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

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## CHAPTER 1066

An act to amend Sections 8278, 8427, 49553, and 49559 of, to add Sections 8447 and 8447.5 to, and to repeal Section 8429.5 of, the Education Code, relating to child care and development, 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. Section 8278 of the Education Code is amended to read:

- 8278. (a) Notwithstanding any other provision of law, child development appropriations shall be available for expenditure for three years, except that funds remaining unencumbered at the end of the first fiscal year shall revert to the General Fund.
- (b) The Superintendent of Public Instruction shall establish criteria and procedures for the reallocation of unearned contract funds in the second and third years of availability, in accordance with the following priorities:
- (1) First, for the State Department of Education's accounts payable.
- (2) Second, to reimburse alternative payment programs for the provision of additional services, in accordance with Section 8222.1.
- (3) Third, for the purchase of materials approved by the State Department of Education for deferred and major maintenance of existing facilities, for one-time only services, or for any combination of these expenditures which will directly benefit enrolled children. SEC. 2. Section 8427 of the Education Code is amended to read:
- 8427. Neither administrative expenditures by the local administering child care agency nor support services shall exceed 15 percent of the total cost. Support services shall include those items listed in subdivisions (a), (b), (e), and (f) of Section 8425. All services provided shall conform to state licensing requirements.

The child care agency shall negotiate service levels with each referral source and shall accept eligible referrals from each referral source. The agency shall provide each parent with the following services:

- (a) Education and counseling services on how to choose child care.
- (b) Education and counseling services on payment through a vendor/voucher system for child care selected in the community by the parent.

(c) Child care services with a provider of the parent's choosing. Payment shall be equal to the fee charged to full-cost families in the program.

(d) Transition services for continuation of child care

arrangements in the posttraining period.

- SEC. 3. Section 8429.5 of the Education Code is repealed.
- SEC. 4. Section 8447 is added to the Education Code, to read:
- 8447. (a) The Legislature hereby finds and declares that greater efficiencies may be achieved in the execution of state subsidized child care and development program contracts with public and private agencies by the timely approval of contract provisions by the Department of Finance, the Department of General Services, and the State Department of Education and by authorizing the State Department of Education to establish a multiyear application, contract expenditure, and service review as may be necessary to provide timely service while preserving audit and oversight functions to protect the public welfare.
- (b) The Department of Finance and the Department of General Services shall approve or disapprove annual contract funding terms and conditions and contract face sheets submitted by the State Department of Education not more than 30 working days from the date of submission, unless unresolved conflicts remain between the Department of Finance, the State Department of Education, and the Department of General Services. The State Department of Education shall resolve conflicts within an additional 30 working day time period. Contracts and funding terms and conditions shall be issued to child care contractors no later than June 1. Applications for new child care funding shall be issued not more than 45 working days after the effective date of authorized new allocations of child care moneys.
- SEC. 5. Section 8447.5 is added to the Education Code, to read:
- 8447.5. (a) The State Department of Education may execute a multiyear application process. Multiyear applications may only be submitted by public and private agencies that have been fully compliant in executing prior contracts for at least the preceding three fiscal years as evidenced by all of the following:
  - (1) No fiscal audit disclaimer.
  - (2) No program quality deficiencies.
  - (3) No contract compliance deficiencies.
  - (4) No incidents of child abuse or molestation.
- (5) No program management, administrative, or staffing deficiencies.
- (6) Any other criteria as may be deemed necessary to safeguard the public trust.
- (b) The State Department of Education, in consultation with the Legislative Analyst and the Department of Finance, shall issue a request for proposal to have an independent evaluation of the existing application and contracting procedure. The report shall be completed by June 1, 1987. Notwithstanding any other provision of

law, the evaluation shall be paid by funds available pursuant to Section 8278. Not more than fifty thousand dollars (\$50,000) shall be expended by the Superintendent of Public Instruction for this purpose.

- SEC. 6. Section 49553 of the Education Code is amended to read: 49553. (a) For the purposes of this article, a nutritionally adequate lunch is one which meets one-third of the daily allowance established by the National Research Council.
- (b) For the purposes of special school nutrition supplements provided to pregnant or lactating students under Section 49559, protein and grain meal components for any given day shall, together, offer a total of five ounces of protein, one ounce of which shall be cheese or eight ounces of milk and three servings from the grain group, preferably whole grains. This may be accomplished by adding one ounce of protein and one serving from the grain group at breakfast or serving these as a snack, and by adding one or two ounces of protein, one ounce of which must be cheese or eight ounces of milk, to lunch, or by offering a morning supplement consisting of two or three ounces of protein, one ounce of which must be cheese, or eight ounces of milk, and one or two servings from the grain group. Meal components where only breakfast is served shall be increased to a total including one ounce of protein and two servings from the grain group, preferably whole grains. Where both breakfast and lunch are provided, they shall, together, provide a total of five ounces of protein foods, one ounce of which shall be cheese, three servings from the grain group, preferably whole grains, one and one-fourth cups from the fruit and vegetable group, and one pint from the milk group.

The following options shall be allowed:

- (1) One cup of fruit in place of one serving of the grain group, once a week.
- (2) One cup of unsweetened yogurt, made with pasteurized milk, in place of eight ounces of milk or one ounce of cheese, up to two times a week.
- SEC. 7. Section 49559 of the Education Code is amended to read: 49559. (a) Any school food authority that participates in a federal child nutrition program and is reimbursed pursuant to subdivision (b) of Section 41350 for meals served pursuant to this article may, commencing with the program period of January 1, 1986, to June 30, 1986, be reimbursed at the rate of 20 cents (\$0.20) for breakfast or snack and 20 cents (\$0.20) for lunch or 40 cents (\$0.40) for a morning supplement. If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, the allowances shall be reduced proportionately. This rate shall be in addition to the reimbursement currently provided under Section 49536. The additional funds shall be used exclusively to supplement the meals served pursuant to Section 49550.
- (b) Pregnant or lactating students shall qualify for nutrition program supplements under this section upon the submission of

medical verification of pregnancy or lactating status. Those students shall qualify for nutrition program supplements under this section through the end of the school year during which they conclude their pregnancy or discontinue lactating. All statements shall be strictly confidential, in accordance with Section 49558.

- (c) The State Department of Education shall make allowances to school food authorities from the General Fund on at least a quarterly basis. Program providers shall submit claims to the department within 10 calendar days of the end of each quarter. Within 45 calendar days of submission of a valid claim, the State Department of Education shall tender reimbursement.
- (d) The State Department of Education shall, prior to July 1 of each year, prescribe an adjustment in the state meal contribution rates for the next fiscal year. The adjustments shall reflect the changes in the cost of operating a school breakfast, snack, morning supplement, and lunch program and shall be effective July 1 of each year. The adjustment shall be based on the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco, as prepared by the United States Bureau of Labor Statistics.

In giving effect to the cost-of-living provisions of this subdivision, the State Department of Education shall prescribe a calendar month for the computation of the percentage change in the cost of living after July 1, 1985. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to this subdivision. For the purposes of this subdivision, state reimbursement shall be made for the breakfast or lunch which qualifies for reimbursement pursuant to the nutritional requirements of Section 49553.

- SEC. 8. Notwithstanding any other provision of law, child development appropriations made in Chapters 1026, 1299, and 1364 of the Statutes of 1985 shall be available for expenditure in the 1986–87 and 1987–88 fiscal years. This provision applies to the encumbered, but unearned contract funds, which are subject to the carryover provisions of Section 8278 of the Education Code.
- SEC. 9. A sum not to exceed fifty thousand dollars (\$50,000) from the funds available pursuant to subcategory (10.5) of Category (b) of Item 6100-196-001 of Section 2.00 of Chapter 186 of the Statutes of 1986 shall be allocated to the State Department of Education for the administration of the program pursuant to the Child Care and Employment Act, Article 19 (commencing with Section 8420) of Chapter 2 of Part 6 of the Education Code, for the remainder of the 1986-87 fiscal year.
- SEC. 10. An interagency agreement shall be executed between the State Department of Education and the office of the Legislative Analyst, which shall provide for the transfer of fifty thousand dollars (\$50,000) from funds available pursuant to Section 8278 to the office

of the Legislative Analyst. The office of the Legislative Analyst shall expend that amount, or as much thereof as may be necessary, for the purpose of contracting with an individual, group of individuals, firm, or organization deemed qualified and competent by the Legislative Analyst to evaluate the program created by the Child Care and Employment Act, examining factors including, but not limited to:

- (a) The population served by the act.
- (b) Problems in service delivery.
- (c) Obstacles to full utilization of program funds.
- (d) Recommendations for improving child care provision to Job Training Partnership Act participants.

This fund transfer shall pay any overhead costs associated with the Legislative Analyst's supervision of the contract. The evaluation shall be presented to the Legislature by January 1, 1988.

- SEC. 11. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.
- SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to apply to child care funding for the 1986–87 fiscal year, it is necessary that this act take effect immediately.

#### **CHAPTER 1067**

An act to amend Sections 11202, 11202.5, and 11208 of, and to add Section 11215.5 to, the Vehicle Code, relating to driving education.

[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 11202 of the Vehicle Code is amended to read:
- 11202. (a) Except as provided in subdivision (c), a traffic violator school owner shall meet the following criteria before a license may be issued for the traffic violator school:
- (1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or herself or another substantially, or to injure another substantially. A conviction after a plea of nolo contendere is a conviction for purposes of this paragraph.

- (2) Maintain an established place of business in this state which is open to the public. No office or place of business of a traffic violator school, including any traffic violator school branch or classroom location, may be situated within 500 feet of any building used by the department as an office, or any court of law, unless the owner was established at the location on or before July 1, 1984.
- (3) Conform to standards which shall be established by regulation of the department. In adopting the standards, the department shall consider those practices and instructional programs which may reasonably foster the knowledge, skills, and judgment necessary for the compliance with traffic laws. The standards may include, but are not limited to, school personnel, equipment, curriculum, procedures for the testing and evaluation of students, recordkeeping, and business practices.
- (4) Except as provided in Section 11203, procure and file with the department a bond in the amount of two thousand dollars (\$2,000) executed by an admitted surety and conditioned upon the applicant not practicing any fraud or making any fraudulent representation which will cause a monetary loss to a person taking instruction from the applicant.
- (5) Have a classroom approved by the department and the proper equipment necessary for giving instruction to traffic violators.
- (6) Have a lesson plan approved by the department. An approved lesson plan shall provide a minimum of 400 minutes of instruction, except that a lesson plan for instructing persons under the age of 18 may provide a minimum of 600 minutes of instruction.
- (7) Execute and file with the department a good and sufficient instrument designating the director as agent of the applicant for the purpose of service of process, as provided in this paragraph, in any action or actions which may thereafter be commenced against the applicant arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of (A) a violation by the applicant of any of the provisions of this code committed in relation to the specifications of the applicant's traffic violator school or (B) any condition of the bond required by paragraph (4). The applicant shall stipulate and agree in the instrument that any process directed to the applicant, when personal service of process upon him or her cannot be made in this state after due diligence, may be served instead upon the director, or in the event of the director's absence from the department's principal offices, upon any employee in charge of the office of the director, and this substituted service shall be of the same legal force and effect as personal service of the applicant.

The instrument shall further stipulate and agree that the agency created by the designation shall continue for and during the period covered by the license issued pursuant to this section and so long thereafter as the applicant may be made to answer in damages for a violation of this code for which the surety may be made liable or any condition of the bond. The instrument designating the director

as agent for service of process shall be acknowledged by the applicant before a notary public. In any case where the director or an employee of the department, in lieu of the director, is served with a summons and complaint on behalf of the licensee, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars (\$5) shall also be paid to the director or employee at the time of service of the copy of the summons and complaint, or shall be included with a summons and complaint served by mail. The service on the director or department employee pursuant to this section is sufficient service on the licensee if a notice of the service and a copy of the summons and complaint is, on the same business day as the service or mailing of the summons and complaint, sent by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or plaintiff's attorney to the surety on the licensee's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt.

The director shall keep a record of all processes so served upon him or her, which shall show the day and hour of service, and shall retain the documents served in the department's files. Where the licensee is served with legal process by service upon the director or a department employee in lieu of the director, the licensee shall be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For purposes of venue, where the licensee is served with process by service upon the director or a department employee in lieu of the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had his or her established place of business.

- (b) The qualifying requirements specified in subdivision (a) shall be met within one year from the date of application for a license, or a new application and fee shall be required.
- (c) Paragraphs (4) and (7) of subdivision (a) do not apply to public schools or other public agencies, which shall also not be required to post a cash deposit pursuant to Section 11203.
- (d) A notice approved by the department shall be posted in every traffic violator school, branch, and classroom location stating that any person involved in the offering of, or soliciting for, a completion certificate for attendance at a traffic violator school program in which the person does not attend or does not complete the minimum amount of instruction time provided by subdivision (a) may be guilty of violating Section 134 of the Penal Code.
- SEC. 2. Section 11202.5 of the Vehicle Code is amended to read: 11202.5. The department shall license traffic violator school operators. No person shall act as a traffic violator school operator without a currently valid license issued by the department. Every person in order to qualify as a traffic violator school operator shall meet all of the following criteria in order to be issued a traffic violator

school operator's license:

- (a) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit the person or another substantially. A conviction following a plea of nolo contendere is a conviction for purposes of this paragraph.
- (b) Be a person who has not committed any act which, if the applicant were licensed as a traffic violator school operator, would be grounds for suspension or revocation of the license.
- (c) Within three attempts, pass an examination as required by the department on traffic laws, safe driving practices, operation of motor vehicles, teaching methods and techniques, traffic violator school statutes and regulations, and office procedures and recordkeeping.
  - (d) Be 18 years of age or older.
- (e) Have worked for an established California traffic violator school as an instructor for a period of not less than 500 hours of actual in-class instruction. This subdivision does not apply to a traffic violator school operator validly licensed prior to January 1, 1987.

All the qualifying requirements specified in this section shall be met within one year from the date of application for the license or the application shall lapse. However, the applicant may thereafter submit a new application upon payment of the requisite fee.

- SEC. 3. Section 11208 of the Vehicle Code is amended to read: 11208. (a) Fees for issuance by the department of a license to a traffic violator school owner shall be as follows:
- (1) For the original license or an ownership change which requires a new application, except as provided by Section 42231, a fee of one hundred fifty dollars (\$150), with an additional fee of seventy dollars (\$70) for each separate traffic violator school branch or classroom location licensed. The fee prescribed by this subdivision is nonrefundable.
- (2) For annual renewal of the license for a traffic violator school and for each branch or classroom location, a fee of fifty dollars (\$50).
- (3) If alteration of an existing license is required by a firm name change, a change in corporate officer structure, address change, or the addition of a traffic violator school branch or classroom location, a fee of seventy dollars (\$70).
- (4) For replacement of the license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars (\$15).
- (b) Fees for the issuance by the department of a license for a traffic violator school operator shall be as follows:
- (1) For the original license, a nonrefundable fee of one hundred dollars (\$100).
  - (2) For annual renewal of the license, a fee of fifty dollars (\$50).
- (3) If alteration of an existing license is caused by a change in the name or location of the established principal place of business of the traffic violator school operated by the licensee, including a transfer by a licensee from one traffic violator school to another, a fee of fifteen dollars (\$15).
  - (4) For replacement of the license certificate when the original

license is lost, stolen, or mutilated, a fee of fifteen dollars (\$15).

- (c) Fees for the issuance by the department of a license for a traffic violator school instructor shall be as follows:
- (1) For the original license, except as provided by Section 42231, a nonrefundable fee of thirty dollars (\$30).
- (2) For the triennial renewal of a license, a fee of thirty dollars (\$30).
- (3) If alteration of an existing license is required by a change in the instructor's employing school's name or location, or transfer of the instructor's license to another employing school, a fee of fifteen dollars (\$15).
- (4) For replacement of the instructor's license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars (\$15).
- (d) The department shall charge a fee not to exceed three dollars (\$3) for each completion certificate issued by a traffic violator school to each person completing instruction at the traffic violator school. The amount of the fee shall be determined by the department and shall be a fee sufficient to defray the actual costs incurred by the department for publication and distribution of lists of schools for traffic violators pursuant to Section 11205, for monitoring instruction, business practices, and records of schools for traffic violators and for any other activities deemed necessary by the department to assure high quality education for traffic violators. Upon satisfactory completion of the instruction offered by a licensed traffic violator school, the traffic violator school shall provide the student with a certificate of completion furnished by the department. A traffic violator school shall not charge a fee in excess of the fee charged by the department pursuant to this subdivision for furnishing a certificate of completion. A traffic violator school may charge a fee not to exceed three dollars (\$3), in addition to the fee charged by the department for the issuance of a duplicate certificate of completion. The student shall present this certificate of completion to the court as proof of completion of instruction, and no other proof of completion of instruction may be accepted by the court.
- (e) The department shall compile its actual costs incurred to determine the fee prescribed in subdivision (d) and make available its financial records used in the determination of the fee for completion certificates. The fee shall be adjusted every odd-numbered year based upon the costs incurred during the preceding two fiscal years. The records described in this subdivision are public records.
  - SEC. 4. Section 11215.5 is added to the Vehicle Code, to read:
- 11215.5. The department, after notice and hearing, may also suspend or revoke any license issued under this chapter when any of the following circumstances exist:
- (a) If the main business office of the traffic violator school is located in any county with a population of 400,000 or more in which the traffic violator school conducts its instructional program, and the

main business office does not maintain office hours during the time that the day courts in that county are open for business. This subdivision shall not apply to public schools.

- (b) If the licensee is found by the department to be selling completion certificates.
- (c) If the licensee is found by the department to be intentionally cutting instructional time short.
- 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 1068

An act to amend Section 444.2 of the Health and Safety 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. Section 444.2 of the Health and Safety Code is amended to read:

- 444.2. (a) The Office of Statewide Health Planning and Development may establish and administer a pilot program to test the safety and cost effectiveness of performing cardiac catheterization in freestanding cardiac catheterization laboratories. The office may approve up to seven freestanding cardiac catheterization laboratories for inclusion under the pilot program.
- (b) No project approved pursuant to this section may be in the same primary market area, as determined by the office, as another project approved by the office as a cardiac catheterization laboratory pilot project.
  - SEC. 2. The Legislature finds and declares the following:
- (a) This act authorizes an increase of two cardiac catheterization laboratories in addition to the five initially authorized by Chapter 1074 of the Statutes of 1985. These additional two laboratories may only be designated by the Office of Statewide Health Planning and Development from those applications on file with the office as of May 1, 1986.
- (b) The Office of Statewide Health Planning and Development and the State Department of Health Services shall cooperate in a study to determine the appropriate Medi-Cal reimbursement rate to be paid to a freestanding cardiac catheterization laboratory under Section 444.2 of the Health and Safety Code.

- (c) It is the intent of the Legislature that the Office of Statewide Health Planning and Development enter into discussions and negotiations with the United States Department of Health and Human Services to determine an appropriate rate of reimbursement under Medicare for benefits provided thereunder in a freestanding cardiac catheterization laboratory under this section.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide additional needed freestanding cardiac catheterization laboratories to people needing those services within a meaningful time, it is necessary that this act take effect immediately.

# **CHAPTER 1069**

An act to repeal and add Sections 49000 and 49001 of 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 49000 of the Education Code is repealed. SEC. 2. Section 49000 is added to the Education Code, to read: 49000. The Legislature finds and declares that the protection against corporal punishment, which extends to other citizens in other walks of life, should include children while they are under the control of the public schools. Children of school age are at the most vulnerable and impressionable period of their lives and it is wholly reasonable that the safeguards to the integrity and sanctity of their bodies should be, at this tender age, at least equal to that afforded to other citizens.

SEC. 3. Section 49001 of the Education Code is repealed.

SEC. 4. Section 49001 is added to the Education Code, to read: 49001. (a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and

shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

# CHAPTER 1070

An act to amend Section 8463 of the Education Code, relating to child care and development.

[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 as follows:

- (1) The lack of adequate and affordable child care services to serve the growing number of working parents has resulted in "latch key" children who return and remain at home unsupervised after school.
- (2) Senior citizens (grandparents) have in the past been a major provider of child care to their own grandchildren.
- (3) In today's society, children and grandparents are often separated by long distances.
  - (4) Most parents need to work to support their families.
- (5) Many senior citizens need to supplement their meager monthly social security stipends.
- (6) It is the intent of the Legislature to allow senior citizens to provide working parents with child care in a well-supervised environment.
- SEC. 2. Section 8463 of the Education Code is amended to read: 8463. The Superintendent of Public Instruction shall develop standards for the implementation of cost-effective quality extended day care programs, the cost of which shall be competitive with local private market rates. Indicators of quality may include, but not be limited to, any of the following:
- (a) A physical environment that is safe and appropriate to the ages of the children and which meets applicable licensing standards as defined in Section 8480.
- (b) Transportation or supervision to and from the school to the extended day care facility when the facility is not on the school site.
- (c) A diverse school age child population from varying socioeconomic, racial, and ethnic backgrounds.
- (d) Extensive use of community resources appropriate to school age children, including those community resources with a cultural,

recreational, or educational emphasis.

- (e) Program activities that are age appropriate and meet the developmental needs of each child, including, but not limited to, academic, creative arts, and support service activities, and activities for social, emotional, cognitive, linguistic, and physical development.
- (f) Program activities and services that meet the cultural, linguistic, and other special needs of children and families served.
- (g) Programs that support the academic growth of the children served, such as tutoring, homework assistance, and reinforcement of basic skills.
- (h) Programs that encourage children to participate in organized and supervised youth groups.
  - (i) Family and community involvement.
- (j) Parent education in specific strategies to help their children succeed in their academic programs.
  - (k) Efficient and effective local program administration.
- (1) Staff that possesses the appropriate and required qualifications or experience, or both, as required in Section 8360. Extended day care instructional staff may be selected from persons qualifying under Section 8360 or state licensing regulations for school age child day care centers. The appropriate staff qualifications shall reflect the diverse linguistic and cultural makeup of the children and families in the extended day care program. The use of intergenerational staff shall be encouraged.
- (m) Noninstructional staff may be utilized in the program as follows:
- (1) Senior citizens may be hired as nonteaching personnel to perform noninstructional work.
- (2) The director shall train these senior citizens to help care for children.
- (3) A career ladder shall be utilized in the employment and promotion of noninstructional personnel.
- (4) Each member shall have had a health examination made within the 12-month period preceding the date of employment.
- (5) Each member shall submit duplicate personal identification cards upon which shall appear legible fingerprints and a personal description of the applicant.
  - (n) Provision for nutritional needs of children.
- (o) Provision of, or referral to, support services that include, but are not limited to, identification of child and family needs.

## CHAPTER 1071

An act to amend Section 4003.5 of the Vehicle Code, relating to vehicles.

[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 4003.5 of the Vehicle Code is amended to read:

- 4003.5. (a) Upon payment of the fee specified in Section 9258.5, the department shall issue to a manufacturer or dealer a one-trip permit authorizing a new trailer or semitrailer which has never been registered in any state, or a used trailer or semitrailer which is not currently registered to be moved or operated laden within, entering, or leaving this state for not more than five days as part of one continuous trip from the place of manufacture for a new vehicle, or from the place of dispatch or entry into this state for a used vehicle, to a place where the vehicle will be offered for sale.
- (b) Any permit issued pursuant to this section authorizes the operation of a single trailer or semitrailer, and the permit shall identify the trailer or semitrailer authorized by make, model, and vehicle identification number. The permit shall include the name and license number of the manufacturer from whom the new vehicle is sent, or the name and license number of the dealer from whom the used vehicle is sent, the name and address of the person or business receiving the load, a description of the load being carried, and the name and license number of the dealer who will be offering the trailer or semitrailer for sale. Each permit shall be completed prior to operation of the trailer or semitrailer on a highway. The permit shall be carried on the trailer or semitrailer to which it applies in an appropriate receptacle inaccessible from the inside of the cab and shall be readily available for inspection by a peace officer. Each permit is valid at the time of inspection by a peace officer only if it has been completed as required by the department and has been placed in the appropriate receptacle as required by this section. The manufacturer or dealer issued the permit may allow a third party to move or operate the vehicle.
- (c) The privilege of securing and displaying a permit authorized pursuant to this section shall not be extended to a manufacturer, carrier, or dealer located in a jurisdiction with which the state does not have vehicle licensing reciprocity.
- (d) The privilege of securing and displaying a permit authorized pursuant to this section shall not be granted more than once without the sale and registration of the trailer or semitrailer.

#### CHAPTER 1072

An act to amend Section 114 of, to add Sections 10040 and 10585 to, and to add and repeal Section 10605.3 of, the Health and Safety Code, relating to birth certificates, 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 114 of the Health and Safety Code is amended to read:

114. (a) The fees or charges for a record search or for the issuance of any certificate, permit, registration, or any other document pursuant to Sections 26840 and 26859 of the Government Code, or Sections 10375, 10376.8, 10400, 10420, 10430, 10433.3, 10450, 10455, 10470, 10475, 10500, 10550, 10575, 10585, 10605, 10606, 10610, 10610.2, 10612, 10613, 10614, 10615, 10616, 10617, 10618, and 10619 of this code, may be adjusted annually by the percentage change determined pursuant to Section 113.

The base amount to be adjusted shall be the statutory base amount of the fee or charge plus the sum of the prior adjustments to the statutory base amount. Whenever the statutory base amount is amended, the base amount shall be the new statutory base amount plus the sum of adjustments to the new statutory base amount calculated subsequent to the statutory base amendment. The actual dollar fee or charge shall be rounded to the next highest whole dollar.

- (b) Beginning January 1, 1983, the state department shall annually publish a list of the actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- SEC. 2. Section 10040 is added to the Health and Safety Code, to read:
- 10040. There is a State Vital Record Improvement Project Fund in the State Treasury. Not less than 10 percent of the moneys in the fund shall, upon appropriation by the Legislature, be allocated by the State Registrar to local registrars to be utilized to improve and automate the processing of local vital record systems. Those allocations shall be based on the needs of local registrars to improve and automate record systems, as determined by the State Registrar. The remainder of the moneys in the fund shall, upon appropriation by the Legislature, be utilized by the State Registrar to improve and automate the processing of vital records maintained by the State Registrar.
- SEC. 3. Section 10585 is added to the Health and Safety Code, to read:

10585. (a) The State Registrar shall, upon request and payment of a fee, as provided in subdivision (c), supply to any applicant a decorative heirloom certificate, as described in subdivision (b), of any birth registered with that official.

When the original form of the certificate of a live birth furnished by the State Registrar contains a printed section at the bottom containing medical and social data or labeled "Confidential Information for Public Health Use Only," that section shall not be reproduced in the copy of the record. If the original form of the certificate of live birth has been sealed, the information on the sealed certificate shall not be included on the decorative heirloom certificate.

- (b) The decorative heirloom certificate issued under subdivision (a) shall be of a distinctive design as determined by the State Department of Health Services and shall include the seal of the State of California and a facsimile of the State Registrar's signature, but shall include no elected official's signature. The certificate shall only contain identification information, as determined by the State Registrar.
- (c) The fee required for the decorative heirloom birth certificate issued pursuant to this section shall be thirty-two dollars (\$32) until December 31, 1988, at which time the fee shall be reduced to thirty dollars (\$30). Until December 31, 1988, not less than ten dollars (\$10) of the fee shall be allocated to the State Children's Trust Fund established in Section 18969 of the Welfare and Institutions Code. After December 31, 1988, not less than fifteen dollars (\$15) of the fee shall be allocated to the State Children's Trust Fund. The remainder of the fee shall be utilized to reimburse the State Department of Health Services and the State Registrar, in part, for the administrative costs of developing, preparing, and providing the decorative heirloom certificate.
- SEC. 4. Section 10605.3 is added to the Health and Safety Code, to read:
- 10605.3. (a) Commencing January 1, 1987, in addition to the fees prescribed by subdivisions (a) to (d), inclusive, of Section 10605, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of two dollars (\$2), which shall be collected by the local registrar, county recorder, county clerk, or State Registrar, as the case may be. The local registrar, county recorder, or county clerk shall transmit these fees to the State Registrar at the same time the fees are transmitted pursuant to subdivision (e) of Section 10605. The State Registrar shall deposit the additional fee collected pursuant to this section in the State Vital Record Improvement Project Fund established by Section 10040.
- (b) 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. 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 1073

An act to add Sections 14110.8 and 14110.9 to the Welfare and Institutions Code, relating to health facilities.

[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 14110.8 is added to the Welfare and Institutions Code, to read:

14110.8. (a) For the purposes of this section:

- (1) "Facility" means a skilled nursing facility or an intermediate care facility.
- (2) "Patient" means a person who is a facility resident and a Medi-Cal beneficiary and whose facility care is being paid for in whole or in part by Medi-Cal.
- (3) "Agent" means a person who manages, uses, or controls those funds or assets that legally may be used to pay the patient's share of cost and other charges not paid for by the Medi-Cal program.
- (4) "Responsible party" means a person other than the patient or potential patient, who, by virtue of signing or cosigning an admissions agreement of a skilled nursing facility or intermediate care facility, either together with, or on behalf of, a potential patient, becomes personally responsible or liable for payment of any portion of the charges incurred by the patient while in the facility. A person who signs or cosigns a facility's admissions agreement by virtue of being an Attorney-in-Fact under a valid Durable Power of Attorney executed by the potential patient or a conservator of the person or of the estate of the potential patient, or a representative payee, is not a responsible party under this section, and does not thereby assume personal responsibility or liability for payment of any charges incurred by the patient, except to the extent that the person, or the patient's conservator or representative payee is an agent.
- (b) No facility may require or solicit, as a condition of admission into the facility, that a Medi-Cal beneficiary have a responsible party sign or cosign the admissions agreement. No facility may accept or receive, as a condition of admission into the facility, the signature or cosignature of a responsible party for a Medi-Cal beneficiary.
- (c) A facility may require, as a condition of admission, where a patient has an agent, that the patient's agent sign or cosign the

admissions agreement and agree to distribute to the facility promptly when due, the share of cost and any other charges not paid for by the Medi-Cal program which the patient or his or her agent has agreed to pay. The financial obligation of the agent shall be limited to the amount of the patient's funds received but not distributed to the facility. A new agent who did not sign or cosign the admissions agreement shall be held responsible to distribute funds in accordance with this section.

- (d) When a patient on non-Medi-Cal status converts to Medi-Cal coverage, any security deposit paid to the facility by the patient or on the patient's behalf as a condition of admission to the facility shall be returned and the obligations and responsibilities of the patient or responsible party shall be null and void.
- (e) Any agent who willfully violates the requirements of this section is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500) or by imprisonment in the county jail not to exceed 180 days, or both.
- SEC. 2. Section 14110.9 is added to the Welfare and Institutions. Code, to read:
- 14110.9. No skilled nursing facility or intermediate care facility may require a security deposit from a Medi-Cal beneficiary who applies for admission to the facility.
- 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 1074

An act to add Section 18966.1 to the Welfare and Institutions Code, relating to children.

[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 18966.1 is added to the Welfare and Institutions Code, to read:

- 18966.1. (a) Any federal funds provided for child abuse prevention challenge grants to provide matching funds to states that have established children's trust funds shall be allocated to the counties' children's trust funds in the following manner:
  - (1) Those counties which receive less than twenty thousand

dollars (\$20,000) per annum for their county children's trust funds from the fees on birth certificates collected pursuant to Section 10605 of the Health and Safety Code, shall be granted from federal matching funds that amount necessary to bring that income to the trust fund to twenty thousand dollars (\$20,000) per year.

If the state's annual federal matching fund allocation is insufficient to provide each county children's trust fund with a minimum total annual funding level of twenty thousand dollars (\$20,000), the Office of Child Abuse Prevention shall determine an allocation process for federal matching funds to ensure that each county's children's trust fund receives a minimum level of annual funding from all sources.

- (2) The remaining funds from the federal challenge grant shall than be distributed equally among all the counties, up to ten thousand dollars (\$10,000) per county.
- (3) If sufficient federal matching funds exist after each county children's trust fund is provided a total annual children's trust fund allocation of twenty thousand dollars (\$20,000) and after each county children's trust receives a maximum annual allocation of ten thousand dollars (\$10,000) in federal matching funds, the remaining federal matching funds shall be distributed to each county children's trust funds according to population.
- (b) (1) Federal challenge grant funds shall be received by the Office of Child Abuse Prevention and allocated in the manner specified in subdivision (a).
- (2) Boards of supervisors may establish criteria for determining those programs which shall receive funding. Boards of supervisors may accept all program proposals, prioritize those proposals, and make the final decision as to which programs shall receive funds.
- (c) Federal matching funds shall be allocated pursuant to subdivision (a) for counties that have not established a local children's trust fund and shall be transferred to that county's existing children's trust funds established by the Office of Child Abuse Prevention in the State Children's Trust Fund. Nothing in this section shall prevent a county that has not established a local children's trust fund from establishing a local children's trust fund.
- (d) Receipt by a county of any federal funds available for the purposes set forth in this section shall be contingent upon the provision of assurances that the county will provide to the Office of Child Abuse Prevention all information necessary to meet federal reporting mandates. Those information needs shall be identified by the department at the time federal funds are allocated.

### CHAPTER 1075

An act to add Section 11450.2 to the Welfare and Institutions Code, relating to public assistance, 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. Section 11450.2 is added to the Welfare and Institutions Code, to read:

- 11450.2: (a) The department shall implement a system to provide for supplemental payments to needy families qualified for aid under this chapter, when, because of a change in reported financial circumstances occurring between the "budget month" and the "payment month," a family's net available income for the payment month is less than 80 percent of the amount set forth in subdivisions (a) and (b) of Section 11450, as adjusted for cost-of-living increases pursuant to Section 11453. The system shall provide all of the following:
- (1) Families shall be informed of the availability of supplemental payments and of the necessity that a family request the payments in order for them to be provided. This information shall be provided in writing at the time of application in the written statements of recipients' rights, and shall also be provided orally by the eligibility worker at the time of the initial interview and at each annual redetermination. A request form shall be sent monthly to all families which have reported income.
- (2) That supplemental payments shall be paid in an amount necessary to raise the family's net available income in the payment month to 80 percent of the amount set forth in subdivision (a) of Section 11450, as adjusted for cost-of-living increases pursuant to Section 11453.
- (3) That supplemental payments shall not be considered income when calculating the amount of the grant to be paid in future months.
- (4) That supplemental payments or written notice of action shall be issued within seven working days of a request. Payments shall only be issued for those months in which a request has been made and a family is eligible for the supplement. A request shall be made in the month for which the supplemental payment is requested.
- (5) That no supplemental payment shall be made to any family if, under the federal Aid to Families with Dependent Children program, the payments would be counted as income, regardless of the source of the funding for the aid payment of the family.
- (6) That no overpayment or underpayment shall be determined for a supplemental payment which was correctly computed based on

the family's reasonable estimate of the income and other circumstances for the payment month. A family shall not be eligible for more than one supplemental payment per month.

- (b) For purposes of this section:
- (1) "Budget month" and "payment month" shall be consistent with the use of these terms in Section 11450.5.
  - (2) "Net available income" means the sum of the following:
- (A) Total net nonexempt income in the payment month without deduction of either the thirty dollars (\$30) plus one-third of earned income or the thirty dollars (\$30) disregard deductions.
- (B) Any child or spousal support received by the family pursuant to Section 602 (a) (8) (A) (vi) of Title 42 of the United States Code and as that statute may hereafter be amended.
- (C) The grant for the payment month before overpayment adjustments.
- (3) "Needy family" means a family aided pursuant to this chapter. This includes a family that is in a single month of suspension resulting from the receipt of income.
- (4) "Grant" means the amount of aid paid to the needy family pursuant to subdivision (a) of Section 11450, but does not include any amounts paid pursuant to subdivision (e) of Section 11450 or Section 11453.1.
- SEC. 2. Section 1 of this act shall become operative on the first day of the month which occurs immediately after the 90th day after the effective date of this act.
- SEC. 3. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Social Services shall adopt emergency regulations to implement the system provided for in Section 11450.2 of the Welfare and Institutions Code. The emergency regulations shall remain in effect for no more than 120 days, unless the department complies with all the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.
- SEC. 4. The sum of two million eight hundred ninety-seven thousand dollars (\$2,897,000) is hereby appropriated from the General Fund to the State Department of Social Services for the 1986–87 fiscal year as follows:
- (a) Two million one hundred seventy-five thousand dollars (\$2,175,000) for grant payments for Aid to Families with Dependent Children recipients, in augmentation and for the purposes of Item 5180-101-001 of Section 2.00 of the Budget Act of 1986.
- (b) Seven hundred twenty-two thousand dollars (\$722,000) for the state share of the administrative costs of the supplemental payment program established pursuant to this act, in augmentation and for the purposes of Item 5180-141-001 of Section 2.00 of the Budget Act of 1986.

It is the intent of the Legislature that on-going costs related to the implementation of this act effective for fiscal year 1987-88 and

thereafter shall be funded through the annual budget act process.

- SEC. 5. (a) The provisions of Sections 1 to 4, inclusive, of this act shall become operative only upon dismissal with prejudice of the lawsuit Melendez v. McMahon, et al., Sacramento Superior Court No. 331567 and issuance of an order in that case awarding attorneys fees and costs in an amount not to exceed thirty-six thousand five hundred dollars (\$36,500).
- (b) The State Department of Social Services shall report to the Legislature on the occurrence or nonoccurrence of the circumstances described in subdivision (a).
- 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 the absence of a system for supplemental payments, some needy families are required to live for one to two months on amounts less than the Minimum Basic Standard of Adequate Care because of the budgeting system, and are thereby subject to severe deprivation. It is therefore necessary that this act, which corrects that situation, take effect immediately.

#### CHAPTER 1076

An act to amend Sections 94304 and 94310 of the Education Code, relating to postsecondary education, 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 94304 of the Education Code is amended to read:

- 94304. (a) There is in the State Department of Education a Council for Private Postsecondary Educational Institutions consisting of 15 members, selected as follows:
- (1) The superintendent or his or her designee shall be a member, and the superintendent shall appoint four members. Two shall be members of the general public, one with a strong interest in developing private postsecondary education, and one representative of business that employs persons in positions requiring vocational or technical education. Two shall be administrative heads of institutions, one representing a nonaccredited, degree granting school operating pursuant to subdivision (b) or (c) of Section 94310 and one representing a nonaccredited, nondegree granting school operating pursuant to subdivision (d) of Section 94311.
  - (2) The Senate Rules Committee shall appoint five members.

Two shall be members of the general public, one with a knowledge of private vocational education, and one representative of a labor organization that represents persons with vocational or technical training. Three shall be administrative heads of institutions, one representing a nonaccredited, degree granting school operating pursuant to subdivision (b) or (c) of Section 94310, one representing a nondegree granting school operating pursuant to subdivision (c) or (d) of Section 94311, and one representing an accredited out-of-state postsecondary educational institution operating in California pursuant to paragraph (2) of subdivision (a) of Section 94310.

- (3) The Speaker of the Assembly shall appoint five members. Three shall be members of the general public with an interest in developing private postsecondary vocational and technical education. Two shall be administrative heads of institutions, one representing an accredited, nondegree granting school operating pursuant to subdivision (c) of Section 94311, and one representing a nonaccredited, nondegree granting school operating pursuant to subdivision (d) of Section 94311.
- (4) In addition, the following shall serve as ex officio members of the council:
  - (A) The Director of Consumer Affairs, or his or her designee.
- (B) The Director of Employment Development, or his or her designee.
- (C) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

- (5) Administrative heads of institutions appointed under paragraphs (2) and (3) may be selected from lists submitted by an association or associations of institutions governed under this chapter which has at least 30 members.
- (6) Public members appointed under paragraphs (1), (2), and (3) shall not be retained or employed by any secondary or postsecondary educational institution or system when appointed or during their term of appointment.
- (b) The first members shall be appointed on or before January 15, 1982, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1982, and the members shall enter upon their terms of office by lot so that the terms of five members shall expire on January 15, 1983; the terms of five members shall expire on January 15, 1984; and the terms of five members shall expire on January 15, 1985.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairperson and one to serve as vice chairperson. The vice chairperson shall preside over all meetings of the council in the absence of the chairperson.

- (c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.
- (d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the Superintendent of Public Instruction, not to exceed State Board of Control expense allowances.
- (e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.
  - (f) The council shall:
- (1) Advise the superintendent on the establishment of policy for the administration of this chapter.
- (2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.
- (3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of this chapter consistent with rules and regulations.
- (4) Review minimum criteria utilized by the superintendent in conformity with subdivisions (b), (c), and (d) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for approval to operate, or for an agent's permit, shall meet before the approval or permit may be issued, and to continue the approval or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.
- (5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

- (6) Review appeals and complaints from educational institutions, agents, and consumers. Make recommendations to the superintendent regarding the disposition of these appeals and complaints.
- (7) Represent private postsecondary educational institutions on the State Occupational Informational Coordinating Committee..
- (8) Advise the superintendent regarding the appropriate action to be taken in the event that the visiting committee does not reach a unanimous recommendation on an institution's application for authorization pursuant to subdivisions (c) and (d) of Section 94310.
- (g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.
- SEC. 2. Section 94310 of the Education Code is amended to read: 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 subdivisions of this section.
- (a) The institution meets the requirements of one or both of the following paragraphs:
- (1) The institution, 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, by 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 by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this paragraph may issue diplomas and certificates as well as degrees.
- (2) 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.
- (A) The superintendent shall not license an institution to issue degrees, diplomas, or certificates pursuant to this paragraph 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:
- (i) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.
- (ii) 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.

- (iii) 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.
- (iv) 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.
- (v) 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.
- (B) All institutions incorporated in another state that were offering educational programs in California and were authorized to operate pursuant to paragraph (1) of 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 paragraph (1) of subdivision (a) or through licensure pursuant to this paragraph.
- (C) Except as otherwise provided by subparagraph (D), the superintendent shall grant licensed status under this paragraph 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.
- (D) The superintendent shall grant licensed status under this paragraph 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 the effective date of the amendments to this section enacted by the Statutes of 1985 all of the following information:
- (i) 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.
- (ii) A list of the locations of all of the operations of the institution in California.
- (iii) 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.
- (iv) A list of degrees, diplomas, and certificates offered by the institution.

Institutions licensed under this subparagraph shall offer in

California only programs that the institution can document to have been acknowledged and favorably reviewed by the home regional accrediting association.

- (E) (i) 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.
- (ii) The committee shall develop proposed standards and procedures to be used in the onsite review and licensure of institutions applying for licensure under this paragraph, subject to the principle that educational innovation and competition shall not be hindered unreasonably.
- (iii) 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 paragraph shall become inoperative on January 1, 1987, if the commission has not adopted standards and procedures proposed by the special committee by that date.
- (iv) The committee shall utilize the following principles in the development of these standards and procedures:
- (aa) 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 paragraph 2 of this subdivision.
- (bb) 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.
- (cc) 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.
- (dd) 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.
- (ee) 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.
- (ff) The standards and procedures shall not unreasonably hinder educational innovation and competition.
  - (v) Prior to July 1, 1987, the State Department of Education 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 paragraph (2) of 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 State Department of Education 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 State Department of Education 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 paragraph (2) 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.

- (b) The institution, 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.
- (1) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, has approved each program offered by the institution, and has determined all of the following:
- (A) 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.
- (B) 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.
- (C) 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.

- (2) 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:
- (A) Grant full institutional approval for a period not to exceed three years.
- (B) 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.

(C) 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.

- (3) (A) 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 that have received full approval of all courses offered.
- (B) 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 subparagraph shall file a completed application for either full institutional approval pursuant to this subdivision, or authorization to operate pursuant to subdivision (c).
- (4) 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.

(c) 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.

