

8062. Interest shall be paid upon any overpayment of a landing tax at the rate of one-half of 1 percent per month from the date of overpayment. The interest shall be paid to the date the claim for refund or credit is approved by the department.

SEC. 43. Section 8063 of the Fish and Game Code is amended to read:

8063. If the department determines that any overpayment of a landing tax has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

SEC. 44. Section 8064 of the Fish and Game Code is amended to read:

8064. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this article of any landing tax.

SEC. 45. Section 8065 of the Fish and Game Code is amended to read:

8065. No suit or proceeding shall be maintained in any court for the recovery of any amount of landing tax alleged to have been erroneously paid or erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Sections 8058 and 8059.

SEC. 46. Section 8067 of the Fish and Game Code is amended to read:

8067. If the department fails to mail notice of action on a claim for refund or credit for overpayment of a landing tax within six months after the claim is filed, the claimant may, prior to the mailing of notice by the department of its action on the claim, consider the claim disallowed and bring an action against the department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

SEC. 47. Section 8068 of the Fish and Game Code is amended to read:

8068. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any landing tax due and payable from the plaintiff to the state under this article. The balance of the judgment shall be refunded to the plaintiff.

SEC. 48. Section 8069 of the Fish and Game Code is amended to read:

8069. In any judgment, interest shall be allowed at the legal rate of interest on unsatisfied judgments, as provided in Section 685.010 of the Code of Civil Procedure, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the department.

SEC. 49. Section 8254 of the Fish and Game Code is amended to read:

8254. Lobsters may not be taken for commercial purposes except

under a revocable, nontransferable permit subject to regulations adopted by the commission.

Every person who takes, assists in taking, possesses, or transports lobsters while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters, shall have a valid lobster permit issued to that person and shall have that permit in his or her possession while engaged in any of those activities.

Lobster permits may be issued annually by the department and shall be valid for the period of the commercial lobster season. The permit fee is two hundred dollars ($200). However, any person who has had a lobster permit revoked may be required by the commission to appear before it, and no new lobster permit may be issued to such a person unless the commission finds that the issuance will be in the best interests of lobster fishing.

The department shall file an annual report with the Legislature not later than the fifth calendar day of each session of the Legislature on the use made of the revenue received in accordance with this section.

SEC. 50. Section 8306.8 of the Fish and Game Code is amended to read:

8306.8. Abalone may not be taken for commercial purposes except under a revocable abalone diving permit or crewmember permit issued by the department under regulations as the commission shall prescribe. The diving permit fee is two hundred fifty dollars ($250). A crewmember permit shall be issued free of any charge or fee.

Except where the taking of abalone for commercial purposes is prohibited, diving apparatus may be used to take abalone in Districts 10, 18, 19, 20, and 20A.

It is unlawful to take black abalone for commercial purposes along the mainland coast, except as otherwise specifically authorized by this article.

SEC. 51. Section 8394.5 of the Fish and Game Code is amended to read:

8394.5. The fee for the permit issued pursuant to Section 8394 shall be two hundred fifty dollars ($250). This permit fee shall not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8560) of Chapter 2 or to the holder of a valid permit required under Article 17 (commencing with Section 8585) of Chapter 2.

SEC. 52. Section 8461 of the Fish and Game Code is amended to read:

8461. The annual license fee for a live freshwater bait fish license is forty dollars ($40) for each person.

SEC. 53. Section 8550.5 is added to the Fish and Game Code, to read:

8550.5. (a) A herring net permit granting the privilege to take herring with nets for commercial purposes shall be issued to licensed

commercial fishermen, subject to regulations adopted under Section 8550, as follows:

(1) To any resident of this state to use gill nets, upon payment of a fee of two hundred dollars ($200).

(2) To any nonresident to use gill nets, upon payment of a fee of three hundred dollars ($300).

(3) To any resident of this state to use round haul nets, upon the payment of a fee of three hundred dollars ($300).

(4) To any nonresident to use round haul nets, upon the payment of a fee of five hundred dollars ($500).

(b) The commission shall not require a permit for a person to be a crewmember on a vessel taking herring pursuant to this article.

SEC. 54. Section 8567 of the Fish and Game Code is amended to read:

8567. A drift gill net shark and swordfish permit shall be valid, unless revoked, from April 1 to March 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit shall be one hundred fifty dollars ($150).

This section shall remain in effect only until April 1, 1987, and as of that date is repealed.

SEC. 55. Section 8567 is added to the Fish and Game Code, to read:

8567. A drift gill net shark and swordfish permit shall be valid, unless revoked, from April 1 to March 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit shall be two hundred fifty dollars ($250).

This section shall become operative on April 1, 1987.

SEC. 56. Section 8586.3 of the Fish and Game Code is amended to read:

8586.3. A central California drift gill net swordfish permit issued under this article shall be valid unless revoked, from August 15 of the year of issue to January 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit shall be one hundred fifty dollars ($150).

This section shall remain in effect only until April 1, 1987, and as of that date is repealed.

SEC. 57. Section 8586.3 is added to the Fish and Game Code, to read:

8586.3. A central California drift gill net swordfish permit issued under this article shall be valid unless revoked, from August 15 of the year of issue to January 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit shall be two hundred fifty dollars ($250).

This section shall become operative on April 1, 1987.

SEC. 58. Section 8586.3 of the Fish and Game Code is amended to read:

8586.3. A central California drift gill net swordfish permit issued under this article shall be valid unless revoked, from August 15 of the year of issue to January 31 of the following year or, if issued after the

beginning of that term, for the remainder thereof. The fee for this permit shall be one hundred fifty dollars ($150).

This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 59. Section 8586.3 is added to the Fish and Game Code, to read:

8586.3. A limited entry experimental swordfish permit issued under this article shall be valid unless revoked, from May 1 of the year of issue to January 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit shall be two hundred fifty dollars ($250).

This section shall become operative January 1, 1987.

SEC. 60. Section 9055 is added to the Fish and Game Code, to read:

9055. The fee for a sea urchin permit authorized pursuant to Section 9054 is two hundred fifty dollars ($250).

SEC. 61. Section 9070.5 is added to the Fish and Game Code, to read:

9070.5. The fee for a sea urchin diving permit issued under this article is two hundred fifty dollars ($250).

SEC. 62. Section 15101 of the Fish and Game Code is amended to read:

15101. The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year.

(a) The owner's name.

(b) The species grown.

(c) The location or locations of each operation or operations.

The department may provide registration forms for this purpose and may impose a registration fee of one hundred dollars ($100). It is unlawful to conduct aquaculture operations or to culture species unless registered under this section.

SEC. 63. Sections 58 and 59 of this bill incorporate amendments to Section 8586.3 of the Fish and Game Code proposed by both this bill and AB 2914. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, but this bill becomes operative first, (2) each bill amends or amends, repeals, and adds Section 8586.3 of the Fish and Game Code, and (3) this bill is enacted after AB 2914, in which case Section 8586.3 of the Fish and Game Code, as amended and repealed by Section 58 of this bill, shall remain operative only until the operative date of AB 2915, at which time Section 59 of this bill shall become operative, and Sections 56 and 57 shall not become operative.

SEC. 64. Section 61 of this act shall become operative only if AB 3278 is enacted and adds Article 4 (commencing with Section 9060) to Chapter 4 of Part 3 of Division 6 of the Fish and Game Code, in which case Section 60 of this act shall not become operative.

SEC. 65. Except as provided in Section 8038 of the Fish and Game Code as added by Section 21 of this act, any license, permit,

certificate, or other entitlement issued under a provision of law amended, amended and renumbered, or continued in effect by sections of the Fish and Game Code repealed and added by this act before this act becomes effective is valid until the date on which that license expires or is due to be renewed, without payment of any additional fee, unless revoked, suspended, or canceled pursuant to another provision of law.

SEC. 66. The Department of Fish and Game shall study alternatives to fish landing taxes and license fees as a means of funding commercial fishing programs and report to the Legislature on its findings on or before January 1, 1988.

SEC. 67. (a) The Legislature finds and declares the following:

(1) It has been a longstanding administrative procedure to impose and collect privilege taxes on the commercial fishing industry at the point of first landing in this state with certain exceptions.

(2) The imposition and collection of commercial fish privilege taxes upon second-tier importers, processors, wholesalers, and dealers, including those licensees previously exempt from the taxes, which are based upon fish purchased from other importers, processors, wholesalers and dealers would be contrary to a long-established administrative practice which has been before the Legislature and unchanged. Also, the Legislature has provided for the keeping of records to ascertain the quantity of fish brought ashore, or landed in the state to provide, in addition to other purposes, for the determination and audit of the privilege taxes due and payable. In contrast, the Legislature did not provide for fish dealing transaction records after the point of first receipt of fish in this state. These facts evidence the ratification by the Legislature of the administrative practice of collecting the privilege taxes based only upon the weight of fish landed in this state, with certain exceptions. It would be extremely difficult, if not impossible, and may be expensive and cost-ineffective, to determine, enforce, and collect back taxes due from the second-tier dealers because of the lack of fish dealing transaction records after the point of first landing of fish in this state, and, therefore, the costs of collection of privilege taxes upon second-tier wholesalers, processors, and dealers who do not subsequently can or cook those fish may equal or exceed the revenue derived from seeking collection from those licensees.

(3) The retroactive collection of privilege taxes upon importers, processors, wholesalers, and dealers of fish for commercial purposes, who reasonably relied on the previous administrative interpretation of the law and could not reasonably foresee the change in that interpretation as pronounced in the Opinion of the Attorney General of July 10, 1986, No. 85-1001, would impose an extreme economic hardship upon the fish industry in this state because of the unexpected tax burden, which may cause some of them to become insolvent and be driven out of business, thereby disrupting the employment of persons directly and indirectly involved in the fish industry and leading to disruption and economic loss to the entire

state and disruption of the supply of a major food source.

(4) The limited financial resources available to the Department of Fish and Game are more properly expended for the protection and propagation of fish and game in order to benefit the resources and the people of this state.

(5) Clarifying and conforming the requirements for payment of commercial fish privilege taxes to existing administrative practices and continuing the imposition of the privilege taxes only at the point of first landing in California, with specified, limited exceptions, would prevent disruption of the commercial fishing industry, would promote the recovery of the commercial fish processing and marketing in this state, and would provide employment opportunities in the severely depressed labor markets in or near our fishing ports.

(6) For the foregoing reasons, the remission and compromise of fish processing and dealing privilege taxes provided in this section serves a statewide public purpose and is not a gift of public funds proscribed by Section 6 of Article XVI of the California Constitution.

(b) Notwithstanding any other provision of law, any amount of privilege taxes due and payable and unpaid, in whole or in part, under former Section 8045 of the Fish and Game Code as it existed prior to the amendment and renumbering of that section by Section 31 of this act, which are determined in accordance with the Opinion of the Attorney General of July 10, 1986, No. 85-1001, shall be compromised in an amount which is consistent with past administrative practices of the Department of Fish and Game and determined as follows:

(1) Except as provided in paragraph (2) or (3) for activities under a license issued pursuant to Article 7 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, as it existed prior to the effective date of this act, the amount of the privilege tax collected shall be determined by the weight of fish purchased, received, or taken, excluding all of the following:

(A) The weight of any fish upon which weight another licensee has paid a privilege tax, except the weight of fish that are subsequently canned or cooked.