- (1) 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 paragraph (2). The process shall review all of the following:
  - (A) Institutional objectives.
  - (B) Administrative methods.
  - (C) Curriculum.
  - (D) Instruction.
  - (E) Faculty, including their qualifications.
  - (F) Physical facilities.
  - (G) Administrative personnel.
  - (H) Procedures for keeping educational records.
  - (I) Tuition, fee, and refund schedules.
  - (J) Admissions standards.
  - (K) Scholastic regulations and graduation requirements.
  - (L) Degrees offered.
- (M) 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.
- (2) 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:
- (A) One member appointed by the director of the California Postsecondary Education Commission.
- (B) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational Institutions.
- (C) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.
- (D) 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.
- (3) The visiting committee's responsibilities shall include all of the following:
- (A) To verify the accuracy of the information submitted by the applicant institution.
- (B) To determine whether the applicant institution complies with the standards required by statute and regulation.
- (C) 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.

- (D) 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.
- (4) 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.
- (5) 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:
- (A) Grant the applicant institution full authorization for a period not to exceed five years. Authorization pursuant to this subparagraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.
  - (B) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to subparagraph (B) 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.

- (6) 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 subdivision (c) with the superintendent. The reauthorization process for all institutions shall include a full review by a visiting committee.
- (7) 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 paragraph shall file a completed application for reauthorization pursuant to subdivision (c).
- (8) 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.
  - (9) 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.

- (d) 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:
- (1) 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.
- (2) 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 paragraph (1), 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.
- (3) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:
- (A) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.
- (B) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation,

within this state.

- (C) 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.
- (D) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.
- (E) 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 paragraphs (1), (2), and (3), 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

- SEC. 3. It is the intent of the Legislature that all current members of the Council for Private Postsecondary Educational Institutions shall serve their full term, and that the appointment of the representative of the accredited out-of-state postsecondary educational institutions shall be made immediately with the chaptering of this act, even if this appointment temporarily produces more than 15 members on the council.
- SEC. 4. If this bill is enacted and amends Section 94310 of the Education Code, and AB 1989 is chaptered before this bill and repeals Section 94310 of the Education Code, it is the intent of the Legislature that Section 94310 of the Education Code as amended by Section 2 of this bill shall remain operative only until the effective

date of AB 1989 and on and after that date Section 94310 of the Education Code is repealed as provided in AB 1989.

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 ensure that the Superintendent of Public Instruction is authorized to exercise jurisdiction over postsecondary educational institutions based in another state operating one or more branches in California at the earliest possible time, it is necessary that this act take effect immediately.

#### CHAPTER 1077

An act to amend Section 7000 of the Education Code and to amend Section 22754 of, and to add Article 4 (commencing with Section 9200) to Chapter 2 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to public employees' benefits.

[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 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 either retired therefrom under any public retirement system or was, at the time of death, both employed thereby in a position requiring contributions to the State Teachers' Retirement System and a member of the State Teachers' 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. 2. Article 4 (commencing with Section 9200) is added to Chapter 2 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

# Article 4. Legislative Employee Benefits

- 9200. Each employee 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 compensation provided to the employee.
- SEC. 3. Section 22754 of the Government Code is amended to read:
- 22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:
- (a) "Board" means the Board of Administration of the Public Employees' Retirement System.
- (b) (1) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, or who is an employee or annuitant of a county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3) which has elected to become subject to this part, except persons employed on an intermittent, irregular or less than halftime basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.
- (2) "Employee" also means any officer or employee who participates in the retirement system of a contracting agency as defined in paragraph (2) of subdivision (g) which has elected to become subject to this part, except persons employed less than halftime or who are otherwise determined to be ineligible.
- (c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health

maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

- (d) "Health benefits plan" means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.
  - (e) "Annuitant" means:
- (1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.
- (2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 or similar provisions of any other state retirement system.
- (3) Any person who, at the time of separation from employment because of disability, was enrolled in a health benefits plan and who enters a rehabilitation program under Section 139.5 of the Labor Code and retires for disability within 120 days of termination of the rehabilitation program.
- (4) Any employee who has retired under the retirement system provided by a contracting agency as defined in paragraph (2) of subdivision (g) and who receives a retirement allowance from that retirement system, or a surviving family member who receives the retirement allowance in place of the deceased.
- (f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.
  - (g) "Contracting agency" means:
- (1) Any contracting agency as defined in Section 20010, any county or special district subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and any special district, school district, county board of education, personnel commission of a school district, or a county superintendent of schools.
- (2) Any public body or agency of, or within California not covered by the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937, which provides a retirement system for its employees funded wholly or in part by public funds.
- (h) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.
  - SEC. 4. Reimbursement to local agencies and school districts for

costs mandated by the state pursuant to Section 1 of this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

## **CHAPTER 1078**

An act to amend Section 799.24 of the Civil Code, to amend Sections 18010 and 18215.5 of, and to add Section 18027.3 to, the Health and Safety Code, and to amend Sections 635, 4453, 11713.1, 11713.3, and 34500 of, to add Section 35780.3 to, and to add and repeal Section 4003.6 of, the Vehicle Code, relating to vehicles, 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. Section 799.24 of the Civil Code is amended to read: 799.24. (a) "Recreational vehicle" means a motor home, slide-in camper, travel trailer, truck camper, park trailer, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy.
- (b) "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite and designed for human habitation for recreational or emergency occupancy.
- (c) "Motor home" means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.
- (d) "Slide-in camper" means a portable unit, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from a truck, and designed for human habitation for recreational or emergency occupancy. A "slide-in camper" means a truck camper.
- (e) "Travel trailer" means a portable unit, mounted on wheels, of such a size and weight as not to require special highway movement permits when drawn by a motor vehicle and for human habitation for recreational or emergency occupancy.
- (f) "Park trailer" means a trailer coach, designed for human habitation for recreational or seasonal use only, which meets all of the following criteria:

- (1) It contains 400 square feet or less of gross floor area measured at the maximum horizontal projections. However, it may not exceed 12 feet in width or 40 feet in length in the traveling mode.
  - (2) It is built on a single chassis.
- (3) It may only be transported upon the public highways with a permit.
- (4) It is constructed in accordance with the Standard No. A119.5 of the American National Standards Institute, as it may be changed by department's regulations.
- SEC. 2. Section 18010 of the Health and Safety Code is amended to read:
  - 18010. "Recreational vehicle" means either of the following:
- (a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, which meets all of the following criteria:
- (1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.
- (2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.
  - (3) It is built on a single chassis.
- (4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.
- (5) It is constructed in accordance with Standard No. A119.2 of the American National Standards Institute, as it may be changed by the department's regulations.
- (b) A park trailer designed for human habitation for recreational or seasonal use only, which meets all of the following criteria:
- (1) It contains 400 square feet or less of gross floor area measured at the maximum horizontal projections. However, it may not exceed 12 feet in width or 40 feet in length in the traveling mode.
  - · (2) It is built on a single chassis.
- (3) It may only be transported upon the public highways with a permit.
- (4) It is constructed in accordance with Standard No. A119.5 of the American National Standards Institute, as it may be changed by the department's regulations.
- SEC. 3. Section 18027.3 is added to the Health and Safety Code, to read:
- 18027.3. Notwithstanding any other provision of this part, no recreational vehicle shall be equipped with more than one electrical power supply cord.
- SEC. 4. Section 18215.5 of the Health and Safety Code is amended to read:
  - 18215.5. "Recreational vehicle" means either of the following:
- (a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human

habitation for recreational, emergency, or other occupancy, which meets all of the following criteria:

- (1) It contains less than 320 square feet of internal living area, excluding built-in equipment including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.
- (2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.
  - (3) It is built on a single chassis.
- (4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.
- (5) It is constructed in accordance with Standard No. A119.2 of the American National Standards Institute, as it may be changed by the department's regulations.
- (b) A park trailer designed for human habitation for recreational or seasonal use only, which meets all of the following criteria:
- (1) It contains 400 square feet or less of gross floor area measured at the maximum horizontal projections. However, it may not exceed 12 feet in width or 40 feet in length in the traveling mode.
  - (2) It is built on a single chassis.
- (3) It may only be transported upon the public highways with a permit.
- (4) It is constructed in accordance with Standard No. A119.5 of the American National Standards Institute, as it may be changed by the department's regulations.
  - SEC. 5. Section 635 of the Vehicle Code is amended to read:
- 635. A "trailer coach" is a vehicle, other than a motor vehicle, designed for human habitation or human occupancy for industrial, professional, or commercial purposes, for carrying property on its own structure, and for being drawn by a motor vehicle. A "park trailer," as defined in subdivision (f) of Section 799.24 of the Civil Code, is a trailer coach.
  - SEC. 6. Section 4003.6 is added to the Vehicle Code, to read:
- 4003.6. Notwithstanding any other provision of law, a vehicle manufacturer may transport park trailers, as defined in subdivision (f) of Section 799.24 of the Civil Code, under manufacturer license plates from the manufacturer's place of business to another place outside of this state.

This section shall remain operative until January 1, 1987, and as of that date is repealed.

- SEC. 7. Section 4453 of the Vehicle Code is amended to read:
- 4453. (a) The registration card shall contain upon its face, the date issued, the name and residence or business address of the owner and of the legal owner, if any, the registration number assigned to the vehicle, and a description of the vehicle as complete as that required in the application for registration of the vehicle.
- (b) A motor vehicle of a type included in this subdivision shall be identified as such on the face of the registration card, whenever the department is able to ascertain that fact, at the time application is

made for initial registration or transfer of ownership of the vehicle.

- (1) A motor vehicle rebuilt and restored to operation which was previously declared to be a total loss salvage vehicle because the cost of repairs exceeds the retail value of the vehicle.
- (2) A motor vehicle rebuilt and restored to operation which was previously reported to be dismantled pursuant to Section 11520.
- (3) A motor vehicle previously registered to a law enforcement agency and operated in law enforcement work.
  - (4) A motor vehicle formerly operated as a taxicab.
- (5) A motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States.
- (6) A park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, which when moved upon the highway is required to be moved under a permit pursuant to Section 35780.
- (c) The director may modify the form, arrangement, and information appearing on the face of the registration card and may provide for standardization and abbreviation of fictitious or firm names on the registration card whenever the director finds that the efficiency of the department will be promoted by so doing, except that general delivery or post office box numbers shall not be permitted as the address of the registered owner unless there is no other address.
- SEC. 8. Section 11713.1 of the Vehicle Code is amended to read: 11713.1. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:
- (a) To advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.
- (b) To advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except sales tax, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding twenty dollars (\$20) pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars (\$20).
- (c) To exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

- (d) To represent the dealer documentary preparation charge as a governmental fee.
- (e) To fail to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed twenty dollars (\$20) while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.
- (f) To advertise for sale as new any new vehicle of a line-make for which the dealer does not hold a franchise, unless the dealer discloses prior to the sale of the new vehicle that the dealer is not franchised to sell the vehicle and that the dealer will receive a commission or other compensation as a result of the sale.

This subdivision does not apply to any transaction involving a mobilehome as defined in Section 396 of this code, a recreational vehicle as defined in Section 18010.5 of the Health and Safety Code, a commercial coach as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification as defined in Section 38012 of this code, or a commercial vehicle as defined in Section 260 of this code.

- (g) To sell a park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, without disclosing in writing to the purchaser that a park trailer must be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.
- SEC. 9. Section 11713.3 of the Vehicle Code is amended to read: 11713.3. It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do any of the following:
- (a) To refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle or parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.
- (b) To prevent or require, or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times

meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

- (c) To prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators if the franchise was granted the dealer in reliance upon the personal qualifications of such person or persons.
- (d) To prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor except that the consent shall not be unreasonably withheld.
- (e) To prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld.
- (f) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and that other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.
- (g) To require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this article or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the board, if the referral would be binding on the dealer. This subdivision does not, however, prohibit arbitration before an independent arbitrator.
- (h) To increase prices of motor vehicles which the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer is evidence of each such order. In the event of manufacturer price reductions, the amount of the reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by either (1) the addition to a motor vehicle of required or optional equipment pursuant to state or federal law, or (2)

revaluation of the United States dollar in the case of foreign-make vehicles, are not subject to this subdivision.

- (i) To fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new vehicle of a prior year model is in the dealer's inventory at the time of introduction of new model vehicles. A manufacturer or distributor shall not authorize or enable any new model or series passenger vehicle or station wagon to be delivered by dealers at retail more than 30 days prior to the eligibility date of the model change allowance payment for prior year model vehicles.
- (j) To deny the widow or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.
- (k) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line-make to be sold to the state or any political subdivision thereof without making the same offer to all other dealers in the same line-make within the relevant market area.
- (1) To modify, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of Article 4 (commencing with Section 3060) of Chapter 6 of Division 2.
- (m) To employ a person as a representative who has not been licensed pursuant to Article 3 (commencing with Section 11900) of Chapter 4 of Division 5.
- (n) To deny any dealer the right of free association with any other dealer for any lawful purpose.
- (o) To compete with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions. A distributor shall not be deemed to be competing when a wholly owned subsidiary corporation of the distributor sells motor vehicles at retail, if, for at least three years prior to January 1, 1973, the subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of vehicles at retail.
- (p) To unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers.
- (q) To sell vehicles to persons not licensed under this chapter for resale.
  - (r) To fail to affix an identification number to any park trailer, as

defined in Section 799.24 of the Civil Code, which is manufactured on or after January 1, 1987, and which does not clearly identify the unit as a park trailer to the department. The configuration of the identification number shall be approved by the department.

SEC. 10. Section 34500 of the Vehicle Code, as amended by

Chapter 343 of the Statutes of 1986, is amended to read:

34500. The Department of the California Highway Patrol shall regulate the safe operation of the following vehicles:

- (a) Motortrucks of three or more axles which are more than 6,000 pounds unladen weight.
  - (b) Truck tractors.
  - (c) Buses, schoolbuses, and youth buses.
- (d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.
- (e) Trailers and semitrailers, excluding camp trailers, trailer coaches, and utility trailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivisions (a), (b), (c), and (d). This subdivision does not apply to camp trailers, trailer coaches, and utility trailers.
- (f) Any combination of a motortruck and any vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.
- (g) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.
- (h) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.
- (i) A park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, which, when moved upon a highway, is required to be moved under a permit pursuant to Section 35780.
- (j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, that is regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and logbooks of drivers.
- SEC. 11. Section 35780.3 is added to the Vehicle Code, to read: 35780.3. A permit issued under Section 35780 for the movement of a park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, shall not be issued except to transporters, or licensed manufacturers and dealers.
- SEC. 12. Sections 2, 4, 5, 7, 8, 9, 10, and 11 of this act shall become operative on January 1, 1987.
- SEC. 13. 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. 14. The sum of forty thousand dollars (\$40,000) is hereby

appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles for purposes of this act.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for California's recreational vehicle industry to be able to compete at the earliest possible time in an unserved marketplace, to compete fairly with out-of-state producers, and to provide recreational living at an affordable cost, it is necessary for this act to take effect immediately.

#### CHAPTER 1079

An act to add Division 20.5 (commencing with Section 30950) to, and to add and repeal Section 6217.4 of, the Public Resources Code, relating to public resources, 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. The Legislature hereby finds and declares that the problems of the fishery and fishery-related industries and people of San Diego, San Pedro, Los Angeles, Santa Barbara, Monterey, San Francisco, Bodega Bay, Eureka, and Crescent City, together with creation of the Exclusive Economic Zone—about 250,000 square miles off of California's shore-which contains valuable oceanic resources and the capacity for and impact of the increasing seaborne traffic between the nations of the Pacific and California on our communities. raises new and major environmental, and social issues of the highest importance to the people of California. The Legislature accordingly recognizes the urgent need for a comprehensive and coordinated approach to ocean use planning and policy for the state.

- SEC. 2. Section 6217.4 is added to the Public Resources Code, to read:
- 6217.4. (a) Notwithstanding paragraph (1) of subdivision (d) of Section 6217, the amount of five hundred twenty-five thousand dollars (\$525,000) shall be transferred to the Resources Agency for each of the 1986–87, 1987–88, and 1988–89 fiscal years.
- (b) In addition to the persons designated in paragraph (4) of subdivision (d) of Section 6217, the Secretary of the Resources Agency shall appoint the following additional members of the advisory panel, who shall serve at the discretion of the secretary:
  - (1) A representative of the State Department of Health Services.

- (2) A representative of the State Water Resources Control Board.
- (c) 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. Division 20.5 (commencing with Section 30950) is added to the Public Resources Code, to read:

### DIVISION 20.5. OCEAN USE PLANNING

30950. The Secretary of the Resources Agency shall initiate a comprehensive, long-range planning process for the use of ocean waters offshore of California, may use the advisory panel appointed pursuant to paragraphs (4) of subdivision (d) of Section 6217 as the planning committee, and may use the California Sea Grant Program to promote sound scientific data analysis and assessment in this planning process.

### CHAPTER 1080

An act to amend Sections 4535.2, 7098, and 14838 of the Government Code, and to amend Sections 10391, 10392, and 10398 of the Public Contract Code, relating to public 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:

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SECTION 1. Section 4535.2 of the Government Code is amended to read:

4535.2. (a) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent; however, in no case shall the maximum preference cost under this chapter exceed fifty thousand dollars (\$50,000) for any bid, nor shall the combined cost of preferences granted pursuant to this chapter and any other provision of law exceed one hundred thousand dollars (\$100,000). In those cases where the 15-percent cumulated preference cost would exceed the one hundred thousand dollar (\$100,000) maximum preference cost limit, the one hundred thousand dollar (\$100,000) maximum preference cost limit shall apply.

(b) Notwithstanding the provisions of this chapter, small business bidders qualified in accordance with the provisions of Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this chapter, shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small

business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference.

- SEC. 2. Section 7098 of the Government Code is amended to read:
- 7098. (a) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent; however, in no case shall the maximum preference cost under this chapter exceed fifty thousand dollars (\$50,000) for any bid, nor shall the combined cost of preferences granted pursuant to this chapter and any other provision of law exceed one hundred thousand dollars (\$100,000). In those cases where the 15-percent cumulated preference cost would exceed the one hundred thousand dollar (\$100,000) maximum preference cost limit, the one hundred thousand dollar (\$100,000) maximum preference cost limit shall apply.
- (b) Notwithstanding the provisions of this chapter, small business bidders qualified in accordance with the provisions of Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this chapter, shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference.
- SEC. 3. Section 14838 of the Government Code, as amended by Section 2 of Chapter 158 of the Statutes of 1986, is amended to read:
- 14838. In order to facilitate the participation of small business in state procurement and in construction contracts, and in service contracts, under the Office of the State Architect or other state agencies which contract for the construction (including alteration, demolition, repair, or improvement) of state facilities, or the delivery of services, the directors of General Services and of such other agencies, each within their respective areas of responsibility, shall do all of the following:
- (a) Establish goals, consistent with those established by the Office of Small and Minority Business, for the extent of participation of small businesses in state procurement and in construction contracts, and in service contracts.
- (b) Provide for small business preference in construction or the procurement of goods or the delivery of services where responsibility and quality are equal. The preference to small business shall be 5 percent for the lowest responsible bidder meeting specifications. However, the small business preference shall not exceed fifty thousand dollars (\$50,000) for any bid, and the combined cost of preferences granted pursuant to this chapter and any other

provision of law shall not exceed one hundred thousand dollars (\$100,000). In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar (\$50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses in the contract award.

- (c) Give special consideration to small businesses by both:
- (1) Reducing the experience required.
- (2) Reducing the level of inventory normally required.
- (d) Give special assistance to small businesses in their preparation and submission of the information requested in Section 14310.
- (e) Under the authorization granted in Section 14311, make awards, whenever feasible, to small business bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business contractor to qualify to bid on these subprojects.
- (f) Except as provided in Sections 10392 and 10398 of the Public Contract Code, small business bidders qualified in accordance with the provisions of this chapter shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible under any other provision of law shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference granted by subdivision (b).
- (g) This section shall remain in effect only until July 1, 1988, and as of that date is repealed.
- SEC. 4. Section 14838 of the Government Code, as amended by Section 3 of Chapter 158 of the Statutes of 1986, is amended to read:
- 14838. In order to facilitate the participation of small business in state procurement and in construction contracts under the Office of the State Architect or other state agencies which contract for the construction (including alteration, demolition, repair, or improvement) of state facilities, the directors of General Services and of such other agencies, each within their respective areas of responsibility, shall do all of the following:
- (a) Establish goals, consistent with those established by the Office of Small and Minority Business, for the extent of participation of small businesses in state procurement and in construction contracts.
- (b) Provide for small business preference in construction or the procurement of goods where responsibility and quality are equal. The preference to small business shall be 5 percent of the lowest responsible bidder meeting specifications. However, the small business preference shall not exceed fifty thousand dollars (\$50,000) for any bid, and the combined cost of preferences granted pursuant to this chapter and any other provision of law shall not exceed one

hundred thousand dollars (\$100,000). In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar (\$50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses in the contract award.

- (c) Give special consideration to small businesses by both:
- (1) Reducing the experience required.
- (2) Reducing the level of inventory normally required.
- (d) Give special assistance to small businesses in their preparation and submission of the information requested in Section 14310.
- (e) Under the authorization granted in Section 14311, make awards, whenever feasible, to small business bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business contractor to qualify to bid on these subprojects.
- (f) Except as provided in Sections 10392 and 10398 of the Public Contract Code, small business bidders qualified in accordance with the provisions of this chapter shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible under any other provision of law shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference granted by subdivision (b).
  - (g) This section shall become operative on July 1, 1988.
- SEC. 5. Section 10391 of the Public Contract Code is amended to read:
- 10391. For the purpose of this article, "recycled paper" means all paper and woodpulp products containing postconsumer waste and secondary waste materials as defined in this section. "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary waste" means fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer waste, but does not include mill broke, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

"Recycled paper" means a paper product with not less than 50 percent of its total weight consisting of secondary and postconsumer waste with not less than 10 percent of its total weight consisting of postconsumer waste.

- SEC. 6. Section 10392 of the Public Contract Code is amended to read:
- 10392. (a) The department shall revise its procedures and specifications for state purchases of paper to give preference, wherever feasible, to the purchase of paper products containing

recycled paper.

(b) The department shall give preference to the suppliers of recycled paper products. This preference shall be 5 percent of the lowest bid or price quoted by suppliers offering nonrecycled paper products.

In bids in which the state has reserved the right to make multiple awards, the recycled paper preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of recycled business in the contract award.

- (c). The combined amount of preference granted pursuant to this section and any other provision of law shall not exceed one hundred thousand dollars (\$100,000).
- (d) Notwithstanding subdivision (b), and subdivision (a) of Section 10398, the recycled paper bidder preference shall not exceed fifty thousand dollars (\$50,000) if a preference exceeding that amount would preclude an award to a small business that offers nonrecycled paper products and is qualified in accordance with Section 14838 of the Government Code. This provision shall apply regardless of whether the small business is the lowest responsible bidder or is eligible for contract award on the basis of application of the 5-percent small business preference.
- (e) To encourage the use of postconsumer waste, the department's specifications shall require recycled paper contracts to be awarded to the bidder whose paper contains the greater percentage of postconsumer waste if the fitness and quality and price are otherwise equal.
- (f) The department may adopt rules and regulations to carry out the provisions of this article.
- SEC. 7. Section 10398 of the Public Contract Code is amended to read:
- 10398. (a) Fitness and quality being equal, all local public agencies shall purchase recycled paper and paper products instead of unrecycled paper or paper products whenever available at no more than the total cost of unrecycled paper and paper products. All local public agencies may and state agencies shall give preference to the suppliers of recycled paper or paper products. This preference shall be 5 percent of the lowest bid or price quoted by suppliers offering unrecycled paper or paper products.

In bids in which the state has reserved the right to make multiple awards, the recycled paper preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of firms offering recycled paper in the contract award.

- (b) The combined amount of preferences granted pursuant to this section and any other provisions of law shall not exceed one hundred thousand dollars (\$100,000).
- (c) Notwithstanding subdivision (a), and subdivision (b) of Section 10392, the recycled paper bidder preference shall not exceed fifty thousand dollars (\$50,000) if a preference exceeding that amount would preclude an award to a small business that offers

nonrecycled paper products and is qualified in accordance with Section 14838 of the Government Code. This provision shall apply regardless of whether the small business is the lowest responsible bidder or is eligible for contract award on the basis of application of the 5-percent small business preference.

#### CHAPTER 1081

An act to add Section 8902 to the Education Code, relating to education.

[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 teenage pregnancy has reached crisis proportions in this state, directly contributing to the largest dropout rate in the state's history, along with a greater chance of divorce, unemployment, and dependence on welfare. The Legislature further finds that enormous ignorance exists among teen youth as to the impact and consequences of teen pregnancy. It is the intent of the Legislature to generate and encourage the development of educational programs to reduce the number of teen pregnancies and dropout rate with information about the problems and consequences of teen pregnancy.

- SEC. 2. Section 8902 is added to the Education Code, to read:
- 8902. (a) The State Department of Education shall prepare and distribute to school districts comprehensive educational materials for the prevention of teen pregnancy. In developing these materials, the department shall seek input from other public agencies and from private nonprofit organizations with experience in teen pregnancy prevention. The department may adopt and use for this purpose appropriate materials developed by those agencies or organizations.
- (b) The department, in cooperation with those school districts and county offices of education that desire to participate, shall assist them in developing comprehensive programs for this purpose. The programs shall include, but not necessarily be limited to, all of the following:
- (1) Suggestions for creative format and presentation of the materials designed to attract and retain the interest of teenagers, including the use of guest speakers.
- (2) Information regarding the consequences of pregnancy, upon both the father and the mother, including the effect upon future educational and employment opportunities.
- (3) Information regarding the meaning of parental responsibility and its effect upon one's personal life.
  - (4) Information regarding strategies for resisting peer group

pressure.

- (5) Information regarding abstinence as a method of prevention.
- (6) Recommendations regarding methods for introduction of these materials into the curriculum, including, but not limited to, health and social science classes.
- (c) In order to implement this section, the department shall identify and seek funding and other assistance from federal and private sources, and shall otherwise utilize all available resources as may be necessary.
- (d) Nothing in this section shall authorize or require any activities that involve the distribution of material on pregnancy termination.

### CHAPTER 1082

An act relating to in-home supportive services.

[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 all of the following:

- (a) There are many elderly persons living on a limited income who, as a result of a medical emergency, are unable to perform functions of daily living and household chores.
- (b) In cases where the elderly person lives alone, or with only a spouse who is physically unable to care for the person, often the only method for receiving necessary assistance is to hire an attendant or enter a long-term health care facility.
- (c) For elderly persons who do not qualify for public assistance services, the costs of hiring an attendant can be prohibitive, thereby leaving their only other alternative to be a long-term health care facility which, in many instances, results in their depleting their resources. Most of these persons become eligible for Medi-Cal within a short time of entering an institution, losing their homes and other resources thereby preventing their return to the community.
- (d) If short-term in-home supportive services were to be made available to such persons, based on a sliding scale share of cost, more elderly persons recovering from medical emergencies could safely remain in their own homes.
- (e) Health care insurance coverage of nonmedical in-home supportive services is not currently available.
- SEC. 2. (a) The Office of Statewide Health Planning and Development shall conduct a study of short-term in-home supportive services for older persons. The office shall consult with and request and receive in a timely manner, information and data pertinent to the purpose of the study, from appropriate state

departments and statewide senior citizen organizations which include, but are not limited to, the Department of Aging, the State Department of Social Services, the State Department of Health Services, the State Department of Insurance, and statewide organizations representing the interests of persons age 65 and over.

- (b) The office shall do all of the following:
- (1) Determine the feasibility of establishing a short-term in-home supportive services program available to senior citizens age 65 and over who are on limited income, living alone, or with only a spouse who is physically unable to care for the person, ineligible for public social service assistance programs, and recovering from a medical condition that prevents them from performing functions of daily living for a period of six months or less pursuant to a physician's prognosis.
- (2) Determine the extent of in-home supportive services that should be provided, eligibility criteria, share of cost arrangements, the number of persons potentially eligible for such a program, and the cost of establishing the program and providing the services.
- (3) Examine existing state and local programs to determine the appropriate design and placement of a short-term in-home supportive services program, and identify existing resources that may be available for the program.
- (4) Report to the Legislature its findings and recommendations by November 15, 1987.

### CHAPTER 1083

An act to amend Sections 5020.4 and 5024.6 of, and to add Section 6313 to, the Public Resources Code, relating to public resources.

[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 declares that California has a rich and varied maritime history extending thousands of years into the past. Prehistoric inhabitants developed coastal trade based on an elaborate maritime technology. Later colonization was accomplished over ocean routes by peoples from all over the world.

This history has left California with a rich maritime legacy in state coastal waters and inland waterways.

Technological innovation relating to ocean salvage, and increasing participation in sport diving has caused these historic sites to become more accessible to uncontrolled exploitation, and has exposed these unique resources to damage and destruction.

The Legislature finds that there is an urgent need to protect the historic, scientific, and cultural values inherent in submerged historic

maritime resources, and to preserve and maintain objects of state or national significance for the benefit, education, and inspiration of all of the people of this state.

SEC. 2. Section 5020.4 of the Public Resources Code is amended to read:

5020.4. The commission shall do all of the following:

- (a) Receive and evaluate applications for, and make recommendations with respect to entries on, the National Register of Historic Places to the State Historic Preservation Officer.
- (b) Conduct a statewide inventory and maintain comprehensive records of historical resources pursuant to federal and state law, including, but not limited to, historical landmarks and points of historical interest.
- (c) Establish criteria for the recording and preservation of historical resources, and for deletions from historical registers warranted by destruction or damage of a historical resource or other change in conditions.
- (d) Develop and adopt criteria for the rehabilitation of historic structures.
- (e) Establish policies and guidelines in compliance with state and federal requirements for a comprehensive statewide historical resources plan which includes, but is not limited to, architecture, history, archaeology, and folklife.
- (f) Develop and update annually, based upon public hearings and active public participation, the statewide historical resources plan.
- (g) Make recommendations to the department, based upon the statewide historical resources plan, including the listing of historical resource projects on a priority basis.
- (h) Develop criteria and procedures for a California Register of Historical Resources to be proposed for enactment by the Legislature and report its findings and recommendations to the Legislature on or before December 1, 1985.
- (i) Recommend to the department the criteria and standards for acceptance of historical buildings, structures, sites, or places for registration as historical landmarks or points of historical interest.
- (j) Receive and evaluate applications for registration of structures, sites, or places as historical landmarks or points of historical interest. The commission shall select and designate landmarks and points of historical interest that it determines meet the criteria in subdivision (a) of Section 5031. The commission shall maintain a register which identifies historical landmarks and points of historical interest by number and description.
- (k) Make recommendations to the department with respect to a standard design and detail for the marker or plaque which may be erected or raised at registered historical landmarks, and with respect to the use of the marker or plaque.
- (l) Recommend to the department the type of directional sign to be erected in connection with the registration of a point of historical interest.

- (m) Submit an annual report in January to the director and the Legislature giving an account of its activities, identifying unattained goals of historical resources plans and programs, and recommending needed legislation for the support of those programs. The director shall advise the commission of new and continuing plans, policy, and programs concerning statewide historic resources and shall receive and consider the views of the commission.
- (n) Consult with, and consider the recommendation of, public agencies, civic groups, and citizens interested in historic preservations.
- (o) Develop criteria and procedures based upon public hearings and active public participation for the selection of projects to be funded through the National Historic Preservation Fund and other federal and state grant-in-aid programs which have as their primary purpose the preservation and enhancement of historical resources.
- (p) Prepare, or cause to be prepared, and recommend to the director a budget with respect to those duties and responsibilities of the commission contained in this section.

The commission may adopt guidelines for the review of applications for excavation and salvage permits submitted pursuant to Section 6313 and make recommendations thereon to the State Lands Commission.

- SEC. 3. Section 5024.6 of the Public Resources Code is amended to read:
- 5024.6. There is in the department the State Office of Historic Preservation, which is under the direction of the officer and shall do all of the following:
- (a) Serve as the staff of the commission in carrying out its responsibilities, and as the staff of the officer in carrying out the responsibilities of that position.
- (b) Recommend properties of historical significance for nomination by the commission for the National Register of Historic Places and for registration as historical landmarks and points of historical interest.
- (c) Administer state and federal incentive programs for the preservation of historical resources.
- (d) Provide information on federal and state benefits for preservation projects and enhancement of historical resources.
- (e) Administer grant programs to survey historical resources and assist the development of these resources.
- (f) Assist other state agencies by providing information and education on the economic and social benefits of utilizing historical resources.
- (g) Provide public education and information on the preservation and enhancement of historical resources.
- (h) Provide information and technical assistance to local, state, and national organizations to promote preservation and enhancement of historical resources by developing model ordinances, financial mechanisms, educational programs,

conferences, workshops, and other materials.

- (i) Cooperate with cultural and ethnic commissions, such as the Native American Heritage Commission, or other organizations or representatives when projects involve these groups' concerns.
- (j) Review and comment on the impact on historical resources of publicly funded projects and programs undertaken by other governmental agencies.
- (k) Review applications for excavation and salvage permits for salvage in state waters.
- (l) Assist the State Lands Commission in administering Section 6313.
- SEC. 4. Section 6313 is added to the Public Resources Code, to read:
- 6313. (a) The commission may issue excavation and salvage permits to individuals or organizations representing museums, universities, colleges, or other recognized scientific or educational institutions and to individuals and organizations which demonstrate the capability to conduct these activities, as determined by the commission, for the excavation and salvage of sites or resources determined to be of historical or archaeological significance.
- (b) The commission shall forward all applications for excavation and salvage permits in state waters for historical resources 50 years and older to the State Office of Historic Preservation for review and recommendations, in order to protect sites or resources of historical or archaeological significance.
- (c) Criteria for the issuance of excavation and salvage permits, in addition to any other criteria established by the State Lands Commission or other provisions of law, shall include all of the following:
- (1) The commission may require that a person designated by the commission and paid by the permit applicant be present during all salvage operations to observe and record all items as they are retrieved, and to monitor compliance with the provisions of trapermit.
- (2) Designated intervals for the submission of detailed reports to the commission on the activities of the holder of the permit that comply with standards specified by the commission.
- (3) Excavation and salvage permits shall be issued for one year, with an option to extend the permit for additional one year periods at the discretion of, and upon reasonable terms and conditions as may be imposed by, the commission.
- (4) The disposition of all recovered artifacts, which may include provisions for display in state or local museums.
- (d) Permits may be revoked by the commission on its own motion, or by recommendation of the State Office of Historic Preservation, if the commission finds that the holder of the permit has failed to comply with this section or rules and regulations adopted by the commission pursuant to this section.

#### CHAPTER 1084

An act to amend Sections 439 and 15046 of, and to add Section 1253.2 to, the Health and Safety Code, relating to health facilities, and making and 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 439 of the Health and Safety Code is amended to read:

(a) Every health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, except a healthfacility owned and operated by the state, shall be charged a fee of not more than 0.035 percent of the health facility's gross operating cost for the provision of health care services for its last fiscal year ending. prior to the effective date of this section. Thereafter the office shall set for, charge to, and collect from all health facilities, except health facilities owned and operated by the state, a special fee, which shall be due on July 1, and delinquent on July 31 of each year beginning with the year 1977, of not more than 0.035 percent of the health facility's gross operating cost for provision of health care services for its last fiscal year which ended on or before June 30 of the preceding calendar year. Each year the office shall establish the fee to produce revenues equal to the appropriation to pay for the functions required to be performed pursuant to this part or Part 1.8 (commencing with Section 443) by the office, the area and local health planning agencies, and the Advisory Health Council.

Health facilities which pay fees shall not be required to pay, directly or indirectly, the share of the costs of those health facilities for which fees are waived.

- (b) There is hereby established the California Health Data and Planning Fund within the Office of Statewide Health Planning and Development for the purpose of receiving and expending fee revenues collected pursuant to this chapter.
- (c) Any amounts raised by the collection of the special fees provided for by subdivision (a) of this section which are not required to meet appropriations in the Budget Act for the current fiscal year shall remain in the California Health Data and Planning Fund and shall be available to the office and the council in succeeding years when appropriated by the Legislature, for expenditure under the provisions of this part and Part 1.8 (commencing with Section 443) and shall reduce the amount of the special fees which the office is authorized to establish and charge.
- (d) No health facility liable for the payment of fees required by this section shall be issued a license or have an existing license renewed unless the fees are paid. New, previously unlicensed health

facilities shall be charged a pro rata fee to be established by the office during the first year of operation.

The license of any health facility, against which the fees required by this section are charged, shall be revoked, after notice and hearing, if it is determined by the office that the fees required were not paid within the time prescribed by subdivision (a).

- SEC. 1.5. Section 1253.2 is added to the Health and Safety Code, to read:
- 1253.2. (a) Notwithstanding any other provision of law, any person proposing to construct a new skilled nursing facility or new intermediate care facility, increase the bed capacity in an existing skilled nursing facility or intermediate care facility, convert an existing skilled nursing facility or intermediate care facility from one license category to another, or convert a skilled nursing facility's or intermediate care facility's existing beds in one bed classification to a different bed classification, shall give written notice to the Office of Statewide Health Planning and Development of all of the following:
- (1) Intention to apply for new skilled nursing facility or new intermediate care facility licensure or to increase the bed capacity, convert the licensure category, or convert bed classifications associated with any of the proposals described in subdivision (a), at least 90 days before making any application therefor.
- (2) Zoning and planning approval for any construction, remodeling, or change in land use associated with any of the proposals described in subdivision (a), within 30 days of receipt of approval.
- (3) Receipt of a commitment for, or funding of, any construction loan or financing associated with any of the proposals described in subdivison (a), within 30 days of receipt of the commitment or funding, whichever first occurs.
- (b) The notices shall include at least the name and address of the person or organization giving notice, the proposed location of the project, and the number and classification of existing and proposed beds and facilities.
- (c) The Office of Statewide Health Planning and Development shall maintain an index of notices pursuant to this section, and shall make the contents of the index of notices available to members of the public upon request.
- (d) The Office of Statewide Health Planning and Development shall not issue a building permit authorizing any construction or alteration pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5, in connection with any of the proposals described in subdivision (a), until there has been full compliance with the notice requirements set forth in paragraphs (1) and (2) of subdivision (a). If plan approval by the office is not required for the proposal pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5, the state department shall not grant a license or change of license associated with any of the proposals described in subdivision

(a) until the applicant for licensure or change of licensure has fully complied with this section. The state department may adopt regulations to implement the purposes of this section.

SEC. 2. Section 15046 of the Health and Safety Code is amended to read:

15046. The application shall be accompanied by a filing fee in an amount which the statewide office determines will cover the costs of administering this chapter. The fee shall not exceed 2 percent of the estimated construction cost. The fee shall be established in accordance with applicable procedures established in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

The minimum fee in any case shall be two hundred fifty dollars (\$250).

The statewide office shall issue an annual permit upon submission, pursuant to Section 15042, of an application for a project only if its estimated construction cost is twenty-five thousand dollars (\$25,000) or less. The cost of this annual permit shall be two hundred fifty dollars (\$250) and this fee shall constitute the filing fee and shall cover all projects undertaken for a particular skilled nursing or intermediate care facility by the applicant up to an estimated construction cost of twenty-five thousand dollars (\$25,000) during the state fiscal year in which the annual permit is issued. The fees for projects over the twenty-five thousand dollars (\$25,000) limit shall be assessed at a rate established by the statewide office in regulation. However, the rate established by the statewide office shall not exceed 1.5 percent of the estimated construction cost for projects of skilled nursing and intermediate care facilities, as defined in subdivision (c), (d), (e), or (g) of Section 1250.

If the actual construction cost exceeds the estimated construction cost by more than 5 percent, a further fee shall be paid to the statewide office, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost. If the estimated construction cost exceeds the actual construction cost by more than 5 percent, the statewide office shall refund the excess portion of any paid fees, based on the above schedule and computed on the amount by which the estimated cost exceeds the amount of the actual cost. A refund shall not be required if the applicant did not complete construction or alteration of 75 percent of the square footage included in the project, as contained in the approved drawings and specifications for the project. In addition, the statewide office shall adopt regulations specifying other circumstances in which the statewide office shall refund to an applicant all or part of any paid fees for projects submitted under this division. The regulations shall include, but not be limited to, refunds of paid fees for a project which is determined by the statewide office to be exempt or otherwise not reviewable under this division, and for a project which is withdrawn by the applicant prior to the commencement of review by the statewide office of the drawing and

specifications submitted for the project. All refunds pursuant to this section shall be paid from the Hospital Building Account in the Architecture Public Building Fund, as established pursuant to Section 15047.

- SEC. 3. The costs that the Office of Statewide Health Planning and Development incurs pursuant to Section 1.5 of this act shall be paid, when appropriated by the Legislature, from the California Health Data and Planning Fund as established pursuant to subdivision (b) of Section 439 of the Health and Safety Code.
- SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

#### CHAPTER 1085

An act to add Section 12302.2 to the Welfare and Institutions Code, relating to public social services.

[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 12302.2 is added to the Welfare and Institutions Code, to read:

- 12302.2. A county, in receiving bids for a contract pursuant to Sections 12302, 12302.1, and 12303, may evaluate all or any bidders to determine their responsibility, and their responsiveness to the requirements of the bidding document. The county may take all of the following into account:
- (a) Whether the bidder possesses adequate financial resources, or the ability to obtain those resources as required before the beginning of the performance of the contract.
- (b) Whether the bidder has the ability to comply with the proposed delivery and performance schedule, taking into consideration available expertise and any other existing business commitments.
- (c) Whether the bidder has any record of unsatisfactory performance. In determining if a bidder has a record of unsatisfactory performance, the bidder shall submit a list to the county of all prior in-home supportive services contracts awarded, if any. A county may review past contracts, if any, to determine if the bidder's past in-home supportive services contract performance has been unsatisfactory.

- (d) Whether the bidder has any record of lack of integrity or poor business ethics.
- (e) Whether the bidder is otherwise qualified and eligible to receive an award under applicable statutes and regulations.
- (f) Whether the bid substantially and materially complies with all requirements of the county's bidding document.

### CHAPTER 1086

An act to amend Section 1428 of the Health and Safety Code, relating to health facilities.

[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 1428 of the Health and Safety Code is amended to read:

- (a) If a licensee desires to contest a class "AA" or a class 1428. "A" citation, or a citation alleging a class "B" violation and either a class "AA" or class "A" violation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located. The director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. If the licensee fails to notify the director in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made by a director's designee after a citation review conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision by a director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review.
- (b) If a licensee notifies the director that he or she intends to contest a class "AA" or a class "A" citation, or a citation alleging a

class "B" violation and either a class "AA" or class "A" violation, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon, and shall take such other action as the Attorney General shall deem appropriate, in the court of competent jurisdiction for the county in which the long-term health care facility is located.

(c) If a licensee desires to contest a class "B" citation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation (1) notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located; or (2) notify the director in writing of the licensee's intent to adjudicate the validity of the citation in the municipal court in the county in which the long-term health care facility is located. If requested by the licensee, the director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. In order to perfect a judicial appeal of a contested citation, a licensee shall file a civil action in the municipal court in the county in which the long-term health care facility is located. The action shall be filed no later than 60 calendar days after a licensee notifies the director that he or she intends to contest a citation, or, in the event a citation review conference is held, no later than 60 calendar days after a licensee notifies the director of his or her intent to contest the decision of the director's designee. If a judicial appeal is prosecuted under the provisions of this subdivision, the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation or the decision made by the director's designee within the time specified in this subdivision, or fails to file a civil action within the time specified in this subdivision, the citation or the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject

to further administrative review. If a licensee prosecutes a judicial appeal of a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department.

(d) The director or the director's designee shall establish an independent unit of trained citation review conference hearing officers within the state department to conduct citation review conferences. Citation review conference hearing officers shall be directly responsible to the deputy director for licensing and certification, and shall not be concurrently employed as supervisors, district administrators, or regional administrators with the licensing and certification division. Specific training shall be provided to members of this unit on conducting an informal conference, with emphasis on the regulatory and legal aspects of long-term health care.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference.

- (1) The complainant and his or her designated representative.
- (2) A personal health care provider, designated by the resident.
- (3) A personal attorney, only if the long-term health care facility has an attorney present.
- (4) Any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name specific residents, any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents' council shall designate which representative will participate.

The complainant, affected resident, or their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

- (e) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to, all of the following:
- (1) The probability and severity of the risk which the violation presents to the patient's mental and physical condition.
  - (2) The patient's medical condition.
  - (3) The patient's mental condition and his or her history of mental

disability.

- (4) The good-faith efforts exercised by the facility to prevent the violation from occurring.
  - (5) The licensee's history of compliance with regulations.
- (f) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class "A" or class "B" violation shall be trebled and collected for a second or subsequent violation occurring within any 12-month period, if a citation was issued and a civil penalty assessed for the previous violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until the previous action has terminated in favor of the state department.

If the class "B" violation is a patient's rights violation, as defined in subdivision (d) of Section 1424, it shall not be trebled unless the state department determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

- (g) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to safety or health.
- (h) Actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.
- (i) If the citation is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed or reduced.
- (j) Upon a licensee notifying the director of its intent to contest one or more citations or decisions made following a citation review conference where the total penalties do not exceed fifteen thousand dollars (\$15,000), either the state or the licensee may elect to submit the matter to binding arbitration. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the petitioner's election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. The decision of the arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

The arbitrator shall determine which of the parties are financially

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liable for arbitration costs based upon the position each took at the commencement of the arbitration proceedings compared to the decision of the arbitrator.

The retention of, renewal of, or application for, a license to operate a skilled nursing facility or intermediate care facility shall, for purposes of the administration of this chapter, be deemed a written agreement to arbitrate contested citations within the meaning of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Without extending the time for commencement of these hearings, the provisions of Section 1283.05 of the Code of Civil Procedure shall be applicable to all proceedings to arbitrate citations issued pursuant to this chapter, except that depositions may be noticed and taken without prior approval of the arbitrator.

Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this subdivision. Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this provision, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients of the facility.

# CHAPTER 1087

An act to repeal and add Sections 17053.7 and 24330 of the Revenue and Taxation Code, and to repeal, add, and repeal Section 328 of the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[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 17053.7 of the Revenue and Taxation Code, as added by Chapter 1461 of the Statutes of 1985, is repealed.

SEC. 2. Section 17053.7 of the Revenue and Taxation Code, as added by Chapter 1564 of the Statutes of 1985, is repealed.

SEC. 3. Section 17053.7 is added to the Revenue and Taxation Code, to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for

the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

For the purposes of this subdivision, if on or before the day on which the individual begins work for the employer, the individual has received from the Employment Development Department a written preliminary determination that he or she is a member of a targeted group, then the requirement of paragraph (1) or (2) shall be applicable on or before the fifth day on which the individual begins work for the employer.

- (b) The credit under this section shall not apply to wages paid in excess of three thousand dollars (\$3,000) during a taxable year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars (\$600).
- (c) The credit under this section shall not apply to wages paid to an individual:
- (1) Who bears any of the relationships described in paragraphs (1) to (8), inclusive, of Section 152(a) of the Internal Revenue Code to the taxpayer; or
- (2) Who, if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) to (8), inclusive, of Section 152(a) of the Internal Revenue Code to a grantor, beneficiary, or fiduciary of the estate or trust; or
- (3) Who is a dependent (as described in Section 152(a) (9) of the Internal Revenue Code) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or a fiduciary of the estate or trust.
- (d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.
- (e) If the certification of an employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.
- (f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.
- (g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date the employee begins working for the taxpayer.
  - (h) (1) A taxpayer may elect to have this section not apply for

any taxable year.

- (2) An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the four-year period beginning on the last date prescribed by law for filing the return for that taxable year (determined without regard to extensions).
- (3) An election under paragraph (1) (or revocation thereof) shall be made in any manner which the Franchise Tax Board may prescribe.
- (i) (1) In the case of a successor employer referred to in Section 3306(b) (1) of the Internal Revenue Code, the determination of the amount of the credit under this section with respect to wages paid by that successor employer shall be made in the same manner as if those wages were paid by the predecessor employer referred to in that section.
- (2) No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by that employee for another person, unless the amount reasonably expected to be received by the employer for those services from that other person exceeds the remuneration paid by the employer to that employee for those services.
- (j) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for the employer after December 31, 1989.
- SEC. 4. Section 24330 of the Revenue and Taxation Code, as added by Chapter 1461 of the Statutes of 1985, is repealed.
- SEC. 5. Section 24330 of the Revenue and Taxation Code, as added by Chapter 1564 of the Statutes of 1985, is repealed.
- SEC. 6. Section 24330 is added to the Revenue and Taxation Code, to read:
- 24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

- (1) Has received a certification from the Employment Development Department, or
- (2) Has requested in writing that certification from the Employment Development Department.

For purposes of this subdivision, if on or before the day on which the individual begins work for the employer, the individual has received from the Employment Development Department a written preliminary determination that he or she is a member of a targeted group, then the requirement of paragraph (1) or (2) shall be applicable on or before the fifth day on which the individual begins work for the employer.

- (b) The credit under this section shall not apply to wages paid in excess of three thousand dollars (\$3,000) during an income year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars (\$600).
- (c) The credit under this section shall not apply to wages paid to an individual:
- (1) Who is a dependent, as described in paragraphs (1) to (8), inclusive, of Section 152(a) of the Internal Revenue Code, of an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (determined with the application of Section 267(c) of the Internal Revenue Code); or
- (2) Who is a dependent (as described in paragraph (9) of Section 152(a) of the Internal Revenue Code) of an individual described in paragraph (1).
- (d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.
- (e) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.
- (f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.
- (g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date the employee begins working for the taxpayer.
- (h) (1) A taxpayer may elect to have this section not apply for any income year.
- (2) An election under paragraph (1) for any income year may be made (or revoked) at any time before the expiration of the four-year period beginning on the last date prescribed by law for filing the return for that income year (determined without regard to extensions)."
- (3) An election under paragraph (1) (or revocation thereof) shall be made in any manner which the Franchise Tax Board may prescribe.
- (i) (1) In the case of a successor employer referred to in Section 3306(b) (1) of the Internal Revenue Code, the determination of the amount of the credit under this section with respect to wages paid by that successor employer shall be made in the same manner as if those wages were paid by the predecessor employer referred to in that section.

- (2) No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by that employee for another person unless the amount reasonably expected to be received by the employer for those services from that other person exceeds the remuneration paid by the employer to that employee for those services.
- (j) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for an employer after December 31, 1989.
- SEC. 7. Section 328 of the Unemployment Insurance Code, as added by Chapter 1461 of the Statutes of 1985, is repealed.
- SEC. 8. Section 328 is added to the Unemployment Insurance Code, to read:
- 328. (a) The department shall administer the California Jobs Tax Credit Act as provided in this section, except those functions reserved to the Franchise Tax Board by Section 17053.7 or 24330 of the Revenue and Taxation Code. The department shall develop administrative procedures and guidelines necessary to carry out the intent of the act, including, but not limited to, the means to monitor and measure its effectiveness. For the purpose of certifying individuals meeting the criteria of subdivision (b), the department may delegate its responsibilities under this act to the State Department of Social Services. Upon delegation of this responsibility, the State Department of Social Services may provide by regulation for the issuance by county welfare departments of written preliminary determinations pursuant to subdivision (a) of Section 11320.5 of the Welfare and Institutions Code.
- (b) The department shall certify, upon the request of any applicant, for the purposes of Section 17053.7 or 24330 of the Revenue and Taxation Code, that any individual, at the time of his or her hiring by the applicant, is a registrant under the Greater Avenues of Independence Act of 1985 as provided in Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.
- (c) If an individual has been certified as meeting any of the criteria in subdivision (b) and that certification is incorrect because it was based on false information provided by that individual, the certification shall be revoked, and the department shall immediately notify the applicant who requests the certification of the revocation.
- (d) This section shall remain in effect only until January 1, 1990, and as of that date is repealed.
- 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 1088

An act to amend Sections 30352, 30356, and 30800 of, and to add Section 30895.5 to, the Streets and Highways Code, relating to ferry boats.

[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 30352 of the Streets and Highways Code is amended to read:

As long as any of the bonds issued pursuant to this chapter for the acquisition, construction, enlargement, extension, or change in design or structure of any toll bridge or other highway crossing acquired or constructed pursuant to this chapter or the transportation facilities or additional transportation facilities thereon or thereto are outstanding and unpaid, any ferry or any similar means of crossing the waters within 10 miles from either side of the toll bridge shall not be operated, except as between the particular points of landing between which the ferry or other similar means of crossing was operated and only as to the particular classes of service in which the ferry or other similar means of crossing was actually engaged at the time the construction of the toll bridge or other highway crossing was authorized by the commission. Any ferry or other similar means of crossing shall not be restored to operation between any points of landing or as to any class of traffic operation discontinued subsequent to the authorization by the commission of any bridge or highway crossing.

"Ferry," as used in this article, includes vessels of any kind or character operating upon the inland waters of this state for the transportation of persons or vehicles other than railway freight cars, but excludes vessels operated by common carriers providing transportation service subject to the jurisdiction of the Public Utilities Commission.

Utilities Commission.

SEC. 2. Section 30356 of the Streets and Highways Code is amended to read:

30356. The limitations and provisions of this article do not apply to any ferry across San Diego Bay.

The provisions and limitations of this article do not prevent the operation of any ferry or other similar means of crossing authorized or permitted by either of the following:

- (a) The California Transportation Commission during the period of time that any toll bridge or other highway crossing is obstructed to traffic because of accident thereto or repair thereof, or is for any reason unable to fully accommodate traffic.
  - (b) The Public Utilities Commission.
  - SEC. 3. Section 30800 of the Streets and Highways Code is

amended to read:

30800. The department has exclusive jurisdiction and, except as provided in this article, may grant upon the terms, limitations, conditions, and restrictions and under the supervision as in its judgment are necessary or proper, franchises, privileges, or licenses for the construction or operation of toll bridges, toll roads, and toll ferries and for the taking and keeping of tolls from the bridges, roads, and ferries situated wholly or in part within the state. "Toll ferries" do not include vessels operated by common carriers providing transportation service subject to the jurisdiction of the Public Utilities Commission.

SEC. 4. Section 30895.5 is added to the Streets and Highways Code, to read:

30895.5. The commission shall not approve the use of toll bridge revenues to subsidize the establishment or operation of ferry systems operated by common carriers providing transportation service subject to the jurisdiction of the Public Utilities Commission.

### CHAPTER 1089

An act to amend Sections 11476 and 14005.1 of, and to add Section 11475.5 to, the Welfare and Institutions Code, relating to public social services, 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 11475.5 is added to the Welfare and Institutions Code, to read:

11475.5. (a) The State Department of Social Services shall publish a booklet describing the proper procedures and processes for the collection and payment of child and spousal support. The booklet shall be written in language understandable to the lay person and shall direct the reader to obtain the assistance of the local district attorney's office or legal counsel where appropriate. The department may contract on a competitive basis with an organization or individual to write the booklet.

- (b) The department shall have primary responsibility for the design and development of the contents of the booklet. The department shall verify the appropriateness and accuracy of the contents of the booklet with at least one representative of each of the following organizations:
  - (1) A county district attorney's office.
  - (2) The State Attorney General's office.
  - (3) The California Family Support Council.

- (4) A community organization which advocates for the rights of custodial parents.
- (5) A community organization which advocates for the rights of supporting parents.
- (c) Upon receipt of booklets on support collection, each county welfare department shall provide a copy to each head of household whose application for public assistance under this chapter has been approved and for whom support rights have been assigned pursuant to Section 11477. The State Department of Social Services shall provide copies of the booklet to district attorneys' offices for distribution, and to any person upon request.
- (d) The department shall expand the information provided under its toll-free information hotline in response to inquiries regarding the process and procedures for collection and payment of child and spousal support. This toll-free number shall be advertised as providing information on child and spousal support. The hotline personnel shall not provide legal consultation or advice, but shall provide only referral services.
- (e) The department shall maintain a file of referral sources to provide callers to the telephone hotline with the following information specific to the county in which the caller resides:
- (1) The location and phone number of the district attorney's office, the county welfare office, and any other government agency which handles child and spousal support matters.
- (2) The telephone number of the local bar association for referral to attorneys in family law practice.
- (3) The name and telephone number of at least one organization which advocates the payment of child and spousal support or the name and telephone number of at least one organization which advocates the rights of supporting parents, if these organizations exist in the county.
- SEC. 2. Section 11476 of the Welfare and Institutions Code is amended to read:
- 11476. It shall be the duty of the county department to refer all cases where a parent is absent from the home, or where the parents are unmarried and parentage has not been determined by a court of competent jurisdiction, to the district attorney immediately at the time the application for assistance, or certificate of eligibility, is signed by the applicant or recipient. If an applicant is found to be ineligible, the applicant shall be notified in writing that the referral of the case to the district attorney may be terminated at the applicant's request. The county department shall cooperate with the district attorney and shall make available to him or her all pertinent information as provided in Section 11478.

Upon referral from the county department, the district attorney shall investigate the question of nonsupport or paternity and shall take all steps necessary to obtain child support for the needy child, enforce spousal support as part of the state plan under Section 11475.2, and determine paternity in the case of a child born out of

wedlock. Upon the advice of the county department that a child is being considered for adoption, the district attorney shall delay the investigation and other actions with respect to the case until advised that the adoption is no longer under consideration. The granting of aid to an applicant shall not be delayed or contingent upon investigation by the district attorney.

Where a court order has been obtained, any contractual agreement for support between the district attorney or the county department and the noncustodial parent shall be deemed null and void to the extent that it is not consistent with the court order.

Whenever a family which has been receiving aid to families with dependent children ceases to receive assistance, the district attorney shall, to the extent required by federal regulations, continue to enforce support payments from the noncustodial parent until such time as the individual on whose behalf the enforcement efforts are made sends written notice to the district attorney requesting that enforcement services be discontinued.

The district attorney shall, where appropriate, utilize reciprocal arrangements adopted with other states in securing support from an absent parent. In individual cases where utilization of reciprocal arrangements has proven ineffective, the district attorney may forward to the Attorney General a request to utilize federal courts in order to obtain or enforce orders for child or spousal support. If reasonable efforts to collect amounts assigned pursuant to Section 11477 have failed, the district attorney may request that the case be forwarded to the Treasury Department for collection in accordance with federal regulations. The Attorney General, where appropriate, shall forward these requests to the Secretary of Health and Human Services, or a designated representative.

- SEC. 3. Section 14005.1 of the Welfare and Institutions Code is amended to read:
- 14005.1. Except for adults receiving aid pursuant to Chapter 2 (commencing with Section 11200) and for whom federal financial participation would not be obtainable for their medical costs under Title XIX of the federal Social Security Act, categorically needy persons are eligible for health care services under Section 14005.

Eligibility for health care services under Section 14005 shall continue for four calendar months beginning with the month in which a family becomes ineligible for benefits under the Aid to Families with Dependent Children program, if all of the following apply:

- (a) The ineligibility is due wholly or partly to the collection or increased collection of child or spousal support pursuant to Article 7 (commencing with Section 11475) of Chapter 2.
- (b) The family has received benefits under the Aid to Families with Dependent Children program in at least three of the six months immediately preceding the month in which ineligibility begins.
- (c) Ineligibility occurred after October 1, 1984, and before October 1, 1988.

- SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.
- SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the provisions of the federal Child Support Enforcement Amendments of 1984 (P.L. 98-378) as soon as possible, it is necessary that this act take effect immediately.

# CHAPTER 1090

An act to add Section 25416 to the Health and Safety Code, relating to hazardous materials.

[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 25416 is added to the Health and Safety Code, to read:

- 25416. (a) All studies and community information programs conducted pursuant to this section shall be done only if either subdivision (b) applies or if funds are available without restructuring the department's funding priorities. The department shall conduct these studies and information programs in the following manner:
- (1) The department shall, except as provided in subdivision (b), and in conjunction with the local health officer, conduct or contract for epidemiological studies to identify and monitor health effects related to exposure to hazardous materials, as defined in Section 66084 of Title 22 of the California Administrative Code. A study may be conducted in any area of the state identified by the department or the local health officer as a site of potential exposure to hazardous materials, including, but not limited to, any of the following areas:
- (A) All communities located near hazardous waste disposal facilities.
- (B) In all communities containing hazardous substance release sites listed pursuant to Section 25356 or listed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).
- (C) In all areas around the location of major generators of hazardous waste.

- (D) In all other areas identified by local health officers or the state department as possible locations of public exposure to hazardous materials.
- (2) The department shall determine which epidemiological studies are to be conducted pursuant to this section based on the potential for public exposure to hazardous materials. Studies in areas near Class I hazardous waste disposal facilities, as defined in Section 2531 of Title 23 of the California Administrative Code, shall be given the highest priority for funding. If a hearing is conducted pursuant to Section 25149 and the hearing officer determines that there is a significant potential for endangerment to the public as a result of the suspected or actual release of a hazardous material, the department shall give priority to conducting an epidemiological study for that facility.
- (3) If a local health officer determines that a study should be conducted pursuant to this section because of a potential public exposure to hazardous materials, the local health officer may request that the department initiate or contract for a study pursuant to this section by demonstrating to the department that there is sufficient evidence that justifies the need for a study. The department shall respond to the local health officer's request within 90 days.
- (4) A local health officer may contract with qualified persons or firms to produce the epidemiological studies specified in paragraph (1).
- (5) The design and methodology of any study conducted pursuant to this section shall be reviewed and approved by the department prior to the initiation of the study.
- (6) In any county in which hazardous waste disposal facilities are located and in all other counties in which the state department identifies significant actual or potential public exposure to hazardous materials, the department shall, in conjunction with the local health officer, conduct or contract for a community information program with respect to sites of potential exposure to hazardous materials identified under paragraph (1) to do all of the following:
- (A) Organize and conduct educational programs for local physicians and other health professionals on the effects of exposure to hazardous materials and reporting requirements.
- (B) Disseminate information to high risk populations on the health effects of exposure to hazardous materials.
- (C) Conduct public forums on the health effects of exposure to hazardous substances and methods of limiting exposure.
- (7) Paragraph (6) does not apply to hazardous substance release sites listed on the National Priorities List for which the Environmental Protection Agency has assumed lead responsibility for community relations.
- (b) If a county is authorized to impose a license tax pursuant to Section 25149.5 for revenue purposes, the department may require the county to provide funding for carrying out epidemiological studies or the community information program concerning the

hazardous waste facility subject to the license tax. The department shall provide the county with technical assistance to conduct an epidemiological study pursuant to this subdivision. The department may exempt a county from the requirement of this subdivision if the county demonstrates to the department that the revenue potential from the facility would not be adequate to conduct an epidemiological study or community information program. When considering a county request for an exemption, the department shall consider the regulatory costs and responsibilities of the county related to that facility.

- (c) The department shall expend funds from the Hazardous Substance Account, upon appropriation by the Legislature, to conduct studies and community information programs in countiescontaining a hazardous substance release site listed pursuant to Section 25356. The department shall expend funds from the Hazardous Waste Control Account, upon appropriation by the Legislature, to conduct all other studies and community information programs conducted pursuant to this section, except as provided in subdivision (b).
- 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 1091

An act to amend Section 5125 of, and to add Section 5125.1 to, the Civil Code, relating to marital property.

[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 5125 of the Civil Code is amended to read: 5125. (a) Except as provided in subdivisions (b), (c), and (d) and Sections 5113.5 and 5128, either spouse has the management and control of the community personal property, whether acquired prior to or on or after January 1, 1975, with like absolute power of disposition, other than testamentary, as the spouse has of the separate estate of the spouse.
- (b) A spouse may not make a gift of community personal property, or dispose of community personal property without a valuable consideration, without the written consent of the other spouse.
- (c) A spouse may not sell, convey, or encumber community personal property used as the family dwelling, or the furniture,

furnishings, or fittings of the home, or the clothing or wearing apparel of the other spouse or minor children which is community personal property, without the written consent of the other spouse.

(d) Except as provided in subdivisions (b) and (c), and in Section 5127, a spouse who is operating or managing a business or an interest in a business that is all or substantially all community personal property has the primary management and control of the business or interest. Primary management and control means that the managing spouse may act alone in all transactions but shall give prior written notice to the other spouse of any sale, lease, exchange, encumbrance or other disposition of all or substantially all of the personal property used in the operation of the business (including personal property used for agricultural purposes), whether or not title to that property is held in the name of only one spouse. Written notice is not, however, required when prohibited by the law otherwise applicable to the transaction.

Any change of the form of a business is not subject to the requirement of written notice.

Remedies for the failure by a managing spouse to give prior written notice as required by this subdivision are only as specified in Section 5125.1. A failure to give prior written notice shall not adversely affect the validity of a transaction nor of any interest transferred.

- (e) Each spouse shall act in good faith with respect to the other spouse in the management and control of the community property in accordance with the general rules which control the actions of persons having relationships of personal confidence as specified in Section 5103, until such time as the property has been divided by the parties or by a court. This duty includes the obligation to make full disclosure to the other spouse of the existence of assets in which the community has an interest and debts for which the community may be liable, upon request. The case law defining the standard of care applicable to Section 5103, but not the case law applicable to Title 8 (commencing with Section 2215) of Part 4 of Division 3, applies to this section. In no event shall this standard be interpreted to be less than that of good faith in confidential relations nor as high as that established by Title 8 (commencing with Section 2215) of Part 4 of Division 3.
  - SEC. 2. Section 5125.1 is added to the Civil Code, to read:
- 5125.1. (a) A spouse has a claim against the other spouse for a breach of the duty imposed by Section 5125 or 5127 that results in substantial impairment to the claimant spouse's present undivided one-half interest in the community estate.
- (b) A court may order an accounting of the property and obligations of the parties to a marriage and may determine the rights of ownership in, the beneficial enjoyment of, or access to, community property, and the classification of all property of the parties to a marriage.
  - (c) A court may order that the name of a spouse shall be added

to community property held in the name of the other spouse alone or that the title of community property held in some other title form shall be reformed to reflect its community character, except with respect to any of the following:

- (1) A partnership interest held by the other spouse as a general partner.
- (2) An interest in a professional corporation or professional association.
- (3) An asset of an unincorporated business if the other spouse is the only spouse involved in operating and managing the business.
- (4) Any other property, if the revision would adversely affect the rights of a third person.
- (d) (1) Except as provided in paragraph (2), any action under subdivision (a) shall be commenced within three years of the date a petitioning spouse had actual knowledge that the transaction or event for which the remedy is being sought occurred.
- (2) An action may be commenced under this section upon the death of a spouse or in conjunction with an action for legal separation, dissolution of marriage, or nullity without regard to the time limitations set forth in paragraph (1).
- (3) The defense of laches may be raised in any action brought under this section.
- (4) Except as to actions authorized by paragraph (2), remedies under subdivision (a) apply only to transactions or events occurring on or after July 1, 1987.
- (e) In any transaction affecting community property in which the consent of both spouses is required, the court may, upon the motion of a spouse, dispense with the requirement of the other spouse's consent if both of the following requirements are met:
- (1) The proposed transaction is in the best interest of the community.
- (2) Consent has been arbitrarily refused or cannot be obtained due to the physical incapacity, mental incapacity, or prolonged absence of the nonconsenting spouse.
- (f) Any action may be brought under this section without filing an action for dissolution of marriage, legal separation, or nullity, or may be brought in conjunction with the action or upon the death of a spouse.
- SEC. 3. (a) It is the intent of the Legislature in enacting this act to clarify and enhance the duties owed by one spouse to another in managing community property. This act shall not be interpreted or applied to adversely affect rights of any party under existing law other than a spouse. Except as to actions authorized by paragraph (2) of subdivision (d) of Section 5125.1 of the Civil Code, remedies under subdivision (a) of Section 5125.1 of the Civil Code apply only to transactions or events occurring on or after July 1, 1987.
- (b) It is the intent of this legislation to set a standard with regard to the financial and property rights of the marriage which would promote an equal marital partnership protecting the rights and

establishing the responsibilities of both parties equally.

(c) The Legislature intends that the management standard controlling Sections 5103 and 5125 of the Civil Code be the standard developed under the case law under Section 5103 of the Civil Code and that this uniform standard, subject to further judicial interpretation, control the two sections. The amendments to subdivision (e) of Section 5125 of the Civil Code make clear that this standard is not intended to be lower than the good faith in confidential relations standard developed under Section 5103 of the Civil Code. They also make clear that this standard is not intended to be as high as the highest good-faith standard set forth in Title 8 (commencing with Section 2215) of Part 4 of Division 3 of the Civil Code. The amendments also extend the case law by making express an obligation to disclose assets and obligations upon request prior to marital separation and by expressly maintaining the standard of care that controls management of community property prior to separation to the period after separation or dissolution of marriage so long as the property remains undivided by the parties or a court.

SEC. 4. This act shall be operative on July 1, 1987.

# **CHAPTER 1092**

An act to amend Sections 1601, 1602, 1603, and 1610 of the Business and Professions Code, relating to dentistry.

[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 1601 of the Business and Professions Code is amended to read:

1601. There is in the Department of Consumer Affairs a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. The board shall be organized into standing committees dealing with examinations, enforcement, auxiliary matters, and other subjects as the board deems appropriate.

SEC. 2. Section 1602 of the Business and Professions Code is amended to read:

1602. All of the members of the board, except the public members, shall have been actively and legally engaged in the practice of dentistry in the State of California, for at least five years next preceding the date of their appointment. The dental hygienist member shall have been a registered dental hygienist, and the dental assistant member shall have been a registered dental assistant, in the State of California for at least five years next preceding the date of

their appointment. The public members shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600. No more than one member of the board shall be a member of the faculty of any dental college or dental department of any medical college in the State of California. None of the members, including the public members, shall have any financial interest in any such college.

SEC. 3. Section 1603 of the Business and Professions Code is amended to read:

1603. Members of the board shall be appointed for a term of four years, and each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

A vacancy occurring during a term shall be filled by appointment for the unexpired term, within 30 days after it occurs.

No person shall serve as a member of the board for more than two terms.

The Governor shall appoint two of the public members, the dental hygienist member, the dental assistant member, and the eight licensed dentist members of the board. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

The Governor shall appoint the dental hygienist member on or after January 1, 1984. The initial term of the dental hygienist member shall expire on January 1, 1988.

The Governor shall appoint the dental assistant member on or after January 1, 1987. The initial term of the dental assistant member shall expire on January 1, 1991.

SEC. 4. Section 1610 of the Business and Professions Code is amended to read:

1610. Eight members of the board shall constitute a quorum for the transaction of business at any meeting.

#### CHAPTER 1093

An act to amend Sections 1343, 1770, 1770.5, 1771, 1790.7, and 1790.9 of, to add Sections 1773.6, 1773.7, 1773.8, 1773.9, 1775.5, 1780.5, 1780.6, and 1788.5 to, to repeal and add Sections 1773.5 and 1788 of, and to add Article 3 (commencing with Section 1791) to Chapter 10 of Division 2 of, the Health and Safety Code, and to repeal and add Section 10557 of the Welfare and Institutions Code, relating to life care 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. The Legislature finds and declares all of the following:

- (a) Life care contracts for elderly retirement living have been a long-standing method of providing housing, services, and health care to many older persons in California.
- (b) Protection for individuals entering into life care contracts is in the public interest and as such, life care contract regulation has been mandated in law for many years.
- (c) As the numbers of elderly persons grow in California, there is an increased interest in providing new housing, including arrangements that challenge the essence of the life care contract laws.
- (d) Therefore, it is the intent of the Legislature to redefine life care contract and certain related terms, enhance compliance and allow for enforcement in order to assure consumer protection for elderly persons entering into a contractual arrangement that promises to provide care.
- SEC. 1.5. Section 1343 of the Health and Safety Code is amended to read:
- 1343. (a) The provisions of this chapter shall apply to health care service plans and specialized health care service plan contracts as defined in subdivisions (f) and (n) of Section 1345.
- (b) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class of persons or plan contracts if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.
- (c) The commissioner, upon request of the Director of Health Services, shall exempt from the provisions of this chapter any county-operated pilot program contracting with the State Department of Health Services pursuant to Article 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code. The commissioner may exempt non-county-operated pilot programs upon request of the Director of Health Services. Those exemptions may be subject to conditions the Director of Health Services deems appropriate.
  - (d) The provisions of this chapter shall not apply to:
- (1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through those entity-owned or contracting health facilities and providers, in which case the

provisions of this chapter shall apply to the insurer's plan and to the

- (2) A plan directly operated by a bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.
- (3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.
- (4) A person who promises to provide care for life or for more than one year in return for a transfer of consideration from, or on behalf of, a person 60 years of age or older; provided, that person has obtained a written license pursuant to Chapter 2 (commencing with Section 1250) or Chapter 3.3 (commencing with Section 1569) of this division, and that person has obtained a certificate of authority from the State Department of Social Services.
- SEC. 2. Section 1770 of the Health and Safety Code is amended to read:
- (a) Any provider who promises to provide care for life or for more than one year in return for a transfer of consideration from, or on behalf of, a person 60 years of age or older shall first receive written licenses pursuant to Chapter 2 (commencing with Section 1250) or Chapter 3.3 (commencing with Section 1569) of this division, and shall also obtain a certificate of authority from the State Department of Social Services.
- (b) Notwithstanding subdivision (a), any arrangement for the care of a person by a relative, or any arrangement for the care of a person or persons from only one family by a friend, shall not require a certificate of authority.
- (c) Any transaction, or series of transactions, in which care is promised to an elderly person in return for an entrance fee, prepayment, or other transfer of consideration which covers more than one year of services to, or residence for, that person shall be regarded as a life care contract under this chapter.
- (d) Any arrangement for which a permit to sell deposit subscriptions or a certificate of authority has been obtained shall not be deemed a security for any purpose.
- (e) If a provider subcontracts or assigns the responsibility to provide life care to another person or entity, in return for a periodic or prepaid payment, the other person or entity shall have a certificate of authority.
- SEC. 3. Section 1770.5 of the Health and Safety Code is amended to read:
- 1770.5. (a) The Legislature finds and declares that abrupt and involuntary transfer of frail, elderly residents from one home to another can and does have tragic consequences. Numerous studies have shown that such forced movement often results in the death of the transferee and almost always causes depression or regressive behavior. Called "transfer trauma," the cause of this reaction has

been variously ascribed to the loss of a familiar physical environment, loss of well-known neighbors, attendants, nurses and medical personnel, the stress of an abrupt break in the small routines of daily life, and the major loss of visits from friends and relatives who may be unable to reach the new facility. Involuntary transfer may occur when a provider of services under a life care contract has been found to be insolvent or substantially out of compliance with state operating standards and is temporarily or permanently denied a certificate of authority. Currently, the State Department of Social Services has no mechanism by which to ensure the orderly transfer of residents or the liquidation of facilities' assets.

- (b) It is the intent of the Legislature in enacting this chapter to provide a procedure whereby the State Department of Social Services, after consultation with the Committee on Life Care Contracts of the State Social Services Advisory Board, may petition the superior court for an order appointing a qualified administrator to work with the management of, and, in specified circumstances, to operate a facility of, a provider which has been found to be out of compliance with the rules and regulations for the performance of life care contracts and thereby prevent crisis situations wherein elderly residents are left without means for their support or moved without proper preparation.
- (c) It is the intent of the Legislature that the administrator may only assume the operation of such a provider in order to either bring it into compliance with law and return it to the original certificate holder in accordance with standards set forth in this chapter, or facilitate an orderly liquidation of the provider. It is the intent of the Legislature that the administrator shall assure the orderly transfer of residents should the provider ultimately fail.
- (d) The Legislature further finds and declares that safeguards are necessary to protect elderly persons from selling or mortgaging their homes or transferring substantial amounts of cash or other consideration, in anticipation of the construction, licensure and operation of facilities promising to offer life care, when there is a material reason to believe that the facilities in development will not achieve the requisite enrollment, financing, licensure or other attributes necessary to commence and sustain operations on a sound financial basis. Methods and procedures to implement these safeguards shall be established by the department. These safeguards shall include, but shall not be limited to, the following:
- (1) Reasonable assurance that accommodations and services promised to elderly persons who have entered into life care contracts will be provided.
- (2) Reserves, as provided in Sections 1775 and 1775.5, in order to preserve and provide collateral for consideration received from elderly persons who have entered into life care contracts or deposit subscription agreements so that contracted services may be provided and refunds paid as specified by this chapter and by contract provisions.

- (3) Disclosure of basic information about providers, including current financial condition, affiliation with other persons or entities, and status of compliance with requirements of this chapter.
- (4) Requirement that life care contracts include basic protective provisions as set forth in regulations promulgated by the department.
- (5) Encouragement of self-regulation by providers, consultation with the advisory board about proposed regulations.
- SEC. 4. Section 1771 of the Health and Safety Code is amended to read:
- 1771. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.
- (a) "Advisory board" or "board" means the Committee on Life Care Contracts of the State Social Services Advisory Board.
- (b) "Applicant for life care" means any person, prospective resident or transferor who transfers money or other consideration to a provider prior to the execution of a life care contract, based on the provider's representation that the transfer will reserve a living unit in, or assure care from, a facility, or as a prerequisité to the execution of a life care contract.
- (c) "Care" means nursing services, medical services, health services, health related services, or assistance with the personal activities of daily living, or any combination of those services.
- (d) "Certificate" or "certificate of authority" means an authorization in writing, in the form designated by the state department, for a provider to enter into one or more life care contracts at a single specified facility.
  - (e) "Contracts" or "agreements" means life care contracts.(f) "Department" or "state department" means the State
- Department of Social Services.
- (g) "Deposit subscription" means the installment payment of the entrance fee made by an applicant for life care to a provider during development or construction of a facility, pursuant to an approved permit to sell deposit subscriptions.
  - (h) "Director" means the Director of Social Services.
  - (i) "Elderly person" means a person 60 years of age or older.
- (j) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property, made or promised to be made by a person entering into a life care contract, for the purpose of assuring care or related services pursuant to a life care contract or as full or partial payment for the promise to provide a facility.
- (k) "Escrow agent" means any of the following entities approved by the director as capable of ensuring the safety of the funds and properties entrusted to it and capable and willing to perform the terms of such escrow pursuant to the escrow agreement and the provisions of this chapter:
- (1) A bank which is a member of the Federal Deposit Insurance Corporation.
  - (2) A building and loan association which is a member of the

Federal Savings and Loan Insurance Corporation.

- (1) "Facility" means any place or accommodation in which a provider undertakes to provide a resident with care or related services pursuant to a life care contract, whether or not the place or accommodation is constructed, owned, leased, rented or otherwise contracted for by the provider. For the purposes of meeting the enrollment criteria of this chapter, a distinct phase of development may be considered to be the facility when a project is being developed in successive multiple phases over a period of time.
- (m) "Life care contract" means a contract which includes a promise to provide care to an elderly person for the duration of his or her life or for a term in excess of one year, which is conditioned upon the transfer of consideration. The transfer may include a payment of an entrance fee to the provider or the payment of periodic charges for the care and services involved, or both types of payments. Life care contracts include continuing care agreements.
- (n) "Living unit" means an apartment, room, or other area within a facility set aside for the exclusive use of one or more identified residents.
- (o) "Monthly care fee" means the monthly charge to a resident for services rendered pursuant to a life care contract, exclusive of entrance fees or other prepayments, including care, board, or lodging, and any other periodic charges to the resident, determined on a monthly or other recurring basis, pursuant to the provisions of a life care contract.
- (p) "Nonmedical unit" means a living unit of a facility which is neither subject to licensure as a health facility nor designated for ongoing personal care, as defined in Section 1569.2.
- (q) "Permit to sell deposit subscriptions" means an authorization in writing, in the form designated by the state department, for a provider to enter into one or more deposit subscription agreements at a single specified facility.
- (r) "Prepaid life care contract" means a life care contract under which the advance payment, including any entrance fee, is more than nine times the annual amount of the monthly care fee or 108 times the monthly care fee. Life care contracts which provide for changes in the monthly care fee to cover the actual cost of care are excluded from this definition.
- (s) "Processing fee" means an advance payment by the transferor to cover administrative costs of processing the application of a prospective resident.
- (t) "Promise to provide care" means any representation that care will be provided or will be available, whether the representation is part of a life care contract or other written agreement, or is made orally, or is contained in any advertisement, brochure or other printed material.
- (u) "Proposes" means a representation that a provider plans to make a future promise to provide care, which may be subject to the happening of certain events, such as facility construction or

obtaining a certificate of authority.

- (v) "Provider" means a person, association, joint venture or organization of any kind, including a homeowner's association, cooperative, or a condominium association, whether in single or multiple entities, which promises to provide, or proposes to promise to provide care for life or for more than one year.
- (w) "Resident" means a person who enters into a life care contract with a provider, or who is designated in a life care contract, to be a person being provided or to be provided with services, including care, board, or lodging.
- (x) "Transferor" means a person who transfers or promises to transfer a sum of money or property to a provider for the purpose of assuring care or related services pursuant to a life care contract, whether for the benefit of the transferor or another.
- SEC. 5. Section 1773.5 of the Health and Safety Code is repealed. SEC. 6. Section 1773.5 is added to the Health and Safety Code, to read:
- 1773.5. No moneys or other consideration, except for a processing fee not to exceed an amount determined by regulation, may be received from an applicant for life care by a provider who proposes to promise to provide care unless the provider has first received a permit to sell deposit subscriptions from the department. Except as otherwise provided in this chapter, the criteria for a certificate of authority and for a permit to sell deposit subscriptions shall be the same. All moneys or other consideration shall be placed in an escrow account, the terms of which must be approved in advance by the department. No moneys or other consideration placed in escrow shall be encumbered or used as collateral for any obligation of the provider or any other person, unless the encumbrance or use as collateral is subordinate to the rights of depositors to refunds under this chapter or pursuant to the deposit subscription agreement.
- SEC. 7. Section 1773.6 is added to the Health and Safety Code, to read:
- 1773.6. Moneys or other consideration placed in escrow pursuant to Section 1773.5 may be released from escrow to the provider if the provider's average performance over any six-month period substantially equals or exceeds its financial and marketing projections, submitted to the department, for that period, and upon one of the following conditions being met:
- (a) Construction of the facility is at least 50 percent completed and the provider has received at least 20 percent of the total of each applicable entrance fee for at least 50 percent of the total number of nonmedical units in the project.
- (b) Construction of the facility is completed and the provider has received at least 10 percent of the total of each applicable entrance fee for at least 75 percent of the total number of nonmedical units in the project.
- SEC. 8. Section 1773.7 is added to the Health and Safety Code, to read:

- 1773.7. (a) If moneys or other consideration placed in escrow pursuant to Section 1773.5 are to be used, in whole or in part, to finance facility construction, construction of the facility may not commence until at least 20 percent of each applicable entrance fee has been received for at least 60 percent of the number of nonmedical units projected, in documents submitted to and approved by the department, to be occupied six months after the facility has opened for operation.
- (b) If moneys or other consideration are placed in escrow pursuant to Section 1773.5 prior to completion of construction of the facility, and are not to be used, in whole or in part, to finance facility construction, construction of the facility may not commence until either of the following occurs:
- (1) At least 10 percent of each applicable entrance fee has been received for at least 100 percent of the number of nonmedical units projected, in documents submitted to, and approved by, the department, to be occupied six months after the facility has opened.
- (2) The provider has agreed to keep all moneys or other consideration in escrow until the entire applicable entrance fee has been received for 50 percent of the total nonmedical units in the project.
- (c) If construction of the facility has been completed prior to placing any moneys or other consideration in escrow pursuant to Section 1773.5, the provider shall obtain a provisional certificate of authority pursuant to Section 1780.6 before receiving any deposit or payment for life care contracts.
- SEC. 9. Section 1773.8 is added to the Health and Safety Code, to read:
- 1773.8. (a) Before obtaining a to sell deposit permit subscriptions or a certificate of authority, each provider shall submit to the department a financial and marketing plan, including occupancy projections, covering the project development period and a period of at least five years after the opening of the facility for occupancy. If at any time prior to issuance of a certificate of authority, the provider's average performance over any six-month period does not substantially equal or exceed the provider's projections for that period, the department, in consultation with the advisory board, may cancel the permit to sell deposit subscriptions, may increase the percentages of completion of construction or the numbers or percentages of deposits on entrance fees required under Sections 1773.6, 1773.7, 1780.5, and 1780.6, or may increase the reserve requirements under this chapter for that provider. In the event consideration has been released from escrow, the department may further require the provider to reopen the escrow as a condition of receiving any further payments from applicants for life care.
- (b) In addition to the requirements of subdivision (a), a provider, before obtaining a permit to sell deposit subscriptions, shall also submit documentation evidencing a preliminary approval for licensure from the State Department of Social Services, Community

Care Licensing Division or the State Department of Health Services, Licensing and Certification Division, as appropriate, in order to demonstrate ability and intent to comply with subdivision (a) of Section 1770.

- (c) If the requirements of Section 1773.6 and, if applicable, paragraph (2) of subdivision (b) of Section 1773.7 for release of escrowed moneys are not met within 36 months after the opening of the escrow required by Section 1773.5, all moneys paid by any applicant for life care shall be refunded to the applicant. The department, in its discretion, may lengthen the 36-month period upon a showing of good cause.
- SEC. 10. Section 1773.9 is added to the Health and Safety Code, to read:
- 1773.9. After notice of commencement of construction, applicants for life care shall not be entitled to a refund of moneys or other consideration deposited in escrow until the facility is opened for operation, escrowed funds are released pursuant to Section 1773.6, or another applicant for life care has reserved the residential unit and paid the necessary entrance fee deposit or deposits, with respect to the unit for which the refund is sought by the previous applicant.
- SEC. 10.5. Section 1775.5 is added to the Health and Safety Code, to read:
- 1775.5. (a) The Legislature foresees the need to protect transferors who have entered into life care contracts which provide for substantial refunds of entrance fee payments. Without reasonable assurance of the providers' abilities to pay the refunds, in consideration of possible competitive disadvantages, such as aging of the facility, the transferors or their estates would risk the loss of substantial entrance fee refunds. It is the policy of the State of California to limit these risks for the benefit of the general population of elderly persons. Therefore, the department shall impose requirements with respect to entrance fee refunds.
- (b) Each provider, or other entity assuming responsibility, shall provide satisfactory evidence of the ability to pay refunds of entrance fees if the following occur:
- (1) The proposed or current life care contract form for the project includes promises to pay refunds of entrance fees or to repurchase the transferors' units in the project, after the end of the trial residence period, in the event of the death of the surviving resident or the voluntary termination by the transferor or residents.
- (2) The specified refund right is not exhausted within the first six years of residency.
- (c) Satisfactory evidence of the ability to pay refunds shall be the maintenance of a refund reserve, deposited in a special trust fund which shall remain intact to accumulate interest earnings resulting from investments of liquid reserves in accordance with Section 1775.
- (1) The "refund reserve" referred to in this subdivision shall be calculated based on the following assumptions:

- (A) The facility will have a 40-year useful life, starting with the year of completion.
- (B) Approved long-term investments, such as treasury notes, will earn 3 percent more than the rate of inflation.
  - (C) Entrance fees will increase at the rate of inflation.
  - (D) Land values will increase at the rate of inflation.
- (E) Investments in the refund reserve trust will increase at the rate for approved long-term investments.
- (2) The refund reserve referred to in this subdivision shall be calculated as follows:
- (A) Calculate the number of units to be turned over each year at the approved rate of turnover.
  - (B) Determine the mean entrance fee, as of the current date.
- (C) Determine the factor for inflating the average entrance fee at the rate of 3 percent below the rate of interest on new 30-year treasury notes, for the time interval from the current date to the 40th year of operation and for each preceding year, until all units have been turned over.
- (D) Calculate the projected value of fees received for the 40th year and for each preceding year, until all units have been turned over.
- (E) Adjust the projected values of fees received for the 40th year and each preceding year, according to refund provisions of the current life care contract form.
- (F) Total the projected values of fees received, as adjusted, and calculate the present value at the rate of interest for new 30-year treasury notes. The result is the required refund reserve.
- (3) The actual purchase price of the land used for the facility, as inflated to the 40th year of operation, at the rate set forth in subparagraph (D) of paragraph (1) of subdivision (c) may be used to meet the refund reserve referred to in this subdivision.
- (4) The amount of the refund reserve shall be revised annually by the provider and submitted to the department in conjunction with the annual audit and reports required by Section 1782.5.
- (d) Any provider who has a certificate of authority or permit to sell deposit subscriptions issued by the department pursuant to this chapter on or before the date the Governor signs the bill enacting this section or, if the bill becomes a statute without the Governor's signature, September 30, 1986, whichever date is earlier, shall be exempt from the refund reserve requirement established by this section if the provider or other entity assuming responsibility has an equity balance of five times the amount of the refund reserve calculated pursuant to subdivision (c), as verified by one or more of the following means: the "stockholders' equity," or equivalent amount, as reflected on the most recent Form 10K (which may be on a consolidated basis or on a consolidated and combined basis) filed with the Securities and Exchange Commission; the "total fund balances or net worth," or equivalent amount, as reflected on the most recent Form 990 or Form 990-PF filed with the Internal

Revenue Service; or the "total net worth," or equivalent amount, as reflected on the most recent Form 109 filed with the Franchise Tax Board.