(B) The weight of any fish that is imported by other than a licensed California commerical fisherman which is not subsequently canned or cooked.

(C) The weight of any fish which has been expressly determined by the department in writing to be exempt from the determination of the tax imposed under former Section 8045 of the Fish and Game Code pursuant to an official audit conducted by the department prior to the effective date of this act.

(D) It is the intent of the Legislature that the privilege taxes collected under this paragraph shall not be collected from any person who takes, processes, or receives fish for commercial purposes in this state upon which the tax has been paid unless they are subsequently canned or cooked, which fish are the measure of the tax, in

accordance with the longstanding administrative procedures of the Department of Fish and Game, and, except as provided, that thereafter no tax shall be collected from any person for transactions involving that same fish.

(2) For any activities involving fresh or fresh-frozen fish under a license issued pursuant to Article 7 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, as it existed prior to the effective date of this act, for which privilege taxes were due and payable under former Section 8045 of the Fish and Game Code as it was construed and administered by the Department of Fish and Game prior to July 10, 1986, but for which the licensee made no payment in any amount on or before July 10, 1986 based on any load or lot of fish, the amount of the privilege tax collected shall be the amount determined, based on that load or lot of fish, in accordance with the Opinion of the Attorney General of July 10, 1986, No. 85-1001.

SEC. 68. 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. 69. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 and clarify the application and collection of commercial fish privilege taxes at the earliest possible time, and in order to preserve the fish industry in this state from disruption and economic hardship caused by the major change in administrative commercial fish taxing procedures by the Opinion of the Attorney General of July 10, 1986, No. 85-1001, it is necessary that this act take effect immediately.

CHAPTER 1050

An act to amend Section 17706 of, and to add Section 17747.5 to, the Education Code, relating to schools.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 17706 of the Education Code is amended to read:

17706. The board shall not enter into any lease with respect to an application for replacing inadequate school facilities unless it has first

investigated and made a finding that one or both of the following conditions exists:

(a) It would not be economical or good practice to rehabilitate those facilities.

(b) The school facilities are inadequate due to their susceptibility to repeated flooding. The board shall develop and adopt regulations that define inadequacy of school facilities on the basis of susceptibility to repeated flooding. The building area of any facility found to be inadequate pursuant to this subdivision shall be excluded, for the purposes of any application for the replacement of any facility, from the calculation under this chapter of the area of adequate school construction existing in the applicant school district.

SEC. 2. Section 17747.5 is added to the Education Code, to read:

17747.5. (a) All school facilities purchased or newly constructed pursuant to this chapter for use, in whole or in part, by pupils who are individuals with exceptional needs, as defined in Section 56026, shall be designed and located on the school site so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both.

(b) School district governing boards and county offices of education shall ensure that school facilities for pupils who are individuals with exceptional needs are integrated with other school facilities in applying for the purchase or new construction of school facilities pursuant to this chapter.

(c) The State Allocation Board, after consultation with the State Department of Education and representatives from county offices of education, special education services regions, and school districts, shall develop and adopt any regulations necessary to implement this section.

(d) Notwithstanding any other provision of law, the requirement set forth in subdivision (a) may be waived, by the Superintendent of Public Instruction, only upon compliance with the following procedure:

(1) The applicant school district or county superintendent of schools shall file a written request for waiver that documents the reasons for its inability to comply with the requirement.

(2) The State Department of Education shall verify the reasons set forth pursuant to paragraph (1), including the documentation submitted, which verification shall be completed no later than 30 days after the filing of the request for waiver with the Superintendent of Public Instruction.

(3) The Advisory Commission on Special Education, as established under Section 33590, at its first scheduled meeting following the verification conducted pursuant to paragraph (2), shall review the request for waiver, accompanying documentation, and the verification findings of the State Department of Education. No later than 15 days following the date of that meeting, the commission shall submit its written comments and recommendations regarding the request for waiver to the Superintendent of Public Instruction.

(4) The Superintendent of Public Instruction shall review the comments and recommendations submitted by the Advisory Commission on Special Education prior to approving or rejecting the request for waiver.

(5) Any request for waiver, submitted in accordance with this section, that is not rejected within 60 days of its receipt by the State Department of Education, shall be deemed approved.

(e) This section does not apply to any application for project funding under this chapter that meets one of the following conditions:

(1) The application was submitted to the board prior to January 1, 1987, and all of the facilities under the project for use, in whole or in part, by pupils who are individuals with exceptional needs are located on a school site on which facilities for use by other pupils are also located.

(2) The application is for any other project, for which, prior to January 1, 1987, the board approved the drawing of final plans and the preparation of final specifications.

CHAPTER 1051

An act to amend Section 765 of the Evidence Code, and to amend Section 868.8 of, and to add Section 1127f to, the Penal Code, relating to witnesses.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 24, 1986]

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

SECTION 1. 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. The court shall also take special care to insure that questions are stated in a form which is appropriate to the age of the witness. The court may in the interests of justice, on objection by a party, forbid the asking of a question which is in a form that is not reasonably likely to be understood by a person of the age of the witness.

SEC. 2. Section 868.8 of the Penal Code is amended 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. The judge may also allow other witnesses in the proceeding to be examined when the child witness retires 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.

(d) In the court's discretion, the taking of the child's testimony may be limited to the hours during which the child is normally in school, if there is no good cause to take the child's testimony during other hours.

SEC. 2.5. Section 868.8 of the Penal Code is amended 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. The judge may also allow other witnesses in the proceeding to be examined when the child witness retires 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.

(d) In the court's discretion, the taking of the child's testimony may be limited to the hours during which the child is normally in school, if there is no good cause to take the child's testimony during other hours.

(e) In order to further the purposes of this section, the court, in

its discretion, may appoint a trained volunteer, including a person who has received training from a program formed and operated under the guidelines established by the National Court Appointed Special Advocate Association, to provide for the comfort and support of the child witness. The volunteer adviser to the court may, before the child is called as a witness, consult with the child and, where appropriate, the child's family, as to the child's special physical, mental, or emotional needs. It is not the intent of the Legislature that the volunteer adviser be a witness or be partisan. Nor is it the intent of the Legislature that the volunteer adviser offer an opinion or evidence on the nature or substance of the charges against the defendant. The training that the volunteer adviser shall undergo shall include training on how to avoid becoming a potential witness in the case.

SEC. 3. Section 1127f is added to the Penal Code, to read:

1127f. In any criminal trial or proceeding in which a child 10 years of age or younger testifies as a witness, upon the request of a party, the court shall instruct the jury, as follows:

In evaluating the testimony of a child you should consider all of the factors surrounding the child's testimony, including the age of the child and any evidence regarding the child's level of cognitive development. Although, because of age and level of cognitive development, a child may perform differently as a witness from an adult, that does not mean that a child is any more or less credible a witness than an adult. You should not discount or distrust the testimony of a child solely because he or she is a child.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 868.8 of the Penal Code proposed by both this bill and AB 2916. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 868.8 of the Penal Code, and (3) this bill is enacted after AB 2916, in which case Section 2 of this bill shall not become operative.

CHAPTER 1052

An act to amend Sections 3123, 3131, and 3132 of, and to repeal Section 3130 of, the Health and Safety Code, and to amend Section 14016.4 of the Welfare and Institutions Code, relating to health and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. The Legislature finds and declares that the State Department of Health Services should be authorized to act promptly to require the reporting of outbreaks of communicable and

noncommunicable diseases.

SEC. 2. Section 3123 of the Health and Safety Code is amended to read:

3123. The state department shall establish a list of reportable diseases. The list of reportable diseases may include both communicable and noncommunicable diseases. The list may include those diseases that are either known to be, or suspected of being, transmitted by milk or milk-based products. The list shall also include, but not be limited to, diphtheria, listeria, salmonella, shigella, streptococcal infection in food handlers or dairy workers, and typhoid. This list may be changed at any time by the state department. Those diseases listed as reportable shall be properly reported as required to the state department by the health officer.

The state department may from time to time adopt and enforce rules and regulations requiring isolation (strict or modified) or quarantine for any of the contagious, infectious, or communicable diseases if in the opinion of the state department the action is necessary for the protection of the public health.

The health officer may require isolation (strict or modified) or quarantine for any case of contagious, infectious, or communicable disease when this action is necessary for the protection of the public health. This list shall be published in Title 17 of the California Administrative Code.

SEC. 3. Section 3130 of the Health and Safety Code is repealed.

SEC. 4. Section 3131 of the Health and Safety Code is amended to read:

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 3123, 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.

SEC. 5. Section 3132 of the Health and Safety Code is amended to read:

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 3123. 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 listed pursuant to Section 3123.

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 provide an accurate and current list of diseases at the earliest possible time to protect public health, it is necessary for this act to take effect immediately.

SEC. 3. Section 14016.4 of the Welfare and Institutions Code is amended to read:

14016.4. The department may enter into an agreement with a county to have the county detect and recover the value of any Medi-Cal benefits which have been improperly received or obtained by any person. Counties shall receive an incentive amount not to exceed 30 percent of the amount remaining after reasonable county costs of the recovery have been deducted from the amount recovered. As the single state agency for state plan purposes, the department is responsible for and has authority to impose procedural requirements necessary for federal compliance.

The administrative costs for the implementation of this section shall be controlled by the department. The department shall establish and maintain a plan whereby costs for counties' administration of beneficiary collections will be effectively controlled. The plan shall establish standards and performance criteria, including workload, productivity, and support services standards, to which counties shall adhere.

CHAPTER 1053

An act to amend Section 65570 of the Government Code, relating to planning.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 65570 of the Government Code is amended to read:

65570. (a) The Director of Conservation may establish, after notice and hearing, rules and regulations, and require reports from local officials and may employ, borrow, or contract for such staff or other forms of assistance as are reasonably necessary to carry out this section, Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2, and Section 612 of the Public Resources Code. In carrying out his or her duties under those sections, it is the

intention of the Legislature that the director shall consult with the Director of Food and Agriculture and the Director of Planning and Research.

(b) Commencing July 1, 1986, and continuing biennially thereafter, the Department of Conservation shall collect or acquire information on the amount of land converted to or from agricultural use using 1984 baseline information as updated pursuant to this section for every county for which Important Farmland Series maps exist. On or before June 30, 1988, and continuing biennially thereafter, the department shall report to the Legislature on the data collected pursuant to this section. In reporting, the department shall specify, by category of agricultural land, the amount of land converted to, or from, agricultural use, by county and on a statewide basis. The department shall also report on the nonagricultural uses to which these agricultural lands were converted or committed.

For the purposes of this section, the following definitions apply unless otherwise specified:

(1) "Important Farmland Series maps" means those maps compiled by the United States Soil Conservation Service and updated and modified by the Department of Conservation.

(2) "Interim Farmland maps" means those maps prepared by the Department of Conservation for areas that do not have the current soil survey information needed to compile Important Farmland Series maps. The Interim Farmland maps shall indicate areas of irrigated agriculture, dry-farmed agriculture, grazing lands, urban and built-up lands, and any areas committed to urban or other nonagricultural uses.

(3) "Category of agricultural land" means prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and grazing land. "Grazing land" means land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock.