- (1) The amount of the requirement for the equity balance shall be revised annually pursuant to subdivision (c).
- (2) Compliance shall be based on review, by the department, of financial statements prepared in accordance with generally accepted accounting principles, accompanied by an unqualified opinion by a licensed certified public accountant.
- (3) If the equity balance is determined by the department to be less than the required amount, the provider or other entity assuming responsibility shall post, in a form satisfactory to the department, an amount equal to the refund reserve required within 60 days.
- (e) Except with respect to subdivisions (a) and (h), this section shall remain operative only until December 31, 1988, or the effective date of the regulations promulgated pursuant to subdivision (f), whichever is earlier, and shall be inoperative as of that date.
- (f) Prior to December 31, 1988, the department shall promulgate regulations, adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to establish these or other appropriate reserve requirements or exemptions therefrom pertaining to refundable entrance fees where the specified refund right is not exhausted within the first six years of residence. The department shall conduct the regulation adoption process expeditiously to ensure that the regulations will become effective no later than January 1, 1989.
- (g) In promulgating the regulations, the department shall consult throughout the regulation adoption process with the following:
  - (1) The California Association of Homes for the Aging.
- (2) The Committee on Life Care Contracts of the Social Services Advisory Board.
- (3) Representatives of life care providers, or potential life care providers, who are not members of the California Association of Homes for the Aging but who have a certificate of authority or a permit to sell deposit subscriptions issued by the department pursuant to this chapter.
- (4) Any other persons, entities, and organizations the department deems proper to ensure that the refund reserve requirements so promulgated are both effective from the standpoint of consumer protection and feasible from the standpoint of life care providers.
- (h) Any life care provider who (1) has a certificate of authority or a permit to sell deposit subscriptions issued by the department pursuant to this chapter on or before the date the Governor signs the bill enacting this section or, if the bill becomes a statute without the Governor's signature, September 30, 1986, whichever date is earlier, and (2) qualifies for the exemption set forth in subdivision (d) of this section shall not be required to provide any further refund reserve or security pursuant to this section or the regulations promulgated hereunder.

- SEC. 11. Section 1780.5 is added to the Health and Safety Code, to read:
- 1780.5. A certificate of authority shall not be issued to a provider unless the department determines that all of the following have occurred:
- (a) Construction of the facility or applicable phase is completed and required licenses have been obtained.
- (b) At least one of the following preenrollment requirements has been met:
- (1) At least 80 percent of the total nonmedical units in the facility have been reserved, with payment in full of the entrance fee.
- (2) At least 70 percent of the total nonmedical units in the facility have been reserved, with payment in full of the entrance fee, and the provider has submitted a financial and marketing plan, satisfactory to the department, demonstrating that the project will be financially viable.
- (3) At least 50 percent of the total nonmedical units in the facility have been reserved, with payment in full of the entrance fee, and the provider furnishes a letter of credit or other security, satisfactory to the department, sufficient to bring the total amount of prepayments to a level equivalent to 80 percent of the total entrance fees for the entire facility.
- (c) A minimum 5-year financial plan of operation satisfactory to the department has been submitted.
  - (d) Adequate reserves exist as required by this chapter.
  - (e) All applicable provisions of this chapter have been met. SEC. 11.5. Section 1780.6 is added to the Health and Safety Code,
- SEC. 11.5. Section 1780.6 is added to the Health and Safety Code, to read:
- 1780.6. In order to permit a provider to enter into life care contracts and meet the requirements of subdivision (b) of Section 1780.5, the department shall issue a provisional certificate of authority when a provider has done all the following:
- (a) Received deposits of entrance fees equivalent to the release of escrow provisions of Section 1773.6.
- (b) Obtained the required licenses referenced in subdivision (a) of Section 1770.
  - (c) Completed construction of the facility.
  - (d) Complied with subdivisions (c) and (d) of Section 1780.5.
- The provisional certificate of authority shall be valid for a period of 12 months after issuance. Upon a showing of good cause by the provider, the department may extend a provisional certificate of authority for one additional 12-month period if it appears to the department that the provider is capable of meeting the requirements of Section 1780.5 during the period of extension.
- SEC. 12. Section 1788 of the Health and Safety Code is repealed. SEC. 13. Section 1788 is added to the Health and Safety Code, to read:
- 1788. Any provider who promises or proposes to promise to enter into a life care contract, or to provide care for life or more than one

year, in return for a transfer of consideration from, or on behalf of, an elderly person, without first having secured a certificate of authority or without placing in escrow the moneys or other consideration received from applicants for life care, as provided in this chapter, is guilty of a misdemeanor, and, for each violation, is subject to a fine not to exceed ten thousand dollars (\$10,000) or by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment. The district attorney of every county shall, upon application by the department, or its authorized representative, institute and conduct the prosecution of every violation of this provision within his or her county.

SEC. 14. Section 1788.5 is added to the Health and Safety Code, to read:

1788.5. In the case of any violation of this chapter, the department may institute a proceeding, or may request the Attorney General to institute a proceeding, to obtain injunctive or other equitable relief in the superior court in and for the county in which the violation occurs, or in which the principal place of business of the provider is located. The proceeding under this section shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required of the department in any action commenced under this section, nor shall the department be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage.

SEC. 14.5. Section 1790.7 of the Health and Safety Code is amended to read:

1790.7. The Committee on Life Care Contracts of the State Social Services Advisory Board shall act in an advisory capacity to the department on matters relating to life care contracts. The committee shall make recommendations to the department regarding needed changes in its rules and regulations and upon request provide advice regarding the feasibility of new facilities and the correction of problems relating to the management or operation of any facility. The committee shall also perform any other advisory functions necessary to improve the management and operation of life care contracts.

The members of the committee shall include:

- (a) Three representatives of nonprofit providers of life care contracts pursuant to this chapter, each of whom shall have offered life care services for at least five years prior to appointment.
- (b) A representative of the business community who has had at least five years of experience in the management of health care facilities.
- (c) Two senior citizens who are not eligible for appointment pursuant to subdivisions (a) and (b) who shall represent consumers of life care services.
- (d) A certified public accountant with experience in the community care industry.

- (e) One representative of a for-profit provider of life care contracts pursuant to this chapter.
  - (f) An actuary.

In no event shall more than four of the nine members of this committee represent the interests of providers of life care contracts pursuant to this chapter.

Notwithstanding Section 10700 of the Welfare and Institutions Code, the Senate Rules Committee shall appoint one member pursuant to subdivision (c), and the Speaker of the Assembly shall appoint one member pursuant to subdivision (c).

SEC. 15. Section 1790.9 of the Health and Safety Code is amended

to read:

- 1790.9. Notwithstanding Section 10700 of the Welfare and Institutions Code, the advisory committee shall:
- (a) Review the financial and managerial condition of each facility operating under a certificate of authority.
- (b) Review the financial condition of any facility that the board determines is indicating signs of financial difficulty and may be in need of close supervision.
- (c) Monitor the condition of facilities at times and places as the department or the chair of the committee may direct.
- (d) Make available consumer information on the selection and necessary contract protections in the purchase of life care contracts.
- (e) Review new applications regarding financial, actuarial, and marketing feasibility as requested by the department.

The committee may report on its recommendations directly to the director.

The committee may hold meetings, as deemed necessary to the performance of its duties.

SEC. 15.5. Article 3 (commencing with Section 1791) is added to Chapter 10 of Division 2 of the Health and Safety Code, to read:

### Article 3. Fees

- 1791. (a) The department shall establish a fee schedule for life care providers pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, conforming to the following requirements:
- (1) An application fee, in an amount not to exceed one-tenth of 1 percent of the construction cost or purchase price of the facility, shall be required whenever a provider applies for a permit to sell deposit subscriptions, or for a certificate of authority with respect to a facility for which a certificate of authority has not previously been issued.
- (2) An annual fee, in an amount not to exceed one-tenth of 1 percent of the provider's annual operating expense for each life care facility for the prior year, shall be required of each provider which has obtained a provisional or final certificate of authority.
  - (3) The department may engage private financial, actuarial, and

marketing consultants to review applications for permits to sell deposit subscriptions or for certificates of authority, and shall use the funds from fees established by this section to the extent necessary to engage such consultants.

(b) In enacting this section, it is the intent of the Legislature merely to assist the department in reviewing the ability of providers to fulfill the requirements of this chapter.

SEC. 15.6. Section 10557 of the Welfare and Institutions Code is repealed.

SEC. 15.7. Section 10557 is added to the Welfare and Institutions Code, to read:

10557. No person while holding the office of director shall be a trustee, manager, director, or other officer or employee of any agency performing any function supervised by the department or any institution which is subject to examination, inspection, or supervision by the department. No member of the State Social Services Advisory Board shall hold any office or employment in the department.

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 1094

An act to add Section 11462.4 to, and to add and repeal Section 11460.1 of, the Welfare and Institutions Code, relating to public social services.

[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 977 of the Statutes of 1982 required the State Department of Social Services to take over from the counties the process of establishing payment rates for children in foster care. The law set out a table of flat rate payments, to be adjusted to reflect annual cost-of-living changes, for foster family homes. Differential adjustments were allowed in order to create a uniform foster home payment system statewide. The law also required rates to be established for group homes based on actual allowable costs.

Many counties and providers of foster and group care services for children have expressed concern that inadequate payments are affecting the supply of appropriate beds, the continuity of care, and the ability of public and private agencies to respond to changing local conditions.

- SEC. 2. Section 11460.1 is added to the Welfare and Institutions Code, to read:
- 11460.1. (a) The department shall undertake studies of the foster family and group home ratesetting process toward assuring an adequate supply of appropriate beds, a continuity of care, and the ability of local public and private agencies to respond to changing conditions. The studies shall include, but not be limited to, all of the following:
- (1) The effect on bed availability, continuity of care, and local responsiveness of the current flat rate payment system on foster family homes and of the projected effect of a flat rate payment system, currently under study by the department, on group homes.
- (2) The effect on bed availability, continuity of care, and local responsiveness of limiting annual payment adjustments to any cost-of-living adjustments which may be provided in the state budget.
- (3) The results of the San Diego County pilot project pursuant to Section 11462.5.
- (b) The department, in undertaking the study specified in subdivision (a), shall consult with and seek the participation of the Department of Finance, representatives of county agencies which place children in foster family care, and representatives of providers of foster family and group care. The department shall report the results of its group home study to the Legislature by March 1, 1987, and its foster family home study by January 1, 1988.
- (c) The department shall not implement any new ratesetting system for group homes until at least 60 days following the submission of the group home study to both houses of the Legislature.
- (d) This section shall remain in effect until January 1, 1988, and as of that date is repealed.
- SEC. 3. Section 11462.4 is added to the Welfare and Institutions Code, to read:
- 11462.4. Notwithstanding Section 11342 of the Government Code, group homes shall be deemed small businesses and the department shall project the impact on group homes of any new regulations which will affect those homes.

# CHAPTER 1095

An act to amend Sections 18643, 18646, 18684, 18714, 18734, 18760, 18812, 18824, 18827, 18835, and 18870 of, and to add Sections 18618, 18624, 18645, and 18805 to, the Business and Professions Code, relating to boxing and wrestling.

[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 18618 is added to the Business and Professions Code, to read:

18618. The commission shall furnish to the Senate Committee on Business and Professions and the Assembly Committee on Governmental Organization a report on or before July 30 of each year which indicates the amount of the assessment collected from each promoter pursuant to Section 18711 and deposited into the Boxer's Neurological Examination Account and which indicates the purposes for which moneys in the account were expended.

- SEC. 2. Section 18624 is added to the Business and Professions Code, to read:
- 18624. "Committee" means an advisory committee on medical and safety standards created by this article.
- SEC. 3. Section 18643 of the Business and Professions Code is amended to read:
- 18643. (a) No professional boxer shall spar for training purposes with any person not licensed as a professional boxer or who does not have a sparring permit, nor shall any person licensed under this chapter conduct, hold, or permit any such sparring.
- (b) The commission shall issue a permit to spar with professional boxers for training purposes. Such permit shall be issued only to persons who meet the physical and mental requirements for licensure as a professional boxer.
- (c) The operator of a professional boxers' training gymnasium shall inspect the professional boxing license or sparring permit of any individual who wishes to use the gymnasium for sparring or boxing and no person shall do so unless that person has a valid and current license or permit.
- SEC. 4. Section 18645 is added to the Business and Professions Code, to read:
- 18645. There is hereby created within the jurisdiction of the State Athletic Commission an Advisory Committee on Medical and Safety Standards.

The committee shall consist of six licensed physicians and surgeons appointed by the commission. The commission may call meetings of those physicians and surgeons at such times and places as it deems appropriate for the purpose of studying and recommending medical

and safety standards for the conduct of boxing, wrestling, and martial arts contests.

It shall require a majority vote of the commission to appoint a person to the committee. Each appointment shall be at the pleasure of the commission for a term not to exceed four years.

- SEC. 5. Section 18646 of the Business and Professions Code is amended to read:
- 18646. (a) This chapter applies to all amateur boxing, wrestling, and full contact martial arts contests.
- (b) The commission may, however, authorize a nonprofit boxing, wrestling, or martial arts club or organization, upon approval of its bylaws, to administer its rules and may, therefore, waive direct commission application of laws and rules, including licensure, subject to the commission's affirmative finding that the standards and enforcement of similar rules by that club or organization meet or exceed the safety and fairness standards of the commission. The commission shall review the performance of any such club or organization annually.
- (c) Every contest subject to this section shall be preceded by a physical examination, specified by the commission, of every contestant. A physician shall be in attendance at the contest. There shall be a medical insurance program satisfactory to the commission provided by the amateur club or organization in effect covering all contestants. The commission shall review compliance with these requirements.
- (d) Any club or organization which conducts, holds, or gives amateur contests pursuant to this section, which collects money for the event, shall furnish a written financial report of receipts and disbursements within 90 days of the event.
- (e) The commission has the right to have present without charge or restriction such representatives as are necessary to obtain compliance with this section.
- (f) The commission may require any additional notices and reports it deems necessary to enforce the provisions of this section.
- SEC. 6. Section 18684 of the Business and Professions Code is amended to read:
- 18684. The bonds required under this article shall guarantee, in order of priority, the payment of all taxes and fines due and payable to the state, the payment of contributions for medical insurance and to the pension and disability fund, the payment of assessments for neurological examinations, as specified in subdivision (c) of Section 18711, the payment of the purses to the competitors, the repayment to consumers of purchased tickets, the payment of fees to the referees, judges, timekeepers, and physicians, and in the event of the cancellation of a contest or match approved by the commission without good cause, an amount determined by the commission which does not exceed the commission's actual cost in connection with the approval of the contest or match. The circumstances and allocation of bond payment shall be determined by the commission.

- SEC. 7. Section 18714 of the Business and Professions Code is amended to read:
- 18714. For the purpose of studying and recommending medical and safety standards for the conduct of boxing, wrestling, and martial arts, the commission may call meetings of those licensed physicians and surgeons as it deems necessary at such times and places it deems appropriate. The commission is authorized to pay the necessary traveling expenses and per diem, as provided in Section 103, to the committee members in attendance at these meetings.
- SEC. 8. Section 18734 of the Business and Professions Code is amended to read:
- 18734. (a) The commission shall designate the scoring officials for each contest.
- (b) The referee may render a decision at the end of a boxing contest if authorized by a representative of the commission.
- (c) The commission may require that judges be used in conjunction with the referee at any boxing contest.
- SEC. 9. Section 18760 of the Business and Professions Code is amended to read:
- 18760. Except as otherwise provided by this article, "boxing" as used in this chapter includes "kickboxing" and "martial arts." Sections 18720, 18721, 18723, 18725, 18728, 18755, and 18756, and Article 15 (commencing with Section 18870) shall not apply to kickboxing and martial arts.
- SEC. 10. Section 18805 is added to the Business and Professions Code, to read:
- 18805. The application and renewal fee for a license to promote or conduct amateur boxing contests shall be fifty dollars (\$50).
- SEC. 11. Section 18812 of the Business and Professions Code is amended to read:
- 18812. The application and renewal fee for a professional boxing, kickboxing, wrestling, and martial arts referee's or judge's license shall be sixty dollars (\$60).
- SEC. 12. Section 18824 of the Business and Professions Code is amended to read:
- 18824. Except as provided in Section 18646 and Section 18832, every promoter licensed under this chapter shall, within 72 hours after the determination of every contest or wrestling exhibition for which an admission fee is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the number of tickets issued or sold for the contest or wrestling exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are

approved by the commission. The promoter shall also, within the same time, pay to the commission a 5 percent tax, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, and of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the tax be less than fifty dollars (\$50). The amount of the gross receipts upon which the tax provided for in this section is calculated shall not include any assessments levied by the commission for deposit into the Boxer's Neurological Examination Account under Section 18711.

The tax on admission shall apply to the amount actually paid for admission and not to the regular established price.

No tax is due in the case of a person admitted free of charge.

SEC. 13. Section 18827 of the Business and Professions Code is amended to read:

18827. If a promoter fails to pay any tax ascertained to be due under this chapter, in addition to the costs of the examination under Section 18826, if any, within 30 days after receipt of notice by the executive officer, the commission may without hearing revoke or suspend the promoter's license and authorize the Attorney General to bring an action in superior court to collect the amount due, any fines authorized by this chapter, and attorney's fees.

The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction or other matters to which special precedence has been given by law.

SEC. 14. Section 18835 of the Business and Professions Code is amended to read:

18835. If a permitholder fails to pay any tax ascertained to be due under this chapter, in addition to the costs of the examination under Section 18834, if any, within 30 days after receipt of notice by the executive officer, the commission may authorize the Attorney General to bring an action in superior court to collect the amount due, any fines authorized by this chapter and attorney's fees.

The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction, or other matters to which special precedence has been given by law.

SEC. 15. Section 18870 of the Business and Professions Code is amended to read:

18870. Any person or promoter to whom this chapter applies who directly or indirectly holds, aids or abets, or attempts to hold, aid or abet the holding of, any contest, match or exhibition without first having obtained a license or permit therefor under this chapter, is guilty of a misdemeanor.

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 1096

An act to amend Section 4801 of the Civil Code, relating to spousal support.

[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 4801 of the Civil Code is amended to read: 4801. (a) In any judgment decreeing the dissolution of a marriage or a legal separation of the parties, the court may order a party to pay for the support of the other party any amount, and for any period of time, as the court may deem just and reasonable. In making the award, the court shall consider all of the following circumstances of the respective parties:
- (1) The earning capacity of each spouse, taking into account the following:
- (A) The marketable skills of the supported spouse; the job market for those skills; the time and expenses required for the supported spouse to acquire the appropriate education or training to develop those skills; and the possible need for retraining or education to acquire other, more marketable skills or employment.
- (B) The extent to which the supported spouse's present or future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported spouse to devote time to domestic duties.
- (C) The extent to which the supported spouse contributed to the attainment of an education, training, a career position, or a license by the other spouse.
  - (2) The needs of each party.
- (3) The obligations and assets, including the separate property, of each.
  - (4) The duration of the marriage.
- (5) The ability of the supported spouse to engage in gainful employment without interfering with the interests of dependent children in the custody of the spouse.
  - (6) The age or health of the parties.
  - (7) The standard of living of the parties.
  - (8) Any other factors which it deems just and equitable.

At the request of either party, the court shall make appropriate factual determinations with respect to the circumstances. The court may order the party required to make the payment of support to give reasonable security therefor. Any order for support of the other party 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 spousal support may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date. At the request of either party, the order of modification or revocation shall include a statement of decision and may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date.

- (b) Except as otherwise agreed by the parties in writing, the obligation of any party under any order or judgment for the support and maintenance of the other party shall terminate upon the death of either party or the remarriage of the other party.
- (c) When a court orders a person to make specified payments for support of the other party for a contingent period of time, the liability of the person terminates upon the happening of the contingency. If the party to whom payments are to be made fails to notify the person ordered to make the payments, or the attorney of record of the person so ordered, of the happening of the contingency and continues to accept support payments, the supported party 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 party 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) An order for payment of an allowance for the support of one of the parties shall terminate at the end of the period specified in the order and shall not be extended unless the court in its original order retains jurisdiction.
- (e) In any proceeding under this section the court may order a party to submit to an examination by a vocational training consultant. The order may be made only on motion, for good cause shown, and upon notice to the party to be examined and to all parties, and shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made. The party refusing to comply with such an order shall be subject to the same consequences provided for failure to comply with an examination ordered pursuant to Section 2032 of the Code of Civil Procedure.
- (f) For the purposes of this section, "vocational training consultant" means an individual with sufficient knowledge, skill, experience, training, or education relating to interviewing, the testing and analysis of work skills, the planning of courses of training and study, the formulation of career goals, and the work market to qualify as an expert in vocational training under Section 720 of the Evidence Code.

### CHAPTER 1097

An act to amend Sections 9310, 9313, and 9321 of, and to add Sections 9319.1, 9319.2, 9319.3, 9319.4, 9319.5, 9319.6, 9319.7, and 9319.8 to, the Business and Professions Code, relating to polygraph examiners, 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. Section 9310 of the Business and Professions Code is amended to read:

- 9310. A general license or an intern license shall be valid for a period of one year and shall be renewed by the board, upon evidence that the license holder has successfully completed 12 hours of polygraph training of the kind approved by the board within one year prior to the expiration of the holder's license. No intern license shall be renewed more than three times.
- SEC. 1.3. Section 9313 of the Business and Professions Code is amended to read:
- 9313. (a) The board may refuse to issue or may revoke or suspend the license of any person as a polygraph examiner or intern on proof the person has done any of the following:
- (1) Failed to inform an individual being examined as to the nature of the examination or failed to advise the individual or his or her representative, or the representative of the requesting agency, of the results of the examination.
- (2) Failed to inform an individual being examined that his or her participation in the examination is voluntary, except as provided in Section 432.2 of the Labor Code.
- (3) Made a material misstatement in his or her application for an original or renewal license under this chapter.
- (4) Willfully disregarded or violated any provisions of this chapter or any regulation adopted pursuant thereto, including, but not limited to, the willful making of a false report of a polygraph examination.
- (5) Has demonstrated physical or emotional inability or incompetency to carry out the duties of a polygraph examiner.
- (6) Has permitted a license granted to him or her under this chapter to be used by another person.
- (7) Has willfully aided or abetted any violation of this chapter or any regulation adopted pursuant thereto.
- (8) Has failed to provide any information requested by the board after the receipt by the board of a complaint alleging that the person has violated a provision of this chapter or any regulation adopted pursuant thereto.

- (9) If the applicant or holder of any license has committed any crime or act constituting grounds for denial, suspension, or revocation under the provisions of Division 1.5 (commencing with Section 475).
- (10) Has been negligent or incompetent in administering a polygraph examination.
- (b) Any allegation of misconduct committed, or alleged to have been committed by any person acting as an agent of this state or any political subdivision thereof, shall be referred to the Attorney General for investigation. The Attorney General shall forward the results of the investigation to the board for appropriate action.
- SEC. 1.5. Section 9319.1 is added to the Business and Professions Code, to read:
- 9319.1. Whenever in the judgment of the board, or with its approval any administrative committee thereof, any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the board that the person has engaged, or is about to engage, in those acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by the court.
- SEC. 2. Section 9319.2 is added to the Business and Professions Code, to read:
- 9319.2. (a) If, upon investigation, the executive officer, or his or her designee, determines that a polygraph examiner or intern is in violation of paragraph (1), (2), or (4) of subdivision (a) of Section 9313, or Section 9314, 9316, 9317, 9318, or 9319, the executive officer, or designee thereof, may issue a citation and assess an administrative fine to that licensee or intern, subject to the following provisions:
- (1) The assessment of the fine shall not preclude the initiation of any disciplinary, civil, or criminal action against an applicant or licensee for the same or similar violations.
- (2) No person shall be cited more than three times within five years for the same violation.
- (b) The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. Each citation and fine assessment shall be served in person, or by certified mail at the last address of record of the person cited.
- (c) All administrative fines collected pursuant to this article shall be deposited in the Polygraph Examiners Fund and continuously appropriated for the purposes of enforcement and consumer and licensee education.
- SEC. 3. Section 9319.3 is added to the Business and Professions Code, to read:
- 9319.3. In addition to other requirements and prohibitions of this chapter, it is a violation of this chapter and constitutes cause for citation, for any person to engage in or offer to engage in any activity

for which a license is required by this chapter without holding a valid, unexpired license.

- SEC. 4. Section 9319.4 is added to the Business and Professions Code, to read:
- 9319.4. (a) A first violation of this chapter is subject to an administrative fine of seventy-five dollars (\$75).
- (b) A second violation of this chapter is subject to an administrative fine of one hundred fifty dollars (\$150).
- (c) A third violation of this chapter and any subsequent violation is subject to an administrative fine of three hundred dollars (\$300).
- SEC. 5. Section 9319.5 is added to the Business and Professions Code, to read:
- 9319.5. Each citation and fine assessment shall inform the licensee that if he or she desires a review by a disciplinary review committee, the review shall be initiated by filing a written request with the executive officer within 30 days of the issuance of the citation and fine assessment. Payment of an administrative fine does not constitute an admission of the violation charged.
- SEC. 6. Section 9319.6 is added to the Business and Professions Code, to read:
- 9319.6. If a licensee fails to either request a review or to pay the assessed fine within 30 days of the issuance of the citation and fine assessment, his or her license shall be automatically suspended. A license suspended under this section may be reinstated only by payment, within one year of the issuance of the citation and fine assessment, of the assessed fine and a fee of one hundred dollars (\$100).
- SEC. 7. Section 9319.7 is added to the Business and Professions Code, to read:
- 9319.7. Upon review of a citation and fine assessment, the disciplinary review committee may modify, rescind, or uphold the citation and fine assessment. The decision of the disciplinary review committee shall be served by regular mail at the last address of record of the person cited.
- SEC. 8. Section 9319.8 is added to the Business and Professions Code, to read:
- 9319.8. If the licensee disagrees with the decision of the disciplinary review committee, he or she may request an administrative hearing within 30 days of issuance of the decision, to be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the licensee fails to either request a hearing or to pay the assessed fine as specified by the disciplinary review committee within 30 days of the date of the disciplinary review committee's decision, the license of the licensee shall automatically be revoked. If the licensee fails to either appeal the board's decision or to pay the assessed fine ordered by the board following an administrative hearing, within 30 days after service of the board's decision, the licensee of the licensee shall be automatically revoked.

- SEC. 9. Section 9321 of the Business and Professions Code is amended to read:
- 9321. (a) The amount of fees relating to licensure pursuant to this chapter shall be as follows:
  - (1) The application fee is seventy-five dollars (\$75).
- (2) The fee for taking the qualifying examination is fifty dollars (\$50). Persons failing to appear for the examination, once having been scheduled, shall forfeit any examination fee paid.
  - (3) The initial license fee is one hundred fifty dollars (\$150).
  - (4) The reexamination fee is fifty dollars (\$50).
  - (5) The renewal fee is one hundred fifty dollars (\$150).
  - (6) The duplicate license fee is ten dollars (\$10).
- (7) Notwithstanding Section 163.5, the late renewal fee is fifty dollars (\$50).
- (8) The provider fee for continuing education course approval requests shall be set by the board at an amount not to exceed fifty dollars (\$50).
- (b) The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the Polygraph Examiners Fund, which sum shall be a loan to be repaid to the General Fund with interest at the rate earned by moneys invested in the Pooled Money Investment Account and which shall be repaid in the following manner:
- (1) Ten thousand dollars (\$10,000) shall be repaid during the 1986-87 fiscal year.
- (2) The balance shall be repaid in increments of not less than ten thousand dollars (\$10,000) each fiscal year, with the entire sum plus interest paid by January 1, 1989.

All moneys repaid shall be from funds collected pursuant to the Polygraph Examiners Act.

- SEC. 10. Sections 2, 3, 4, 5, 6, 7, and 8 of this act shall become operative on January 1, 1987. However, Sections 2, 3, 4, 5, 6, 7, and 8 of this act shall not become operative if SB 2335 of the 1985–86 Regular Session of the Legislature is enacted.
- 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 enable the Board of Polygraph Examiners to implement the provisions of this act at the earliest possible time and to extend the loan repayment period for the fifty thousand dollar (\$50,000) loan made from the General Fund to the Polygraph Examiners Fund, it is necessary that this bill go into immediate effect.

### CHAPTER 1098

An act to add and repeal Section 68081 to the Government Code, relating to courts.

[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 68081 is added to the Government Code, to read:

68081. Before the Supreme Court, a court of appeal, or the appellate department of a superior court renders a decision in a proceeding other than a summary denial of a petition for extraordinary writ, based upon an issue which was not proposed or briefed by any party to the proceeding, the court shall afford the parties an opportunity to present their views on the matter through supplemental briefing. If the court fails to afford such an opportunity, a rehearing shall be ordered upon timely petition of any party.

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

### CHAPTER 1099

An act to amend Section 1714.3 of the Civil Code, relating to firearms.

[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 1714.3 of the Civil Code is amended to read: 1714.3. Civil liability for any injury to the person or property of another proximately caused by the discharge of a firearm by a minor under the age of 18 years shall be imputed to a parent or guardian having custody and control of the minor for all purposes of civil damages, and such parent or guardian shall be jointly and severally liable with such minor for any damages resulting from such act, if such parent or guardian either permitted the minor to have the firearm or left the firearm in a place accessible to the minor.

The liability imposed by this section is in addition to any liability otherwise imposed by law. However, no person, or group of persons collectively, shall incur liability under this section in any amount exceeding thirty thousand dollars (\$30,000) for injury to or death of

one person as a result of any one occurrence or, subject to the limit as to one person, exceeding sixty thousand dollars (\$60,000) for injury to or death of all persons as a result of any one such occurrence.

#### CHAPTER 1100

An act to amend Sections 25664 and 25669 of the Health and Safety Code, relating to the Radiologic Technology Certification Committee.

[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 25664 of the Health and Safety Code is amended to read:

25664. The committee shall consist of the director or his or her designate, who shall serve as chairperson ex officio, but who shall not vote, and the following 11 members who are residents of the state:

- (a) Six physicians and surgeons licensed to practice medicine in this state, three of whom shall be certified in radiology by the American Board of Radiology. At least one of the radiologists shall be representative of the hospital practice of radiology.
- (b) Two persons with at least five years' experience in the practice of radiologic technology. At least one of these persons shall be representative of the hospital practice of radiologic technology. Except for the appointment of these two persons to the first committee, every person thereafter appointed to the committee under this subdivision shall be certified as a radiologic technologist.
- (c) One radiological physicist, qualified in the use of physics in the practice of medicine.
  - (d) One podiatrist licensed to practice podiatry in this state.
- (e) One chiropractic practitioner licensed to practice chiropractic in this state.
- SEC. 2. Section 25669 of the Health and Safety Code is amended to read:
- 25669. Any rules and regulations adopted by the department pursuant to subdivision (a) of Section 25668 shall be adopted only after consultation with and approval of the committee. Approval of those rules and regulations shall be made by six affirmative votes of those present at an official meeting of the committee.

## CHAPTER 1101

An act to add Section 2885 to the Public Utilities Code, relating to telephone corporations, 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 2885 is added to the Public Utilities Code, to read:

2885. The commission shall, on or before July 1, 1987, determine the feasibility of requiring that, whenever a call is placed from a cellular telephone, the person receiving the call receive a notification indicating that the call is being placed from a cellular telephone and that the telephone conversation may not be totally private. The determination of feasibility shall include findings and conclusions on the necessity for, and the costs of, implementing a cellular telephone call notification system and on subscriber reaction to the notification system or systems proposed or employed. If the commission determines, in view of its findings and conclusions, that it is feasible for telephone corporations to implement a cellular telephone call notification system, it shall, by rule or order, require telephone corporations operating cellular telephones to implement that system.

SEC. 2. The sum of fifty-eight thousand dollars (\$58,000) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund to the Public Utilities Commission for purposes of Section 2885 of the Public Utilities Code.

## CHAPTER 1102

An act to amend Sections 53313, 53313.5, 53313.6, 53313.7, 53314.9, 53316, 53316.2, 53317, 53318, 53319, 53320, 53321, 53321.5, 53322, 53324, 53325, 53325.1, 53325.7, 53326, 53328, 53329, 53330, 53330.5, 53331, 53332, 53333, 53334, 53335, 53337, 53338, 53339.6, 53339.9, 53340, 53345.3, 53356.1, 53357, 53358, 53359.5, 53363.5, 53364.5, 65913.5, and 66462 of, to amend and renumber Section 53325.8 of, to add Sections 53317.3, 53317.5, 53328.5, 53329.5, and 53340.5 to, to repeal and add Section 53312 of, the Government Code, to amend Sections 3100, 3110, 3111, 3112, 3112.5, 3113, 3114, 3115, 3116, 3117, 3120, 3121, 3122, 3123.1, and 3124 of, to amend the heading of Division 4.5 (commencing with Section 3100) of, to amend the heading of Part 2 (commencing with Section 3110) of Division 4.5 of, and to add Sections 3114.5, 3115.5, and 3117.5 to, the Streets and Highways Code, relating to community facilities, 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 53312 of the Government Code is repealed. SEC. 2. Section 53312 is added to the Government Code, to read: 53312. Any provision in this chapter which conflicts with any other provision of law shall prevail over the other provision of law. SEC. 3. Section 53313 of the Government Code is amended to

read:

- 53313. A community facilities district may be established under this chapter to finance any one or more of the following types of additional services within an area:
- (a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.
- (b) Fire protection and suppression services, and ambulance and paramedic services.
- (c) Recreation program services, library services, and the operation and maintenance of parks, parkways, and open space. A special tax may be levied for this purpose only upon approval of the voters as specified in subdivision (b) of Section 53328. However, the requirement contained in subdivision (b) of Section 53328 that a certain number of persons have been registered to vote for each of the 90 days preceding the close of the protest hearing does not apply to an election to enact a special tax for recreation program services, library services, and the operation and maintenance of parks and parkways subject to subdivision (c) of Section 53326.
- (d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.

A community facilities district may only finance the services authorized in this section to the extent that they are in addition to those provided in the territory of the district before the district was created. The additional services may not supplant services already available within that territory when the district was created.

- SEC. 4. Section 53313.5 of the Government Code is amended to read:
- 53313.5. A community facilities district may also finance the purchase, construction, expansion, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish

the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency. For example, a community facilities district may finance facilities, including, but not limited to, the following:

- (a) Local park, recreation, parkway, and open-space facilities.
- (b) Elementary and secondary school sites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.
  - (c) Libraries.
- (d) The district may also finance the construction of natural gas pipeline facilities, telephone lines, and facilities for the transmission or distribution of electrical energy to provide access to those services to customers who do not have access to those services. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. If the facilities are conveyed to the public utility, the agreement shall provide for a refund by the public utility to the district or improvement area thereof for the cost of the facilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.
- (e) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to repay or defease any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness.
- (f) Any other governmental facilities which the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivision (d), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.
- SEC. 5. Section 53313.6 of the Government Code is amended to read:
- 53313.6. The legislative body may provide for adjustments in ad valorem property taxes pursuant to Section 53313.7 within a community facilities district only after making both of the following findings at the conclusion of the public hearing held pursuant to Article 2 (commencing with Section 53318):
- (a) That an ad valorem property tax is levied on property within a proposed community facilities district for the exclusive purpose of making lease payments or paying principal or interest on bonds or other indebtedness, including state school building loans, incurred to

finance construction of capital facilities.

- (b) That capital facilities to be financed by the community facilities district will provide the same services to the territory of the community facilities district as were provided by the capital facilities mentioned in subdivision (a).
- SEC. 6. Section 53313.7 of the Government Code is amended to read:
- 53313.7. Upon making the findings pursuant to Section 53313.6, the legislative body may, with the concurrence of the legislative body which levied the property tax described in subdivision (a) of Section 53313.6, by ordinance, determine that the total annual amount of ad valorem property tax revenue due from parcels within the proposed community facilities district, for purposes of paying principal and interest on the debt identified in Section 53313.6, shall not be increased after the date on which the resolution of formation for the community facilities district is adopted, or after a later date determined by the legislative body creating the community facilities district with the concurrence of the legislative body which levied the property tax in question.
- SEC. 7. Section 53314.9 of the Government Code is amended to read:
- 53314.9. (a) Notwithstanding Section 53313.5, at any time either before or after the formation of the district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a district. The legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds or work in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as determined by the legislative body, with or without interest, under both of the following conditions:
- (1) The proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included both in the resolution of intention to establish a district adopted pursuant to Section 53321 and in the resolution of formation to establish the district adopted pursuant to Section 53325.1, or in the resolution of intention to alter the types of public facilities and services provided within an established district adopted pursuant to Section 53334.
- (2) Any proposed special tax or change in a special tax is approved by the qualified electors of the district pursuant to this chapter. Any agreement shall specify that if the qualified electors of the district do not approve the proposed special tax or change in a special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds.
  - (3) Any work in-kind accepted pursuant to this section shall have

been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority of, the local agency.

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

SEC. 7.5. Section 53316 of the Government Code is amended to read:

- This chapter applies to all local agencies insofar as those 53316. entities have the power to install or contribute revenue for any of the facilities or provide or contribute revenue for any of the services authorized under this chapter. This chapter authorizes local agencies to create community facilities districts pursuant to this chapter within their territorial limits. A local agency may initiate proceedings pursuant to Section 53318 to include territory proposed for annexation to the local agency within a community facilities district if a petition or resolution of application for the annexation of the territory to the local agency has been accepted for filing and a certificate of filing has been issued by the executive officer of the local agency formation commission at the time the proceedings to create the district are initiated. Those proceedings may be completed only if the annexation of the territory to the local agency is completed. The officers of local agencies who have similar powers and duties, as determined by the legislative body of the local agency, as the municipal officers referred to in this chapter shall have the powers and duties given by this chapter to the municipal officials. Where no similar officer exists, the legislative body of the local agency shall, by resolution, appoint a person or designate an officer to perform the duties under this chapter.
- SEC. 8. Section 53316.2 of the Government Code is amended to read:
- 53316.2. (a) The legislative bodies of two or more local agencies or community facilities districts, or any combination thereof, may enter into a joint community facilities agreement pursuant to this section and Sections 53316.4 and 53316.6 or into a joint exercise of powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 to exercise any power authorized by this chapter if the legislative body of each entity adopts a resolution declaring that such a joint agreement would be beneficial to the residents of that entity.
- (b) Notwithstanding Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, a contracting party may use the proceeds of any special tax or charge levied pursuant to this chapter or of any bonds or other indebtedness issued pursuant to this chapter to provide facilities or services which that contracting party is otherwise authorized by law to provide, even though another contracting party does not have the power to provide those facilities or services.
- SEC. 9. Section 53317 of the Government Code is amended to read:

- 53317. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.
- (a) "Clerk" means the clerk of the legislative body of a local agency.
- (b) "Community facilities district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing facilities and services.
- (c) "Cost" means the expense of constructing or purchasing the public facility and of related land, right of way, easements, including incidental expenses, and the cost of providing authorized services, including incidental expenses.
- (d) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.
  - (e) "Incidental expense" includes all of the following:
- (1) The cost of planning and designing public facilities to be financed pursuant to this chapter, including the cost of environmental evaluations of those facilities.
- (2) The costs associated with the creation of the district, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the district.
- (3) Any other expenses incidental to the construction, completion, and inspection of the authorized work.
- (f) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purposes of this chapter.
- (g) "Legislative body" means the legislative body or governing board of any local agency.
- (h) "Local agency" means any city or county, whether general law or chartered, special district, school district, joint powers entity created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or any other municipal corporation or district.
- (i) "Services" means the provision of police and fire protection services, recreation programs, library services, the operation and maintenance of parks and parkways, and the provision of flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems. "Services" includes the performance by employees of functions, operations, maintenance, and repair activities.
- SEC. 10. Section 53317.3 is added to the Government Code, to read:
- 53317.3. If property not otherwise exempt from a special tax levied pursuant to this chapter is acquired by a public entity through

a negotiated transaction, or by gift or devise, the special tax shall, notwithstanding Section 53340, continue to be levied on the property acquired and shall be enforceable against the public entity that acquired the property.

SEC. 11. Section 53317.5 is added to the Government Code, to read:

- 53317.5. If property subject to a special tax levied pursuant to this chapter is acquired by a public entity through eminent domain proceedings, the obligation to pay the special tax shall be treated, pursuant to Section 1265.250 of the Code of Civil Procedure, as if it were a special annual assessment. For this purpose, the present value of the obligation to pay a special tax to pay the principal and interest on any indebtedness incurred by the district prior to the date of apportionment determined pursuant to Section 5082 of the Revenue and Taxation Code shall be treated the same as a fixed lien special assessment.
- SEC. 12. Section 53318 of the Government Code is amended to read:
- -53318. Proceedings for the establishment of a community facilities district may be instituted by the legislative body on its own initiative and shall be instituted by the legislative body when any of the following occurs:
- (a) A written request for the establishment of a district, signed by two members of the legislative body, describing the boundaries of the territory which is proposed for inclusion in the area and specifying the type or types of facilities and services to be financed by the district, is filed with the legislative body.
- (b) A petition requesting the institution of the proceedings signed by the requisite number of registered voters, as specified in subdivision  $\cdot$ (d) of Section 53319, is filed with the clerk of the legislative body. The petition may consist of any number of separate instruments, each of which shall comply with all of the requirements of the petition, except as to the number of signatures.
- (c) A petition requesting the institution of the proceedings signed by landowners owning the requisite portion of the area of the proposed district, as specified in subdivision (d) of Section 53319, is filed with the clerk of the legislative body.
- (d) The written request filed pursuant to subdivision (a) and the petitions filed pursuant to subdivisions (b) and (c) shall be accompanied by the payment of a fee in an amount which the legislative body determines is sufficient to compensate the legislative body for all costs incurred in conducting proceedings to create a district pursuant to this chapter.
- SEC. 13. Section 53319 of the Government Code is amended to read:
- 53319. A petition requesting the institution of proceedings for the establishment of a community facilities district shall do all of the following:
  - (a) Request the legislative body to institute proceedings to

establish a community facilities district pursuant to this chapter.

- (b) Describe the boundaries of the territory which is proposed for inclusion in the district.
- (c) State the type or types of facilities and services to be financed by the district.
- (d) Be signed by not less than 10 percent of the registered voters residing within the territory proposed to be included within the district or by owners of not less than 10 percent of the area of land proposed to be included within the district. If the legislative body finds that the petition is signed by the requisite number of registered voters residing within the territory proposed to be included within the district or by the requisite number of owners of land proposed to be included within the district, that finding shall be final and conclusive.
- SEC. 13.5. Section 53320 of the Government Code is amended to read:
- 53320. Within 90 days after either a written request by two members of the legislative body or a petition requesting the institution of proceedings for the establishment of a community facilities district is filed with the legislative body, it shall adopt a resolution of intention to establish a community facilities district in the form specified in Section 53321.
- SEC. 14. Section 53321 of the Government Code is amended to read:
- 53321. Proceedings for the establishment of a community facilities district shall be instituted by the adoption of a resolution of intention to establish the district which shall do all of the following:
- (a) State that a community facilities district is proposed to be established under the terms of this chapter and describe the boundaries of the territory proposed for inclusion in the district.
- (b) State the name proposed for the district in substantially the following form: "Community Facilities District No. \_\_\_\_\_."
- (c) State the type or types of public facilities and services proposed to be financed by the district pursuant to this chapter. If the purchase of completed public facilities or the incurring of incidental expenses is proposed, the resolution shall identify those facilities or expenses.
- (d) State that, except where funds are otherwise available, a special tax sufficient to pay for all facilities and services will be annually levied within the area. The resolution shall specify the rate and method of apportionment of the special tax in sufficient detail to allow each landowner or resident within the proposed district to estimate the probable annual amount and the maximum amount that he or she will have to pay. The legislative body may specify conditions under which the obligation to pay the specified special tax may be prepaid and permanently satisfied.
- (e) Fix a time and place for a public hearing on the establishment of the district which shall be not less than 30 or more than 60 days after the adoption of the resolution.

- (f) Describe any adjustment in property taxation to pay prior indebtedness pursuant to Sections 53313.6 and 53313.7.
  - (g) A description of the proposed voting procedure.
- SEC. 15. Section 53321.5 of the Government Code is amended to read:
- 53321.5. At the time of the adoption of the resolution of intention to establish a community facilities district, the legislative body shall direct each of its officers who is or will be responsible for providing one or more of the proposed types of public facilities or services to be financed by the district, if it is established, to study the proposed district and, at or before the time of the hearing, file a report with the legislative body containing a brief description of the public facilities and services by type which will in his or her opinion be required to adequately meet the needs of the district and his or her estimate of the cost of providing those public facilities and services. If the purchase of completed public facilities or the payment of incidental expenses is proposed, the legislative body shall direct its appropriate officer to estimate the fair and reasonable cost of those facilities or incidental expenses. All of those reports shall be made a part of the record of the hearing on the resolution of intention to establish the district.
- SEC. 15.5. Section 53322 of the Government Code is amended to read:
- 53322. (a) The clerk of the legislative body shall publish a notice of the hearing pursuant to Section 6061 in a newspaper of general circulation published in the area of the proposed district. Publication shall be complete at least seven days prior to the date of the hearing.
  - (b) The notice shall contain all of the following information:
  - (1) The text of the resolution of intention to establish the district.
- (2) The time and place of the hearing on the establishment of the district.
- (3) A statement that at the hearing the testimony of all interested persons or taxpayers for or against the establishment of the district, the extent of the district, or the furnishing of specified types of public facilities or services will be heard. The notice shall also describe, in summary, the effect of protests made by registered voters or landowners against the establishment of the district, the extent of the district, the furnishing of a specified type of facilities or services, or a specified special tax, as provided in Section 53324.
  - (4) A description of the proposed voting procedure.
- SEC. 16. Section 53324 of the Government Code is amended to read:
- 53324. If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the district, or the owners of one-half or more of the area of the land in the territory proposed to be included in the district, file written protests against the establishment of the district, and protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create

the specified community facilities district or to levy the specified special tax shall be taken for a period of one year from the date of the decision of the legislative body.

If the majority protests of the registered voters or of the landowners are only against the furnishing of a specified type or types of facilities or services within the district, or against levying a specified special tax, those types of facilities or services or the specified special tax shall be eliminated from the resolution of formation.

SEC. 17. Section 53325 of the Government Code is amended to read:

53325. The hearing may be continued from time to time, but shall be completed within 30 days, except that if the legislative body finds that the complexity of the proposed district or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed six months. The legislative body may modify the resolution of intention by eliminating proposed facilities or services, or by changing the rate or method of apportionment of the proposed special tax so as to reduce the maximum special tax for all or a portion of the owners of property within the proposed district, or by removing territory from the proposed district. At the conclusion of the hearing, the legislative body may abandon the proposed establishment of the community facilities district or may, after passing upon all protests, determine to proceed with establishing the district.

SEC. 18. Section 53325.1 of the Government Code is amended to read:

53325.1. (a) If the legislative body determines to establish the district, it shall adopt a resolution of formation establishing the district. The resolution of formation shall contain all of the information required to be included in the resolution of intention to establish the district specified in Section 53321. If a special tax is proposed to be levied in the district to pay for any facilities or services and the special tax has not been eliminated by majority protest pursuant to Section 53324, the resolution shall state that fact and shall identify any facilities or services proposed to be funded with the special tax.

(b) In the resolution of formation adopted pursuant to subdivision (a), the legislative body shall determine whether all proceedings were valid and in conformity with the requirements of this chapter. If the legislative body determines that all proceedings were valid and in conformity with the requirements of this chapter, it shall make a finding to that effect and that finding shall be final and conclusive.

SEC. 18.4. Section 53325.7 of the Government Code is amended to read:

53325.7. The legislative body may submit a proposition to establish or change the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of a community facilities district to the qualified

electors of a proposed or established district. The proposition establishing or changing the appropriations limit shall become effective if approved by the qualified electors voting on the proposition and shall be adjusted for changes in the cost of living and changes in populations, as defined by subdivisions (b) and (c) of Section 7901, except that the change in population may be estimated by the legislative body in the absence of an estimate by the Department of Finance, and in accordance with Section 1 of Article XIII B of the California Constitution. For purposes of adjusting for changes in population, the population of the district shall be deemed to be at least one person during each calendar year.

SEC. 18.7. Section 53325.8 of the Government Code is amended and renumbered to read:

53330.7. Except as otherwise provided in this article, the legislative body may, at any time, after conducting a public hearing, eliminate one or more of the types of facilities and services specified in the resolution of intention to establish the district but may not finance any types of facilities and services that were not specified in the resolution of intention.

SEC. 19. Section 53326 of the Government Code is amended to read:

- 53326. (a) The legislative body shall then submit the levy of any special taxes to the qualified electors of the proposed community facilities district in the next general election or in a special election to be held, notwithstanding any other requirement contained in the Elections Code, at least 90 days, but not more than 180 days, following the close of the protest hearing. If the election is to be held less than 125 days following the close of the protest hearing, the concurrence of the election official conducting the election shall be required. However, these time limits may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.
- (b) Except as otherwise provided in subdivision (c), if at least 12 persons, who need not necessarily be the same 12 persons, have been registered to vote within the territory of the proposed community facilities district for each of the 90 days preceding the close of the protest hearing, 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 and each landowner shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed community facilities district. If the vote is by landowners pursuant to this subdivision, the legislative body shall determine that any facilities financed by the district are necessary to meet increased demands placed upon local agencies as the result of development or rehabilitation occurring in the district.
- (c) If the proposed special tax will not be apportioned on any portion of property in residential use at the time of the election, as determined by the legislative body, the legislative body may provide

that the vote shall be by the landowners of the proposed district whose property would be subject to the tax if it were levied at the time of the election. Each of these landowners shall have one vote for each acre, or portion thereof, that the landowner owns within the proposed district which would be subject to the proposed tax if it were levied at the time of the election.

(d) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid.

SEC. 20. Section 53328 of the Government Code is amended to read:

- 53328. (a) Except as otherwise provided in subdivision (b), after the canvass of returns of any election pursuant to Section 53326, the legislative body may levy any special tax as specified in the resolution of formation adopted pursuant to subdivision (a) of Section 53325.1 within the territory of the district if two-thirds of the votes cast upon the question of levying the tax are in favor of levying that tax.
- (b) A special tax may be levied to provide the services specified in subdivision (c) of Section 53313 only if at least 12 persons, who need not necessarily be the same 12 persons, have been registered to vote within the territory of the proposed community facilities district for each of the 90 days preceding the close of the protest hearing and if two-thirds of the votes cast upon the question of levying the tax are in favor of levying the tax. The limitation contained in this subdivision does not apply to any election subject to subdivision (c) of Section 53326 where only the landowners have the right to vote on a proposed special tax.

SEC. 20.5. Section 53328.5 is added to the Government Code, to read:

53328.5. Division 4.5 (commencing with Section 3100) of the Streets and Highways Code applies with respect to any special tax levied pursuant to this chapter. This chapter is a "principal act" as that term is defined in Section 3100 of the Streets and Highways Code. In all cases in which special taxes have been approved by the qualified electors pursuant to this chapter prior to the effective date of the chapter of the Statutes of 1986 which added this section, the legislative body may direct the clerk of the legislative body to perform the filings required by Division 4.5 (commencing with Section 3100) of the Streets and Highways Code, and the county recorder shall accept those filings and may charge the clerk a fee for recording and indexing those documents pursuant to Section 3116 of the Streets and Highways Code. The failure of the clerk or recorder to perform the filings shall not subject the local agency or any of its officers or employees to civil liability.

SEC. 20.7. Section 53329 of the Government Code is amended to read:

53329. After the canvass of returns of any election conducted pursuant to Section 53326, the legislative body shall take no further action with respect to levying the specified special tax within the

community facilities district for one year from the date of the election if the question of levying that specified special tax fails to receive approval by two-thirds of the voters voting upon the question.

SEC. 21. Section 53329.5 is added to the Government Code, to read:

- 53329.5. (a) The owners of three-fourths of the area of lands taxed or liable to be taxed, or their agents (who shall declare under penalty of perjury that they are such owners or agents), shall not be required to present sealed proposals or bids when the legislative body calls for bids preparatory to letting a contract or contracts to do work financed pursuant to this chapter, but may, within 10 days after the publication of the notice of the award of the contract, elect to perform the work and enter into a written contract to do the whole work at prices not exceeding the prices specified in the bid of the bidder to whom the contract was awarded, and all work done under the contract shall be subject to any regulations as may be prescribed by the legislative body.
- (b) If the owners elect not to perform the work and not to enter into a written contract for that work within 10 days of publication of the notice of the award of the contract, or to commence the work within 15 days after the date of the written contract entered into between the owners and the legislative body, and to continue that work with diligence to completion, as determined by the legislative body, a contract shall be entered into by the legislative body with the original bidder to whom the contract was awarded at the prices specified in his or her bid.
- (c) If, in the opinion of the legislative body, the public interest will not be served by allowing the property owners to enter into a contract in accordance with subdivision (a), the legislative body may so provide in the resolution of intention adopted pursuant to Section 53321.
- SEC. 22. Section 53330 of the Government Code is amended to read:
- 53330. Upon the establishment of a community facilities district only the types of public facilities and services specified in the resolution of formation may be financed by the district under the authority of this chapter, except as provided in this article.
- SEC. 23. Section 53330.5 of the Government Code is amended to read:
- 53330.5. Upon approval of a special tax pursuant to Article 2 (commencing with Section 53318), the special tax may be levied only at the rate and may be apportioned only in the manner specified in the resolution of formation, except as provided in this article, and except that the legislative body may levy the special tax at a rate lower than that specified in the resolution. In addition, the special tax may be levied only so long as it is needed to pay the principal and interest on debt incurred in order to construct facilities under authority of this chapter, or so long as it is needed to pay the costs

and incidental expenses of services or of the construction of facilities authorized by this chapter.

- SEC. 24. Section 53331 of the Government Code is amended to read:
- 53331. (a) If the legislative body determines that the public convenience and necessity require any change in the types of authorized public facilities or services which should be financed by an established community facilities district, that the rate or method of apportionment of a special tax should be changed, or that a new special tax should be proposed, the legislative body may adopt a resolution of consideration to alter the types of public facilities or services to be financed by the district, to levy a new special tax or special taxes, or, except as provided in subdivision (b), to alter the rate or method of apportionment of the special tax. Those proceedings may be commenced at any time. Section 53325.6 applies to any types of facilities or services proposed to be financed by the district.
- (b) The legislative body shall not adopt a resolution of consideration to reduce the rate of any special tax or terminate the levy of any special tax if the proceeds of that tax are being utilized to retire any debt incurred pursuant to this chapter unless the legislative body determines that the reduction or termination of that tax would not interfere with the timely retirement of that debt.
- (c) The resolution of consideration adopted pursuant to subdivision (a) shall contain all of the information required by subdivisions (a) to (e), inclusive, of Section 53334.
- SEC. 25. Section 53332 of the Government Code is amended to read:
- 53332. (a) If a petition signed by 25 percent or more of the registered voters residing in the district, or by the owners of 25 percent or more of the territory within the district, is filed with the legislative body requesting that proceedings be commenced to change the types of public facilities or services financed by the district or that the rate or method of apportionment of an existing special tax be changed, or that a new special tax be levied, the legislative body shall within 40 days thereafter adopt a resolution of consideration in the form specified in Section 53334 to make those changes within the community facilities district except that an existing special tax being used to pay off any debt incurred in order to build or acquire capital facilities under this chapter shall not be reduced or terminated if doing so would interfere with the timely retirement of that debt.
- (b) Any petition filed by landowners shall be accompanied by the payment of the fee which the legislative body determines. That fee may be imposed in an amount sufficient to compensate the legislative body for all costs incurred in conducting proceedings to change the district pursuant to this article.
- SEC. 26. Section 53333 of the Government Code is amended to read:

- 53333. The petition shall request the legislative body to commence proceedings to make specified changes to a named community facilities district. The petition may consist of any number of separate instruments each of which shall comply with all the requirements of a petition except as to the number of signatures.
- SEC. 27. Section 53334 of the Government Code is amended to read:
- 53334. The resolution of consideration to alter the types of public facilities and services financed by an established community facilities district, or to levy a new special tax or special taxes, or to alter the rate or method of apportionment of an existing special tax, shall do all of the following:
  - (a) State the name of the area.
  - (b) Generally describe the territory included in the area.
- (c) Specify the changes in public facilities and services which it is proposed that the district finance.
- (d) Specify any new special taxes which would be levied to pay for new or existing facilities and services and any proposed alteration to the rate or method of apportionment of an existing special tax.
- (e) Fix a time and place for a hearing upon the resolution which shall not be less than 30 or more than 60 days after the adoption of the resolution of consideration.
- SEC. 28. Section 53335 of the Government Code is amended to read:
- 53335. The clerk of the legislative body shall give notice of the hearing in the same manner and within the same time as provided for the giving of notice of a hearing on a resolution of intention to establish a community facilities district.

The notice shall do all of the following:

- (a) Contain the text of the resolution.
- (b) State the time and place for hearing.
- (c) State that at the hearing the testimony of all interested persons or taxpayers for or against the proposed changes in public facilities and services and the levying of additional special taxes or of changing existing special taxes will be heard. The notice shall also describe, in summary, the effect of protests made by registered voters or landowners against the proposed changes in facilities or services and the levying of additional taxes or changes in existing taxes.
  - (d) Describe the proposed voting procedure.
- SEC. 29. Section 53337 of the Government Code is amended to read:
- 53337. If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the district, or the owners of one-half or more of the area of the land in the territory included in the district file written protests against changing the public facilities or services financed by the district, those changes in the facilities or services shall be eliminated from the resolution ordering changes in the types of public facilities or services to be

financed and the changes shall not be included in a resolution for a period of one year from the date of the decision of the legislative body on the hearing.

If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the district, or the owners of one-half or more of the area of the land in the territory included in the district file written protests against the levying of any additional special taxes within the district, or against a proposed alteration to an existing special tax within the district, those changes shall be eliminated from the resolution and the changes shall not be included in a resolution for a period of one year from the date of the decision of the legislative body on the hearing.

SEC. 30. Section 53338 of the Government Code is amended to read:

53338. The hearing may be continued from time to time, but shall be completed within 30 days, except that if the legislative body finds that the complexity of the proposed district or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed six months. At the conclusion of the hearing the legislative body may abandon the proceedings or may, after passing upon all protests, submit the question of levying a new special tax or of changing the rate or method of apportionment of an existing special tax or of changing the types of facilities and services to be financed by the district, or any combination, to the qualified electors of the district as specified in Article 2 (commencing with Section 53318).

SEC. 31. Section 53339.6 of the Government Code is amended to read:

53339.6. If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the existing community facilities district, or if 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the territory proposed for annexation, or if the owners of one-half or more of the area of land in the territory included in the existing district, or if the owners of one-half or more of the area of land in the territory proposed to be annexed, file written protests against the proposed addition of territory to the existing community facilities district, and protests are not withdrawn so as to reduce the protests to less than a majority, no further proceedings shall be undertaken for a period of one year from the date of decision of the legislative body on the issues discussed at the hearing.

SEC. 32. Section 53339.9 of the Government Code is amended to read:

53339.9. After the canvass of returns of any election conducted in accordance with Section 53339.7, the legislative body shall take no further action on annexing the territory proposed to be annexed to the community facilities district for a period of one year from the date of the election if less than two-thirds of the voters voting on the proposition vote in favor of levying the special tax.

SEC. 33. Section 53340 of the Government Code is amended to read:

53340. After a community facilities district has been created and authorized to levy specified special taxes pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339), the legislative body may, by ordinance, levy the special taxes at the rate and apportion them in the manner specified in the resolution adopted pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339), except that the legislative body may levy the special tax at a lower rate. Properties or entities of the state, federal, or other local governments shall, except as otherwise provided in Section 53317.3, be exempt from the special tax. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the resolution of formation to establish a district adopted pursuant to Section 53325.1 or in a resolution of consideration to levy a new special tax or special taxes or to alter the rate or method of apportionment of an existing special tax as provided in Section 53334. The proceeds of any special tax may only be used to pay, in whole or part, the cost of providing public facilities, services, and incidental expenses pursuant to this chapter. The special tax may be collected in the same manner as ordinary ad valorem property taxes are collected and may be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes, or another procedure may be adopted by the legislative body. The tax collector may deduct the reasonable administrative costs incurred in collecting the special tax.

SEC. 34. Section 53340.5 is added to the Government Code, to read:

53340.5. If the legislative body of the local agency levying the special taxes is not the legislative body of a county and those special taxes are collected by county officials, the county auditor shall, at the close of each tax collecting period, promptly provide the auditor of the local agency levying the taxes a detailed report showing the amounts of special taxes, interest, and penalties collected for the district and from which property those revenues were collected, identifying any properties which are delinquent and the amount and length of time in arrears, and a statement of the percentage of the taxes retained by the auditor for the expenses incurred in making the collections and the report.

SEC. 34.5. Section 53345.3 of the Government Code is amended to read:

53345.3. The amount of the proposed bonded indebtedness may include all costs and estimated costs incidental to, or connected with, the accomplishment of the purpose for which the proposed debt is to be incurred, including, but not limited to, the estimated costs of construction or acquisition of buildings, or both; acquisition of land,

rights-of-way, water, sewer, or other capacity or connection fees; lease payments for school facilities that are relocated, satisfaction of contractual obligations relating to expenses or the advancement of funds for expenses existing at the time the bonds are issued pursuant to this chapter; architectural, engineering, inspection, legal, fiscal, and financial consultant fees; bond and other reserve funds; discount fees; interest on any bonds of the district due and payable prior to the expiration of one year from the date of completion of the facilities, not to exceed two years; election costs; and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit, and other credit enhancement costs, and printing costs.

SEC. 34.7. Section 53356.1 of the Government Code is amended to read:

- 53356.1. (a) As a cumulative remedy, if any amount levied as a special tax for the payment of bond interest or principal together with any penalties and other charges accruing under the resolution or ordinance of the district imposing the tax are not paid when due, the legislative body may, not later than four years after the due date of the last installment of principal, order that the same be collected by an action brought in the superior court to foreclose any lien therefor.
- (b) The legislative body may, by resolution, adopted prior to the issuance of bonds under this chapter covenant for the benefit of bondowners to commence and diligently pursue to completion any foreclosure action regarding delinquent installments of any amount levied as a special tax for the payment of interest or principal of any bonds that are issued. The resolution may specify a deadline for commencement of the foreclosure action and any other terms and conditions the legislative body determines reasonable regarding the foreclosure action.

SEC. 35. Section 53357 of the Government Code is amended to read:

53357. The bonds shall be signed by the chairperson of the legislative body and countersigned by the clerk of the legislative body or his or her deputy. All signatures on the bonds may be printed, lithographed, or engraved. If any officer whose signature appears on the bonds ceases to be that officer before the delivery of the bonds, his or her signature is as effective as if he or she had remained in office. All bonds shall be payable at the office of the treasurer of the local agency or at the office of any agent designated by the local agency.

SEC. 36. Section 53358 of the Government Code is amended to read:

53358. When the legislative body fixes and levies special taxes and charges for the community facilities district it shall also fix and levy that amount of special taxes and charges within the community facilities district which is required for the payment of the principal

of and interest on any outstanding bonded debt of the community facilities district, including any necessary replenishment or expenditure of bond reserve funds or accumulation of funds for future bond payments. The special tax or charge shall be levied and collected by the same officers and at the same time and in the same manner that all other special taxes and charges are levied and collected for the community facilities district or in any other manner specified by the legislative body. The special taxes and charges shall not exceed the authority granted by Article 2 (commencing with Section 53318) and Article 3 (commencing with Section 53330). All of the collections for payment of principal and interest on bonds shall be paid into the community facilities district bond fund and reserve or other fund for the particular community facilities district and shall be used solely for the payment of the principal of and interest on the outstanding bonds of the community facilities district.

SEC. 37. Section 53359 of the Government Code is amended to read:

53359. An action to determine the validity of bonds issued pursuant to this chapter or the validity of any special taxes levied pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure but shall, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, be commenced within 30 days after the voters approve the issuance of the bonds or the special tax if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

SEC. 38. Section 53359.5 of the Government Code is amended to read:

53359.5. The legislative body shall, no later than 30 days prior to the sale of any bonds pursuant to this article, give written notice of the proposed sale to the California Debt Advisory Commission by mail, postage prepaid, as required by Chapter 12 (commencing with Section 8855) of Division 1 of Title 2.

SEC. 38.5. Section 53363.5 of the Government Code is amended to read:

be exchanged for the bonds to be refunded on such basis as the legislative body determines is for the benefit of the district, but shall be issued in compliance with Section 53362.5. As an alternative to exchanging the refunding bonds for the bonds to be refunded, the legislative body may sell the refunding bonds at public or private sale. The proceeds of any sale of refunding bonds for cash shall be placed in the treasury of the local agency to the credit of a fund to be established for the purpose of refunding the bonds to be refunded, which fund shall be designated the "refunding fund," and the proceeds of the sale shall be applied only as permitted by this article. The funds shall be secured and may be invested in accordance with

any other laws applicable to the funds of the local agency.

SEC. 39. Section 53364.5 of the Government Code is amended to read:

53364.5. Any bonds issued by the district may be made callable by resolution of the legislative body adopted at or prior to the time of issuing the bonds. When bonds are made callable a statement to that effect shall be set forth on the face of the bonds. Callable bonds may be redeemed on any interest payment date prior to their fixed maturity in the amounts, manner, and prices prescribed by the legislative body.

SEC. 39.5. Section 65913.5 of the Government Code is amended to read:

- 65913.5. (a) Any party may protest the establishment of the imposition of any fees, dedications, reservations, or other exactions imposed on a residential housing development by a local agency by meeting both of the following requirements:
- (1) Tendering any required payment in full or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements of the imposition.
- (2) Serving written notice on the governing body of the entity which notice shall contain all of the following information:
- (A) A statement that the required payment is tendered, or that any conditions which have been imposed are provided for or satisfied, under protest.
- (B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.
- (b) Compliance by any party with subdivision (a) shall not be the basis for a local agency to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development of the residential housing development. This section does not limit the ability of a local agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.
- (c) Where a reviewing local agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed residential housing development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, that approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, dedications, reservations, or other exactions not presently governed by other law.

- (d) A protest filed pursuant to subdivision (a) shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the establishment of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a residential housing development. Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, dedications, reservations, or other exactions imposed on a residential housing development by a local agency within 180 days after the date of the establishment of the imposition. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the imposition. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.
- (e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the local agency to refund the unlawful portion of the payment, with interest at the rate of 8 percent per annum, or return the unlawful portion of the exaction imposed.
- (f) Approval or conditional approval of a development occurs, for the purposes of this section, when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved or when the parcel map is recorded if a tentative map or tentative parcel map is not required.
- (g) The establishment of the imposition of fees, dedications, reservations, or other exactions occurs, for the purposes of this section, when they are imposed or levied on a specific development.
- (h) "Local agency," as used in this section, means a city, county, city and county, or any other local public entity.
- SEC. 40. Section 66462 of the Government Code is amended to read:
- 66462. (a) If, at the time of approval of the final map by the legislative body, any public improvements required by the local agency pursuant to this division or local ordinance have not been completed and accepted in accordance with standards established by the local agency by ordinance applicable at the time of the approval or conditional approval of the tentative map, the legislative body, as a condition precedent to the approval of the final map, shall require the subdivider to enter into one of the following agreements specified by the local agency:
- (1) An agreement with the local agency upon mutually agreeable terms to thereafter complete the improvements at the subdivider's expense.
- (2) An agreement with the local agency to thereafter do either of the following:
- (A) Initiate and consummate proceedings under an appropriate special assessment act or the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of

Division 2 of Title 5 for the financing and completion of all of the improvements.

- (B) If the improvements are not completed under a special assessment act or the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5, to complete the improvements at the subdivider's expense.
- (b) The standards may be adopted by reference, without posting or publishing them, if they have been printed in book or booklet form and three copies of the books or booklets have been filed for use and examination by the public in the office of the clerk of the legislative body.
- (c) The local agency entering into any agreement pursuant to this section shall require that performance of the agreement be guaranteed by the security specified in Chapter 5 (commencing with Section 66499).
- SEC. 41. The heading of Division 4.5 (commencing with Section 3100) of the Streets and Highways Code is amended to read:

# DIVISION 4.5. NOTICE OF SPECIAL ASSESSMENT, SPECIAL TAX, AND FORECLOSURE PROCEEDINGS

- SEC. 42. Section 3100 of the Streets and Highways Code is amended to read:
- 3100. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this part govern the construction of this division:
- (a) "Assessment" or "special assessment" means the original assessment and any reassessment or supplemental assessment upon lands within the assessment district.
- (b) "Assessment district" means the territory containing the lands to be specially assessed.
- (c) "Lienholder" means any person or city who as a result of proceedings taken under the principal act and any bond act used in conjunction therewith, owns or is entitled to enforce a lien against a specifically described lot, parcel, or piece of land within the district.
- (d) "Bond act" means any statute, charter, or procedural ordinance under which bonds are issued (1) to represent unpaid special assessments imposed in proceedings taken pursuant to the principal act or (2) which are secured by authority to levy special taxes conferred in proceedings taken pursuant to the principal act.
- (e) "City" means any city, county, city and county, district, public corporation, or public entity authorized to use the principal act.
- (f) "Community facilities district" means the territory within a district formed purusant 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 of the Government Code.
- (g) "District" means an assessment district or community facilities district.

- (h) "Legislative body" means the legislative body or governing board of a city.
- (i) "Map of the district" means a plat or map indicating by a boundary line the extent of the territory included in the district.
- (j) "Principal act" means the statute, charter, or procedural ordinance under which the proceedings are being conducted.
- (k) "Proceedings" means proceedings taken pursuant to the principal act for the construction of any public improvement or the acquisition of any property for public use, or both, or for the furnishing of services 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 of the Government Code, where (1) any part of the cost thereof is to be paid by special assessments levied upon lots, parcels, or pieces of land within a district in proportion to the benefits to be received by each lot, parcel, or piece of land from that improvement or acquisition, or (2) any part of the cost thereof is to be paid by special taxes levied or authorized to be levied upon lots, parcels, or pieces of land within a community facilities district.
- (1) "Sale or foreclosure" means any action or proceeding by any city officer or in any court for the enforcement of payment of special taxes, principal, or interest due upon any special assessment or bond constituting a lien against real property by the sale or foreclosure of all or any part of the real property or the lien.
- SEC. 43. The heading of Part 2 (commencing with Section 3110) of Division 4.5 of the Streets and Highways Code is amended to read:

# PART 2. FILING OF MAPS OF DISTRICTS AND RECORDATION OF NOTICES

- SEC. 44. Section 3110 of the Streets and Highways Code is amended to read:
- 3110. (a) The proposed boundaries of the district to be specially taxed or assessed in proceedings shall be described by resolution or ordinance adopted by the legislative body prior to the hearing on the formation or extent of the district. The description of the proposed boundaries shall be by reference to a map of the district which shall indicate by a boundary line the extent of the territory included in the proposed district and the map shall govern for all details as to the extent of the district. The map shall also contain the name of the city and a distinctive designation, in words or by number, of the district shown on the map.
- (b) The map shall be legibly drawn, printed or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for the map shall be 18 by 26 inches in size, shall have clearly shown therein the particular number of the sheet, the total number of sheets comprising the map, and its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width.

The map shall be labeled substantially as follows: Proposed

Boundaries of (here insert name or number of district) (here insert name of city and county thereafter), State of California.

If the map consists of more than one page, the same entitlement shall be on each page.

The map shall also have thereon legends reading substantially as follows:

(1) Filed in the office of the (clerk of the legislative body) this

day of 19
(Clerk of the legislative body)
(2) I hereby certify that the within map showing proposed
boundaries of (here insert name or number of district) (here insert
name of city, and, if not a county, insert name of county thereafter),
State of California, was approved by the city council (or other
appropriate legislative body) of the (here insert city) at a regular
meeting thereof, held on the, 19, by its
Resolution No
(3) Filed this day of, 19, at the hour of
o'clock _m. in Book of Maps of Assessment and
Community Facilities Districts in the office of the county recorder
in the County of, State of California.
(County Recorder of County of)
SEC. 45. Section 3111 of the Streets and Highways Code is
amended to read:
3111. On the original and on at least one copy of the map of the
district, the clerk of the legislative body shall endorse his or her

- 3111. On the original and on at least one copy of the map of the district, the clerk of the legislative body shall endorse his or her certificate evidencing the date and adoption of the resolution or ordinance describing the proposed boundaries of the district. The clerk shall file the original of the map in his or her office and, within 15 days after the adoption of the resolution or ordinance fixing the time and place of the hearing on the formation or extent of the district and in no event later than 15 days prior to the hearing, shall file a copy thereof with the county recorder of each county in which all or any part of the proposed district is located upon payment of the filing fee.
- SEC. 46. Section 3112 of the Streets and Highways Code is amended to read:
- 3112. The county recorder shall endorse on the copy of the map of the district the time and date of the filing and shall fasten the same securely in a book of maps of assessment and community facilities districts which the county recorder shall keep in his or her office. The county recorder shall index the maps by name of the city conducting the proceedings and by the distinctive designation of the district as shown on each map.
- SEC. 47. Section 3112.5 of the Streets and Highways Code is amended to read:
- 3112.5. The county clerk of any county in whose office maps of proposed districts are filed shall transmit the maps to the county

recorder, who shall receive the maps with the same effect and manner as maps filed with the county recorder pursuant to Section 3112.

- SEC. 48. Section 3113 of the Streets and Highways Code is amended to read:
- 3113. The legislative body shall not order a modification in the boundaries of a district shown on a previously filed map of the district unless the legislative body describes the proposed modification by reference to an amended map of the district boundary. The amended map shall be approved by resolution adopted by the legislative body and the clerk of the legislative body shall file the amended map showing the modification of boundaries of the district with the county recorder not later than 10 days after the resolution of the legislative body approving the amended boundary. The map shall also contain the legends provided for in Section 3110.

The county recorder shall endorse upon the modified or amended boundary map the time and date of the filing and shall fasten the same securely in a book of maps of assessment and community facilities districts which the county recorder keeps in his or her office pursuant to Section 3112. The county recorder shall cross-index the amended boundary map by reference to page and book of maps of assessment and community facilities districts in which the original boundary map of the affected district was filed.

The amended boundary map shall include on its face that it amends the boundary map for (here insert name or number of district or both name and number of district, together with city or county, or both city and county), State of California, prior recorded at Book \_\_\_\_\_ of Maps of Assessment and Community Facilities Districts at page \_\_\_\_, in the office of the County Recorder for the County of \_\_\_\_\_, State of California.

- SEC. 49. Section 3114 of the Streets and Highways Code is amended to read:
  - 3114. (a) This section applies only to assessment districts.
- (b) After the confirmation by the legislative body of any assessment, the clerk of the legislative body shall cause to be filed in the office of the county recorder a copy of the assessment diagram.
- (c) The assessment diagram shall be prepared by the engineer responsible for engineering work. The assessment diagram shall be legibly drawn, and at least one copy thereof shall be printed or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for the permanent record map shall be 18 by 26 inches in size, shall have clearly shown thereon the particular number of the sheet, the total number of sheets comprising the map, its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width.

The map shall be labeled substantially as follows: Assessment Diagram, (here insert name or number of district) Assessment District, (here insert city and name of county thereafter), State of

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The map shall also have thereon legends reading substantially as
follows:
(1) Filed in the office of the (clerk of the legislative body), this
day of, 19
(Clerk of the legislative body)
(2) Recorded in the office of the (superintendent of streets) this
day of, 19
· - · · · · · · · · · · · · · · · · · ·

(Superintendent of Streets)

(3) An assessment was levied by the city council (or other
appropriate legislative body) on the lots, pieces, and parcels of land
shown on this assessment diagram. The assessment was levied on the
day of, 19_; the assessment diagram and the
assessment roll were recorded in the office of the superintendent of
streets of that city on the day of, 19 Reference
is made to the assessment roll recorded in the office of the
superintendent of streets for the exact amount of each assessment
levied against each parcel of land shown on this assessment diagram.

(Clerk of the legislative body)	
(4) Filed this day of, 19, at the hour	of
o'clock _M. in Book of Maps of Assessment a	nd
Community Facilities Districts in the office of the county record of the County of, State of California.	ler

(County Recorder of County of \_\_\_\_\_)

- (d) The clerk shall file a copy of the assessment diagram referred to in subdivision (c) in the office of the county recorder of the county in which all or any part of the assessment district shown on the assessment diagram is located upon payment of the filing fee. The filing of the assessment diagram shall be made by the clerk.
- (e) The county recorder shall endorse upon the assessment diagram filed with him or her, pursuant to subdivision (d), the time and date of filing and shall fasten the same securely in the "Book of Maps of Assessment and Community Facilities Districts" in which the county recorder is obligated to keep boundary maps under Section 3112. The county recorder shall cross-index the assessment diagram by reference to the city conducting the proceedings and by reference to page of the book of maps of assessment and community facilities districts in which the boundary map of the district was filed in the book.
- (f) After the confirmation by the legislative body of any assessment and the recording of the assessment and diagram in the office of the street superintendent or other officer of the city in whose office the assessment and diagram shall have been recorded, the clerk of the legislative body shall execute and record a notice of assessment in the office of the county recorder of each county in

which all or any part of the assessment district is located. The notice of assessment shall be in substantially the following form:

# NOTICE OF ASSESSMENT

Pursuant to the requirements of Section 3114 of the Streets and
Highways Code, the undersigned clerk of the legislative body of
, State of California, hereby gives notice that a diagram and
assessment were recorded in the office of the of that city
as provided for in Section 3114 of the Streets and Highways Code,
and relating to the following described real property:
(The real property in the assessment district may be described by:
(a) stating its exterior boundaries; or (b) giving a description thereof
according to any official or recorded map; or (c) referring to the
assessment diagram filed in accordance with subdivisions (d) and (e)
of Section 3114 and the book and page number in the office of the
county recorder of the filed plat or map.)
Notice is further given that upon the recording of this notice in the
office of the county recorder, the several assessments assessed on the
lots, pieces, and parcels shown on the filed assessment diagram shall
become a lien upon the lots or portions of lots assessed, respectively.
Reference is made to the assessment diagram and assessment roll
recorded in the office of the of that city.
The state of the s

If the assessment district is located in two or more counties, the notice above set forth, in lieu of the paragraph following the description of the property, shall state:

Notice is further given that the above-described real property is located in the Counties of \_\_\_\_\_ and \_\_\_\_ and upon the recording of this notice in the office of the county recorder of all such counties, effective upon the date of the last such recording, the several assessments on the lots, pieces, and parcels shown on the filed assessment diagram shall become a lien upon the lots or portions of lots assessed, respectively.

SEC. 50. Section 3114.5 is added to the Streets and Highways Code, to read:

3114.5. (a) This section applies only to community facilities districts.

(b) Within 15 days after the confirmation by the qualified electors of any special tax authorization, the clerk of the legislative body shall execute and record a notice of special tax authorization in the office of the county recorder of each county in which all or any part of the community facilities district is located, and the county recorder shall accept that notice. The notice of special tax authorization shall be in substantially the following form:

#### NOTICE OF SPECIAL TAX AUTHORIZATION

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code, the undersigned clerk of the legislative body of \_\_\_\_\_\_\_, State of California, hereby gives notice that the (here insert name of legislative body) of (here insert city and name of county thereafter), State of California is authorized to annually levy a special tax for the purpose of: (as applicable) (1) paying principal and interest on bonds, the proceeds of which are being used to finance (briefly describe facilities financed); (2) providing (briefly described facilities financed without bonds); (3) providing (briefly described services being financed).

The special tax is authorized to be imposed within Community Facilities District No. \_\_\_\_\_ which has now been officially formed.

The rate and method of apportionment of the authorized special tax is as follows: (here insert verbatim the description of the rate and method of apportionment from the resolution of formation of the community facilities district).

Reference is made to the boundary map (or the amended boundary map) of the community facilities district recorded at Book \_\_\_\_\_ of Maps of Assessment and Community Facilities Districts at Page \_\_\_\_\_, in the office of the County Recorder for the County of \_\_\_\_\_, State of California which map is now the final boundary map of the community facilities district.

For further information contact (here provide name, address, and telephone number of the appropriate office, department, or bureau of the city).

- (c) The county recorder shall endorse upon the notice the time and date of filing, and shall cross index the notice by reference to the page of the book of maps of assessment and community facilities districts in which the boundary map of the district was filed.
- SEC. 51. Section 3115 of the Streets and Highways Code is amended to read:
- 3115. (a) This section applies only to assessment districts. The lien duration provisions of subdivision (c) apply to any assessments, regardless of when levied and which are being levied on the effective date of the act which amended this section during the 1986 Regular Session of the Legislature.
- (b) From the date of the recording in the office of the county recorder pursuant to Section 3114, or if the assessment district is located in two or more counties then from the date of the recording in the office of the county recorder where a notice is last recorded, all persons are deemed to have notice of the contents of the assessment.
- (c) Immediately effective on the date of the last of the recordings, pursuant to subdivision (b), each of the assessments is a lien upon the property against which it is made. Unless sooner discharged, the lien continues for the period of 10 years from the date of the recordation or, if bonds are issued to represent the assessment, until the

expiration of four years after the due date of the last installment on the bonds or of the last principal coupon attached thereto, or until four years after the due date of the last installment on any refunding bonds or of the last principal coupon attached thereto, whichever is longer.

- SEC. 52. Section 3115.5 is added to the Streets and Highways Code, to read:
- 3115.5. (a) This section applies only to community facilities districts.
- (b) From the date of the recording in the office of the county recorder pursuant to Section 3114.5, or if the community facilities district is located in two or more counties, then from the date of the recording in the office of the county recorder where a notice is last recorded, all persons are deemed to have notice of the contents of the Notice of Special Tax Authorization.
- SEC. 53. Section 3116 of the Streets and Highways Code is amended to read:
- 3116. The fees of the county recorder for recording and indexing any document provided for in this division shall be in the amounts specified in Section 27361 of the Government Code, and the fees of the county recorder for filing the copy of the map of the proposed district shall be in the amounts specified in Section 27372 of the Government Code.
- SEC. 54. Section 3117 of the Streets and Highways Code is amended to read:
- 3117. If any proceedings are abandoned by the legislative body, the clerk of the legislative body shall, upon that abandonment, record a certified copy of the resolution of abandonment with the county recorder of each county in which all or any part of the district is located. The certificate of the clerk of the legislative body attached to the resolution shall include a reference to the date of the resolution of abandonment, the date of the original resolution of intention, and the date the map of the district was filed with the county recorder. The county recorder shall index the resolution in the book containing the index of the maps of assessment and community facilities districts.
- SEC. 55. Section 3117.5 is added to the Streets and Highways Code, to read:
- 3117.5. If any proceedings subsequent to the approval by the voters of a special tax 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 of the Government Code, result in a change in the authorization to levy a special tax or to issue bonds, or a change in the boundaries of the district wherein the tax is levied, the clerk of the legislative body shall record a new map and notice clearly indicating these changes in the manner set forth in this division. To the extent that the new map and notice supersede the previously recorded map and notice, the new map and notice shall so state and shall reference the book and page of the superseded map

and notice.

SEC. 56. Section 3120 of the Streets and Highways Code is amended to read:

- · 3120. Where there is a delinquency in the payment of special taxes levied 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 of the Government Code or principal and interest due upon a special assessment or bond and a sale or foreclosure is commenced, notice of the pendency of the sale or foreclosure shall be filed as provided in this part.
- SEC. 57. Section 3121 of the Streets and Highways Code is amended to read:
- 3121. Not later than 10 days after (1) making demand upon or application to the treasurer or other officer of the city to sell property for the delinquency or (2) commencing an action or proceeding in any court to foreclose the lien of the special assessment or bond, the lienholder shall record with the county recorder a notice of pendency of the sale or foreclosure.
- SEC. 58. Section 3122 of the Streets and Highways Code is amended to read:
- 3122. The notice of pendency shall contain the name of the lienholder, describe the lien, state that a sale or foreclosure, as the case may be, has been commenced, refer to and identify the sale or foreclosure, and describe the property affected thereby.
- SEC. 59. Section 3123.1 of the Streets and Highways Code is amended to read:
- 3123.1. The lienholder is entitled to recover the cost of recordation of any notice of pendency in any sale or foreclosure resulting from the delinquency and provision therefor shall be made in any notice, order, or judgment authorizing or providing for the sale or foreclosure.
- SEC. 60. Section 3124 of the Streets and Highways Code is amended to read:
- 3124. This part does not apply in any case where payments of special taxes or principal and interest due upon a special assessment or bond are enforced for delinquency in the same manner and at the same times as general taxes of the city on real property.
- SEC. 61. Any proceedings to create a community facilities district or to purchase facilities 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 of the Government Code, for which a resolution of intention has been adopted to establish the district prior to the effective date of this act may be conducted in accordance with the terms of the Mello-Roos Community Facilities Act of 1982 in effect at the time the proceedings were initiated, or those proceedings or purchases may be conducted in accordance with the Mello-Roos Community Facilities Act of 1982 as affected by this act, as nearly as practicable, as determined by the legislative body and with the concurrence of the official conducting the elections, as if this

act had been in effect when the proceedings were commenced.

SEC. 62. 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. 63. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 enact statutes that will facilitate the formation and operation of community facilities districts as soon as possible, this act must take effect immediately.

#### CHAPTER 1103

An act to amend Section 14105.7 of, and to amend and renumber Section 14105.9 of, the Welfare and Institutions Code, relating to drugs.