(4) "Amount of land converted to agricultural use" means those lands which were brought into agricultural use or reestablished in agricultural use and were not shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation in the most recent biennial report.

(5) "Amount of land converted from agricultural use" means those lands which were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation and in the most recent biennial report.

(c) Beginning August 1, 1986, and continuing biennially thereafter, the Department of Conservation shall update and send counties copies of current Important Farmland Series maps. Counties may review the maps and notify the department within 90 days of any changes in agricultural land pursuant to subdivision (b)

that occurred during the previous fiscal year, and note and request correction of any discrepancies or errors in the classification of agricultural lands on the maps. The department shall make those corrections requested by counties. The department shall provide staff assistance, as available, to collect or acquire information on the amount of land converted to, or from, agricultural use for those counties for which Important Farmland Series maps exist.

(d) The Department of Conservation may also acquire any supplemental information which becomes available from new soil surveys and establish comparable baseline data for counties not included in the 1984 baseline, and shall report on the data pursuant to this section. The Department of Conservation may prepare Interim Farmland maps to supplement the Important Farmland Series maps.

(e) The Legislature finds that the purpose of the Important Farmland Series maps and the Interim Farmland maps is not to consider the economic viability of agricultural lands or their current designation in the general plan. The purpose of the maps is limited to the preparation of an inventory of agricultural lands, as defined in this chapter, as well as land already committed to future urban or other nonagricultural purposes.

CHAPTER 1054

An act to amend Section 89507 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 24, 1986.]

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

SECTION 1. (a) It is the intent of the Legislature that educational aides in the schools receive in-service training and instruction through college coursework. It is further intended that in-service programs promote teaching careers in order to meet future teacher shortages.

(b) The California State University shall conduct a study on the feasibility of establishing programs which are designed to promote education and training that will enable educational aides to become credentialed classroom teachers. The study shall consider:

(1) The possibility of using existing staff development funds for the professional development of teachers' aides in the schools.

(2) The value of developing an educational career ladder for teachers' aides who want to become teachers.

(3) Effective means for encouraging and enabling teachers' aides to obtain credentials.

SEC. 2. Section 89507 of the Education Code is amended to read:

89507. (a) The trustees, subject to any conditions which the trustees may impose, may establish programs of insurance with respect to any class of employees of the trustees which the trustees may designate or with respect to all of the employees of the trustees, with any insurer or insurers, insurance broker or brokers, or insurance agent or agents, the trustees may select, provided that all applicable provisions of the Insurance Code relating to the insurance, or to the qualifications of the insurer, broker, or agent, are satisfied. The premiums of the programs of insurance shall be borne by the employees, employer, or employees and employer participating therein.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if 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.

CHAPTER 1055

An act to repeal and add Section 66796.54 of the Government Code, and to repeal and add Section 41805.5 of the Health and Safety Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986]

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

SECTION 1. Section 66796.54 of the Government Code is repealed.

SEC. 2. Section 66796.54 is added to the Government Code, to read:

66796.54. (a) On or before January 1, 1989, January 1, 1990, and January 1, 1991, the State Water Resources Control Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have upon the quality of waters of the state, and recommending actions needed to protect the quality of water. Each report shall summarize the data from those solid waste water quality assessment test reports which have been submitted on or before January 1 of the preceding year to California regional water quality control boards pursuant to Section 13273 of the Water Code, and shall evaluate the accuracy of the solid waste water quality assessment tests conducted.

(b) On or before July 1, 1988, and July 1, 1989, the State Air Resources Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have upon the ambient air quality of the state, and recommending actions needed to protect the quality of air. The reports submitted on July 1, 1988, and July 1, 1989, shall summarize the data from the solid waste air quality assessment test reports submitted to air quality maintenance districts and air pollution control districts on or before July 1, 1987, and January 1, 1988, respectively, pursuant to Section 41805.5 of the Health and Safety Code, and shall evaluate the accuracy of the solid waste assessment tests conducted.

SEC. 3. Section 66796.54 is added to the Government Code, to read:

66796.54. (a) On or before January 1, 1989, January 1, 1990, and January 1, 1991, the State Water Resources Control Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have upon the quality of waters of the state, and recommending actions needed to protect the quality of water. Each report shall summarize the data from those solid waste water quality assessment test reports which have been submitted during the preceding year to California regional water quality control boards pursuant to Section 13273 of the Water Code, and shall evaluate the accuracy of the solid waste water quality assessment tests conducted.

(b) On or before July 1, 1988, and July 1, 1989, the State Air Resources Board shall submit a report to the Legislature summarizing the extent of hazardous waste in solid waste disposal sites and the potential effects these hazardous wastes may have upon the ambient air quality of the state, and recommending actions needed to protect the quality of air. The reports submitted on July 1, 1988, and July 1, 1989, shall summarize the data from the solid waste air quality assessment test reports submitted to air quality maintenance districts and air pollution control districts on or before July 1, 1987, and January 1, 1988, respectively, pursuant to Section 41805.5 of the Health and Safety Code, and shall evaluate the accuracy of the solid waste assessment tests conducted.

SEC. 4. Section 41805.5 of the Health and Safety Code is repealed.

SEC. 5. Section 41805.5 is added to the Health and Safety Code, to read:

41805.5. (a) Except as provided in subdivisions (b) and (c), the owner of a solid waste disposal site shall submit to the district on or before July 1, 1987, a solid waste air quality assessment test report that contains all of the following:

(1) Test results to determine if there is any underground landfill gas migration beyond the solid waste disposal site's perimeter.

(2) Analyses for specified air contaminants in the ambient air adjacent to the solid waste disposal site to determine the effect of the

site on air quality.

(3) Chemical characterization test results to determine the composition of gas streams immediately above the solid waste disposal site, or immediately above the solid waste disposal site and within the solid waste disposal site, as appropriate, as determined by the district.

(4) Any other information which the district board may require, by emergency regulation.

The solid waste air quality assessment test report shall be prepared in accordance with the guidelines developed by the state board pursuant to subdivision (d).

(b) The owner of an inactive solid waste disposal site shall complete and submit the screening questionnaire, developed pursuant to subdivision (e), to the district on or before November 1, 1986, unless the owner is required to submit a report containing the same information specified in subdivision (a) pursuant to a federal, state, or district order, or unless exempted pursuant to subdivision (c). The district shall evaluate the submitted screening questionnaires in accordance with the guidelines developed pursuant to subdivision (e) and shall determine whether the owner of the site be required to submit all, or a portion of, the information required to be reported in a solid waste air quality assessment test report. The district shall notify the owner in writing on or before January 1, 1987, of the information identified in subdivision (a) to be submitted for the site. After receiving this notification, the owner of the inactive solid waste disposal site shall submit a solid waste air quality assessment test report containing the required information on or before January 1, 1988, to the district.

(c) A district may exempt from subdivisions (a) and (b) a solid waste disposal site or inactive solid waste disposal site which has accepted or now contains only inert and nondecomposable solids. To receive an exemption, the owner of the site shall submit, on or before November 1, 1986, a copy of all permits, all waste discharge requirements pertinent to the site, and any other data necessary for the district to determine whether an exemption should be granted to the site.

(d) On or before February 1, 1987, the state board, in coordination with the districts, shall develop and publish test guidelines for the solid waste air quality assessment report specifying the air contaminants to be tested for and identifying acceptable testing, analytical, and reporting methods to be employed in completing the report.

(e) On or before October 1, 1986, the state board, in coordination with the districts, shall develop and publish a screening questionnaire for inactive solid waste disposal sites and guidelines for evaluating the questionnaire by the districts pursuant to subdivision (b). The screening questionnaire and guidelines shall require an inactive solid waste disposal site to be evaluated based on the nature and age of materials in the site, the quantity of materials in the site,

the size of the site, and other appropriate factors. The guidelines for evaluating the screening questionnaire shall require a district to weigh heavily the proximity of the site to residences, schools, and other sensitive areas, and to pay particular attention to potential adverse impacts on facilities such as hospitals and schools, and on residential areas, within one mile of the site's perimeter.

(f) A district may reevaluate the status of a solid waste disposal site, including sites exempted pursuant to subdivision (c), and require the owner to submit or revise a solid waste air quality assessment test report after January 1, 1987. The district shall give written notification to the owner of the solid waste disposal site that a solid waste air quality assessment test report is to be submitted, or that the existing report is to be revised, and the date by which the report is to be submitted.

(g) A district shall evaluate any solid waste air quality assessment test reports submitted pursuant to subdivisions (a), (b), and (f), and determine if the report's testing, analytical and reporting methods comply with the guidelines developed pursuant to subdivision (d). If the district determines that the solid waste air quality assessment test report complies with the guidelines, it shall evaluate the data. If the district determines, after evaluation of the report and consultation with the state department and the California Waste Management Board, that levels of one or more specified air contaminants pose a health risk to human beings or a threat to the environment, the district shall take appropriate remedial action.

(h) If a district determines that a solid waste air quality assessment test report does not comply with the guidelines developed pursuant to subdivision (d), the district shall provide the owner of the site with a written notice specifying the inadequacies of the report and shall require the owner to correct the deficiencies and resubmit the report by a date determined by the district.

(i) For the purpose of this section, the following definitions apply:

(1) "Inactive solid waste disposal site" means a solid waste disposal site which has not received any solid waste for disposal after January 1, 1984.

(2) "Landfill gas" means any untreated, raw gas derived through a natural process from the decomposition of organic waste deposited in a solid waste disposal site or from the evolution of volatile species in the waste.

(3) "Perimeter" means the outer boundary of the entire solid waste disposal site property.

(4) "Solid waste disposal site" means a place, location, tract of land, area, or premises in use, or which has been used, for the landfill disposal of solid waste, as defined in Section 66719 of the Government Code, or hazardous waste, as defined in Section 66714.8 of the Government Code, or both.

(5) "Specified air contaminants" means substances determined to be air contaminants by the state board in coordination with the districts. The state board and the districts shall consider determining

the following compounds to be air contaminants for purposes of this paragraph: benzene, chloroethene, 1,2-dibromoethane, 1,2-dichloroethane benzyl chloride, chlorobenzene, dichlorobenzene, 1,1-dichloroethene, dichloromethane, formaldehyde, hydrogen sulfide, tetrachloroethylene, tetrachloromethane, toluene, 1,1,1-trichloroethane, trichloroethylene, trichloromethane, xylene, and any other substance deemed appropriate by the state board or a district.

SEC. 6. Section 3 of this bill incorporates changes to Section 66796.54 of the Government Code proposed by both this bill and AB 3088. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1987, but this bill becomes operative first, (2) this bill repeals and adds Section 66796.54 of the Government Code and AB 3088 amends Section 66796.54 of the Government Code, and (3) this bill is enacted after AB 3088, in which case Section 66796.54 of the Government Code, as added by Section 2 of this bill, shall remain operative only until the operative date of AB 3088, at which time Section 3 of this bill shall become operative.

SEC. 7. 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 the cost of the program or level of service mandated by this act that the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay that cost.

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 fully and fairly implement the provisions of Chapter 1532 of the Statutes of 1984 relating to disposal of hazardous waste, and to implement the reporting requirements of this act, as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 1056

An act to add Section 1810.5 to the Vehicle Code, relating to records.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 1810.5 is added to the Vehicle Code, to read:

1810.5. The Attorney General, district attorneys, law enforcement agencies, public defenders, and public defender investigators shall have access, including, but not limited to, telephone access, to department records which are open to the public on an equal basis.

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 1057

An act to amend Section 3704 of, and to add Section 22 to, and Chapter 21.5 (commencing with Section 3750) to Division 1 of, and Chapter 10 (commencing with Section 10000) to Division 2 of, the Financial Code, relating to financial institutions, and making an appropriation therefor.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986]

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

SECTION 1. Section 22 is added to the Financial Code, to read:

22. Notwithstanding any other provision of this code, Chapter 21.5 (commencing with Section 3750) and Chapter 21.6 (commencing with Section 3770) of Division 1, and Chapter 10 (commencing with Section 10000) and Chapter 10.1 (commencing with Section 10010) of Division 2, shall be known and may be cited as the Robbins-Vuich-Calderon Financial Institutions Act of 1986.

SEC. 1.5. Section 3704 of the Financial Code is amended to read:

3704. Each bank holding company and its subsidiaries shall be subject to examination by the superintendent. The superintendent may use, for this purpose, his own examiners or independent public accountants who are disinterested persons. In lieu of making an

examination, the superintendent may accept the examination of any holding company made by any federal agency, any other agency of this state, or any agency of any other state of the United States and may examine any such holding company in conjunction with these agencies. If the superintendent examines a bank holding company or any of its subsidiaries, other than a domestic bank, using the superintendent's own examiners, the bank holding company shall pay, within 10 days after receipt of a statement from the superintendent, a fee of two hundred dollars ($200) per day for each examiner engaged in the examination plus, in the event it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner. If the superintendent examines a bank holding company or any of its subsidiaries, other than a domestic bank, using independent public accountants, the bank holding company shall pay, within 10 days after receipt of a statement from the superintendent, the fee of the independent public accountants.

SEC. 2. Chapter 21.5 (commencing with Section 3750) is added to Division 1 of the Financial Code, to read:

CHAPTER 21.5. FOREIGN (NATIONAL) BANK HOLDING COMPANIES

3750. This chapter shall be known and may be cited as the California Interstate (National) Banking Act of 1986.

3751. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Bank holding company" means any company that has control over any bank or over any company that has control over any bank.

(b) "Bank" means a bank, as that term is defined in Section 102, and includes a national banking association, but does not include a bank that engages only in a trust business.

(c) "California bank" means a bank that maintains its head office in this state.

(d) "California bank holding company" means a bank holding company the head office of which is located in and the operations of which are principally conducted in this state or a company that becomes such a bank holding company.

(e) "Company" means any person, bank, corporation, trust company, partnership, trust, association, or similar organization but shall not include any corporation the majority of the shares of which are owned by the United States or by any state.

(f) "Control" means any of the following:

(1) Direct or indirect ownership of, or power to vote, 25 percent or more of any class of voting securities of a company.

(2) Direct or indirect power to control in any manner the election of a majority of directors of a company.

(3) Direct or indirect power to exercise in any manner a controlling influence over the management or policies of a company.

(g) "Foreign bank holding company" means any bank holding company other than a California bank holding company.

(h) "Parent foreign bank holding company" means, with respect to a foreign bank holding company, any and all companies that control that foreign bank holding company.

(i) "Subsidiary" means any company that is controlled by another company.

(j) "Substantial reciprocity" means (1) that the statute laws of a jurisdiction have the effect of authorizing, for the purposes of subsection (d) of Section 3 of the federal Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 et seq.), and that these laws as interpreted and applied authorize, any California bank holding company to acquire up to 100 percent ownership (except for directors' qualifying shares) of any bank that maintains its head office in that jurisdiction on terms and conditions substantially the same as terms and conditions pursuant to which a bank holding company located in the jurisdiction may acquire a bank located in the same jurisdiction, and (2) that, under the laws of that jurisdiction as interpreted and applied, banks that maintain their head offices therein, when acquired, directly or indirectly, by any California bank holding company, have substantially all the powers and capabilities, without limitation, restriction or condition, that such a bank would have if it were acquired by a bank holding company the operations of which are principally conducted in the jurisdiction in which the bank maintains its head office.

3752. For purposes of this chapter:

(a) The state or other jurisdiction in which the operations of a bank holding company are principally conducted is that state or other jurisdiction of the United States in which the total deposits of all of the bank holding company's subsidiary banks are largest.

(b) The definitions in Chapter 1 (commencing with Section 99) of this division apply to this chapter, except with respect to terms defined by Section 3751.

(c) Shares owned or controlled by any subsidiary of a bank holding company shall be deemed to be indirectly owned or controlled by such bank holding company.

(d) Shares held or controlled, directly or indirectly, by trustees for the benefit of (1) a company, (2) the shareholders or members of a company, or (3) the employees (whether exclusively or not) of a company, shall be deemed to be controlled by that company.

3753. On and after January 1, 1991, a foreign bank holding company may, with the prior approval of the superintendent and in accordance with the provisions of this chapter and division, do any of the following:

(a) Cause or permit an existing California bank or California bank holding company to become its subsidiary.

(b) Acquire directly or indirectly assets of any California bank or California bank holding company in an amount otherwise prohibited by Section 3754.

(c) Merge or consolidate with any California bank or California bank holding company.

3754. Except as otherwise permitted by this chapter, no foreign bank holding company shall (1) cause or permit a California bank or California bank holding company to become its subsidiary, (2) cause or permit a subsidiary to become a California bank or California bank holding company, (3) acquire direct or indirect ownership of, or power to vote, more than 5 percent of the voting shares of any California bank or California bank holding company, (4) acquire directly or indirectly more than 50 percent of the assets of any California bank or California bank holding company, or (5) merge or consolidate with any California bank or California bank holding company.

3755. Nothing in this chapter shall be interpreted to affect, to the extent otherwise authorized by the laws of this state or of the United States, the acquisition of, or merger or consolidation with, a California bank or a California bank holding company by a bank that maintains no branch, or by a bank holding company that does not control any bank that maintains a branch, within the United States but outside California if the bank or bank holding company is not controlled by a company having its head office located, or principally conducting its operations, within the United States.

3756. (a) An application for approval of a transaction described in Section 3753 shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the superintendent so requires) be verified in such manner, as the superintendent may require. The fee for filing such an application shall be two thousand five hundred dollars ($2,500).

(b) The superintendent shall approve the transaction if the superintendent makes both of the following findings, but shall otherwise deny the application:

(1) That there is substantial reciprocity between this state and the jurisdiction or jurisdictions in which the operations of the foreign bank holding company and any parent foreign bank holding company of the foreign bank holding company are principally conducted.

(2) That the transaction will not have an adverse effect on the public convenience or advantage in this state.

Nothing in this subdivision requires substantial reciprocity with respect to any jurisdiction that is not a state or other jurisdiction of the United States.

(c) Before a foreign bank holding company effects a transaction of a kind described in Section 3753 which would result in its controlling a bank organized under the laws of this state, the foreign bank holding company and each parent foreign bank holding company of the foreign bank holding company shall file with the superintendent an agreement that it will comply, and that it will cause any company which it from time to time controls to comply, with all applicable provisions of this division and of any regulation or

order issued under this division. This agreement shall be in such form, shall be signed in such manner, and shall (if the superintendent so requires) be acknowledged in such manner, as the superintendent may require.

3757. This chapter shall be in addition to, and not in limitation of, Article 7 (commencing with Section 700) of Chapter 5. However, if an application for approval to acquire control under Article 7 (commencing with Section 700) of Chapter 5 is made by the same person as, involves the same transaction as, and if filed concurrently with, an application for approval of a transaction described in Section 3753, the application for approval to acquire control under Article 7 (commencing with Section 700) of Chapter 5 shall not be subject to the fee prescribed in Section 702.

3758. The provisions of this chapter shall be in addition to, and not in limitation of, the provisions of Chapter 21 (commencing with Section 3700). Any foreign bank holding company which controls a bank organized under the laws of this state and any parent foreign bank holding company of such a foreign bank holding company shall each be deemed to be a "bank holding company" for purposes of Chapter 21 (commencing with Section 3700).

3759. (a) The superintendent may provide to any federal regulatory agency or to any regulatory agency of any other state of the United States information relating to any of the following:

(1) Any foreign bank holding company which has applied for approval to effect a transaction described in Section 3753 or which controls a California bank.

(2) Any California bank or other company which such a foreign bank holding company controls or proposes to control.

(3) Any parent foreign bank holding company of such a foreign bank holding company.

(b) The provisions of this section shall be in addition to, and not in limitation of, the provisions of Section 1909.

3760. If any provision or clause of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of that provision or clause to other persons or circumstances shall not be affected thereby.

3761. This chapter shall become operative on January 1, 1991.

SEC. 3. Chapter 10 (commencing with Section 10000) is added to Division 2 of the Financial Code, to read:

CHAPTER 10. FOREIGN (NATIONAL) SAVINGS COMPANIES

10000. For the purposes of this chapter:

(a) "California savings company" means either (1) an association or affiliate or (2) a foreign association or successor thereof that was licensed to do the business of an association in California on September 15, 1935.

(b) "Foreign holding company" means a savings and loan holding company as defined in Section 408(a) (1) (D) of the National Housing

Act, as amended, (12 U.S.C. Sec. 1730 a(a)(1)(D)), which has its principal place of deposits outside of California.

(c) "Foreign savings company" means an insured institution or affiliate other than a California savings company.

(d) "Insured institution" means an entity the deposits of which are insured by the Federal Savings and Loan Insurance Corporation or which is chartered by the Federal Home Loan Bank Board.

(e) The "principal place of deposits" is that state in which the total deposits of all of a company's depository operations and those of its affiliates are largest.

(f) Terms not expressly defined in this chapter have the meaning given in Chapter 2 (commencing with Section 5000) or as the commissioner may provide by regulation.

10001. (a) On and after January 1, 1991, a foreign savings company may conduct the business of an association in California; provided that, if the commissioner determines that the laws, court decisions, or practices of the jurisdiction in which the foreign savings company has its home office would operate to prohibit, restrict, condition, or otherwise limit a California savings company from conducting the business of a savings association in the relevant jurisdiction pursuant to the laws, court decisions, or practices of that jurisdiction, a similar prohibition, restriction, condition, or limitation to be prescribed by regulation or order of the commissioner shall apply in California to the foreign savings company.

10002. No foreign savings company may conduct the business of an association in California without the written approval of the commissioner. A foreign savings company shall submit to the commissioner a written application for approval in the form and shall pay such fees as the commissioner prescribes. The foreign savings company shall submit with the application such information, data, and records as the commissioner may require in order to make his or her determination. The commissioner may issue such regulations as he or she deems to be appropriate to preserve the public interest and integrity of the state's savings association system and to protect the interests of savings account holders, borrowers, and stockholders resident in this state. The commissioner may make arrangements with the supervisory officials of other states for reciprocal examination of California and foreign savings companies and the imposition of fees therefor and may condition his or her approval pursuant to this chapter upon the existence of those arrangements.

10003. This chapter shall become operative on January 1, 1991.

SEC. 4. Sections 1, 1.5, 2, and 3 of this act shall become operative only if SB 2300 of the 1985–86 Regular Session is enacted.