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

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

SECTION 1. Section 14105.7 of the Welfare and Institutions Code is amended to read:

- 14105.7. (a) In order to fairly reimburse pharmacies for the furnishing of prescription drugs to Medi-Cal beneficiaries, the director shall update allowable drug product prices no less often than every 30 days. The update shall include any prior change in drug product price of which the director has received notice. Notice to the director shall include, but not be limited to, publication of the price change in the supplier's catalog or supplement or in nationally distributed drug price reference guides.
- (b) No regulation reducing allowable drug product cost reimbursement or removing a drug from the Medi-Cal drug formulary shall be operative until at least 30 days after eligible pharmacies have been mailed a notice of the reimbursement limitation by the department or the fiscal intermediary.
- (c) The director shall limit the rate of payment for the professional fee portion of prescription services rendered under this chapter pursuant to Section 4229.5 of the Business and Professions Code or Section 11201 of the Health and Safety Code and the professional fee portion of prescription services rendered as a refill immediately subsequent to such prescription to ensure that the total professional fee paid for the two services does not exceed the professional fee paid for the same prescription refill when provided

as a routine service.

SEC. 2. Section 14105.9 of the Welfare and Institutions Code, as added by Chapter 1622 of the Statutes of 1984, is amended and renumbered to read:

14105.91. The department may add a drug to the formulary which is a different dosage form, or strength of a drug product which is listed in the formulary without review by the Medical Therapeutics and Drug Advisory Committee, and the addition shall be deemed to comply with the requirements of the California Administrative Procedures Act.

#### CHAPTER 1104

An act to add Section 23196 to the Vehicle Code, relating to traffic offenses.

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

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

SECTION 1. Section 23196 is added to the Vehicle Code, to read: 23196. (a) Upon motion of the prosecution in a criminal action for a felony violation of Section 23153 which resulted in serious bodily injury to any person other than the defendant, the court may declare the motor vehicle driven by the defendant to be a nuisance if both of the following conditions are present:

- (1) The defendant is the registered owner of the vehicle.
- (2) The defendant has, within the five years immediately preceding the violation, been convicted of one or more separate violations of Section 23152 or 23153.
- (b) Except as provided in subdivision (g), upon the conviction of the defendant, the court shall order any vehicle declared to be a nuisance pursuant to subdivision (a) to be sold. Any vehicle ordered to be sold pursuant to this subdivision shall be surrendered to the sheriff of the county or the chief of police of the city in which the violation occurred. The officer to whom the vehicle is surrendered shall promptly ascertain from the department the names and addresses of all legal and registered owners of the vehicle and within five days of receiving that information, shall send by certified mail a notice to all legal and registered owners of the vehicle other than the defendant, at the addresses obtained from the department, informing them that the vehicle has been declared a nuisance and will be sold or otherwise disposed of pursuant to this section, and of the approximate date and location of the sale or other disposition. The notice shall also inform any legal owner of its right to conduct the sale pursuant to subdivision (c).
  - (c) Any legal owner which in the regular course of its business

conducts sales of repossessed or surrendered motor vehicles may take possession and conduct the sale of the vehicle declared to be a nuisance if it notifies the officer to whom the vehicle is surrendered of its intent to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (b). Sale of the vehicle pursuant to this subdivision may be conducted at the time, in the manner, and on the notice usually given by the legal owner for the sale of repossessed or surrendered vehicles. The proceeds of any sale conducted by the legal owner shall be disposed of as provided in subdivision (e).

- (d) If the legal owner does not notify the officer to whom the vehicle is surrendered of its intent to conduct the sale as provided in subdivision (c), the officer shall offer the vehicle for sale at public auction within 60 days of receiving the vehicle. At least 10 days but not more than 20 days prior to the sale, not counting the day of sale, the officer shall give notice of the sale by advertising once in a newspaper of general circulation published in the city or county, as the case may be, in which the vehicle is located, which notice shall contain a description of the make, year, model, identification number, and license number of the vehicle, and the date, time and location of the sale. For motorcycles, the engine number shall also be included. If there is no newspaper of general circulation published in the county, notice shall be given by posting a notice of sale containing the information required by this subdivision in three of the most public places in the city or county in which the vehicle is located and at the place where the vehicle is to be sold for 10 consecutive days prior to and including the day of the sale.
- (e) The proceeds of a sale conducted pursuant to this section shall be disposed of in the following priority:
- (1) To satisfy the costs of the sale, including costs incurred with respect to the taking and keeping of the vehicle pending sale.
- (2) To the legal owner in an amount to satisfy the indebtedness owed to the legal owner remaining as of the date of sale, including accrued interest or finance charges and delinquency charges.
- (3) To the holder of any subordinate lien or encumbrance on the vehicle to satisfy any indebtedness so secured if written notification of demand is received before distribution of the proceeds is completed. The holder of a subordinate lien or encumbrance, if requested, must reasonably furnish reasonable proof of its interest, and unless it does so on request is not entitled to distribution pursuant to this paragraph.
- (4) To any other person who can establish an interest in the vehicle, including a community property interest, to the extent of his or her provable interest.
- (5) The balance, if any, to the city or county in which the violation occurred, to be deposited in its general fund.

The person conducting the sale shall disburse the proceeds of the sale as provided in this subdivision, and provide a written accounting regarding the disposition to all persons entitled to or claiming a share of the proceeds, within 15 days after the sale is conducted.

- (f) If the vehicle to be sold under this section is not of the type that can readily be sold to the public generally, the vehicle shall be destroyed or donated to an eleemosynary institution.
- (g) No vehicle may be sold pursuant to this section in either of the following circumstances:
- (1) The vehicle is stolen, unless the identity of the legal and registered owners of the vehicle cannot be reasonably ascertained.
- (2) The vehicle is owned by another, or there is a community property interest in the vehicle owned by a person other than the defendant and the vehicle is the only vehicle available to the defendant's immediate family which may be operated on the highway with a class 3 or class 4 driver's license.
- (h) The Legislature finds and declares it to be the public policy of this state that no policy of insurance shall afford benefits which would alleviate the financial detriment suffered by any person as a direct or indirect result of a confiscation of a vehicle pursuant to 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 1105

An act to add Article 1.5 (commencing with Section 23140) to Chapter 12 of Division 11 of the Vehicle Code, relating to driving offenses.

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

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

SECTION 1. Article 1.5 (commencing with Section 23140) is added to Chapter 12 of Division 11 of the Vehicle Code, to read:

# Article 1.5. Juvenile Offenses Involving Alcohol

- 23140. (a) It is unlawful for a person under the age of 18 years who has 0.05 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.
- (b) A person may be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 18 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was driving a

vehicle while having a concentration of 0.05 percent or more, by weight, of alcohol in his or her blood.

- 23141. Any person found to have committed a violation of Section 23140 shall be required to participate in an alcohol education program. The court shall require the minor to participate in an alcohol education program or a community service program which provides an alcohol education component unless the court finds that the minor, or the minor's parent or parents, is unable to pay required fees for the program, there is no appropriate program located in the county, or other specific circumstances justify failure to impose this requirement.
- 23142. If any person is found to have violated Section 23140 and is also found to have violated Section 23152 or 23153, in addition to, and not as an alternative to, the requirements of Section 23154 or any other provision of Article 2 (commencing with Section 23152), that person shall be required to participate in the alcohol education program or the alcohol rehabilitation program required by this article.
- 23143. Notwithstanding Section 34.10 of the Civil Code, if the court finds it just and reasonable, the court may order the parent or parents of a minor who is ordered to participate in an alcohol education program or a community service program which provides an alcohol education component pursuant to this article, to pay the required fees for the program.
- 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 1106

An act to amend Sections 192 and 193 of, and to add Section 191.5 to, the Penal Code, relating to crimes.

[Approved by Governor September 24, 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 traffic accidents are the greatest cause of violent death in the United States and that over one-half of the ensuing fatalities are alcohol related.

The Legislature further finds that despite millions of dollars being spent by government at all levels, by private organizations, and by concerned citizen groups on efforts to stop drinking and driving, statistics continue to indicate that alcohol-related accidents account for a majority of all highway deaths and billions of dollars in annual economic losses. In view of the severe threat to public safety which is posed by the intoxicated driver, there is a compelling need for more effective methods to identify and penalize those who voluntarily consume alcoholic beverages to the point of legal intoxication and thereafter operate a motor vehicle, thereby combining sharply impaired physical and mental faculties with a vehicle capable of exerting great force and speed and causing severe damage and death.

- SEC. 2. Section 191.5 is added to the Penal Code, to read:
- 191.5. (a) Gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23152 or 23153 of the Vehicle Code, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.
- (b) Gross vehicular manslaughter while intoxicated is punishable by imprisonment in the state prison for 4, 6, or 10 years.
- (c) This section shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal. 3d 290.
- (d) This section shall not be construed as making any homicide in the driving of a vehicle punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.
  - SEC. 3. Section 192 of the Penal Code is amended to read:
- 192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:
  - (a) Voluntary—upon a sudden quarrel or heat of passion.
- (b) Involuntary—in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.
  - (c) Vehicular—
- (1) Except as provided in Section 191.5, driving a vehicle in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.
- (2) Except as provided in paragraph (3), driving a vehicle in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in the commission of a lawful

act which might produce death, in an unlawful manner, but without gross negligence.

(3) Driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

This section shall not be construed as making any homicide in the driving of a vehicle punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

"Gross negligence", as used in this section, shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in People v. Watson 30 Cal. 3d 290.

- SEC. 4. Section 193 of the Penal Code is amended to read:
- 193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for three, six, or eleven years.
- (b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three, or four years.
  - (c) Vehicular manslaughter is punishable as follows:
- (1) A violation of paragraph (1) of subdivision (c) of Section 192 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.
- (2) A violation of paragraph (2) of subdivision (c) of Section 192 is punishable by imprisonment in the county jail for not more than one year.
- (3) A violation of paragraph (3) of subdivision (c) of Section 192 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.

# CHAPTER 1107

An act to amend Section 23157.5 of the Vehicle Code, relating to vehicles.

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

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

SECTION 1. Section 23157.5 of the Vehicle Code is amended to read:

- 23157.5. (a) In addition to the requirements of Section 23157, a person who chooses to submit to a breath test shall be advised before or after the test that the breath-testing equipment does not retain any sample of the breath and that no breath sample will be available after the test which could be analyzed later by the person or any other person.
- (b) The person shall also be advised that, because no breath sample is retained, the person will be given an opportunity to provide a blood or urine sample that will be retained at no cost to the person so that there will be something retained that may be subsequently analyzed for the alcoholic content of the person's blood. If the person completes a breath test and wishes to provide a blood or urine sample to be retained, the sample shall be collected and retained in the same manner as if the person had chosen a blood or urine test initially.
- (c) The person shall also be advised that the blood or urine sample may be tested by either party in any criminal prosecution. The failure of either party to perform this test shall place no duty upon the opposing party to perform the test nor affect the admissibility of any other evidence of the alcoholic content of the blood of the person arrested.
- (d) No failure or omission to advise pursuant to this section shall affect the admissibility of any evidence of the alcoholic content of the blood of the person arrested.

#### CHAPTER 1108

An act to add and repeal Section 9882.14 of the Business and Professions Code, to amend and repeal Section 1203.1b of the Penal Code, and to amend and repeal Section 40000.15 of, and to add and repeal Article 4 (commencing with Section 23240) of Chapter 12 of Division 11 of, the Vehicle Code, relating to driving offenses, and making an appropriation therefor.

#### [Approved by Governor September 24, 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 "Farr-Davis Driver Safety Act of 1986."

SEC. 2. The Legislature finds and declares the following:

- (a) There is a need to reduce the incidence of drivers on the highways and roads of this state who, because of their consumption of alcohol, pose a danger to the health and safety of other drivers.
- (b) One method to deal with the problem of drinking drivers is to discourage the use of motor vehicles by persons who have consumed alcoholic beverages.
- (c) The installation of an ignition interlock device may provide a means of deterring use of motor vehicles by persons who have consumed alcoholic beverages.
- (d) Ignition interlock devices are designed to supplement other conditions of probation and punishment which prevent convicted drunk drivers from starting a motor vehicle while under the influence of alcohol.
- (e) It is economically and technically feasible to have an ignition interlock device installed on a vehicle in such a manner that the vehicle will not start if the operator's blood-alcohol content is measurable by the operator blowing into the device.
- SEC. 3. Section 9882.14 is added to the Business and Professions Code, to read:
- 9882.14. (a) The bureau shall cooperate with the Office of Traffic Safety in implementing the pilot program created by Article 4 (commencing with Section 23240) of Chapter 12 of Division 11 of the Vehicle Code and shall designate stations for the installation of ignition interlock devices for that purpose.
- (b) After consultation with manufacturers of ignition interlock devices certified under Section 23244 of the Vehicle Code, the bureau shall establish standards for the installation of those ignition interlock devices.
- (c) The bureau may charge manufacturers of certified interlock ignition devices a fee to recover the cost of establishing installation standards.
- (d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.
- SEC. 4. Section 1203.1b of the Penal Code is amended to read: 1203.1b. (a) In any case in which a defendant is convicted of an offense and granted probation, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable cost of probation and of conducting the presentence investigation and preparing the presentence report made pursuant to Section 1203. The reasonable cost of the services

and of probation shall not exceed the amount determined to be the actual average cost. The court may hold additional hearings during the probationary period. The court may order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of the costs. At a hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses, the disclosure of the evidence against the defendant, and a written statement of the findings of the court. If the court determines that the defendant has the ability to pay all or part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. 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.

If practicable, the court shall order payments to be made on a monthly basis as directed by the probation officer. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

A payment schedule for reimbursement of the costs of presentence investigation based on income shall be developed by the probation department of each county and approved by the presiding judges of the municipal and superior courts.

- (b) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the presentence report, and probation, and shall include, but shall not be limited to, all of the following:
  - (1) The defendant's financial position.
- (2) Defendant's discernible future financial position. The court shall not consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.
- (3) Likelihood that the defendant shall be able to obtain employment within the six-month period from the date of the hearing.
- (4) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs.
- (c) At any time during the pendency of the judgment rendered pursuant to this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering of the judgment.

- (d) All sums paid by a defendant pursuant to this section shall be allocated for the operating expenses of the county probation department.
- (e) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors.
- (f) The reasonable cost of probation determined subdivision (a) shall include the cost of purchasing and installing an ignition interlock device pursuant to Section 23240 of the Vehicle Code, except that the defendant subject to this section shall reimburse the manufacturer of the ignition interlock device installed directly for the cost of purchase and installation in accord with the payment schedule ordered by the court. If practicable, the court shall order payment to be made to the manufacturer of the ignition interlock devices installed within a six-month period as directed by the probation officer. This subdivision does not require the county to pay the costs of purchasing and installing ignition interlock devices ordered pursuant to Section 23240 of the Vehicle Code. The Office of Traffic Safety shall consult with the presiding judge or his or her designee in each pilot county, as selected pursuant to Section 23249 of the Vehicle Code, to determine an appropriate means, if any, to provide for installation of ignition interlock devices in cases in which the defendant has no ability to pay.
- (g) Except as provided in subdivision (h), 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 1203.1b of the Penal Code, as amended by Section 1 of Chapter 284 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.
- (h) Notwithstanding subdivision (g), if any person is granted probation under this section before January 1, 1989, that person is subject to this section for the period of probation.
- SEC. 5. Article 4 (commencing with Section 23240) is added to Chapter 12 of Division 11 of the Vehicle Code, to read:

# Article 4. Ignition Interlock Device

- 23240. In addition to any other provisions of law, the court may require that any person, who is convicted of a violation of Section 23152 or 23153 and who was granted probation, shall not operate a motor vehicle during the period of probation unless that vehicle is equipped with a functioning, certified ignition interlock device as provided in this article.
- 23240.5. (a) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to have had his or her driving privilege restricted under a condition of probation as provided in Section 23240, unless the vehicle is equipped with a functioning,

- certified ignition interlock device. Any person, whose driving privilege is restricted under a condition of probation as provided in Section 23240, shall notify any other person who rents, leases, or loans a motor vehicle to him or her of the driving restriction imposed under that section.
- (b) Any person convicted of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not more than six months or by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.
- (a) Subject to subdivision (d), the court shall order the 23241. installation of an ignition interlock device on any vehicle which the person subject to Section 23240 owns or operates.
- (b) If the court imposes the use of an ignition interlock device as a term of probation on a person whose driving privilege is not suspended or revoked, the court shall require the person to provide proof of compliance with subdivision (a) or (e) to the court or the probation officer within 30 days. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall revoke or terminate the person's probation as provided by Section 23207.
- (c) If the court imposes the use of an ignition interlock device as a term of probation on a person whose driving privilege is suspended or revoked for a period of less than three years, the Department of Motor Vehicles shall require proof of compliance with subdivision (a) or (e) before reinstatement of the person's driving privilege.
- (d) If the person subject to Section 23240 claims inability to pay for the installation ordered pursuant to subdivision (a), the court shall determine the person's ability to pay, pursuant to Section 1203.1b of the Penal Code. The person shall provide proof of installation as provided in subdivision (b) or (c).
- (e) The person whose driving privilege is restricted pursuant to Section 23240 shall report to the court or the probation officer at least once annually, and more frequently as the court may order, on the operation of each interlocking ignition device in the person's vehicle or vehicles.
- The court may require the use of an approved ignition 23242. interlock device for the period of probation if the person is permitted to operate a motor vehicle, whether the privilege to operate a motor vehicle is restricted or not, as determined by the court.
- The court shall include on the abstract of conviction or violation submitted to the Department of Motor Vehicles under Section 1803 or 1816, the requirement for, and the period of, the use of a certified ignition interlock device under this article. The records of the Department of Motor Vehicles shall contain a record reflecting mandatory use of the device.
- (a) The Office of Traffic Safety shall certify or cause to be certified ignition interlock devices required by this article and publish a list of approved devices.

- (b) The Office of Traffic Safety shall adopt guidelines for the proper use of the ignition interlock devices in full compliance with this article.
- (c) The Office of Traffic Safety shall utilize information from an independent agency to certify ignition interlock devices on or off the premises of the manufacturer in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of interlock ignition devices. In certifying the devices, those which do not impede the safe operation of the vehicle, and which have the fewest opportunities to be bypassed so as to render the provisions of this article ineffective, shall be certified.
- (d) No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by the guidelines of the Office of Traffic Safety.
- (e) Before certifying any device, the Office of Traffic Safety shall consult with the National Highway Traffic Safety Administration regarding the use of ignition interlock devices.
- 23244.5. The Office of Traffic Safety shall design and adopt by regulation a warning label which shall be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor and may be subject to civil liability.
- 23246. (a) In addition to any other provisions of law, upon conviction of a violation of Section 23240, the Department of Motor Vehicles shall revoke the person's driving privilege for one year from the date of conviction.
- (b) In addition to any other provisions of law, if a person is convicted of a violation of Section 23240, and if that person was convicted of a separate violation of Section 23240 during the same period of required use of an approved ignition interlock device, the Department of Motor Vehicles shall revoke the person's driving privilege for five years from the date of conviction.
- 23247. (a) Notwithstanding Sections 23240 and 23241, if a person is required to operate a motor vehicle in the course and scope of his or her employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified by the person that the person's driving privilege has been restricted under this article and if the person has proof of that notification in his or her possession or the notice, or a facsimile copy thereof, is with the vehicle.
- (b) A motor vehicle owned by a business entity which business entity is all or partly owned or controlled by a person otherwise subject to this article, is not a motor vehicle owned by the employer subject to the exemption in subdivision (a).
- 23248. (a) It is unlawful for any person whose driving privilege is restricted pursuant to Section 23240 to request or solicit any other person to blow into an ignition interlock device or to start a motor

vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

- (b) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to Section 23240.
- (c) It is unlawful to tamper with, or circumvent the operation of, an ignition interlock device.
- 23249. (a) The Office of Traffic Safety shall select and implement this article in four representative counties, except that Sections 23240.5 and 23248 apply in all parts of this state if the vehicle has been equipped with an ignition interlock device as a condition of probation.
- (b) The manufacturers of the ignition interlock devices certified pursuant to Section 23244 shall assist the Office of Traffic Safety and the presiding municipal court judge in each of the four participating counties in developing a standard reporting form that will be used by the courts or their designees for collecting data on the pilot project. The reporting form shall include, but not be limited to, the following:
- (1) Record of all offenders, including number of prior convictions of Sections 23152 and 23153, subject to this article.
  - (2) Any violations of probation.
- (3) Record of all persons convicted under Sections 23240.5 and 23248.
- (4) The type and manufacturer of ignition interlock devices installed, and the record of any malfunctions.
- (5) Any other information necessary and relevant to the implementation of this article, as determined by the Office of Traffic Safety.
- (c) The purposes of this article in the four representative counties are as follows:
- (1) To deter those persons subject to Section 23240 from violating probation.
- (2) To examine the effectiveness and reliability of ignition interlock devices as part of the court's sentencing and probation options under Section 23240.
- (3) To develop uniform sentencing and probation procedures that can be applied statewide.
- (4) To establish standards of reliability for ignition interlock devices that can be applied statewide.
- (5) To review the data collected by the participating court systems by monitoring the results of implementing this article so that it can be applied throughout the state.
- (6) To encourage the manufacture and development of reliable ignition interlock devices that can be used by the court system statewide.
- (d) The participating court systems within the four representative counties shall determine the success of this program

by comparing the recidivism rate of those persons subject to Section 23240 to demographically and statistically similar cases where Section 23240 was not applied. The courts shall provide this information to the Office of Traffic Safety for purposes of Section 23249.2.

- (e) This program shall be deemed extremely successful if the recidivism rate for those subject to Section 23240 is reduced by more than 25 percent over the two-year period of the pilot project. The program shall be considered highly successful if there is a reduction of at least 25 percent in recidivism over the two-year period. The program shall be considered successful if there is a reduction of at least 10 percent in recidivism over the two-year period. The program shall be considered not significant if there is a reduction below 10 percent in recidivism over the two-year period.
- (f) For purposes of this section, "recidivism" means the rate of rearrest of drunk drivers previously ordered to install ignition interlock devices in their automobile. A rearrest for the offense, even if driving a vehicle not equipped with the ignition interlock device, is recidivism.
- 23249.1. Except in the counties in which a pilot project is established pursuant to this article, this article does not alter the authority of judges under existing law to establish reasonable conditions of probation.
- 23249.2. The Office of Traffic Safety shall report to the Legislature on or before July 1, 1988, on the interim results of this program. The Office of Traffic Safety shall submit a final report to the Legislature on or before January 1, 1990, on the results of this program.
- 23249.4. (a) Except as provided in subdivision (b), 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.
- (b) Notwithstanding subdivision (a), if any person is granted probation under this article before January 1, 1990, that person is subject to this article for the period of probation.
- SEC. 6. Section 40000.15 of the Vehicle Code is amended to read: 40000.15. A violation of any of the following provisions is a misdemeanor, and not an infraction:
  - (a) Sections 23103 and 23104, relating to reckless driving.
  - (b) Section 23109, relating to speed contests or exhibitions.
  - (c) Section 23110, subdivision (a), relating to throwing at vehicles.
  - (d) Section 23152, relating to driving under the influence.
- (e) Subdivision (b) of Section 23222, relating to possession of marijuana.
- (f) Section 23240.5 and 23248, relating to ignition interlock devices.
  - (g) Section 23253, relating to officers on vehicular crossings.
  - (h) Section 23332, relating to trespassing.
  - (i) Section 27150.1, relating to sale of exhaust systems.
  - (j) Section 28050, relating to true mileage driven.

- (k) Section 28050.5, relating to nonfunctional odometers.
- (1) Section 28051, relating to resetting odometer.
- (m) Section 28051.5, relating to device to reset odometer.

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 40000.15 of the Vehicle Code, as amended by Section 2 of Chapter 1005 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 7. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 8. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund, except that no reimbursement shall be made by this act to any local agency or school district which has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, and 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 1109

An act to amend Sections 55461, 55634, and 55635 of, and to add Sections 55631.5 and 55638.5 to, the Food and Agricultural Code, relating to the agricultural producer's lien.

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

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

SECTION 1. Section 55461 of the Food and Agricultural Code is amended to read:

55461. This chapter does not apply to or include any nonprofit cooperative association which is organized and operating pursuant to

Chapter 1 (commencing with Section 54001) or pursuant to similiar laws of any other states, the District of Columbia, or the United States. This chapter also does not apply to the agents of these organizations in the performance of their duties. This chapter does apply to the activities of the organization, or agent, which involve the handling or dealing in any farm product of nonmembers of the organization, and activities of such an organization, or agent, which involve acting as a producer bargaining association asserting the lien rights of its members.

- SEC. 2. Section 55631.5 is added to the Food and Agricultural Code, to read:
- 55631.5. Notwithstanding Section 55461, a nonprofit cooperative association acting as a producer bargaining association may assert producer's lien rights for, or on behalf of, its members.
- SEC. 3. Section 55634 of the Food and Agricultural Code is amended to read:
- 55634. Every lien which is provided for in this article is on every farm product and any processed form of the farm product which is in the possession of the processor without segregation of the product. For purposes of this chapter, any and all farm products or processed form of farm products deposited by a processor with a warehouse, whether or not warehouse receipts are given as security to a lender, shall be considered as being in the possession of the processor and subject to the lien.
- SEC. 4. Section 55635 of the Food and Agricultural Code is amended to read:
- 55635. The lien of a producer, unless sooner released by payment or by security which is given for the payment as provided in this article, attaches from the date of delivery of the product, or if there is a series of deliveries, it attaches from the date of the last delivery.
- SEC. 5. Section 55638.5 is added to the Food and Agricultural Code, to read:
- 55638.5. The director, within 15 days of the filing of a verified complaint by a producer, shall investigate any charge that a purchaser of a farm product to which a lien has attached has removed any farm product, or any processed form of a farm product, in violation of Section 55638.

# CHAPTER 1110

An act to amend Section 8690.6 of the Government Code, to amend Sections 182, 185, 188, 190, and 191 of the Revenue and Taxation Code, and to amend Section 6 of Chapter 16 of the Statutes of 1986, relating to disaster relief, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 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 flooding and mudslide damage which occurred as the result of storms in February 1986 has had a devastating impact on thousands of northern California residents. The Legislature further finds and declares that governmental services have been disrupted and public facilities, including schools, roads, libraries, and other similar facilities, have been badly damaged. Therefore, it is the intent of the Legislature to provide financial assistance to individuals, businesses, and public agencies which suffered damages from the storms of February 1986.

SEC. 2. Section 8690.6 of the Government Code is amended to read:

- 8690.6. (a) There is hereby established in the Reserve for Economic Uncertainties a Disaster Response-Emergency Operations Account. Notwithstanding Section 13340, moneys in the account are continuously appropriated, without regard to fiscal years, for allocation by the Director of Finance, upon an order of the Governor, to state or local agencies for costs, including the cost of providing disaster victim assistance, incurred related to emergencies declared by the Governor. For purposes of this section, an "emergency" means a fire, flood, storm, tidal wave, earthquake or similar public calamity.
- (b) The Director of Finance shall allocate funds pursuant to this section in accordance with Section 27.00 of the annual Budget Act, except that the allocations may be made 30 days or less after the director's notification pursuant to subdivision (b) of that section.
- (c) Funds allocated to local agencies under this section may be used to provide the local agency's share of the cost of participation in federal disaster relief programs, but shall not be used to supplant federal funds otherwise available in the absence of state financial relief. The Department of Finance may establish standards for the allocation of funds to local agencies. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, these standards, if promulgated, shall not be subject to the review and approval of the Office of Administrative Law.
- (d) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to

- any other program of state-funded disaster assistance, shall be deducted from sums received in payment of damage claims asserted against the state, its agents, or employees, for causing or contributing to the effects of the proclaimed disaster.
- (e) For purposes of this section, "local agency" means a local agency or a school entity, as defined in subdivisions (a) and (f), respectively, of Section 95 of the Revenue and Taxation Code.
- (f) This section shall become inoperative on June 30, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.
- SEC. 3. Section 182 of the Revenue and Taxation Code is amended to read:
- 182. On or before May 31, 1986, the tax collector of an eligible county shall certify to the Director of Finance the total amount of the second installment of property taxes on the regular secured roll for the 1985–86 fiscal year which are not paid by 5 p.m. on April 10, 1986, and which are delinquent, less the total amount of payments of that second installment received between April 10, 1986, and the date of the tax collector's certification, and the delinquency percentage rate for property taxes on the regular secured roll for the 1982–83, 1983–84, and 1984–85 fiscal years.
- SEC. 4. Section 185 of the Revenue and Taxation Code is amended to read:
- 185. (a) Any owner of eligible property who files on or before April 10, 1986, a claim for reassessment pursuant to the provisions of Section 170 based upon flood or storm damage occurring in February 1986 and amounting to ten thousand dollars (\$10,000) or more under procedures set forth in subdivision (b) of Section 170, may apply to the county assessor to defer payment of the second installment of property taxes on the regular secured roll for the 1985–86 fiscal year with respect to that property which are due no later than April 10, 1986. If a timely claim is filed, the payment shall be deferred without penalty or interest until the assessor has reassessed the property and a corrected bill prepared pursuant to the provisions of Section 170 has been issued to the property owner. Taxes deferred pursuant to this section are due 30 days after the date the corrected tax bill is issued and if unpaid thereafter are delinquent as provided in Section 2610.5 and shall be subject to the penalty provided by law.
- (b) If, following reassessment pursuant to subdivision (a), the assessor determines that an owner who applied and was granted a deferral of property taxes did not file a claim in good faith, the owner shall be assessed a delinquency penalty for the nonpayment of the deferred taxes.
- (c) The provisions of this section do not apply to property taxes paid through impound accounts.
- SEC. 5. Section 188 of the Revenue and Taxation Code is amended to read:
  - 188. The allocation of funds to and the repayment of funds by

counties made pursuant to this chapter shall be subject to review and audit by the Controller.

- SEC. 6. Section 190 of the Revenue and Taxation Code is amended to read:
- 190. It is the intent of this chapter to provide immediate tax relief where property was damaged during the February 1986 storms and floods and to ensure that local governments receive the property tax revenues necessary to carry out their operations in the 1985–86 fiscal year.
- SEC. 7. Section 191 of the Revenue and Taxation Code is amended to read:
- 191. Each eligible county may adopt an ordinance to permit the deferral of unpaid nondelinquent supplemental roll taxes on eligible property reassessed pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 which has sustained ten thousand dollars (\$10,000) or more in damage as the result of floods or storms occurring in February 1986 if the owner files a claim for deferral on or before April 10, 1986, with the assessor. The corrected supplemental bill shall be due on the last day of the month following the month in which the corrected bill is mailed or the delinquent date of the second installment of the original bill, whichever is later.
- SEC. 8. Section 6 of Chapter 16 of the Statutes of 1986 is amended to read:
- Sec. 6. (a) The sum of one hundred fifteen million dollars (\$115,000,000), is hereby transferred from the Reserve for Economic Uncertainties to the Disaster Response-Emergency Operations Account, for allocation by the Director of Finance in accordance with Section 8690.6 of the Government Code and this section.
- (b) Of the funds transferred pursuant to subdivision (a), the sum of ten million dollars (\$10,000,000) shall be allocated to the State Department of Social Services to provide individual and family grant assistance to persons incurring damage due to storms and floods occurring in February 1986. These funds shall not be used to fulfill matching fund requirements for federal disaster assistance, but shall be used to supplement the individual and family grant program. A supplemental grant provided for under this subdivision to an individual or family shall not exceed five thousand dollars (\$5,000).
- (c) Of the funds transferred pursuant to subdivision (a), the sum of twenty million dollars (\$20,000,000) shall be available for the reimbursement of local agencies for property tax revenue losses in the 1985–86 fiscal year which are attributable to the property tax relief provisions of Chapter 4 (commencing with Section 181) of Part 1 of Division 1 of the Revenue and Taxation Code.
- (d) Of the funds transferred pursuant to subdivision (a), the sum of eighty million dollars (\$80,000,000) shall be allocated to counties which have been declared by the Governor as requiring disaster assistance due to storms and floods occurring in February 1986 in accordance with this subdivision.
  - (1) Each local agency in an eligible county shall send to the

county within which it is located, a copy of each preliminary claim for costs incurred by the local agency due to storm and flood damage occurring during February 1986, which it submits to the Office of Emergency Services. Each eligible county shall aggregate the amount of all claims submitted to it by local agencies, and shall submit this aggregate claim to the Director of Finance.

- (2) Each eligible county shall also submit a final report on the costs which all local agencies within the county have incurred due to storm and flood damage occurring during February 1986.
- (3) The Department of Finance, in cooperation with the Office of Emergency Services, shall allocate funds available for purposes of this subdivision based upon damage estimates of the Office of Emergency Services. The amount of funds which a county shall receive pursuant to this subdivision shall be based upon the ratio of the damage which the Office of Emergency Services estimates to have been incurred in that county to the total amount of the damage which the Office of Emergency Services estimates to have been incurred in all eligible counties.
- (e) Notwithstanding subdivision (b) of Section 8690.6 of the Government Code, funds allocated pursuant to this section shall not be subject to the process contained in Section 28.00 of the Budget Act. Funds allocated pursuant to subdivision (d) shall, however, be allocated in accordance with Section 27.00 of the Budget Act.
- (f) Within 10 days of receipt by the county of all claims by local agencies required to be submitted to the county pursuant to paragraph (1) of subdivision (d), the board of supervisors shall form an advisory body consisting of representatives of each affected local agency whose purpose shall be to advise and consult with the board of supervisors in the allocation of funds allocated pursuant to subdivision (d).

Not later than 20 days following the formation of the advisory body, the board of supervisors shall conduct a noticed public hearing at which the advisory body established pursuant to this subdivision shall report its recommendations to the board. After receiving public testimony, the board of supervisors shall allocate funds received pursuant to subdivision (d) to local agencies as it deems appropriate. The decision of the board of supervisors shall be final.

It is the intent of the Legislature that the distribution of these moneys be based primarily upon proportional losses suffered and costs incurred by local agencies.

(g) Of the funds transferred pursuant to subdivision (a), the sum of five million dollars (\$5,000,000) shall be transferred from the Disaster Response-Emergency Operations Account to the 1986 Flood Disaster Account. Moneys transferred pursuant to this subdivision are hereby appropriated without regard to fiscal years and shall be available to the Office of Emergency Services for allocation to reclamation and levee maintenance districts in counties declared disaster areas by federal or state authorities due to the February 1986 storms and floods to repair damage to nonproject levees and to meet

other costs related to flood damage, including but not limited to, flood fight and dewatering costs.

Financial assistance to districts under this emergency repair program shall be operated to the extent possible in accordance with administrative procedures and standards established pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code, including criteria for repair according to improvement and maintenance standards, for submission and approval of plans, and for inspection of work performed. Repair of breaks on a levee shall meet a standard sufficient to prevent infiltration of water through the levee.

Districts shall share in the costs of the work required in accordance with subdivision (b) of Section 8686 of the Government Code. The Office of Emergency Services shall adopt a reimbursement schedule which provides for payment for up to 75 percent of the total amount eligible for reimbursement to be made upon substantial completion of the applicable repairs. Final payment shall be held pending completion and approval of the final audit.

Where applicable, a district shall apply for federal disaster assistance funds. Any amount of federal relief funds provided above 75 percent of the cost of the eligible project shall be deducted from the cost of the project as provided for under Section 8686.2 of the Government Code.

For the purposes of this subdivision, "nonproject levee" means any levee which is not a project facility under the Water Resources Law of 1945.

This emergency repair program shall supplement the existing Delta Levee Maintenance Program. Reimbursement of costs for emergency repair to a district shall in no way affect its eligibility for additional reimbursement of costs under the Delta Levee Maintenance Program. Eligibility for reimbursement under this subdivision shall not be limited to districts located within the Delta as defined in Section 12200 of the Water Code.

The intent of the emergency repair program provided for under this subdivision is to ensure early repair of damage and restoration of levees and assist in financing the work required. Immediate repair of the breaks and dewatering of flooded areas is necessary to preserve the structural integrity of the levee system, alleviate wind and water erosion across flood waters, prevent damage to adjacent levees and expedite occupancy of residential dwellings.

Any unused funds shall revert to the Disaster Response-Emergency Operations Account.

(h) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to any other program of state-funded disaster assistance shall constitute a lien in favor of the state against any recovery by a recipient of assistance from any other source, including the State of California, for damages arising out of or by virtue of the proclaimed disaster. The state shall be subrogated to the rights of these recipients of assistance.

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:

Chapter 16 of the Statutes of 1986 provided emergency disaster relief to individuals, businesses, and local governmental entities in the form of direct financial grants, property and income tax relief, and reimbursement of costs for the repair of levees for the flooding and mudslide damage which resulted from storms in northern California in February 1986. Certain aspects of the various forms of the relief to be provided are in need of the clarification or modification provided by this act in order to properly implement the objectives of Chapter 16 of the Statutes of 1986. In order that the disaster relief intended to be provided by that chapter may be properly effected at the earliest possible time, it is necessary that this act go into immediate effect.

#### CHAPTER 1111

An act to amend Sections 1250, 1250.1, 1266, 1267.8, 1275.3, 1277, 1326, and 1418 of, and to add Section 25259 to, the Health and Safety Code, and to amend Section 11505 of, and to repeal Sections 11501, 11502, and 11503 of, the Insurance Code, relating to health facilities.

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

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

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

- 1250. As used in this chapter, "health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:
- (a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation

center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

- (b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.
- (c) "Skilled nursing facility" means a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.
- (d) "Intermediate care facility" means a health facility which provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.
- (e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.
- (f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.
- (g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.
- (h) "Intermediate care facility/developmentally disabled—nursing" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been

certified by a physician as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

SEC. 1.5. Section 1250.1 of the Health and Safety Code is amended to read:

1250.1. The state department shall adopt regulations which define the following bed classifications for health facilities:

- (a) General acute care.
- (b) Skilled nursing.
- (c) Intermediate care—developmental disabilities.
- (d) Intermediate care—other.
- (e) Acute psychiatric.
- (f) Specialized care with respect to special hospitals only.
- (g) Chemical dependency recovery.
- (h) Intermediate care facility/developmentally disabled habilitative.
- (i) Intermediate care facility/developmentally disabled—nursing.

Except as provided in Section 1253.1, beds classified as intermediate care beds, on September 27, 1978, shall be reclassified by the state department as intermediate care—other. This reclassification shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1, and regulations of the state department governing intermediate care prior to such effective date shall continue to be applicable to the intermediate care—other classification unless and until amended or repealed by the state department.

SEC. 2. Section 1266 of the Health and Safety Code is amended to read:

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

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

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

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

3901

1-59 beds \$2,068 plus \$26 per bed 60-99 beds \$2,543 plus \$26 per bed 100 or more beds \$3,183 plus \$26 per bed

The fees provided in this subdivision shall be adjusted, commencing July 1, 1983, as proposed in the state department's 1983–84 fiscal year Health Facility License Fee Report to the Legislature. Commencing July 1, 1984, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(b) The state department shall submit to the Legislature, on or before January 17 of each year, a report describing program costs within the Licensing and Certification Division, and a methodology for calculating fee levels in an amount sufficient to provide revenues equal to (1) the General Fund expenditures for the fiscal year ending on June 30 of that year, as specified in the proposed Governor's Annual Budget, less license fees which shall be collected in that fiscal year by the Licensing and Certification Program pursuant to sections other than this section, plus (2) the amount of federal funds budgeted for the fiscal year ending June 30 of that year for the Licensing and Certification Program, less federal funds received or credited, or anticipated to be received or credited, during that fiscal year for that purpose.

The report shall specifically identify federal funds received, but not previously budgeted, for the Licensing and Certification Program which are used to offset the amount of General Fund dollars to be recovered through license fees. The report shall also identify the purpose of federal funds received for any additional activities under the Licensing and Certification Program which are not used to offset the amount of General Fund dollars.

- (c) The annual fees determined pursuant to this section shall be waived for any health facility conducted, maintained, or operated by this state or any state department, authority, bureau, commission, or officer, or by the Regents of the University of California, or by a local hospital district, city, county, or city and county.
- (d) The department shall, by July 30 of each year, publish a list of actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (e) Prior to the establishment of the annual fee, the state department shall prepare a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

The analysis under this subdivision shall include all of the following:

- (1) The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities.
- (2) The percentage of time devoted to licensing and certification activities for the various types of health facilities.
- (3) The number of facilities receiving full surveys and the frequency and number of followup visits.
  - (4) The number and timeliness of complaint investigations.
- (5) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.
- (6) Training courses provided for surveyors.
- (7) Other applicable activities of the licensing and certification division.

The analysis shall also include recommendations for administrative changes to streamline and prioritize the survey process, complaint investigations, management information systems, word processing capabilities and effectiveness, consumer information system, and surveyor training.

The annual staffing and systems analysis shall be presented to the Health Care Advisory Committee and the Legislature prior to the establishment and adoption of the annual fee.

- SEC. 2.5. Section 1267.8 of the Health and Safety Code is amended to read:
- 1267.8. (a) An intermediate care facility/developmentally disabled habilitative intermediate or an facility/developmentally disabled—nursing shall meet the same fire safety standards adopted by the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 that apply to community care facilities, as defined in Section 1502, of similar size and with residents of similar age and ambulatory status. No other state or local regulations relating to fire safety shall apply to these facilities and the requirements specified in this section shall be uniformly enforced by state and local fire authorities.
- (b) An intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall meet the same seismic safety requirements applied to community care facilities of similar size with residents of similar age and ambulatory status. No additional requirements relating to seismic safety shall apply to such facilities.
- (c) Whether or not unrelated persons are living together, an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing 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 is related to the residential use of property

pursuant to this article.

For the purposes of all local ordinances, an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing 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 minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the intermediate care facility/developmentally disabled—nursing is a business run for profit or differs in any other way from a single-family residence.

This section does not forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons as long as such restrictions are identical to those applied to other single-family residences.

This section does not forbid the application to an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing 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, as long as that ordinance does not distinguish intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons from other single-family dwellings and that the ordinance does not distinguish residents of the intermediate care facility/developmentally disabled—nursing from persons who reside in other single-family dwellings.

No conditional use permit, zoning variance, or other zoning clearance shall be required of an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing 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 an intermediate care facility/developmentally disabled habilitative serving six or fewer persons or an intermediate care facility/developmentally disabled—nursing 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 supersedes Section 13143 to the extent these provisions are applicable to intermediate care

facility/developmentally disabled habilitative providing care for six or fewer residents or an intermediate care facility/developmentally disabled—nursing serving six or fewer persons.

- SEC. 3. Section 1275.3 of the Health and Safety Code is amended to read:
- 1275.3. (a) The State Department of Health Services and the State Department of Developmental Services shall jointly develop and implement licensing and Medi-Cal regulations appropriate for intermediate care facilities/developmentally disabled—nursing. The Director of Health Services shall adopt these regulations as emergency regulations and, notwithstanding any provision of law, shall transmit emergency regulations adopted pursuant to this subdivision directly to the Secretary of State for filing, and regulations shall become effective immediately upon filing.

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.

(b) The regulations adopted pursuant to subdivision (a) shall ensure that residents of intermediate care facilities/developmentally disabled—nursing receive appropriate medical and nursing services, and developmental program services in a normalized, least restrictive physical and programmatic environment appropriate to individual resident need.

In addition, the regulations shall do all of the following:

- (1) Include provisions for the completion of a clinical and developmental assessment of placement needs, including medical and other needs, and the degree to which they are being met, of clients placed in an intermediate care facility/developmentally disabled—nursing and for the monitoring of these needs at regular intervals.
- (2) Provide for maximum utilization of generic community resources by clients residing in a facility.
- (3) Require the State Department of Developmental Services to review and approve an applicant's program plan as part of the licensing and certification process.
- (4) Require that the physician providing the certification that placement in the intermediate care facility/developmentally disabled—nursing is needed, consult with the physician who was the physician of record at the time the person's proposed placement is being considered by the interdisciplinary team.
- (c) Regulations developed pursuant to this section shall include licensing fee schedules appropriate to facilities which will encourage their development.
- (d) Nothing in this section supersedes the authority of the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 to the extent that these sections are applicable to community care facilities.
- (e) The State Department of Developmental Services, in consultation with the State Department of Health Services, shall

report to the Legislature no later than January 1, 1989, regarding the number and types of clients being served in intermediate care facilities/developmentally disabled—nursing and any problems encountered by facilities or the departments in implementing the new licensure category.

- SEC. 4. Section 1277 of the Health and Safety Code is amended to read:
- 1277. (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.
- (b) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, except Sections 2137.1 and 2137.2 of the Business and Professions Code, the licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, pharmacists, registered nurses, and clinical social workers in the state and other governmental health facilities licensed by the state department shall not be less than for such professional personnel in health facilities under private ownership. Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the state department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of this subdivision. Additionally, the requirements of this subdivision may be waived by the state department solely for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure in such profession in this state. A waiver granted pursuant to this subdivision shall not exceed two years from the date the employment commences in this state in the case of psychologists, or three years from commencement of the employment in this state in the case of clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated. However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but such limitations shall apply following completion of such training. A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time

licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the examination, subject to the one-year limit.

- (c) A special permit shall be issued by the state department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.
- (d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership.
- SEC. 5. Section 1326 of the Health and Safety Code is amended to read:
- 1326. As used in this article, "long-term health care facility" means any skilled nursing facility, intermediate care facility, intermediate care facility/developmentally disabled, intermediate care facility/developmentally disabled habilitative, or intermediate care facility/developmentally disabled—nursing licensed pursuant to this chapter.
- SEC. 6. Section 1418 of the Health and Safety Code is amended to read:
  - 1418. As used in this chapter:
- (a) "Long-term health care facility" means any facility licensed pursuant to Chapter 2 (commencing with Section 1250) which is any of the following:
  - (1) Skilled nursing facility.
  - (2) Intermediate care facility.
  - (3) Intermediate care facility/developmentally disabled.
- (4) Intermediate care facility/developmentally disabled habilitative.
- (5) Intermediate care facility/developmentally disabled—nursing.

"Long-term health care facility" does not include a general acute care hospital or an acute psychiatric hospital, except for that distinct part of the hospital which provides skilled nursing facility or intermediate care facility services.

- (b) "Licensee" means the holder of a license issued under Chapter 2 (commencing with Section 1250) for a long-term health care facility.
- SEC. 7. Section 25259 is added to the Health and Safety Code, to read:
- 25259. (a) Providers of health services which are licensed pursuant to Sections 1205, 1253, 1575 and 1726 have an obligation, if the licensee ceases operation, to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after

the minor has reached the age of 18 years, and in any case, not less than seven years.

- (b) The department or any person injured as a result of the licensee's abandonment of health records may bring an action in a proper court for the amount of damage suffered as a result thereof. In the event that the licensee is a corporation or partnership which is dissolved, the person injured may take action against that corporation's or partnership's principle officers of record at the time of dissolution.
- (c) Abandoned means violating the provisions of subdivision (a) and leaving patients treated by the licensee without access to medical information to which they are entitled pursuant to Section 25252.
  - SEC. 8. Section 11501 of the Insurance Code is repealed.
  - SEC. 9. Section 11502 of the Insurance Code is repealed.
  - SEC. 10. Section 11503 of the Insurance Code is repealed.
- SEC. 11. Section 11505 of the Insurance Code is amended to read: 11505. The Commissioner of Insurance shall not issue his or her certificate of authority to any corporation proposing to establish, maintain or operate a nonprofit hospital service plan until the corporation has established all of the following:
- (a) That the corporation has entered into contracts with hospitals in the State of California licensed by the State Department of Health Services pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code and having an aggregate bed capacity sufficient to render the services contemplated to be furnished under the hospital service plan to persons in the State of California.
- (b) That the contract proposed to be entered into by such corporation with those who may become subscribers is not such as will work a fraud or injustice upon such subscribers or any person.
- (c) That the rates, dues, fees or other periodic charges to be imposed upon subscribers and the fees, rates or other considerations to be paid for services rendered to subscribers, are not such as will, after providing for such legal reserves as the Insurance Commissioner may deem necessary and reasonable, result in profit to such corporation, and are such as will enable such corporation to furnish or provide the hospital services which it proposes to make available to its subscribers without impairment of the legal reserves fixed and required by the Insurance Commissioner, and without a constant depletion of the assets of such corporation.

# CHAPTER 1112

An act to amend Sections 53155 and 53156 of the Government Code, relating to emergency response.

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

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

SECTION 1. Section 53155 of the Government Code is amended to read:

53155. In no event shall a person's liability under this article for the expense of an emergency response exceed one thousand dollars (\$1,000) for a particular incident.

SEC. 2. Section 53156 of the Government Code is amended to read:

53156. As used in this article:

- (a) "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising because of the response to the particular incident. Reasonable costs shall include the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, as well as the salaries of the personnel responding to the incident.
- (b) "Public agency" means the state and any city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.
- (c) "Intentionally wrongful conduct" means conduct intended to injure another person or property.

# CHAPTER 1113

An act to add Chapter 7.5 (commencing with Section 1998.5) to Part 2.6 of Division 5 of Title 2 of the Government Code, relating to state employees.

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

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

SECTION 1. Chapter 7.5 (commencing with Section 19998.5) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

# CHAPTER 7.5. STATE EMPLOYEE ASSISTANCE PROGRAM

19998.5. The department shall provide a report to the Legislature and the Governor, on or before March 1, 1988, on the utilization and operations of the State Employee Assistance Program as administered by the department.

This report shall address the cost-efficiency and effectiveness of the program, and shall include, but not be limited to, all of the following:

- (a) Statistics on sick leave, on-the-job accidents, health care claims, workers' compensation claims, termination, grievances, and tardiness for the years of 1984, 1985, and 1986.
- (b) Types of services provided by the program and utilization of these services, such as alcohol, drugs, family, marital, medical, legal, financial, and other services.
- (c) Delineation of state agencies which contract out for these services and those which have in-house programs, and a comparison of services provided and utilized by these programs.
- (d) The average cost to contract out services, per employee, on an annual basis, and the same analysis for in-house programs.
- (e) The amount of resources, both staff and fiscal, employed by the department in the administration of the program.
- (f) Comparison of supervisory performance-related referrals to other types of referrals, such as self or union referrals.
  - (g) The number of supervisory consultations.
  - (h) Employee satisfaction with the program.
  - (i) Recommendations for improving the program.

The department shall develop data gathering instruments in order to ensure the collection of information for the cost effectiveness and efficiency studies required under this section.

# CHAPTER 1114

An act to amend Sections 6007 and 6086.6 of, to add Sections 6079, 6079.5, 6086.8, 6088, and 6089 to, and to add and repeal Section 6086.9 of, the Business and Professions Code, relating to attorneys.

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

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

SECTION 1. Section 6007 of the Business and Professions Code is amended to read:

6007. (a) When a member requires involuntary treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of Division 5 of, or Part 2 (commencing with Section 6250) of Division 6 of the Welfare and Institutions Code, or when under an

order pursuant to Section 3051, 3106.5, or 3152 of the Welfare and Institutions Code he or she has been placed in or returned to inpatient status at the California Rehabilitation Center or its branches, or when he or she has been determined insane or mentally incompetent and is confined for treatment or placed on outpatient status pursuant to the Penal Code, or on account of his or her mental condition a guardian or conservator, for his or her estate or person or both, has been appointed, the Board of Governors or an officer of the State Bar shall enroll the member as an inactive member.

The clerk of the appropriate court concerned in any of the above proceedings shall immediately transmit to the board a certified copy of any determination, order, or adjudication for involuntary treatment or confinement or for the appointment of a guardian or conservator.

The clerk of the appropriate court concerned shall also transmit to the State Bar a certified copy of any notice of certification for intensive treatment filed with the court pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Division 5 of the Welfare and Institutions Code.

The State Bar may procure a certified copy of any determination, order, adjudication, appointment, or notice when the clerk concerned has failed to transmit one or when the proceeding was had in a court other than a court of this state.

In the case of an enrollment pursuant to this subdivision, the State Bar shall terminate the enrollment when the member has had the fact of his or her restoration to capacity judicially determined, upon the member's release from inpatient status at the California Rehabilitation Center or its branches pursuant to Section 3053, 3109, or 3151 of the Welfare and Institutions Code, or upon the member's unconditional release from the medical facility pursuant to Section 5304 or 5305 of the Welfare and Institutions Code; and on payment of all fees required.

When a member is placed in, returned to, or released from inpatient status at the California Rehabilitation Center or its branches, or discharged from the narcotics treatment program, the Director of Corrections or his or her designee shall transmit to the State Bar a certified notice attesting to that fact.

- (b) The board shall also enroll a member of the State Bar as an inactive member in each of the following cases:
- (1) A member asserts a claim of insanity or mental incompetence in any pending action or proceeding, alleging his or her inability to understand the nature of the action or proceeding or inability to assist counsel in representation of the member.
- (2) The court makes an order assuming jurisdiction over the member's law practice, pursuant to Section 6180.5 or 6190.3.
- (3) After notice and opportunity to be heard before the board or a committee, the board finds that the member, because of mental infirmity or illness, or because of the habitual use of intoxicants or drugs, is (i) unable or habitually fails to perform his or her duties or

undertakings competently, or (ii) unable to practice law without danger to the interests of his or her clients and the public. No proceeding pursuant to this paragraph shall be instituted unless the board or a committee finds, after preliminary investigation, or during the course of a disciplinary proceeding, that probable cause exists therefor.

In the case of an enrollment pursuant to this subdivision, the board shall terminate the enrollment upon proof that the facts found as to the member's disability no longer exist and on payment of all fees required.

- (c) (1) The board may order the involuntary inactive enrollment of an attorney upon a finding that the attorney's conduct poses a substantial threat of harm to the attorney's clients or to the public or upon a finding based on all the available evidence, including affidavits, that the attorney has not complied with Section 6002.1 and cannot be located after reasonable investigation.
- (2) In order to find that the attorney's conduct poses a substantial threat of harm to the attorney's clients or the public, each of the following factors shall be found, based on all the available evidence, including affidavits:
- (A) The attorney has caused or is causing substantial harm to the attorney's clients or the public.
- (B) There is a reasonable likelihood that the harm will reoccur or continue.
- (C) The balance of interests, as between the attorney on the one hand and the attorney's clients and the public on the other hand, favors an involuntary inactive enrollment.
- (3) The board shall formulate and adopt rules of procedure to implement this subdivision.

In the case of an enrollment pursuant to this subdivision, the board shall terminate the involuntary inactive enrollment upon proof that the attorney's conduct no longer poses a substantial threat of harm to the attorney's clients or the public or where an attorney who could not be located proves compliance with Section 6002.1.

- (d) (1) The board may order the involuntary inactive enrollment of an attorney for violation of probation upon the occurrence of all of the following:
- (A) The attorney is under a suspension order any portion of which has been stayed during a period of probation.
  - (B) The board finds that probation has been violated.
- (C) The board recommends to the court that the attorney receive an actual suspension on account of the probation violation or other disciplinary matter.
- (2) The board shall terminate an enrollment under this subdivision upon expiration of a period equal to the period of stayed suspension in the probation matter, or until the court makes an order regarding the recommended actual suspension in the probation matter, whichever occurs first.
  - (3) If the court orders a period of actual suspension in the

probation matter, any period of involuntary inactive enrollment pursuant to this subdivision shall be credited against the period of actual suspension ordered.

- (e) The pendency or determination of a proceeding or investigation provided for by this section shall not abate or terminate a disciplinary investigation or proceeding except as required by the facts and law in a particular case.
- (f) No membership fees shall accrue against the member during the period he or she is enrolled as an inactive member pursuant to this section.
- SEC. 2. Section 6079 is added to the Business and Professions Code, to read:
- 6079. (a) As used in this section a "retired judge" means a former judge of a court of record who has a vested interest under the Judges' Retirement Law (Chapter 11 (commencing with Section 75000) of Title 8 of the Government Code). The judge may be an active or inactive member of the State Bar of California.
- (b) Subject to the availability of a retired judge as provided in this section, the trial in a State Bar disciplinary proceeding shall be heard by a retired judge if the presiding referee of the State Bar Court or his or her designee determines that the matter or proceeding is complex, or that trial is likely to be in excess of one day, or the circumstances dictate that it cannot be heard by volunteer referees without a likelihood of undue delay or burden to the State Bar Court, the complainant, or the respondent. When a decision to have a retired judge has been made, the Clerk of the State Bar Court shall immediately notify the Director of the Administrative Office of the Courts of that fact and the date set for hearing. The Director of the Administrative Office of the Courts shall, on an expedited basis, provide the name of a retired judge to the clerk of the State Bar Court who shall seek to retain the services of the retired judge to hear the matter. The name of the retired judge shall be provided by the Director of the Administrative Office of the Courts from a list of qualified retired judges, rotated sequentially, and categorized by geographical areas of the state. The Judicial Council may provide by rule for standards and the identification of priority uses of retiredjudges, first considering the needs of the court system.
- (c) In any case in which the retired judge cannot be retained, the presiding referee of the State Bar Court or his or her designee shall assign a referee to hear the matter. The referee shall be compensated for his or her services.
- (d) The retired judge or referee assigned shall hear the matter at the time fixed therefor or if good cause appears for changing the time previously fixed, he or she shall fix a time for hearing in accordance with the Rules of Procedure of the State Bar and hear the matter at the time so fixed. The retired judge or referee assigned to the case shall hear and make decisions with respect to the matter in accordance with the Rules of Procedure of the State Bar.
  - (e) Compensation of retired judges for services pursuant to this

section shall be at a published rate, and provided by the State Bar. The compensation shall be no less than the rates for judicial arbitration services specified in subdivision (b) of Section 1141.18 of the Code of Civil Procedure. Compensation paid to a retired judge for services pursuant to this section shall be in addition to any retirement allowance paid to that retired judge.

- (f) The Director of the Administrative Office of the Courts shall adopt procedures and minimum standards for the selection of retired judges applying to serve pursuant to this section. It is the intent of the Legislature that the standards shall include criteria relating to (1) expertise and experience in the discipline of professional licensees or matters relating to professional negligence, or equivalent matters; (2) familiarity with broad areas of law; (3) willingness and availability to handle disciplinary matters on a regular basis or for a minimum period; and (4) lack of a record of public disciplinary sanctions in the State of California or in other jurisdictions.
- SEC. 3. Section 6079.5 is added to the Business and Professions Code, to read:
- 6079.5. (a) The board shall appoint a lawyer admitted to practice in California to serve as chief trial counsel. He or she shall be appointed for a term of four years and may be reappointed for additional four-year periods. He or she shall serve at the pleasure of the board. He or she shall not engage in private practice. The State Bar shall notify the Senate Rules Committee and the Senate and Assembly Judiciary Committees within seven days of the dismissal or hiring of a chief trial counsel.

The appointment of the Chief Trial Counsel is subject to confirmation by the Senate, and the time limits prescribed in Section 1774 of the Government Code for Senate confirmation and for service in office are applicable to the appointment.

He or she shall report to and serve under the Discipline Committee of the Board of Governors of the State Bar, and shall not serve under the direction of the chief executive officer.

- (b) The chief trial counsel shall have the following qualifications:
- (1) Be an attorney licensed to practice in the State of California, be in good standing and shall not have committed any disciplinary offenses in California or any other jurisdiction.
- (2) Have a minimum of five years of experience in the practice of law, including trial experience, with law practice in broad areas of the law.
- (3) Have a minimum of two years of prosecutorial experience or similar experience in administrative agency proceedings or disciplinary agencies.
- (4) Have a minimum of two years of experience in an administrative role, overseeing staff functions.

The board may except an appointee from any of the above qualifications for good cause upon a determination of necessity to obtain the most qualified person. On or after July 1, 1987, the chief trial counsel may, as prescribed by the Supreme Court, petition the court for a different disposition of a matter than the recommendations of the review department or the board to the court.

SEC. 4. Section 6086.6 of the Business and Professions Code is amended to read:

6086.6. The Review Department of the State Bar Court established pursuant to Section 6086.5 shall consist of no more than 18 members. Six members of the Review Department of the State Bar Court appointed pursuant to Section 6086.5 shall consist of public members who have never been members of the State Bar or admitted to practice before any court in the United States. Two nonattorney members shall be appointed by the Governor and shall serve for a term of four years except that for the initial term after enactment of this section, the first nonattorney appointed shall serve for two years and the other for four years. Two nonattorney members shall be appointed by the Senate Committee on Rules and shall serve for a term of four years, except that for the initial term after the amendment of this section by the 1986 portion of the 1985-86 Regular Session the first nonattorney appointed shall serve for two years and the other for four years, as determined by lot. Two nonattorney members shall be appointed by the Speaker of the Assembly and shall serve a term of four years, except that the initial term after the amendment of this section by the 1986 portion of the 1985-86 Regular Session the first nonattorney appointed shall serve for two years and the other for four years, as determined by lot.

The board of governors may appoint no more than 12 members of the Review Department of the State Bar Court who shall be members of the State Bar.

Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office.

- SEC. 5. Section 6086.8 is added to the Business and Professions Code, to read:
- 6086.8. The board of governors shall establish a committee, known as the complainants' grievance panel. The panel shall exercise all of the following powers:
- (a) Periodically audit dismissals of complaints in lieu of disciplinary prosecution by the trial counsel and the imposition of admonitions by the chief trial counsel in lieu of disciplinary prosecution, and may order rehearing or further investigation or recommend that the Chief Trial Counsel file a notice to show cause or take other formal disciplinary action.
- (b) Upon request for review by complainants, review the dismissals and the imposition of admonitions in lieu of disciplinary prosecution, and may order rehearing or further investigation or recommend that the Chief Trial Counsel file a notice to show cause or take other formal disciplinary action.

The complainants' grievance panel shall consist of seven members. Three members of the panel shall consist of public members who have never been members of the State Bar or admitted to practice before any court in the United States. The Governor shall appoint one nonattorney member who shall serve for a term of four years, except that for the initial term after enactment of this section the first nonattorney appointed shall serve for two years. The Senate Committee on Rules shall appoint one nonattorney member who shall serve for a term of four years. The Speaker of the Assembly shall appoint one nonattorney member who shall serve a term of four years, except that for the initial term after enactment of this section the first nonattorney shall serve for three years.

The board of governors shall appoint four members who shall be members of the State Bar and who shall serve for a term of four years, except that for the initial term after enactment of this section one attorney first appointed shall serve for two years, one for three years, and two for four years, as determined by lot.

Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office.

The complainants' grievance panel shall provide a written report at least once yearly to the Discipline Committee of the Board of Governors of the State Bar as to its findings and recommendations concerning dismissed cases, including its findings as to whether too many or too few cases are being dismissed, and whether varying standards are being used.

It also shall provide a copy of the report to the Senate Rules Committee and to the Senate and Assembly Judiciary Committees at the same time it submits its report to the board.

SEC. 6. Section 6086.9 is added to the Business and Professions Code, to read:

6086.9. The Attorney General shall appoint a State Bar Discipline Monitor. The Attorney General shall advertise the availability of the position and conduct interviews of candidates for the position.

The applicant for the position of discipline monitor shall have investigative experience, shall be familiar with California laws and procedures, and, preferably, shall be familiar with the rules and procedures of the State Bar lawyer discipline system and relevant administrative procedures. The discipline monitor may be a state employee or his or her services may be provided pursuant to contract.

The Attorney General shall appoint the discipline monitor by no later than January 30, 1987. The Attorney General may terminate or dismiss the discipline monitor.

The Attorney General shall assist the discipline monitor in the performance of his or her duties as provided by this section. The discipline monitor shall be under the supervision of the Attorney General.

The discipline monitor shall monitor and evaluate the State Bar discipline system and procedures. The monitoring shall be on a continuing basis for a period of three years and shall include, but not be limited to, the reduction of the complaint backlog; the speeding

up of the handling of complaints and in the rendering of initial decisions on complaints; the efficiency of the system; the fairness and courtesy given to complainants; the adequacy of the staffing and the budget allocation allocated to the discipline section of the State Bar; the consistency in the application of sanctions or discipline imposed; the implementation of laws affecting discipline and the State Bar's disciplinary standards and rules; staff concerns regarding disciplinary matters or procedures; and the State Bar's cooperation with other governmental entities charged with enforcing related laws and regulations that affect members of the State Bar.

The discipline monitor shall exercise no authority over the State Bar's discipline operations or staff but the State Bar and its staff shall cooperate with him or her. The discipline monitor shall have the same investigative authority as the Attorney General.

The State Bar shall provide data, information, and case files as requested by the discipline monitor in order to perform all of his or her duties pursuant to this section.

The discipline monitor shall submit initial written and oral reports of his or her findings and conclusions to the Assembly and Senate Judiciary Committees no later than June 1, 1987. The discipline monitor shall provide copies of these written reports to the California Supreme Court and to the Senate Rules Committee by that date and he or she shall also be available to make oral reports to those entities, if requested. The discipline monitor shall make subsequent written and oral reports to the Assembly and Senate Judiciary Committees every five months thereafter; copies of the written reports shall also be submitted to the California Supreme Court and to the Senate Rules Committee and the discipline monitor shall also be available to make oral reports to those entities, if requested. The discipline monitor may also provide additional information to any of the above entities at his or her discretion or at their request. The reports by the discipline monitor shall also be made available to the public and to the media. The discipline monitor shall make every effort to provide the State Bar with an opportunity to reply to any facts, findings, issues, or conclusions on which it may disagree.

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

SEC. 7. Section 6088 is added to the Business and Professions Code, to read:

6088. The board may provide by rule that alleged facts in a proceeding are admitted upon failure to answer, failure to appear at formal hearing, or failure to deny matters specified in a request for admissions; the party in whose favor the facts are admitted shall not be required to otherwise prove any facts so admitted. However, the rules shall provide a fair opportunity for the party against whom facts are admitted to be relieved of the admission upon a satisfactory showing, made within 30 days of notice that facts are admitted, that (a) the admissions were the result of mistake or excusable neglect,

- and (b) the admitted facts are actually denied by the party.
- SEC. 8. Section 6089 is added to the Business and Professions Code, to read:
- 6089. On and after July 1, 1987, a court shall notify the State Bar of all of the following:
- (a) Reversal of judgment in a proceeding based in whole or in part upon the misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.
- (b) The imposition of any judicial sanctions against the attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

The court shall also notify the attorney involved that the matter has been referred to the State Bar.

The State Bar shall investigate any matter so reported as to the appropriateness of initiating disciplinary action against the attorney.

SEC. 9. On or before January 1, 1987, the Board of Governors of the State Bar shall transmit the sum of ninety thousand dollars (\$90,000) to the Controller who shall transfer that sum to, and in augmentation of, Item 0820-001-001 of the Budget Act of 1986, for the purposes of Section 6086.9 of the Business and Professions Code.

#### CHAPTER 1115

An act to amend Section 8895 of the Government Code, and to add Chapter 12 (commencing with Section 2810) to Division 2 of the Public Resources Code, relating to earthquakes.

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

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

SECTION 1. Section 8895 of the Government Code is amended to read:

8895. The commission, in the discharge of its responsibilities, may do any of the following:

- (a) Accept grants, contributions, and appropriations from public agencies, private foundations, or individuals.
- (b) Appoint committees from its membership, appoint advisory committees from interested public and private groups, and appoint ex officio members who shall not be entitled to vote, to advise the commission.
- (c) Contract for or employ, with the approval of the Director of Finance, any professional services and research required by the commission or required for the performance of necessary work and services which, in the commission's opinion, cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

- (d) Enter into agreements to act cooperatively with private nonprofit scientific, educational, or professional associations or foundations engaged in promoting seismic safety in California, including activities under the California Earthquake Education Act of 1984 (Chapter 11 (commencing with Section 2805) Division 2 of the Public Resources Code). These associations or foundations may furnish materials for sale, and the commission may provide personnel services and office space therefor. Subject to rules and regulations adopted by the commission, all moneys received from the sale of publications or other materials provided by an association or foundation shall be returned to the association or foundation for use in furthering seismic safety programs.
- (e) Do any and all other things necessary to carry out the purposes of this chapter.
- SEC. 2. Chapter 12 (commencing with Section 2810) is added to Division 2 of the Public Resources Code, to read:

# CHAPTER 12. EARTHQUAKE PREPAREDNESS

- 2810. The Legislature finds and declares all of the following:
- (a) Most of the state's major metropolitan areas are subject to potentially devastating, large magnitude earthquakes.
- (b) Earth scientists estimate that there is greater than a 50 percent probability that one or more damaging earthquakes will occur in these metropolitan areas between now and the end of the century.
- (c) The commission, in conjunction with other local, state, and federal agencies, has initiated programs to prepare the state for responding to the threat of major earthquakes. The first program, the Southern California Earthquake Preparedness Project, is administered by the office. The commission has since initiated a similar effort in northern California, the Bay Area Regional Earthquake Preparedness Project.
- (d) Through the work of the Southern California Earthquake Preparedness Project and the Bay Area Regional Earthquake Preparedness Project, earthquake mitigation and preparedness plans, procedures, and educational materials have been developed and used to encourage and support local jurisdictions' preparedness activities in both southern and northern California.
- (e) Since July 1, 1984, the commission and the office have jointly carried out a comprehensive earthquake preparedness program by providing planning and technical assistance as follows:
- (1) To local jurisdictions, volunteer agencies and associations, and private-sector organizations, to develop and implement hazard mitigation and prevention programs to reduce earthquake vulnerability.
- (2) To improve regionwide preparedness and response capabilities.
  - (3) To stimulate and promote innovative preparedness planning

activities by local jurisdictions.

- (f) The activities of the Southern California Earthquake Preparedness Project and the Bay Area Regional Earthquake Preparedness Project have successfully encouraged and supported local programs that reduce potential earthquake hazards and increase preparedness capabilities of participating jurisdictions and raise the level of citizens' awareness of, and preparedness for, earthquakes.
  - 2811. As used in this chapter:
  - (a) "Commission" means the Seismic Safety Commission.
  - (b) "Local jurisdiction" means a city, county, or district.
  - (c) "Office" means the Office of Emergency Services.
- (d) "Preparedness" means long-term preearthquake hazard mitigation, reconstruction, and recovery planning and preparation for emergency response.
- 2812. (a) The projects authorized by this chapter shall promote voluntary actions by local jurisdictions, volunteer agencies and associations, and private organizations which address all aspects of seismic safety, including, but not limited to, mitigation, public information and education, response, and recovery planning.
  - (b) The projects may do all of the following:
- (1) Provide planning and technical assistance for developing and implementing earthquake hazard mitigation and loss prevention programs that reduce earthquake vulnerability.
- (2) Provide planning and technical assistance to improve regional, local, community, corporate, and public and private school preparedness.
- (3) Provide planning and technical assistance to local jurisdictions to improve regional and local agencies' response capabilities for predicted and unpredicted earthquakes.
- (4) Participate with local, regional, state, and federal agencies, councils of government, and private organizations in providing education and training workshops and conferences on comprehensive earthquake preparedness.
- (5) Promote innovative approaches by local jurisdictions in the areas of public education and individual, community, and private-sector preparedness.
- 2813. The Southern California Earthquake Preparedness Project and the Bay Area Regional Earthquake Preparedness Project shall continue to June 30, 1990, in order to further comprehensive earthquake preparedness planning in southern and northern California and to help achieve a significant reduction of earthquake hazards by January 1, 2000.
- 2814. The earthquake preparedness activities established under this chapter shall be carried out by the office. The commission and office shall work together and use appropriate scientific information and recommendations provided by the division. Other arrangements to coordinate the activities established by this chapter shall be made, through mutual agreement, by the commission and the office.

2815. The office may enter into agreements with local, regional, and federal agencies, councils of government, and private organizations and contractors, and may receive and expend funds provided by those entities in support of comprehensive earthquake preparedness programs authorized by this chapter. The commission and office shall seek assistance from appropriate federal agencies.

#### CHAPTER 1116

An act to add Section 46201.1 to the Education Code, and to amend Item 6100-101-001 of Section 2.00 of the Budget Act of 1986, relating to school finance.

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

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

SECTION 1. Section 46201.1 is added to the Education Code, to read:

- 46201.1. (a) Notwithstanding paragraph (4) of subdivision (b) of Section 42238, for each school district that received an apportionment pursuant to subdivision (a) of Section 46201 in the 1985–86 fiscal year, the county superintendent shall, for the 1986–87 fiscal year, add to the district's base revenue limit per unit of average daily attendance the amount received in the 1985–86 fiscal year, pursuant to subdivision (a) of Section 46201 divided by the sum of paragraphs (1) and (2).
- (1) The district's average daily attendance for the 1985–86 fiscal year computed pursuant to Section 42238.5.
- (2) The units of average daily attendance in the 1985–86 fiscal year resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280).
- (b) Notwithstanding paragraph (4) of subdivision (b) of Section 42238, for each school district that received an apportionment pursuant to subdivision (a) of Section 46201 in the 1984–85 fiscal year, the county superintendent shall, for calculations or recalculations of the district's 1985–86 base revenue limit per unit of average daily attendance, add to the district's base revenue limit per unit of average daily attendance the amount received in the 1984–85 fiscal year pursuant to subdivision (a) of Section 46201 divided by the sum of paragraphs (1) and (2).
- (1) The district's average daily attendance for the 1984–85 fiscal year computed pursuant to Section 42238.5.
- (2) The units of average daily attendance in the 1984–85 fiscal year resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280).
  - (c) Notwithstanding paragraph (3) of subdivision (b) of Section

42238, for each school district that received an apportionment pursuant to subdivision (a) of Section 46200 in the 1984-85 fiscal year. the county superintendent shall, for calculations or recalculations of the district's 1985-86 base revenue limit per unit of average daily attendance, add to the district's base revenue limit per unit of average daily attendance the amount received in the 1984-85 fiscal year divided by the sum of paragraphs (1) and (2).

- (1) The district's average daily attendance for the 1984-85 fiscal year computed pursuant to Section 42238.5.
- (2) The units of average daily attendance for the 1984–85 fiscal year resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280).
- (d) Notwithstanding subdivision (b) of Section 46200, for any school district that received an apportionment pursuant to subdivision (a) of Section 46200 that offers less than 180 days of instruction in the 1986-87 fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the 1986-87 fiscal year by an amount attributable to the increase received pursuant to subdivision (a) of Section 46200. as adjusted.
- SEC. 2. Item 6100-101-001 of Section 2.00 of the Budget Act of 1986 is amended to read:
- 6100-101-001—For local assistance, Department of Education, for transfer to Section A of the State School Fund, Program 10.10-School Apportionments..... 7,551,298,000 Schedule:
  - (a) Program 10.10.001.001—School Apportionments, for the purposes of Section 42238 of the Education Code .......7,315,636,000
  - (b) Program 10.10.001.002—School Apportionments, in addition to the amount appropriated in category (a) of this item, for the purposes of subdivision (f) of Section 42238 of the Education Code...... 14.556,000

(c) Program 10.10.001.003—School Apportionments, for Small School District Transportation Aid, for the purposes of Section 42240 and Section 42240.1 of the Education Code .....

19.891.000

(d) Program 10.10.001.004—School Apportionments, for Meals for Needy Pupils programs, for the purposes of Article 10.5 (commencing with Section 49550) of Chapter 9 of Part 27 of the Educa(e) Program 10.10.001.005—School Apportionments, for apprentice programs, for the purposes of Section 8153 of the Education Code

2,663,000

(f) Program 10.10.011—School Apportionments, for summer school programs, for the purposes of Section 42239 of the Education Code.......

66,261,000

(g) Program 10.10.001.007—School Apportionments, for the purposes of Article 8 (commencing with Section 46200) of Chapter 2 of

Part 26 of the Education Code .... 107,868,000

### **Provisions:**

- Funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1986–1987 fiscal year pursuant to Sections 14002, 14004, and 41301 of the Education Code, an amount as needed, in addition to sums accruing to Section A of the State School Fund from other sources for the purposes specified herein, for apportionment pursuant to Section 8153, Section 42238, Section 42239, and Section 42240.1 of the Education Code.
- 4. Notwithstanding Section 8154 of the Education Code, or any other provision of law, the funds specified in Schedule (e) of this item and Schedule (a) (5) of Item 6100-226-001 shall be the only funds available for the apprentice programs operated by K-12 school districts.
- 5. Notwithstanding Section 8152 of the Education Code, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of \$3.65 per hour. For purposes of this division, each hour of teaching time may include up to 10 minutes for passing time and breaks.
- 6. Notwithstanding any other provision of law, the county superintendent shall reduce the total revenue limit computed pursuant to Section 42238 of the Education Code 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, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates that occurred prior to January 1, 1986.

The reduction shall be calculated as follows:

- (a) Determine the amount of employer contributions which would have been made in the 1985–86 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 1985–86 fiscal year.
- (b) Subtract from the amount determined in paragraph (a) the greater of subparagraph (1) or (2):
  - (1) The amount of employer contributions which would have been made in the 1985–86 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 1985–86 fiscal year.
  - (2) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1985–86 fiscal year.
- (c) For purposes of this provision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:
  - (1) Positions supported totally by federal funds which were subject to supplanting restrictions.
  - (2) Positions supported by funds received pursuant to Section 42243.6 of the Education Code.
  - (3) Positions supported, to the extent of employer contributions not exceeding \$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 Super-

- intendent of Public Instruction with the approval of the Director of Finance.
- (d) For accounting purposes, the reduction made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.
- 7. Notwithstanding paragraph (4) of subdivision (b) of Section 42238 of the Education Code, for, each school district which in 1985–86 received an apportionment pursuant to subdivision (a) of Section 46201 of the Education Code the county superintendent shall, in 1986–87, add to the district's base revenue limit per unit of average daily attendance the amount received in 1985–86 pursuant to subdivision (a) of Section 46201 of the Education Code divided by the sum of paragraphs (a) and (b).
  - (a) The district's average daily attendance for 1985–86 computed pursuant to Section 42238.5 of the Education Code.
  - (b) The units of average daily attendance in 1985–86 resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280) of the Education Code.
- 8. Notwithstanding paragraph (4) of subdivision (b) of Section 42238 of the Education Code, for, each school district which in 1984–85 received an apportionment pursuant to subdivision (a) of Section 46201 of the Education Code the county superintendent shall, for calculations or recalculations of the district's 1985–86 base revenue limit per unit of average daily attendance, add to the district's base revenue limit per unit of average daily attendance the amount received in 1984–85 pursuant to subdivision (a) of Section 46201 of the Education Code divided by the sum of paragraphs (a) and (b).
  - (a) The district's average daily attendance for 1984–85 computed pursuant to Section 42238.5 of the Education Code.
  - (b) The units of average daily attendance for 1984–85 resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280) of the Education Code.
- 9. Notwithstanding paragraph (3) of subdivision

- (b) of Section 42238 of the Education Code; for, each school district which in 1984-85 received an apportionment pursuant to subdivision (a) of Section 46200 of the Education Code the county superintendent shall, for calculations or recalculations of the district's 1985-86 base revenue limit per unit of average daily attendance add to the district's base revenue limit per unit of average daily attendance the amount received in 1984-85 divided by the sum of paragraphs (a) and (b).
- (a) The district's average daily attendance for 1984–85 computed pursuant to Section 42238.5 of the Education Code.
- (b) The units of average daily attendance for 1984–85 resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280) of the Education Code.
- 11. Notwithstanding subdivision (b) of Section 46200 of the Education Code, for any school district which received an apportionment pursuant to subdivision (a) of Section 46200 of the Education Code and which offers less than 180 days of instruction in the 1986–87 fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for 1986–87 by an amount attributable to the increase received pursuant to subdivision (a) of Section 46200, as adjusted.
- 12. Notwithstanding subdivision (e) of Section 42239 of the Education Code, for the 1986-87 fiscal year, the Superintendent of Public Instruction shall allocate a minimum of \$5,000 for supplemental summer school programs in those districts whose prior year enrollment was less than 500 and that, in the 1986-87 fiscal year, offer at least 1,500 hours of supplemental summer school instruction. A small school district, as defined above, that offers less than 1,500 hours of supplemental summer school offerings shall receive a proportionate reduction in its allocation. For the purpose of this provision, supplemental summer school programs shall be defined as programs authorized under paragraph (2) of subdivision (d) of Section 42239 of the Education Code.
- 13. Of the amount appropriated in schedule (a) of this item, \$21,600,000 shall be available for allo-

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cation according to the following method:

- (a) For the 1986-87 fiscal year, 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 1985 -86 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 1986-87 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, Section 45023.4. and paragraphs (3) and (4) of subdivision (b) of Section 42238 of the Education Code for 1986-87 or any prior fiscal year.
- (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 in the 1986–87 fiscal year, 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 1986–87 fiscal year.
  - (2) Divide the amount appropriated for purposes of this section for the 1986-87 fiscal year by the amount computed pursuant to paragraph (1).
  - (3) Multiply the amount computed for the

school district pursuant to subdivision (a) and the amount computed pursuant to paragraph (2).

- 14. The Superintendent of Public Instruction may reallocate the unexpended balance, if any, of the funds appropriated in schedule (f) of this item to fully fund hours of instruction provided by a school district to secondary students in summer school programs authorized by paragraph (2) of subdivision (d) of Section 42239 of the Education Code that exceed the maximum number of hours for which a school district is eligible for reimbursement.
  - In no event shall any school district receive reimbursement pursuant to this provision for pupil attendance in summer school programs exceeding an amount equal to 10 percent of the district's total enrollment for the prior fiscal year times 120 hours, times the hourly rate for the current fiscal year.
- 15. Notwithstanding any other provision of law, for the 1986–87 fiscal year, after calculating the increase specified in Section 42287 of the Education Code, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 of the Education Code by the product of paragraphs (a) and (b).
  - (a) The amount per unit of average daily attendance received by the district pursuant to Section 46200 of the Education Code in 1984-85, as increased annually by the appropriate percentage inflation adjustments.
  - (b) The average daily attendance for each "necessary small school" or "necessary small high school" for which the district receives funding in the 1986–87 fiscal year pursuant to Sections 42281, 42282, and 42284 of the Education Code.
- 16. Notwithstanding any other provision of law, for the 1986–87 fiscal year, after calculating the increase specified in Section 42287 of the Education Code, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 of the Education Code by the product of paragraphs (a) and (b).
  - (a) The sum of the amounts per unit of average

- daily attendance received by the district pursuant to Section 46201 of the Education Code in the 1984–85 and 1985–86 fiscal years, as increased annually by the appropriate percentage inflation adjustments.
- (b) The average daily attendance for each "necessary small school" or "necessary small high school" for which the district receives funding in the 1985–86 fiscal year, pursuant to Sections 42281, 42282, and 42284 of the Education Code.
- 17. Notwithstanding any other provision of law, for the 1986–87 fiscal year, after calculating the amount specified in Section 42287 of the Education Code, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 of the Education Code by the product of paragraphs (a) and (b).
  - (a) The sum of the amounts per unit of average daily attendance received by the district pursuant to Section 45023.4 of the Education Code in prior fiscal years, as increased annually by the appropriate percentage inflation adjustments.
  - (b) The average daily attendance for each "necessary small school" or "necessary small high school" for which the district receives funding in the 1985–86 fiscal year pursuant to Sections 42281, 42282, and 42284 of the Education Code.
- 18. Notwithstanding any other provision of law, in addition to the reduction made pursuant to Provision 6 of this item, the county superintendent shall reduce the total revenue limit computed pursuant to Section 42238 of the Education Code by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from the applicable employer contribution rate reduction made subsequent to January 1, 1986.

The reduction shall be calculated as follows:

(a) Determine the amount of employer contributions which would have been made in the 1986–87 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the reduction made subsequent to January 1, 1986, were in ef-

- fect during the 1985-86 fiscal year.
- (b) Subtract from the amount determined in paragraph (a) the greater of subparagraph(1) or (2) below:
  - (1) The amount of employer contributions which would have been made in the 1986–87 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the applicable rate reduction made subsequent to January 1, 1986, where in effect during the 1986–87 fiscal year.
  - (2) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1986–87 fiscal year.
- (c) For purposes of this provision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:
  - (1) Positions supported entirely by federal funds which were subject to supplanting restrictions.
  - (2) Positions supported by funds received pursuant to Section 42243.6 of the Education Code.
  - (3) Positions supported, to the extent of employer contributions not exceeding \$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.
- (d) For accounting purposes, the reduction made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.
- (e) It is the intent of the Legislature to provide additional funding for school district apportionments in the event of an increase in the employer contribution rate to the Public Employees' Retirement System.
- 19. Notwithstanding any other provision of law,

- the Superintendent of Public Instruction shall, for purposes of allocating funds to the Lerdo Elementary School District pursuant to Section 42238 of the Education Code, use the district's 1984–85 average daily attendance.
- 20. Of the funds appropriated in Schedule (a), the Superintendent of Public Instruction shall allocate an amount pursuant to this provision by making the following computations for each school district:
  - (a) For the 1985–86 fiscal year, the amount computed pursuant to subdivision (c) or (d), as appropriate, of Section 42238 of the Education Code utilizing the inflation adjustment prescribed by Section 42238.1 of the Education Code, plus the sum of the following:
    - The amount computed pursuant to subdivision (f) of Section 42238 of the Education Code;
    - (2) The amount computed pursuant to Section 42238.7 of the Education Code, as it read in the 1984–85 fiscal year:
    - (3) The amount computed pursuant to Section 42238.8 of the Education Code;
    - (4) The amount computed pursuant to Section 45023.4 of the Education Code; and
    - (5) The amount computed pursuant to Provision 17 of Item 6100-101-001 of the Budget Act of 1985.
  - (b) For the 1986–87 fiscal year, the amount computed pursuant to subdivision (c) or (d), as appropriate, of Section 42238 of the Education Code utilizing the inflation adjustment prescribed by Provision 2 of Item 6100-226-001, plus the amount computed pursuant to subdivision (f) of Section 42238 of the Education Code.
  - (c) Subtract the amount determined in paragraph (b) from the amount determined in paragraph (a). If the amount is greater than zero, except as provided in paragraph (d), the Superintendent of Public Instruction shall add the amount to the school district revenue limit.
  - (d) In no event shall the amount added to the

school district's revenue limit pursuant to paragraph (c) allow any district to receive an amount per unit of average daily attendance which exceeds 1.4 times the statewide average revenue limit per unit of average daily attendance for that type of district.

## CHAPTER 1117

An act to amend Sections 23165 and 23170, Section 23171, as amended by Section 4 of Chapter 1339 of the Statutes of 1985, and Sections 23175, 23176, 23185, 23190, 23161, 23200, 23204, 23206, and 23217 of, to add Section 1806.5 to, and to repeal Section 23171, as added by Section 5 of Chapter 1339 of the Statutes of 1985, of, the Vehicle Code, relating to driving offenses.

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

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

SECTION 1. Section 1806.5 is added to the Vehicle Code, to read: 1806.5. Notwithstanding Section 1808, the department shall not furnish information filed pursuant to Section 1806 to any person if the furnishing of that information would violate the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

SEC. 2. Section 23165 of the Vehicle Code is amended to read: 23165. If any person is convicted of a violation of Section 23152 and the offense occurred within seven years of a separate violation of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, 23152, or 23153, which resulted in a conviction, that person shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year and by a fine of not less than three hundred ninety dollars (\$390) nor more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (3) of subdivision (a) of Section 13352.