CHAPTER 1058

An act to amend Section 25192 of, and to add Section 25187.6 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 25187.6 is added to the Health and Safety Code, to read:

25187.6. (a) If an authorized agent of the department has probable cause to believe that any hazardous waste, or any material which the authorized agent reasonably believes to be a hazardous waste, is stored, transported, disposed of, or handled in violation of this chapter or in a manner that will constitute a violation of this chapter, and that the violation may threaten public health and safety, or the environment, the agent may issue an order of quarantine by affixing a tag or other appropriate marking to the container containing, or to the vehicle transporting, the hazardous waste.

(b) Upon issuing an order of quarantine pursuant to subdivision (a), the authorized agent shall notify the person who owns the hazardous waste, or the owner or lessee of the vehicle in which the wastes are transported, of all of the following:

(1) The hazardous waste has been subject to a quarantine order because the hazardous waste is, or is suspected of being, stored, transported, disposed of, or handled in violation of this chapter.

(2) No person shall remove, transfer, or dispose of the hazardous waste until permission for removal, transfer, or disposal is given by an authorized agent of the department or by a court.

(3) The person so notified may request, and shall be granted, an immediate hearing before a person designated by the director to review the validity of the authorized agent's order. For purposes of this section, an immediate hearing shall be held within 24 hours after a hearing is requested by the person subject to the order.

(c) Any order of quarantine issued pursuant to subdivision (a) shall take effect upon issuance and shall remain effective for 30 days thereafter, until an authorized agent removes the quarantine order pursuant to subdivision (d), or until the quarantine order is revoked pursuant to a hearing conducted in accordance with paragraph (3) of subdivision (b), whichever event occurs first.

(d) If an authorized agent of the department determines that a hazardous waste subject to a quarantine order is not being stored, handled, transported, or disposed of in violation of this chapter, or does not threaten public health and safety or the environment, the authorized agent shall revoke the order of quarantine.

(e) If an authorized agent of the department has probable cause to believe that a hazardous waste subject to a quarantine order will,

or is likely to, be removed, transferred or disposed of in violation of this section, the authorized agent may remove the hazardous waste to a place of safekeeping.

(f) A hazardous waste in transit for which a quarantine order has been issued pursuant to subdivision (a) shall be stored or held at one of the following locations, which the authorized agent determines will represent the least risk to the public health and safety or the environment:

(1) The facility owned or operated by the producer of the waste, except when the producer is located outside the state.

(2) The transporter's yard, facility, or terminal.

(3) The treatment, storage, or disposal facility to which the hazardous waste is to be transported.

(4) Any other site designated by the authorized agent.

(g) All fees for storage and any other expenses incurred in carrying out subdivision (e) or (f) shall be a charge against the person who owns the hazardous waste or the owner or lessee of the vehicle in which the wastes are transported.

(h) For purposes of this section, "authorized agent of the department" includes any representative of a local agency, as designated by the department.

SEC. 2. Section 25192 of the Health and Safety Code is amended to read:

25192. (a) All civil and criminal penalties collected by a state or local agency pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be paid to the state or local agency which investigated the violation for which the penalty is imposed. If more than one state or local agency investigated the violation, the court shall, when imposing the penalty, equitably apportion 50 percent of the penalty among the agencies which investigated the violation based upon the nature and extent of each agency's participation in the investigation.

(2) Fifty percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(b) All civil and criminal penalties collected by a state agency pursuant to this chapter shall be deposited in a subaccount of the Hazardous Waste Control Account in the General Fund, and shall be available for expenditure upon appropriation by the Legislature.

(c) In all actions in which a civil or criminal penalty is imposed, two hundred dollars ($200) shall be deducted from the amount of the civil or criminal penalty before apportionment pursuant to subdivision (a), and shall be deposited in the Hazardous Waste Enforcement Training Fund, which is hereby created in the General Fund.

(d) The moneys in the Hazardous Waste Enforcement Training Fund may be expended by the Office of Criminal Justice Planning, upon appropriation by the Legislature, to support the training of

local, county, and state hazardous waste and hazardous materials enforcement personnel in the investigation and prosecution of hazardous waste and hazardous materials violations.

(e) If a reward is paid to a person pursuant to Section 25191.7, the amount of the reward shall be deducted from the amount of the civil or criminal penalty before the amount is apportioned pursuant to subdivision (a) and before the deduction is made pursuant to subdivision (c).

SEC. 3. Section 2 of this bill shall only become operative if Senate Bill 2424 is not enacted.

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 1059

An act to amend Sections 22851.2, 22851.6, and 22852 of, and to add Section 22851.3 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 22851.2 of the Vehicle Code is amended to read:

22851.2. (a) Excepting a vehicle removed pursuant to Section 22669, if the vehicle is determined to have a value not exceeding one hundred dollars ($100) pursuant to Section 22670, the public agency which removed the vehicle shall do all of the following:

(1) Within 48 hours after removal of the vehicle, notify the Stolen Vehicle System of the Department of Justice in Sacramento of the removal.

(2) Prepare and give to the lienholder a report which shall include all of the following:

(A) The value of the vehicle estimated pursuant to Section 22670.

(B) The identification of the estimator.

(C) The location of the vehicle.

(D) A description of the vehicle, including the make, year model, identification number, license number, state of registration, and, if a motorcycle, an engine number.

(E) The statutory authority for storage.

(b) If the vehicle is in such condition that there is no means of determining ownership, the public agency which removed the vehicle may give authorization to dispose of the vehicle. If no authorization for disposal is issued, a vehicle identification number shall be assigned prior to commencing the lien sale proceedings.

SEC. 2. Section 22851.3 is added to the Vehicle Code, to read:

22851.3. Whenever a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of a public agency authorized pursuant to Section 22669, removes, or causes the removal of, a vehicle pursuant to Section 22669 and the public agency or, at the request of the public agency, the lienholder determines the estimated value of the vehicle is one hundred dollars ($100) or less, the public agency which removed, or caused the removal of, the vehicle shall cause the disposal of the vehicle under this section, subject to all of the following requirements:

(a) Not less than 72 hours before the vehicle is removed, the peace officer or the authorized public employee has securely attached to the vehicle a distinctive notice which states that the vehicle will be removed by the public agency.

(b) Immediately after removal of the vehicle, the public agency which removed, or caused the removal of, the vehicle shall notify the Stolen Vehicle System of the Department of Justice in Sacramento of the removal.

(c) The public agency which removed, or caused the removal of, the vehicle or, at the request of the public agency, the lienholder shall obtain a copy of the names and addresses of all persons having an interest in the vehicle, if any, from the Department of Motor Vehicles either directly or by use of the California Law Enforcement Telecommunications System. This subdivision does not require the public agency or lienholder to obtain a copy of the actual record on file at the Department of Motor Vehicles.

(d) Within 48 hours of the removal, excluding weekends and holidays, the public agency which removed, or caused the removal of, the vehicle or, at the request of the public agency, the lienholder shall send a notice to the registered and legal owners at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the vehicle. A notice sent by the public agency shall be sent by certified or first-class mail, and a notice sent by the lienholder shall be sent by certified mail. The notice shall include all of the following information:

(1) The name, address, and telephone number of the public agency providing the notice.

(2) The location of the place of storage and description of the vehicle which shall include, if available, the vehicle make, license

plate number, vehicle identification number, and mileage.

(3) The authority and purpose for the removal of the vehicle.

(4) A statement that the vehicle will be disposed of 15 days from the date of the notice.

(5) A statement that the owners and interested persons, or their agents, have the opportunity for a poststorage hearing before the public agency which removed, or caused the removal of, the vehicle to determine the validity of the storage if a request for a hearing is made in person, in writing, or by telephone within 10 days from the date of notice; that, if the owner or interested person, or his or her agent, disagree with the decision of the public agency, the decision may be reviewed pursuant to Section 11523 of the Government Code; and that during the time of the initial hearing, or during the time the decision is being reviewed pursuant to Section 11523 of the Government Code, the vehicle in question shall not be disposed of.

(e) (1) Any requested hearings shall be conducted within 48 hours of the request, excluding weekends and holidays. The public agency which removed the vehicle may authorize its own officers to conduct the hearing if the hearing officer is not the same person who directed the storage of the vehicle.

(2) Failure of either the registered or legal owner or interested person, or his or her agent, to request or to attend a scheduled hearing shall satisfy the poststorage validity hearing requirement of this section.

(f) The public agency employing the person, or utilizing the services of a contractor or franchiser pursuant to subdivision (b) of Section 22669, which removed, or caused the removal of, the vehicle and which directed any towing or storage, shall be responsible for the costs incurred for towing and storage if it is determined in the hearing that reasonable grounds to believe that the vehicle was abandoned are not established.

(g) No authorization for disposal may be issued by the public agency which removed, or caused the removal of, the vehicle to a lienholder who is storing the vehicle prior to the conclusion of a requested poststorage hearing or any judicial review of that hearing.

(h) If, after 15 days from the notification date, the vehicle remains unclaimed and the towing and storage fees have not been paid, and if no request for a poststorage hearing was requested or a poststorage hearing was not attended, the public agency which removed, or caused the removal of, the vehicle shall provide to the lienholder who is storing the vehicle, on a form approved by the Department of Motor Vehicles, authorization to dispose of the vehicle. The lienholder may request the public agency to provide the authorization to dispose of the vehicle.

(i) If the vehicle is claimed by the owner or his or her agent within 15 days of the notice date, the lienholder who is storing the vehicle may collect reasonable fees for services rendered, but may not collect lien sale fees as provided in Section 22851.12.

(j) Disposal of the vehicle by the lienholder who is storing the

vehicle may only be to a licensed dismantler or scrap iron processor. A copy of the public agency's authorization for disposal shall be forwarded to the licensed dismantler within five days of disposal to a licensed dismantler. A copy of the public agency's authorization for disposal shall be retained by the lienholder who stored the vehicle for a period of 90 days if the vehicle is disposed of to a scrap iron processor.

(k) If the names and addresses of the registered and legal owners of the vehicle are not available from the records of the Department of Motor Vehicles, either directly or by use of the California Law Enforcement Telecommunications System, the public agency may issue to the lienholder who stored the vehicle an authorization for disposal at any time after the removal.

The lienholder may request the public agency to issue an authorization for disposal after the lienholder ascertains that the names and addresses of the registered and legal owners of the vehicle are not available from the records of the Department of Motor Vehicles either directly or by use of the California Law Enforcement Telecommunications System.

SEC. 3. Section 22851.6 of the Vehicle Code is amended to read:

22851.6. (a) Lienholders who acquire a vehicle subject to Section 22851.2 shall satisfy their lien pursuant to Sections 22851.8 and 22851.10 if the vehicle has a value not exceeding one hundred dollars ($100) as determined pursuant to Section 22670.

(b) All forms required by Sections 22851.8 and 22851.10 shall be prescribed by the Department of Motor Vehicles. The language used in the notices and declarations shall be simple and nontechnical.

SEC. 4. Section 22852 of the Vehicle Code is amended to read:

22852. (a) Whenever an authorized member of a public agency directs the storage of a vehicle, as permitted by this chapter, or upon the storage of any vehicle as permitted herein (except as provided in subdivision (d) or (e)), the agency or person directing the storage shall provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a poststorage hearing to determine the validity of the storage.

(b) A notice of the storage shall be mailed or personally delivered to the registered and legal owners within 48 hours, excluding weekends and holidays, and shall include the following information:

(1) The name, address, and telephone number of the agency providing the notice;

(2) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage;

(3) The authority and purpose for the removal of the vehicle.

The notice shall also specify that, in order to receive their poststorage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice. The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The public

agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the storage of the vehicle.

(c) Failure of either the registered or legal owner, or his or her agent, to request or to attend a scheduled hearing shall satisfy the poststorage validity hearing requirement of this section.

The agency employing the person who directed the storage shall be responsible for the costs incurred for towing and storage if it is determined in the hearing that reasonable grounds for the storage are not established.

(d) This section does not apply to vehicles abated under the Abandoned Vehicle Abatement Program pursuant to Sections 22660 to 22668, inclusive, and Section 22710, or to vehicles impounded for investigation pursuant to Section 22655, or to vehicles removed from private property pursuant to Section 22658.

(e) This section does not apply to abandoned vehicles removed pursuant to Section 22669 which are determined by the public agency to have an estimated value of one hundred dollars ($100) or less.

SEC. 5. 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. 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 alleviate the congestion in storage facilities for abandoned vehicles, it is necessary that this act take effect immediately.

CHAPTER 1060

An act to add Section 14030.5 to the Government Code, and to add Chapter 2 (commencing with Section 2000) to Part 1 of Division 2 of the Public Contract Code, relating to contracts.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 14030.5 is added to the Government Code, to read:

14030.5. (a) As used in this section, the following terms have the following meanings:

(1) "Socially and economically disadvantaged business concern"

means a business that meets both of the following criteria:

(A) A business that is at least 51 percent owned by one or more socially and economically disadvantaged persons or one or more socially or economically disadvantaged persons or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more of those persons.

(B) A business whose management and daily business operations are controlled by one or more socially and economically disadvantaged persons or one or more socially or economically disadvantaged persons.

(2) "Socially and economically disadvantaged persons" and "socially or economically disadvantaged persons" include women, Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities or any other group of natural persons determined by the director to be so disadvantaged.

(b) The department shall certify socially and economically disadvantaged business concerns, as defined by subdivision (a). All state agencies shall, and any local agency may, accept the certification of a socially and economically disadvantaged business concern by the department as valid status of that business when awarding contracts to socially and economically disadvantaged business concerns. No state agency shall require the business to comply with any other certification process for certifying socially and economically disadvantaged business concerns.

SEC. 2. Chapter 2 (commencing with Section 2000) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 2. RESPONSIVE BIDDERS

2000. (a) Notwithstanding any other provision of law requiring a local agency to award contracts to the lowest responsible bidder, any local agency may require that a contract be awarded to the lowest responsible bidder who also does either of the following:

(1) Meets goals and requirements established by the local agency relating to participation in the contract by minority business enterprises and women business enterprises. If the bidder does not meet the goals and requirements established by the local agency for that participation, the local agency shall evaluate the good faith effort of the bidder to comply with those goals and requirements as provided in paragraph (2).

(2) Makes a good faith effort, in accordance with the criteria established pursuant to subdivision (b), prior to the time bids are opened, to comply with the goals and requirements established by the local agency relating to participation in the contract by minority

or women business enterprises.

(b) (1) The bidder attended any presolicitation or prebid meetings that were scheduled by the local agency to inform all bidders of the minority and women business enterprise program requirements for the project for which the contract will be awarded. A local agency may waive this requirement if it determines that the bidder is informed as to those program requirements.

(2) The bidder identified and selected specific items of the project for which the contract will be awarded to be performed by minority or women business enterprises to provide an opportunity for participation by those enterprises.

(3) The bidder advertised, not less than 10 calendar days before the date the bids are opened, in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media, specified by the local agency for minority or women business enterprises that are interested in participating in the project. This paragraph applies only if the local agency gave public notice of the project not less than 15 calendar days prior to the date the bids are opened.

(4) The bidder provided written notice of his or her interest in bidding on the contract to the number of minority or women business enterprises required to be notified by the project specifications not less than 10 calendar days prior to the opening of bids. To the extent possible, the local agency shall make available to the bidder not less than 15 calendar days prior to the date the bids are opened a list or a source of lists of enterprises which are certified by the local agency as minority or women business enterprises. If the local agency does not provide that list or source of lists to the bidder, the bidder may utilize the list of certified minority or women business enterprises prepared by the Department of Transportation pursuant to Section 14030.5 of the Government Code for this purpose.

(5) The bidder followed up initial solicitations of interest by contacting the enterprises to determine with certainty whether the enterprises were interested in performing specific items of the project.

(6) The bidder provided interested minority and women business enterprises with information about the plans, specifications, and requirements for the selected subcontracting or material supply work.

(7) The bidder requested assistance from minority and women community organizations; minority and women contractor groups; local, state, or federal minority and women business assistance offices; or other organizations that provide assistance in the recruitment and placement of minority or women business enterprises, if any are available.

(8) The bidder negotiated in good faith with the minority or women business enterprises, and did not unjustifiably reject as unsatisfactory bids prepared by any minority or women business

enterprises, as determined by the local agency.

(9) Where applicable, the bidder advised and made efforts to assist interested minority and women business enterprises in obtaining bonds, lines of credit, or insurance required by the local agency or contractor.

(10) The bidder's efforts to obtain minority and women business enterprise participation could reasonably be expected by the local agency to produce a level of participation sufficient to meet the goals and requirements of the local agency.

(c) The performance by a bidder of all of the criteria specified in subdivision (b) shall create a rebuttable presumption, affecting the burden of producing evidence, that a bidder has made a good faith effort to comply with the goals and requirements relating to participation by minority and women business enterprises established pursuant to subdivision (a).

(d) "Local agency," as used in this section, means a county or city, whether general law or chartered, city and county, or district. "District," as used in this section, 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.

(e) "Minority or women business enterprise," as used in this section, means a business enterprise that meets both of the following criteria:

(1) A business that is at least 51 percent owned by one or more minority persons or women or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority persons or women.

(2) A business whose management and daily business operations are controlled by one or more minority persons or women.

(f) "Minority person," for purposes of this section, means Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), or any other group of natural persons identified as minorities in the project specifications by the local agency.

(g) This section does not apply to any of the following:

(1) Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by this section and any requirements imposed by the federal government relating to participation in a contract by a minority or women business enterprise as a condition of receipt of the federal funds.

(2) The San Francisco Bay Area Rapid Transit District, the Los Angeles County Transportation Commission, or any other local agency that has authority to facilitate the participation of minority

or women business enterprises substantially similar to the authority granted to the San Francisco Bay Area Rapid Transit District pursuant to Section 20229 of this code or the Los Angeles County Transportation Commission pursuant to Section 130239 of the Public Utilities Code.

SEC. 3. The Legislature finds and declares that existing statutes requiring that contracts be let to the "lowest responsible bidder" have prevented many local agencies from considering the responsiveness of a bidder to affirmative action or minority or women business enterprise requirements. The Legislature further finds and declares that it is necessary to establish uniformity in determining whether or not bidders on public works contracts have made a good faith effort to meet the goals and requirements established by a local agency regarding the participation in the contract by minority business enterprises and women business enterprises. The Legislature further finds and declares that the encouragement of, and participation by, minority and women business enterprises in public works contracts is a matter of statewide concern.

SEC. 4. It is the intention of the Legislature through the enactment of Sections 2 and 3 of this act to occupy the whole field of the regulation of procedures for determining good faith efforts by bidders on public works contracts. Thus, if a local agency determines to exercise the authority granted by subdivision (a) of Section 2000 of the Public Contract Code, the requirements imposed by that section shall, except as otherwise provided in subdivision (g) of that section, be the exclusive procedure for determining whether bidders have made a good faith effort to meet the goals and requirements established by the local agency regarding participation in contracts by minority business enterprises and women business enterprises. Section 2 of this act prevails, to the extent of any conflict, over any provision of any charter of a chartered city establishing requirements and procedures for determining whether bidders have made a good faith effort to comply with the goals and requirements established by the local agency relating to participation in the contract by minority or women business enterprises.

SEC. 5. Sections 2 and 3 of this act apply to projects for which a public notice of invitation to bid on a project is published or disseminated in the manner otherwise prescribed by law on or after January 1, 1987.

CHAPTER 1061

An act to amend Sections 100.41 and 100.45 of, and to add Section 92.3 to, the Streets and Highways Code, relating to highways.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 92.3 is added to the Streets and Highways Code, to read:

92.3. (a) The department shall do all of the following:

(1) Discontinue further water intensive freeway landscaping and use drought resistant landscaping whenever feasible, taking into consideration such factors as erosion control and fire retardant needs, in counties where over 80 percent of the county water supply is imported.

(2) Use reclaimed water for irrigation purposes, whenever possible.

(3) Eliminate any dependency on imported water for landscaping as soon as practicable.

(b) The department shall report to the Legislature on or before January 1, 1988, and every three years thereafter, on the progress of the department in complying with this section. For each landscaping project subject to this section which is listed in the most recently adopted state transportation improvement program, the department shall identify the closest potable water supply and the closest reclaimed water supply, together with a statement explaining which water source was selected for irrigation purposes, and the reasons why that source was selected.

SEC. 2. Section 100.41 of the Streets and Highways Code is amended 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 1987 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 not later than September 18, 1986. 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. 3. Section 100.45 of the Streets and Highways Code is amended to read:

100.45. (a) 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.

(b) The commission shall solicit the affected county or city for its recommendation on a route location following the completion of the final environmental impact report or statement prepared pursuant to subdivision (h) of Section 100.41 and prior to adopting a route location pursuant to that section.

CHAPTER 1062

An act relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Notwithstanding any other provision of law, the Director of Employment Development shall not at any time assess nor collect any interest or penalties for nonpayment on those billings sent to public entities on or after May 22, 1984, and before the effective date of this act, and which remain unpaid on the effective date of this act. The Director of Employment Development shall reimburse any public entity the amount of interest or penalties paid by that entity on any billings sent to that entity on or after May 22, 1984, and before the effective date of this act.

SEC. 2. When calculating a local agency's base year entitlement pursuant to the State Mandates Apportionments System as provided in Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, the Controller shall consider local government costs for the three relevant years using benefit billings, and not billings paid, from the Employment Development Department, plus local administrative costs.

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

In order to reimburse local entities for state-mandated costs incurred pursuant to the provisions of Chapter 2 of the Statutes of 1978 as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1063

An act relating to the health of older adults.

[Approved by Governor September 23, 1986 Filed with Secretary of State September 24, 1986.]

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

SECTION 1. (a) The Legislature finds that the misuse of prescription and over-the-counter medicines constitutes a serious problem in California. This problem is particularly acute among the elderly, as the high prevalence of chronic disease in this group results

in their being the heaviest users of medication.

(b) The Legislature further finds the improper use of medications can nullify their beneficial effects, result in dangerous side effects, and cause iatrogenic illness. In the elderly, these risks are compounded by the aging process and resultant changes in dosage requirements, administration difficulties due to loss of vision and the complexity of multiple medication regimens, lack of understanding of the purposes and action of drugs and health status, and the costs of medical supervision over extended periods of time.

SEC. 2. There is hereby created the Legislative Task Force on Medication Misuse to investigate and assess the effectiveness of privately and publicly funded medication education programs directed towards the elderly. The task force shall investigate and consider the need for medication education programs, the comparative efficacy and cost effectiveness of operating programs, and the benefits of medication education programs. The task force may hold public hearings as it deems necessary.

SEC. 3. The task force shall design a model medication program and brochure in consultation with the private sector. The program shall seek and train volunteers to operate the program, and shall finance the program and brochure through the solicitation of funding from the private sector.

On or before June 1, 1988, the Task Force on Medication Misuse shall report to the Legislature on its findings, conclusions, and recommendations and on the implementation of its volunteer medication program.

SEC. 4. The task force shall consist of eight members, to be appointed by the Joint Rules Committee. One member shall represent each of the following: the State Department of Health Services, the Triple-A Council of California, the Senior Legislature, the California Conference of Local Health Department Nursing Directors, the Health Officers Association of California, the California Medical Association, the Department of Aging, and the California Pharmacists Association. Members of the task force shall serve without compensation and shall provide for their own expenses. The task force shall be terminated on June 1, 1988.

CHAPTER 1064

An act to add and repeal Section 31483 of the Water Code, relating to county water districts.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Section 31483 is added to the Water Code, to read:

31483. (a) Notwithstanding any other provision of this division, the Contra Costa Water District may from time to time issue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) for the purpose of financing the acquisition of land and land rights and the construction, improvement, or acquisition of any facilities necessary or convenient for the storage, transmission, distribution, or treatment of water for beneficial use, except that the provisions of Sections 54380 to 54387, inclusive, of the Government Code shall not apply to the issuance and sale of bonds pursuant to this section.

(b) The board shall not proceed under this section until it has submitted to the qualified voters of the district at a special election called by a resolution of the board a proposition as to whether the district may authorize and sell revenue bonds under this section. The proposition shall set forth generally the proposed facilities to be financed and the costs thereof. If a majority of the voters of the district voting on the proposition at the election vote in favor of the proposition, the board may proceed to issue and sell revenue bonds as provided in this section. If the proposition fails to carry at the election, the proposition shall not again be voted upon until at least six months have elapsed since the date of the last election at which the proposition was submitted.

(c) The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted at the election, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. The election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote.

(d) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

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 the unique water quality problems within the Contra

Costa Water District which are not common to the other districts organized pursuant to the County Water District Law.

The source of the district's water supply is the Sacramento-San Joaquin Delta, the quality of which varies over a wide range. Reservoirs and pumps, pipelines, and appurtenant facilities are necessary to enable the district to store large quantities of good quality water when it is available for later use during periods when water in the delta is unsuitable for municipal and industrial use. These facilities may be capable of benefiting other areas adjacent to the district. Vast amounts of capital will be needed from time to time to finance the facilities.

This act is necessary, therefore, to finance efficiently and fairly vital water facilities and to allocate the costs thereof equitably among the various areas and regions benefited thereby.

CHAPTER 1065

An act to add and repeal Chapter 3.2 (commencing with Section 8250) of Division 1 of Title 2 of the Government Code, relating to state agencies, and making an appropriation therefor.

[Approved by Governor September 23, 1986. Filed with Secretary of State September 24, 1986.]

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

SECTION 1. Chapter 3.2 (commencing with Section 8250) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 3.2. SELF-ESTEEM, AND PERSONAL AND SOCIAL RESPONSIBILITY

8250. The Legislature finds and declares all the following:

(a) The continuation and future success of our democratic system of government and society are dependent upon the exercise of responsible citizenship by each and every Californian.

(b) The Legislature and Governor are elected by the people of California and charged with the responsibility of addressing and, hopefully, solving our major behavioral social problems. The most effective way to accomplish that is to proceed to discover the root causes and promote appropriate cures of those problems. The Legislature and the Governor are further charged with implementing cost-effective measures which are preventive in nature and which offer the state the probability of significant cost savings relative to program costs. The relatively minor cost of a 25-person, staffed task force compared to the likelihood of major state savings in social programs is in the best interests of the state and in the best tradition of conservative fiscal policy.

(c) It is therefore appropriate that the Legislature and Governor seek out and promote, in the best possible manner, the most cost-effective and human solutions to our social problems, and especially seek to discover, address, eradicate, and thereby prevent, the root causes of these problems.

(d) Each year the Legislature passes and the Governor signs thousands of bills, support hundreds of programs, and appropriate billions of dollars trying to prevent, cure, or clean up after, many seemingly intractable social problems, including crime, violence, alcoholism, drug abuse, child abuse and teenage pregnancy and chronic welfare dependency, children failing to learn, and many other problems.

(e) The government is by itself unable, nor is it the sole responsibility of the government, to solve all social problems. A legitimate and perhaps the most valuable function of government is to provide to the people information and education that enables its citizens to better understand in theory and apply in practice so as to become self-sufficient and less needful of government.

(f) The length and extent of the Legislature's and the state government's responsibility for, and involvement in, addressing these problems will be ultimately best reduced by educating the people of this state so that Californians will become more able and responsible in preventing and in solving, rather than causing, these various problems in our individual lives, relationships, families, and communities.

(g) Low self-esteem may well have a wide-ranging, negative influence on individual human conduct, the costs of which both in human and societal terms are manifested in a number of ways, many of which convert into significant expenditure of state moneys. If so, these human costs and the costs to government could be reduced by raising the self-esteem level of our citizenry.

(h) A body of research studies now exists which begins to document the causal relationship between self-esteem, which is a developed sense of one's inherent worth as a person, and the growth and development of healthy responsible individuals, and the mature exercise of responsible, productive citizenship.

(i) This causal relationship of low self-esteem to social problems in individuals has already been acknowledged by both the Legislature and the Governor, as well as many researchers. These particular relationships include, and are not limited to, all of the following:

(1) Chronic abuse of alcohol, which seriously affects the families and employers of over 2 million adult Californians at an estimated thirteen billion dollars ($13,000,000,000) per year in medical costs and lost productivity.

(2) Other drug use and abuse, a three billion dollar ($3,000,000,000) industry in the state, which costs Californians two hundred thirty-five million dollars ($235,000,000) in direct medical expenses, four billion dollars ($4,000,000,000) in lost productivity, two

billion dollars ($2,000,000,000) in public safety and law enforcement, two hundred eighty-five million dollars ($285,000,000) in correctional expenses, and two hundred eighty million dollars ($280,000,000) in premature mortality expenses.

(3) Crime and violence, including spousal and child abuse.

(4) Recidivism and chronic criminal behavior, resulting in the incarceration of over 325,000 California citizens at an annual cost of seventeen thousand dollars ($17,000) per person, and a total estimated correctional budget of two billion dollars ($2,000,000,000) in the 1985–86 fiscal year, nearly one-third of the entire criminal justice budget. The Attorney General estimates criminal activities cost California citizens six billion dollars ($6,000,000,000) in 1985 and one billion six hundred million dollars ($1,600,000,000) in construction costs of new prison facilities alone.

(5) Chronic welfare dependency and the failure of personal initiative, responsibility, and self-sufficiency.

(6) Teenage pregnancy, up 9 percent since 1979, which in 1984 alone resulted in 50,000 births to teenage parents, 70,000 teenage abortions, and 17,000 teenage miscarriages in California alone. In addition, California has the second highest teenage pregnancy rate (14 percent), the highest teenage abortion rate (6.9 percent), and a ratio of teenage miscarriages which is in the highest one-fifth of the states in the United States.

(7) Failure to learn and resultant widespread dropout problems, especially in our secondary schools.

(j) There is now emerging, in theory and in practice, practical applications of esteem building and esteem restoring within virtually every public social service and educational system.

(k) Self-esteem is not intended to support in any way an ethic of mediocrity, but instead to lay foundations for real human excellence.

(*l*) There is yet an insufficient widespread public recognition of the significance and implication of self-esteem in causing our major social problems, and insufficient incorporation of this information and understanding in our personal lives and relationships.

(m) Research and practice is increasingly showing that most individual behavior is largely motivated by self-perception and self-image. Increased self-esteem tends to enable persons to become more confident, creative, productive, and successful which, in turn, translates into a society which is healthier, safer, more productive, and less costly.

(n) Further academic research on the relationship of self-esteem to personal and social responsibility is crucial, and is within the appropriate purview of the University of California and other public and private universities and research entities.

(o) It is incumbent upon all Californians, in order to promote the exercise of responsible citizenship, to identify, explore, and enhance policies, programs, and environments which are most conducive to the development of high self-esteem, and to identify and eliminate policies, programs, and environments which are detrimental to the

development of high self-esteem and therefore detrimental to the exercise of responsible citizenship.

(p) While there is some recognition, expertise, and experience in the state's executive departments and in study bodies of the Legislature about how existing state programs and policies affect self-esteem and the exercise of responsible citizenship, it is so far insufficient to effectively provide the leadership Californians need and deserve in this respect and in everyday operations.

(q) There is a need to translate information about self-esteem into everyday terms understandable to laypersons.

(r) It is necessary from time-to-time to enlist the vision, expertise, and voluntary commitment of private California citizens, unconstrained as they may be by the demands or imposed perceptual limits of daily responsibilities of state bureaucratic program management and operation, in order to bring to public awareness the most valuable information on addressing our social problems. Such an examination may include legislators and other political or institutional entities, but is best and most credibly accomplished by a broadly constituted, representative body of lay citizens whose single common denominator is their individual commitment to solving problems and, in this instance, to fostering high self-esteem and eradicating barriers to self-esteem and discovering the causes and cures of lowered self-esteem.

(s) Therefore, by credibly and publicly compiling all such existing research from academic, departmental, programmatic, and legislative sources, and by enlisting the expertise of a lay citizen's commission whose charge is to make practical, cost-effective recommendations as to the application of that research in both policy and program, the citizens of this state will be better enabled to live more responsibly, and to exercise a higher degree of responsible citizenship upon which the continuation and success of our democracy depends.

(t) It will likely prove cost-effective, in both human and dollar terms, to design and promulgate a California plan for the promotion of healthy self-esteem, and personal and social responsibility. Such a plan would have as its major component the focusing of our attention on increasing knowledge and understanding of self-esteem and the practical application of this knowledge in personal and public policy and programs.

(u) A statewide citizens' effort, constituted of committed lay citizens who have demonstrated exceptional abilities, vision, commitment, and experience in the enhancement of social responsibility and citizenship, is the means most likely to accomplish these purposes, in a manner credible to all Californians.

8250.1. The Legislature further finds all of the following:

(a) The California Commission on Crime Control and Violence Prevention, a laypersons' commission, established by Chapter 990 of the Statutes of 1979 (AB 23), is model legislation which resulted in the publication of the final report "Ounces of Prevention" now

widely accepted by universities and the law enforcement community throughout California as one of the most important and seminal studies on the root causes and prevention of violence and criminal behavior.

(b) The findings of the Commission on Crime Control and Violence Prevention included scientific evidence of the correlation between violent antisocial behavior and a lack of self-esteem, to wit: "A lack of self-esteem, negative or criminal self-image and feelings of distrust and personal powerlessness are prevalent among violent offenders and highly recidivistic criminals."

(c) Such a limited, short-term citizens' effort is proving to be a cost-efficient way in which citizens can, through our government, assist all Californians to better understand and get to the roots of our problems.

(d) As a result of this commission's efforts, in 1984 legislation was passed overwhelmingly by both houses of the Legislature and signed into law by Governor George Deukmejian, whereby the State of California is, in cooperation with major foundations and corporations, currently providing matching funds under the auspices of the Office of Criminal Justice Planning. Californians Preventing Violence, a statewide nonprofit organization founded to more fully realize the recommendations of the commission, and to initiate pilot projects at the community level, is one of the agencies receiving these matching funds. Californians Preventing Violence today provides education, training, and technical assistance to individuals and community organizations in furtherance of the commission's findings and recommendations. There exists a high degree of professional and public approval for the work of Californians Preventing Violence in the pilot community program as well as in promoting the commission's recommendations statewide.

(e) As a model for legislation of far-reaching impact and importance in truly addressing the root causes of our social problems, the California Commission on Crime Control and Violence Prevention, the "Ounces of Prevention" report, and the public-private partnership of the resultant pilot project conducted by Californians Preventing Violence are proving to be cost-effective and sound problem-solving tools.

(e) A California Task Force to Promote Self-Esteem, Personal and Social Responsibility could be modeled after this successful prototype, and would offer an equally hopeful, cost-effective, and sound process to educate all Californians about the causes and prevention of social problems, and to promote the exercise of responsible citizenship among Californians.

8250.5. It is the intent of the Legislature to do all of the following:

(a) Promote the exercise of responsible citizenship, so as to enable individuals to become personally involved in the creation of policies, programs, and environments as will enhance self-esteem, personal and social responsibility, and, therefore, responsible citizenship.

(b) Establish, as a practical application supplement to academic

and programmatic research, a lay citizen's task force on the promotion of healthy self-esteem, and personal and social responsibility among all Californians.

(c) Generate an effort to involve and inform the public of California regarding the latest research and developments in the field of the relationship of self-esteem to the causes of many of our major social prolems, and how healthy self-esteem is nurtured, harmed, and rehabilitated.

8250.8. Unless the context otherwise indicates, as used in this chapter, "task force" means the California Task Force to Promote Self-Esteem, and Personal and Social Responsibility.

8251. (a) There is in state government the California Task Force to Promote Self-Esteem, and Personal and Social Responsibility for all of the following purposes:

(1) Compiling the world's most credible and contemporary research regarding whether healthy self-esteem relates to the development of personal responsibility and social problems, including, but not limited to:

(A) Crime and violence.

(B) Alcoholism and drug abuse.

(C) Child abuse.

(D) Teenage pregnancy.

(E) Prostitution.

(F) Chronic welfare dependency.

(G) The failure of children to learn.

(2) Insofar as the conclusion to paragraph (1) is in the affirmative, compiling the world's most contemporary and credible research regarding how healthy self-esteem is nurtured, harmed or reduced, and rehabilitated.

(3) Insofar as the conclusion to paragraph (1) is in the affirmative, conducting a survey of self-esteem programs operating in California, and compiling a listing of the most effective of those programs.

(4) Promoting public and personal awareness and understanding of the knowledge, policies, and programs which are most likely to be effective in the building of healthy self-esteem as a way of preventing social problems.

(5) Providing the Governor and the Legislature with a plan for incorporating findings regarding self-esteem, as appropriate, into policy development and for educating all Californians about these matters.

8251.5. (a) In order to provide breadth of perspective and public credibility, the task force shall consist of 25 members, broadly reflective of the general public of California, including ethnic minorities, women, and persons from varying economic levels, all of whom have demonstrated abilities, vision, or experience in the enhancement of self-esteem, personal and social responsibility, and good citizenship.

(b) The membership of the task force shall include: the Attorney General, the Superintendent of Public Instruction, the Secretary of

Youth and Adult Correctional Agency, and the Secretary of Health and Welfare or their designees.

(2) The Senate Rules Committee shall appoint six citizen members, at least two of whom shall be from a list provided by the leader of the minority party. The Speaker of the Assembly shall appoint six citizen members, at least two of whom shall be from a list provided by the leader of the minority party.

(3) The Governor shall appoint the remaining nine members, and shall designate the chairperson of the task force.

(4) Each appointing authority shall make the required appointments within 30 days of the effective date of this chapter. The Governor or his designee shall call the first meeting of the task force within 45 days of the effective date of this act.

(c) In making appointments to the task force, each appointing authority is encouraged to appoint persons from varying backgrounds and opinions to create a balanced task force. Appointments shall be made from among California citizens who have demonstrated abilities, vision or experience in the promotion of self-esteem, personal and social responsibility, and responsible citizenship. Appointing authorities are encouraged to include, at least one, but no more than five, persons from each of the following:

(1) Law enforcement.
(2) Corrections.
(3) Mental health.
(4) Social science.
(5) Education.
(6) Religion.
(7) Organizational development.
(8) Psychology or counseling.
(9) Media.
(10) Community-based service organizations.

It is encouraged that appointees also represent ex-convicts, victims of violent crime, students, and recipients of aid under either 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, or of a county general assistance program, provided for under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(d) In the event of a resignation, the inability of a member to continue service, or other vacancy, a new member shall be appointed to the task force by the original appointing authority in accordance with the requirements applicable to an original appointment.

(e) Task force members shall be reimbursed for their travel and per diem expenses.

(f) The chairperson shall appoint a search committee reflective of the composition of the task force, which shall, in turn, make recommendations to the task force concerning the employment of the executive director and other appropriate staff. The task force

may delegate to an executive committee comprised of its members the responsibility of overseeing the operations of the task force. This delegation, however, shall not release a task force member from the obligations imposed by this chapter.

(g) Office facilities and other in-kind service shall be provided by the Office of Criminal Justice Planning.

8252. The task force shall do all of the following:

(1) Compile the leading research concerning the relationship between healthy self-esteem, personal and social responsibility, and the following social problems:

(A) Crime and violence.

(B) Alcoholism and drug abuse.

(C) Welfare dependency.

(D) Children failing to learn in school.

(E) Teenage pregnancy.

(F) Child and spousal abuse.

(G) Recidivism.

(2) Compile the leading research and programmatic practice information available regarding how healthy self-esteem is nurtured and developed, harmed, and rehabilitated.

(3) Search out and compile a listing of the model programs in California which have as their intention, and which indicate encouraging levels of success, the development of healthy self-esteem or the rehabilitation of healthy self-esteem.

(4) Otherwise seek to ascertain and identify policies and programs which support the development of healthy self-esteem and personal and social responsibility attendant thereupon.

(5) Survey government and other public institutions, including government agencies, schools, and public assistance programs, to determine whether the manner in which they treat people serves to dehumanize persons and adversely affect their healthy self-esteem.

(6) Determine ways in which government and its institutions can be more supportive of the development and perpetuation of healthy self-esteem, either internally or externally.

(7) Determine ways in which nongovernmental institutions, including family, social, and religious organizations, can be more supportive of the development and perpetuation of healthy self-esteem, either internally or externally.

(8) Identify and encourage further research and other available information relevant to the relation of self-esteem to the cause and causes of the social problems enumerated herein.

8253. In undertaking to accomplish the tasks enumerated in 8252, the task force shall consider, with respect to how they interrelate with healthy self-esteem, relevant institutions and practices, including, but not limited to, all of the following:

(1) Prenatal care and birthing.

(2) Infant and child care.

(3) Parenting and parent education.

(4) Hunger and poverty.

(5) Physical development.
(6) Education.
(7) Family violence, including child and spousal abuse.
(8) Prejudice and discrimination.
(9) Justice and penal systems.
(10) Social service systems.
(11) Dependency-creating government programs.
(12) Media and advertising.
(13) Institutionalized religion.

8254. In undertaking to accomplish the tasks enumerated in 8252, the task force is authorized to:

(a) Sponsor and conduct public hearings, conferences, and other efforts, collect and disseminate information, and issue periodic reports relating to its findings, concerning self-esteem and its appropriate role in social problems and regarding what policies and programs effectively enhance the development of healthy self-esteem and personal and social responsibility.

(b) Make findings and recommendations applicable to the relevant areas of study as specified in this chapter that will enhance the broadest possible understanding and appreciation by policymakers and program operators and all Californians of the relationship between healthy self-esteem and personal and social responsibility, toward their improving their personal and public policies and programs resulting in the increased exercise of personal and social responsibility. In making those recommendations, the task force shall do all of the following:

(1) Include recommendations which address the immediate and long-term possible impacts of each area of study, as well as specific proposals for immediate implementation, especially looking toward the development of a broader and deeper public awareness of the relationship of positive self-esteem to the exercise of responsible citizenship and the relationship of low self-esteem to all of the following:

(A) Violence and crime.
(B) Alcoholism and drug abuse.
(C) Welfare dependency.
(D) Teenage pregnancy.
(E) Academic failure.
(F) Recidivism.
(G) Child and spousal abuse.
(H) Generally, the relationship of low self-esteem to the failure of responsible citizenship.

(2) Include in its findings, conclusions, and recommendations proposals leading to voluntary, more responsible personal actions, rather than government mandate, and shall also include, but not be limited to, possible legislation, departmental regulations, funding for the establishment, replication, and expansion of proven programs, and other matters of state policy and administration.

(3) To include in these policy and program recommendations,

whenever possible, quantifiable cost-benefit analyses and seek whenever possible to utilize existing programs which are effectively managed and which are local, private, and community based in nature.

(c) Identify and promote ways in which nongovernmental institutions, including family, and social and religious organizations, can be more effectively enlisted in the development of healthy self-esteem and of environments more conducive to the exercise of responsible citizenship.

(d) Render advice and information, as requested, to the state and municipal governments, and in response to inquiries by the public.

(e) Provide regularly to the Department of Finance, the Assembly Ways and Means Committee, and the Senate Appropriations Committee on an annual basis any policy and programmatic recommendations with respect to self-esteem as may affect the state budgetary process.

(f) Apply to the federal government or any agency thereof and to any other source or agency, whether public or private, for a gift or grant of any funds as may be available, up to five hundred thousand dollars ($500,000) for any of the purposes of this chapter.

(g) Discover whether and how the Legislature can use this information in public policymaking.

(h) Translate its findings and recommendations into laypersons' language, so as to be readily usable and valuable in their lives and families and practices.

(i) Inform the California public about self-esteem, its role and its development, so that each Californian can personally benefit his or her own life, relationships, family, and community.

8255. (a) The task force shall report its progress to the Legislature by January 15, 1988, and January 15, 1989, and submit its findings and recommendations in a final report to the Legislature on or before January 15, 1990.

(b) The task force shall publish its final report in at least 10,000 copies and shall provide one to every public library in the state, and one to every public and private university library in the state, and shall distribute copies to interested citizens upon request as long as copies are available.

8256. This chapter shall become inoperative on July 1, 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. The sum of two hundred forty-five thousand dollars ($245,000) is hereby appropriated from the General Fund to the California Task Force to Promote Self-Esteem, and Personal and Social Responsibility for the purposes of this act. However, this appropriation shall be reduced by the amount of any funds received by the commission from the federal government or any agency thereof for the purposes of this act. It is the intention of the Legislature to appropriate a like amount through the budget process for each of the second and third years of the task force's existence.