SEC. 3. Section 23161 of the Vehicle Code is amended to read: 23161. (a) Except as provided in subdivision (f), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars (\$390) but not more than one thousand dollars (\$1,000). The court may order the Department of Motor Vehicles to suspend the

privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

- (2) Pay a fine of at least three hundred ninety dollars (\$390) but not more than one thousand dollars (\$1,000) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.
- (b) In any county where the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, or both of these programs, in the driver's county of residence or employment, as designated by the court.
- (c) Each county which has approved an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate. The county may require that the program report the failure of a person referred to the program to enroll in the program to the referring court.
- (d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.
- (e) (1) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person shall also participate in and successfully complete the program and, excepting when the person is required to enroll in a program that is required to report unsuccessful program completion to the court, shall furnish proof of successful completion within the period of time and in the manner specified by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this paragraph.
- (2) An alcohol or drug education program shall report to the court within the period of time and in the manner specified by the court any person who fails to successfully complete the program.
- (3) The court, in establishing the reporting requirements in this subdivision, shall consult with the county alcohol program administrator.
- (f) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate issued pursuant to Section 12804.1, the court shall upon conviction order the department to suspend the driver's

privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

- SEC. 3.5. Section 23170 of the Vehicle Code is amended to read: 23170. If any person is convicted of a violation of Section 23152 and the offense occurred within seven years of two separate violations of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, 23152, or 23153, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars (\$390) nor more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.
- SEC. 4. Section 23171 of the Vehicle Code, as amended by Section 4 of Chapter 1339 of the Statutes of 1985, is amended to read:
- 23171. (a) (1) If the court grants probation to any person punished under Section 23170, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 120 days but not more than one year and pay a fine of at least three hundred ninety dollars (\$390) but not more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.
- (2) In those counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230), the court shall require that at least 30 days of the term of imprisonment prescribed under this subdivision be served in the county jail, but may in its discretion, if requested by the person convicted, order that a portion or all of the rest of the term be served by participation in a treatment program in an alcohol rehabilitation facility approved pursuant to Article 3 (commencing with Section 23230), as designated by the court. The person shall not be ordered to the alcohol rehabilitation facility for less than 30 days, and the person shall pay the costs of that treatment program commensurate with the person's ability to pay. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.
- (b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23170 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety

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Code, as designated by the court. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (a) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

SEC: 5. Section 23171 of the Vehicle Code, as added by Section of Chapter 1320 of the Statutes of 1085 is repealed.

5 of Chapter 1339 of the Statutes of 1985, is repealed.

- SEC. 6. Section 23175 of the Vehicle Code is amended to read: 23175. If any person is convicted of a violation of Section 23152 and the offense occurred within seven years of three or more separate violations of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, 23152, or 23153, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars (\$390) nor more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.
- SEC. 7. Section 23176 of the Vehicle Code is amended to read: 23176. (a) (1) If the court grants probation to any person punished under Section 23175, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 180 days but not more than one year and pay a fine of at least three hundred ninety dollars (\$390) but not more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.
- (2) In those counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230), the court shall require that at least one-fourth of the term of imprisonment prescribed under this subdivision be served in the county jail, but may in its discretion, if requested by the person convicted, order that a portion or all of the rest of the term be served by participation in a treatment program in an alcohol rehabilitation facility approved pursuant to Article 3 (commencing with Section 23230), as designated by the court. The person shall not be ordered to the alcohol rehabilitation facility for less than 30 days, and the person shall pay the costs of that treatment program commensurate with the person's ability to pay. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.
  - (b) In addition to the provisions of Section 23206 and subdivision

- (a), if the court grants probation to any person punished under Section 23175 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (7) of subdivision (a) of Section 13352.
- SEC. 8. Section 23185 of the Vehicle Code is amended to read: 23185. If any person is convicted of a violation of Section 23153 and the offense occurred within seven years of a separate violation of Section 23152 or 23153 which resulted in a conviction, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 120 days nor more than one year, and by a fine of not less than three hundred ninety dollars (\$390) nor more than five thousand dollars (\$5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (4) of subdivision (a) of Section 13352.
- SEC. 9. Section 23190 of the Vehicle Code is amended to read: 23190. If any person is convicted of a violation of Section 23153 and the offense occurred within seven years of two or more separate violations of Section 23152 or 23153, or both, which resulted in convictions, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than one thousand fifteen dollars (\$1,015) nor more than five thousand dollars (\$5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (6) of subdivision (a) of Section 13352.
- SEC. 10. Section 23200 of the Vehicle Code is amended to read: 23200. (a) In any case charging a violation of Section 23152 or 23153 and the offense occurred within seven years of one or more separate violations of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, 23152, or 23153, or any combination thereof, which resulted in convictions, the court shall not strike any separate conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment and the minimum fine, as provided in this chapter, or for purposes of avoiding revocation, suspension, or restriction of the privilege to operate a motor vehicle, as provided in this code.
- (b) In any case charging a violation of Section 23152 or 23153, the court shall obtain a copy of the driving record of the person charged

from the Department of Motor Vehicles and may obtain any records from the Department of Justice or any other source to determine if one or more separate violations of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, 23152, or 23153, or any combination thereof, which resulted in convictions, have occurred within seven years of the charged offense. The court may obtain, and accept as rebuttable evidence, a printout from the Department of Motor Vehicles of the driving record of the person charged, maintained by electronic and storage media pursuant to Section 1801 for the purpose of proving those separate violations.

(c) If any separate convictions of violations of Section 23152 or 23153 are reported to have occurred within 10 years of the charged offense, the court shall notify each court where any of the separate convictions occurred for the purpose of enforcing terms and conditions of probation pursuant to Section 23207.

SEC. 11. Section 23204 of the Vehicle Code is amended to read: 23204. If a person's privilege to operate a motor vehicle is required or ordered to be suspended or revoked by the Department of Motor Vehicles pursuant to other provisions of this code upon the conviction of an offense of this article, that person shall surrender each and every operator's license of that person to the court upon conviction. At the time of sentencing, if the court grants probation on terms which permit the person to retain his or her driving privilege, the court may return the person's operator's license to that person. The court shall transmit the license or licenses required to be suspended or revoked to the Department of Motor Vehicles pursuant to Section 13550, and the court shall notify the department.

This section does not apply to an administrative proceeding by the Department of Motor Vehicles to suspend or revoke the driving privilege of any person pursuant to other provisions of law.

- SEC. 12. Section 23206 of the Vehicle Code is amended to read: 23206. (a) If any person is convicted of a violation of Section 23152 or 23153, the court shall not stay or suspend pronouncement of sentencing, and shall pronounce sentence in conjunction with the conviction in a reasonable time, including time for receipt of any presentence investigation report ordered pursuant to Section 23205.
- (b) If any person is convicted of a violation of Section 23152 or 23153 and is granted probation, the terms and conditions of probation shall include, but not be limited to the following:
- (1) Notwithstanding Section 1203a of the Penal Code, a period of probation not less than three nor more than five years; provided, however, that if the maximum sentence provided for the offense may exceed five years in the state prison, the period during which the sentence may be suspended and terms of probation enforced may be for a longer period than three years but may not exceed the maximum time for which sentence of imprisonment may be pronounced.
- (2) A requirement that the person shall not drive a vehicle with any measurable amount of alcohol in his or her blood.

- (3) A requirement that the person, if arrested for a violation of Section 23152 or 23153, shall not refuse to submit to a chemical test of his or her blood, breath, or urine, pursuant to Section 23157, for the purpose of determining the alcoholic content of his or her blood.
- (4) A requirement that the person shall not commit any criminal offense.
- (c) The court shall not absolve a person who is convicted of a violation of Section 23152 or 23153 from the obligation of spending the minimum time in confinement, if any, or of paying the minimum fine provided in this article.
- (d) In addition to any other provision of law, if any person violates paragraph (3) of subdivision (b), or violates paragraph (2) of subdivision (b) and the person had a blood alcohol concentration of over 0.04 percent as determined by a chemical test, the court shall revoke or terminate the person's probation as provided by Section 23207, regardless of any other proceeding, and shall only grant a new term of probation of not more than five years on the added condition that the person be confined in the county jail for not less than 48 hours for each of these violations of probation, except in unusual cases where the interests of justice would best be served if this additional condition were not imposed.
- SEC. 13. Section 23217 of the Vehicle Code is amended to read: 23217. The Legislature finds and declares that some repeat offenders of the prohibition against driving under the influence of alcohol or drugs, when they are addicted or when they have too much alcohol in their systems, may be escaping the intent of the Legislature to punish the offender with progressively greater severity if the offense is repeated one or more times within a seven-year period. This situation may occur when a conviction for a subsequent offense occurs before a conviction is obtained on an earlier offense.

The Legislature further finds and declares that the timing of court proceedings should not permit a person to avoid aggravated mandatory minimum penalties for multiple separate offenses occurring within a seven-year period. It is the intent of the Legislature to provide that a person be subject to enhanced mandatory minimum penalties for multiple offenses within a period of seven years, regardless of whether the convictions are obtained in the same sequence as the offenses had been committed.

Nothing in this section requires consideration of judgment of conviction in a separate proceeding which is entered after the judgment in the present proceeding, except as it relates to violation of probation.

Nothing in this section or the amendments to Section 23165, 23170, 23175, 23185, 23190, 23200, or 23202 made by Chapter 1205 of the Statutes of 1984 affects the penalty for a violation of Section 23152 or 23153 occurring prior to January 1, 1985.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

#### CHAPTER 1118

An act to add Section 11802 to the Health and Safety Code, to add Section 1463.25 to the Penal Code, and to add Sections 23196 and 23197 to the Vehicle Code, relating to alcohol abuse, and making an appropriation therefor.

[Approved by Covernor September 24, 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 Alcohol Abuse Education and Prevention Act of 1986.

- SEC. 2. The Legislature makes the following findings and declarations of intent:
- (a) A statewide alcohol abuse primary education and prevention program is essential in order to address the continuing problem of alcohol abuse throughout the state, which often exists in combination with other problems such as crime, drunk driving, and juvenile delinquency. The program is labeled as "primary" prevention because it is intended to prevent alcohol abuse before it begins or before it has reached later stages requiring treatment.
- (b) The program necessarily emphasizes a continuing partnership between education agencies, alcohol abuse agencies, community service agencies, parents, and other members of the community.
- (c) The programs established pursuant to this act are intended by the Legislature to fund and delegate primary responsibility for program planning to local school and local alcohol abuse authorities and their constituents. These agencies are best suited for dealing with lifetime alcohol using patterns, which are formed during youth and in the family setting.
- (d) This act places primary emphasis on youth, families, and communitywide alcohol abuse education and prevention planning. Therefore, programs to acquaint professionals serving youth and families, community representatives, parents, and youth with the skills and strategies needed for program implementation are an important aspect of the total program.
- (e) In view of the purposes and intent of this act, the highest priority for program funding under this act shall be designated to programs that emphasize joint school-community program alcohol abuse education and prevention planning and implementation, and

that focus on children, youth, and families.

- (f) It is the intent of the Legislature that, to the maximum extent possible, funds made available for the purposes of this act be used to support programs that will meet the needs of children and families.
- SEC. 3. Section 11802 is added to the Health and Safety Code, to read:
- 11802. (a) Money deposited in the county alcohol abuse education and prevention fund pursuant to subdivision (b) of Section 1463.25 of the Penal Code shall be allocated by the alcohol program administrator to alcohol abuse education and prevention programs in the schools and communities within the county. The money shall be allocated in accordance with the planning process established pursuant to Sections 11810.5 and 11810.6. In cooperation with the county alcohol program administrators, the department shall establish the specific procedures necessary to implement this section.
- (b) Programs funded, planned, and implemented under this section shall emphasize a joint school-community primary education and prevention program, which may include:
- (1) School and classroom-oriented programs, including, but not limited to, programs designed to encourage sound decisionmaking, an awareness of values, an awareness of alcohol and its 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.
- (2) 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 alcohol use, and programs for special target groups, such as women, ethnic minorities, and other high-risk, high-need populations.
- (3) 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 alcohol abuse.
- (c) The money deposited under subdivision (a) shall supplement and not supplant any local funds made available to support the county's alcohol abuse education and prevention efforts.
- (d) If the county has a drug abuse primary prevention program, it may choose to combine or coordinate its drug and alcohol abuse education and prevention programs.
  - SEC. 4. Section 1463.25 is added to the Penal Code, to read:
- 1463.25. Notwithstanding Section 1203.1 or 1463, and in addition to any allocation under Section 1463.16, the moneys from alcohol abuse education and prevention penalty assessments collected pursuant to Section 23196 of the Vehicle Code shall be initially

deposited by the county treasurer in a special county alcohol abuse and prevention fund for exclusive allocation by the county alcohol program administrator, subject to the approval of the board of supervisors, for the county's alcohol abuse education and prevention program pursuant to Section 11802 of the Health and Safety Code.

A county shall not use more than 5 percent of the funds deposited

in the special account for administrative costs.

SEC. 5. Section 23196 is added to the Vehicle Code, to read:

- 23196. (a) Any person convicted of a violation of Section 23152 or 23153 shall, in addition to any other fine, assessment, or imprisonment imposed pursuant to law, pay an alcohol abuse education and prevention penalty assessment in an amount not to exceed fifty dollars (\$50) for deposit and distribution pursuant to Section 1463.25 of the Penal Code.
- (b) The payment of the penalty assessment under this section shall be ordered upon conviction of a person of a violation of Section 23152 or 23153 irrespective of any other proceeding and, if probation is granted, the payment of the penalty assessment shall also be ordered as a condition of probation, except in unusual cases which are subject to subdivision (d) of Section 1464 of the Penal Code.
- (c) The court shall determine if the defendant has the ability to pay all or part of the penalty 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 believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.
  - SEC. 6. Section 23197 is added to the Vehicle Code, to read:
- 23197. An order granting probation to a person who is convicted of a violation of Section 23152 or 23153 under this article is a judgment of a conditional sentence within the meaning of subdivisions (a) and (d) of Section 1203 of the Penal Code, and any fine, restitution, or assessment imposed as a condition of that grant of probation is a judgment for a fine within the meaning of Section 1214 of the Penal Code for the enforcement of money judgments.
- 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 1119

An act to amend Sections 76.3, 775, 775.5, 777, 778, 779, 780, 781, and 782 of, to amend the heading of Chapter 6 (commencing with Section 775) of Division 3 of, and to repeal and add Sections 776 and 786 of, the Harbors and Navigation Code, relating to vessels, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. 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 for berthing facilities, parking, public access facilities, restrooms, vessel pumpout facilities, 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. The heading of Chapter 6 (commencing with Section 775) of Division 3 of the Harbors and Navigation Code is amended to read:

### CHAPTER 6. VESSEL SANITATION

- SEC. 3. Section 775 of the Harbors and Navigation Code is amended to read:
- 775. The Legislature hereby finds and declares that marine sanitation devices should be regulated pursuant to uniform standards and procedures and that California vessel owners should not be subject to any local or state regulation as to the type of marine sanitation devices installed on their vessels.

The Legislature also finds and declares that for proper utilization of retention-type marine sanitation devices installed in conformance with the federal Water Pollution Control Act and for the protection of the quality of the waters of this state, adequate vessel pumpout facilities are essential.

SEC. 4. Section 775.5 of the Harbors and Navigation Code is

amended to read:

775.5. As used in this chapter, the following terms shall have the following meanings:

(a) "Vessel terminal" means any private or public shoreside installation on any waters of this state providing mooring, docking, berthing, and other facilities for the use of vessels.

(b) "Marine sanitation device" means any equipment on board a vessel which is designed to receive, retain, treat, or discharge

sewage, and any process to treat the sewage.

- (c) "Promulgation date" means the date upon which the initial standards and regulations for marine sanitation devices are promulgated by an appropriate federal agency in accordance with Section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.).
- (d) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.
- (e) "Vessel" means every watercraft or other contrivance used or capable of being used as a means of transportation on the waters of the state, excepting foreign and domestic vessels engaged in interstate or foreign commerce upon the waters of the state.
- (f) "State board" means the State Water Resources Control Board.
- (g) "Regional board" means a California regional water quality control board.
- (h) "Waters of this state" shall mean all waters of the state except waters beyond three nautical miles of any shore of the state.
- (i) "Department" means the Department of Boating and Waterways.
- SEC. 5. Section 776 of the Harbors and Navigation Code is repealed.
- SEC. 6. Section 776 is added to the Harbors and Navigation Code, to read:
- 776. (a) Every vessel terminal shall, as required by the regional board for the protection of the quality of the waters of this state, be equipped with vessel pumpout facilities for the transfer and disposal of sewage from marine sanitation devices. In imposing this requirement, the regional board shall take into account the number and type of vessels that use or are berthed at the vessel terminal and whether there exists at other locations pumpout facilities that have a total capacity sufficient for, and are convenient and accessible to, vessels that use or are berthed at the vessel terminal. In addition, the regional board may require any vessel pumpout facility to be equipped with a meter for the purpose of measuring use of the facility. All pumpout facilities installed after the operative date of the statute adding this section shall be equipped with a meter.
  - (b) This section does not apply to the following:
  - (1) Small craft launching facilities.
  - (2) Dockage adjacent to and serving private residences in areas

where vessel pumpout facilities are conveniently available to vessels so docked.

- (3) Other types of facilities designated by the regional board after consulting with the department.
- (c) Any violation of this section is a misdemeanor. In addition, any violation of this section is subject to any remedy provided for in Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code.
- SEC. 7. Section 777 of the Harbors and Navigation Code is amended to read:
- 777. Vessel pumpout facilities for the transfer and disposal of sewage from marine sanitation devices, floating restrooms, and onshore toilets shall be operated and maintained in a manner that will prevent the discharge of any sewage to the waters of the state and shall be maintained in good working order and regularly cleaned.

Any violation of this section is a misdemeanor. In addition, any violation of this section is subject to any remedy provided for in Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code.

- SEC. 8. Section 778 of the Harbors and Navigation Code is amended to read:
- 778. The state board shall adopt standards for the construction, operation, and maintenance of vessel pumpout facilities.
- SEC. 9. Section 779 of the Harbors and Navigation Code is amended to read:
- 779. Every peace officer of the state and of any city, county, or other public agency, all state and local public health officers, and all boating law enforcement officers shall enforce this chapter and any regulations adopted pursuant to this chapter.
- SEC. 10. Section 780 of the Harbors and Navigation Code is amended to read:
- 780. Any person who disconnects, bypasses, or operates a marine sanitation device so as to discharge sewage into the waters of this state is guilty of a misdemeanor, unless the particular discharge is expressly authorized or permitted pursuant to state or federal law or regulations.
- SEC. 11. Section 781 of the Harbors and Navigation Code is amended to read:
- 781. The Attorney General, at the request of the department, the state board, any regional board, or any aggreived person, shall petition the superior court for injunctive relief, as may be appropriate, to secure compliance with this chapter.
- SEC. 12. Section 782 of the Harbors and Navigation Code is amended to read:
- 782. (a) Excepting laws regulating the discharge of sewage into or upon the navigable waters of any lake, reservoir, or fresh water impoundment of this state, and notwithstanding the provisions of Section 660, no vessel, as defined in subdivision (f) of Section 775.5

- shall, from September 19, 1974, be subject to any other state or local government law, ordinance, or regulation with respect to the design, manufacture, installation, or use within any vessel of any marine sanitation device.
- (b) Notwithstanding any other provision of law, nothing in this chapter precludes or restricts a city, county, or other public agency from adopting rules and regulations with respect to the discharge of sewage from vessels.
- SEC. 13. Section 786 of the Harbors and Navigation Code is repealed.
- SEC. 14. Section 786 is added to the Harbors and Navigation Code, to read:
- 786. (a) Any loan made pursuant to Section 71.4 or 76.3, and any lease or concession contract entered into pursuant to Section 72, shall be subject to the express condition that the borrower comply with all applicable requirements of this chapter.
- (b) Any loan made pursuant to Section 71.4 or 76.3 for, respectively, a project or a recreational marina that is required, pursuant to Section 776, to provide vessel pumpout facilities shall be subject to the following express conditions:
- (1) The pumpout facility shall be opened to public use within six months of receiving the funds, or contemporaneously with the completion of the project or recreational marina, whichever is later, unless the department determines that the facility cannot be opened to public use within this period due to circumstances wholly beyond the control of the borrower.
- (2) The borrower shall agree to budget funds each year for the maintenance and operation of the pumpout facility for its expected life.
- (3) The location of the pumpout facility shall be publicized, by any convenient means available, and shall be marked with a distinctive and prominent sign that is readily identifiable from offshore locations.
- (4) Charges imposed for the use of the pumpout facility shall not, in the aggregate, exceed the cost of maintaining and operating the pumpout facility and a pro rata share of the amount necessary for repayment of the loan.
- (5) The portion of the loan equal to the cost of the pumpout facility shall become immediately due, if the borrower does not perform any requirement imposed pursuant to this subdivision.
- (c) Any lessee or concessionaire that is required, pursuant to Section 776, to provide vessel pumpout facilities, shall be required through the lease or concession contract to comply with requirements that are not less restrictive than the requirements imposed by paragraphs (1) to (4), inclusive, of subdivision (b).
- SEC. 15. In carrying out the requirements of Section 776 of the Harbors and Navigation Code, the California regional water quality control boards shall give priority to federally designated no discharge areas. Upon completion of these areas, each regional board shall

assign priority to areas designated by local governments as no discharge areas. Subsequently, all other applicable waters shall be studied and appropriate pumpout facilities required. The number of areas studied each year shall be dependent on the level of financing provided in the Budget Act.

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 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.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Improper vessel sanitation practices and inadequate vessel sanitation facilities pose threats to public health and water quality in various locations throughout California. In order that these threats may be addressed as soon as possible, but in no event later than the 1987 recreational boating season, it is necessary that this act take effect immediately.

### CHAPTER 1120

An act to amend Sections 1502, 1506, 1522.4, 1523, 1530.5, 1536, and 1536.1 of the Health and Safety Code, and to amend Sections 362, 366.2, 366.25, 727, 11400, 11463, and 16507.5 of the Welfare and Institutions Code, relating to foster family agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 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 types of children being placed in foster care today are more damaged, emotionally disturbed, difficult to manage, and without family support than ever before. This is an expected outcome of the state's affirmative efforts to prevent placements in foster care when possible, to reunify children with their families as quickly as possible when placement occurs, and to find permanent, new families when reunification is not an option. This is also an expected outcome when there is a fiscal benefit to the state to fund emotionally disturbed children, who otherwise qualify for federal funding, through

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AFDC-FC rather than General Fund-supported mental health resources.

The Legislature finds and declares that, because of the more difficult nature of foster children and the increased costs of caring for them, it is becoming difficult to recruit and train foster parents. One solution is to encourage the development of private, nonprofit foster family agencies which recruit, screen, certify, train, and provide professional support services to foster parents.

It is the intent of the Legislature that, for those children requiring foster care, the children be placed with foster families when possible and that those families be provided the appropriate and necessary professional support of public and private agencies. In enacting this act, the Legislature recognizes, clarifies and enhances the important professional and cost-benefit roles of foster family agencies, formerly known as homefinding agencies, in the support of foster families in the state.

SEC. 2. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

- (a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:
- (1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.
- (2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.
- (3) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.
- (4) Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care or adoption. Private foster family agencies shall be organized and

operated on a nonprofit basis.

- (5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.
- (6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.
- (7) "Social rehabilitation facility." means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.
- (8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

- (b) "Department" or "state department" means the State Department of Social Services.
  - (c) "Director" means the Director of Social Services.
- SEC. 3. Section 1506 of the Health and Safety Code is amended to read:
- 1506. (a) Any holder of a valid license issued by the department which authorizes the licensee to engage in any foster family agency functions, may, unless the license provides otherwise, place children in any licensed foster family home selected. A foster family home selected and certified for the reception and care of children placed by such licensee shall not, during the time it is certified and used only by that agency for such placements or care, be subject to the provisions of Section 1508.
- (b) (1) A foster family agency shall certify to the department that such home has met the department's licensing standards.
- (2) The foster family agency shall issue a certificate of approval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home.
- (3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing

agency.

- department shall, develop licensing regulations (c) The differentiating between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.
- (d) As used in this chapter, "certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements. SEC. 4. Section 1522.4 of the Health and Safety Code is amended

to read:

- (a) In addition to any other requirements of this chapter 1522.4. and except for foster family homes, small family homes, and certified family homes of foster family agencies, all of the following apply to any community care facility providing 24-hour care for six or fewer wards or dependents of the juvenile court:
- (1) The facility shall have one or more facility managers. "Facility manager," as used in this section, means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility.
- (2) The facility manager shall have at least one year of experience working with the client group served, or equivalent education or experience, as determined by the department.
- (3) A facility manager shall be at the facility at all times when one or more clients are present. To ensure adequate supervision of clients when clients are at the facility outside of their normal schedule, a current telephone number where the facility manager can be reached shall be provided to the clients, licensing agency, school, and any other agency or person as the department determines is necessary. The facility manager shall instruct these agencies and individuals to notify him or her when clients will be returning to the facility outside of the normal hours.
- (4) The Legislature intends to upgrade the quality of care in licensed facilities. For the purposes of Sections 1533 and 1534, the licensed facility shall be inspected and evaluated for quality of care at least once each year, without advance notice and as often as necessary, without advance notice, to insure the quality of care being provided.
- (5) In addition to any notices required under Section 1538.5, if the department sends a notice to the licensee as a result of a substantiated complaint regarding a violation of any provision of this chapter, the department shall notify the placement agency, as designated in each resident's placement agreement, of the nature of

the complaint. Any placement agency placing, or making an inquiry for placement of, a client shall also be informed by the licensee of any unresolved complaint notices and the nature of the complaints.

Paragraphs (1), (2), and (3) shall apply only to new facilities which apply for a license after January 1, 1985.

(b) No employee of the state or county employed in the administration of this chapter or employed in a position that is in any way concerned with facilities licensed under this chapter shall hold a license or have a direct or indirect financial interest in a facility described in subdivision (a).

The department, by regulation, shall make the determination pursuant to the purposes of this section and chapter, as to what employment is in the administration of this chapter or in any way concerned with facilities licensed under this chapter and what financial interest is direct or indirect.

This subdivision does not prohibit the state or county from securing a license for, or operating, a facility that is otherwise required to be licensed under this chapter.

- SEC. 5. Section 1523 of the Health and Safety Code is amended to read:
- 1523. (a) (1) A fee adjusted by facility and capacity shall be charged by the department for the issuance or renewal of a license or special permit or for processing any application therefor. The amount of the fee shall be based upon a portion of the application and renewal processing costs. The fee shall not exceed the following:

## Fee Schedule

Facility Type	Capacity	Original Application	Renewal Application
Residential Facilities	1-6	\$100	\$100
	7-15	\$150	\$150
	16- <b>4</b> 9	<b>\$200</b>	<b>\$200</b>
	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 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. 5.5. 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
<u>-</u>	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. 6. Section 1530.5 of the Health and Safety Code is amended to read:
- 1530.5. (a) The state department, in establishing regulations, including provisions for periodic inspections, under this chapter for foster family homes and certified homes of foster family agencies providing 24-hour care for six or fewer foster children, shall consider these homes as private residences, and shall establish regulations for these foster family homes and certified family homes of foster family agencies as an entirely separate regulation package from regulations for all other community care facilities. These foster family homes and certified homes of foster family agencies shall not be subject to ratings or civil penalties pursuant to Section 1534 or 1548. The department, in adopting and amending regulations for these foster family homes and certified homes of foster family agencies, shall consult with foster parent and foster family agency organizations in order to ensure compliance with the requirement of this section.
- (b) This section shall not apply to small family homes or foster family agencies as defined in Section 1502.
- SEC. 7. Section 1536 of the Health and Safety Code is amended to read:

1536. At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed community care facilities, other than foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer foster children, the services for which each facility has been licensed or issued a special permit, and the evaluation rating of each such community care facility, as determined pursuant to Section 1535. A list or lists containing changes in facility ratings shall be published and made available periodically as determined by the director.

To encourage the recruitment of foster family homes and certified family homes of foster family agencies, protect their personal privacy, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes and certified homes of foster family agencies providing 24-hour care for six or fewer children shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1

(commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing names and addresses only to bona fide professional foster parent organizations upon request.

SEC. 8. Section 1536.1 of the Health and Safety Code is amended to read:

- 1536.1. (a) "Placement agency" means any county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.
- (b) A placement agency shall place individuals only in licensed community care facilities, facilities which are exempt from licensing under Section 1505 or if the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code, or with a foster family agency for placement in its certified family home.
- (c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1505 or unless the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code. Violation of this subdivision is a misdemeanor.
- (d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.
- (e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.
- (f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a community care facility. Reportable incidents include, but are not limited to, all of the following:
  - (1) Incidents of physical abuse.
  - (2) Any violation of personal rights.
- (3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.
- (4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

- (5) Any situation in which residents experience mental or verbal abuse.
- SEC. 9. Section 362 of the Welfare and Institutions Code is amended to read:
- 362. (a) When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court and consistent with subdivision (e) of Section 361.

When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

- The home of a relative.
- (2) A suitable licensed community care facility.
- (3) With a foster family agency to be placed in a suitable licensed home or other family home which has been certified by the agency as meeting licensing standards.
- (4) A home or facility in accordance with the federal Indian Child Welfare Act.
- (b) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interests of the minor will be served by granting visitation rights with the minor to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.
- (c) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, if all of the following certification conditions are met:
- (1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.
- (2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.
- (3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.
- (d) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents

or guardians may be required, and may be ordered, to participate in child welfare services or services provided by an appropriate agency designated by the court. When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency, designated by the court.

- (e) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (c), including orders to appear before a county financial evaluation officer. Such an order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent, guardian, or foster parent is required to participate shall be designed to eliminate those conditions that led to the court's finding that the minor is a person described by Section 300.
- SEC. 9.5. Section 362 of the Welfare and Institutions Code is amended to read:
- 362. (a) When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court.
- (b) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency designated by the court.
- (c) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of this section, including orders to appear before a county financial evaluation officer. Such an order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent or relative with whom the minor is placed may be directed to

participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the minor is a person described by Section 300.

SEC. 10. Section 366.2 of the Welfare and Institutions Code is amended to read:

- 366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.
- (b) Notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.
- (c) At least 16 days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 14 days before the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the foster parents, community care facility, or foster family agency having the physical custody of the minor at least 14 days before the hearing. This subdivision does not apply to the minor if he or she has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental.
- (d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and

recommendation prior to determining any disposition.

- (e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 232 of the Civil Code may be instituted. This subdivision does not apply to the minor if he or she has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental.
- SEC. 10.5. Section 366.2 of the Welfare and Institutions Code is amended to read:
- 366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.
- (b) Except as provided in Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.
- (c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide

the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

- (d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.
- (e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 232 of the Civil Code may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.
- SEC. 11. Section 366.25 of the Welfare and Institutions Code is amended to read:
- 366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case

later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who has been removed from his or her parent or guardian pursuant to paragraph (5) of subdivision (b) of Section 361 because of severe physical abuse, and concerning whom the court has found, pursuant to subdivision (c) of Section 366, that return of the minor to his or her parent or guardian would be detrimental to the minor, a permanency planning hearing shall be held immediately upon the making of such a finding, or as soon thereafter as is reasonably feasible.

- (b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.
- (c) Except in cases where permanency planning is conducted pursuant to subdivision (c) of Section 366, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing. In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and concerning whom the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental, the court shall not continue proceedings for further review pursuant to this subdivision.
- (d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:
- (1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:
  - (A) The parents or guardians have maintained regular visitation

and contact with the minor and the minor would benefit from continuing this relationship.

- (B) A minor 12 years of age or older objects to termination of parental rights.
- (C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.
- (2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.
- (3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except certified homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.
- (B) The licensed foster family agency shall place the minor in a suitable licensed or other family home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

- (C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed foster family agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.
- (e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.
- (f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.
- . (g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.
- (h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.
- (i) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is a ward of a guardian.
- (j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.
- (k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 11.5. Section 366.25 of the Welfare and Institutions Code is amended to read:

- (a) In order to provide stable, permanent homes for 366.25. children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who comes within subdivision (b) of Section 361.5 and for whom the court has found that reunification services should not be provided, a permanency planning hearing shall be held pursuant to Section 361.5.
- (b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.
- (c) Except in cases where permanency planning is conducted pursuant to Section 361.5, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.
- (d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:
- (1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:
- (A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.
- (B) A minor 12 years of age or older objects to termination of parental rights.

- (C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.
- (2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.
- (3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except certified homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.
- (B) The licensed foster family agency shall place the minor in a suitable licensed or other family home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.
- (C) Subsequent reviews for these minors shall be conducted every six months by the court. The licensed foster family agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and

extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

- (e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code. The juvenile court shall order counsel for the county department of social services or welfare department to file a written request with the clerk of the probate court, pursuant to Section 2700 of the Probate Code, for special notice of any petition filed to terminate or revoke guardianship.
- (f) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.
- (g) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

- SEC. 12. Section 727 of the Welfare and Institutions Code is amended to read:
- 727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such a minor, including medical treatment, subject to further order of the court.

The court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

- (1) The home of a relative.
- (2) A suitable licensed community care facility.
- (3) With a foster family agency to be placed in a suitable licensed home or other family home which has been certified by the agency as meeting licensing standards.
- (b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor

may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided that all the following certification conditions are met:

- (1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.
- (2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.
- (3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b), including orders to appear before a county financial evaluation officer.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

- SEC. 12.5. Section 727 of the Welfare and Institutions Code is amended to read:
- 727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such a minor, including medical treatment, subject to further order of the court.

The court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

- (1) The home of a relative.
- (2) A suitable licensed community care facility.
- (3) With a foster family agency to be placed in a suitable licensed

home or exclusive use home which has been certified by the agency as meeting licensing standards.

- (b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided that all the following certification conditions are met:
- (1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.
- (2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.
- (3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b), including orders to appear before a county financial evaluation officer.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

- (d) Where a minor has been adjudged a ward of the juvenile court under subdivision (a) of Section 601 and a supplemental petition alleging the violation of a related dispositional order has been sustained at a hearing described in paragraph (2) of subdivision (f) of Section 777, the court may order that the minor shall be detained in a secure juvenile facility for a period not to exceed five days, for any of the following purposes:
  - (1) For the protection of the minor, where the court finds that the

minor must be securely detained for his or her safety.

- (2) For the evaluation of the minor's need for counseling, medical, or other remedial services.
- (3) For arrangement of the referral of the minor to obtain remedial services from public or private agencies in the community.
- (4) For delivery of short-term remedial services to the minor while in the secure facility.

Prior to making an order for the secure detention of the minor under this subdivision, the court shall consider whether referral of the minor to a nonsecure facility or program where treatment can be provided would be appropriate for the needs of the minor and the community. Continued secure detention may be ordered only upon a finding by the court that services appropriate for the needs of the minor are available and can be delivered to the minor during the period of confinement; however, continued secure detention may not be ordered solely upon a finding by the court that no nonsecure facility or program is available.

If the minor is held under this subdivision in a secure facility operated by the probation department, the probation officer shall deliver or arrange for delivery of services to the minor in accordance with the purpose for which the minor was detained. Additionally, the probation officer shall record the purposes for which the minor was securely detained and shall keep a record of the efforts made to evaluate the minor, arrange for referral to remedial services, or deliver short-term remedial services during detention, as the case may be.

A minor may not be placed in secure detention under this subdivision for more than two 5-day periods during any 12 months. SEC. 13. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

- (a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.
- (b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.
- (c) "Certified home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.
  - (d) "Family home" means the family residency of a licensee in

which 24-hour care and supervision are provided for children.

- (e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.
- (f) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care or adoption. Private foster family agencies shall be organized and operated on a nonprofit basis.
- (g) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.
- (h) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.
- (i) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.
- (j) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.
- (k) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.
- (l) "Relative" means a person who can be a "caretaker relative" of a dependent child under Section 406 of the Social Security Act.
- (m) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county

welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

- (n) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.
- (o) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.
- SEC. 14. Section 11463 of the Welfare and Institutions Code is amended to read:
- 11463. (a) The department, with the advice, assistance, and cooperation of the counties and foster care providers, shall develop and implement a ratesetting system for foster family agencies to be effective no later than July 1, 1985.

No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1982, to persons eligible for aid under subdivision (a) of Section 11450.

- (b) The department shall develop regulations specifying the purposes, types and services of foster family agencies. Distinction for ratesetting purposes shall be drawn between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.
- SEC. 15. Section 16507.5 of the Welfare and Institutions Code is amended to read:
- 16507.5. (a) When a minor is separated or is in the process of being separated from the minor's family under the provisions of a voluntary placement agreement, the county welfare department or a licensed private or public adoption agency social worker shall make any and all reasonable and necessary provisions for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment.

Responsibility for placement and care of the minor shall be with the social worker who may place the minor in any of the following:

- (1) The home of a relative.
- .(2) A suitable licensed community care facility.
- (3) With a foster family agency to be placed in a suitable licensed home or other family home which has been certified by the agency as meeting licensing standards.
- (4) A home or facility in accordance with the federal Indian Child Welfare Act.

- (b) If, for a specific child, the social worker has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the child may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided all of the following certification conditions are met:
- (1) A preplacement home visit is made by the social worker to determine the suitability of the family home.
- (2) The social worker verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.
- (3) The social worker notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor.

If the license is subsequently denied, the child shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

- SEC. 16. In amending Section 11463 of the Welfare and Institutions Code, it is not the intent of the Legislature to require the department to develop new regulations. It is the intent of the Legislature, however, that the department develop a regulation which ensures that certified family homes of a foster family agency shall receive from the agency a monthly payment at least as great as the department's schedule of rates for foster family homes plus the amount added by the department in recognition of the specialized nature of the children placed in such homes.
- SEC. 17. Section 5.5 of this bill incorporates amendments to Section 1523 of the Health and Safety Code proposed by both this bill and AB 4055. 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) each bill amends Section 1523 of the Health and Safety Code, and (3) this bill is enacted after AB 4055, in which case Section 1523 of the Health and Safety Code, as amended by Section 5 of this bill, shall remain operative only until the operative date of AB 4055, at which time Section 5.5 of this bill shall become operative.
- SEC. 18. Section 9.5 of this bill incorporates amendments to Section 362 of the Welfare and Institutions Code proposed by both this bill and SB 1195. 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) each bill amends Section 362 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1195, in which case Section 362 of the Welfare and Institutions Code, as amended by Section 9 of this bill, shall remain operative only until the operative date of SB 1195, at which time Section 9.5 of this bill shall become operative.
- SEC. 19. Section 10.5 of this bill incorporates amendments to Section 366.2 of the Welfare and Institutions Code proposed by both

this bill and SB 1195. 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) each bill amends Section 366.2 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1195, in which case Section 366.2 of the Welfare and Institutions Code, as amended by Section 10 of this bill, shall remain operative only until the operative date of SB 1195, at which time Section 10.5 of this bill shall become operative.

SEC. 20. Section 11.5 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by both this bill and SB 1195. 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) each bill amends Section 366.25 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1195, in which case Section 366.25 of the Welfare and Institutions Code, as amended by Section 11 of this bill, shall remain operative only until the operative date of SB 1195, at which time Section 11.5 of this bill shall become operative.

SEC. 21. Section 12.5 of this bill incorporates amendments to Section 727 of the Welfare and Institutions Code proposed by both this bill and SB 883. 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) each bill amends Section 727 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 883, in which case Section 727 of the Welfare and Institutions Code, as amended by Section 12 of this bill, shall remain operative only until the operative date of SB 883, at which time Section 12.5 of this bill shall become operative.

SEC. 22. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The number of child abuse and neglect petitions before California courts have increased dramatically over the past several years while the number of available foster families has decreased. In order to increase the number of foster homes available to the courts as soon as possible, it is necessary for this act to take effect immediately.

## CHAPTER 1121

An act to amend Section 319 of the Welfare and Institutions Code, relating to juvenile court law.

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

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

SECTION 1. Section 319 of the Welfare and Institutions Code is amended to read:

319. At the initial petition hearing the court shall examine the minor, the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians, or their counsel desires to present.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody, the need, if any, for continued detention, and on the available services and the referral methods to be used which would facilitate the return of the minor to the custody of the minor's parents or guardians. The court shall order the release of the minor from custody unless it finds any of the following:

- (a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.
- (b) The minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court.
- (c) The minor is a threat to the person or property of another or his or her parent or guardian or responsible relative is likely to flee the jurisdiction of the court.
- (d) The minor indicates an unwillingness to return home, if the minor has been physically or sexually abused by a person residing in the home.
- (e) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor.

Whenever a court orders a minor detained, the court shall state the facts on which the decision is based. The court shall also make a determination in the order as to whether reasonable services have been provided to aid the parents or guardians in order to prevent the need for removal of the child. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable.

When the minor is not released from custody the court may order that the minor shall be placed in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court for a period not to exceed 15 judicial days.

## CHAPTER 1122

An act to amend Section 232 of the Civil Code, to amend and renumber Section 11166.1 of the Penal Code, and to amend Sections 300, 319, 332, 345, 352, 356, 358, 361, 362, 364, 366, 366.2, 366.25, 16506, 16506.1, and 16507 of, to amend and renumber Section 351 of, to add Sections 361.2, 361.5, 362.1, and 366.3 to, and to repeal Section 319.1 of, the Welfare and Institutions Code, relating to minors.

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

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

SECTION 1. Section 232 of the Civil Code is amended to read: 232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

- (1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.
- (2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one-year period.

- (3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive; of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one-year period.
- (4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.
- (5) Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.
- (6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts, each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in

that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5, whether or not a request for the appointment is made by the parent.

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

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

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

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

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

- (8) A minor who has been found to be a dependent child of the juvenile court and the juvenile court has determined, pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 361.5 of the Welfare and Institutions Code, that reunification services shall not be provided to the minor's parent or guardian.
  - (b) At all termination proceedings, the court shall consider the

wishes of the child and shall act in the best interests of the child.

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

- (1) The court determines that testimony in chambers is necessary to insure truthful testimony.
- (2) The minor is likely to be intimidated by a formal courtroom setting.
- (3) The minor is afraid to testify in front of his or her parent or parents.

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

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

- (c) A finding pursuant to this section shall be supported by clear and convincing evidence.
- (d) Section 5158 shall not apply to proceedings pursuant to this section.
- SEC. 1.5. Section 11166.1 of the Penal Code, as added by Chapter 1262 of the Statutes of 1985, is amended and renumbered to read:
- (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Sections 859 and 1430.
- (b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health

and Safety Code and the licensing of the facility has not been delegated to a county agency.

- SEC. 2. Section 300 of the Welfare and Institutions Code is amended to read:
- 300. Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:
- (a) Who is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising care or control, or has no parent, guardian, or custodian actually exercising care or control.
- (b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode, except that no person may be adjudged a dependent child solely due to the lack of an emergency shelter for the family.
- (c) Who is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality.
- (d) Whose home is an unfit place for him or her by reason of neglect, cruelty, depravity, or physical abuse of either of his or her parents, or of his or her guardian or other person in whose custody or care he or she is.
- (e) Who is under the age of three and whose home is an unfit place for him or her as a result of severe physical abuse of the minor by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that that person was physically abusing the minor. For the purpose of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.
- (f) Who has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and for whom an interlocutory decree has not been granted pursuant to Section 224n of the Civil Code or an adoption petition has not been granted.
- (g) It is the intention of the Legislature in enacting the amendments to subdivision (a) enacted at the 1985–86 Regular Session, to assure that courts, in making a determination pursuant to subdivision (a) shall not focus upon the fact that a parent has a physical disability. The Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to subdivision (a) should center upon whether a parent's disability prevents him or her from exercising care and control.

- SEC. 3. Section 319 of the Welfare and Institutions Code is amended to read:
- 319. At the initial petition hearing the court shall examine the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians, or their counsel desires to present. The court may examine the minor, as provided in Section 350.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody; the need, if any, for continued detention; on the available services and the referral methods which could facilitate the return of the minor to the custody of the minor's parents or guardians; and whether there are any relatives who are able and willing to take temporary custody of the minor. The court shall order the release of the minor from custody unless it finds any of the following:

- (a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.
- (b) There is substantial evidence that a parent, guardian, or custodian of the minor is likely to flee the jurisdiction of the court.
- (c) The minor has violated an order of the juvenile court or has left a placement in which he or she was placed by the juvenile court.
- (d) The minor indicates an unwillingness to return home, if the minor has been physically or sexually abused by a person residing in the home.

The court shall also make a determination as to whether reasonable services have been provided to aid the parents or guardians in order to prevent the need for removal of the child and whether there are available services which would prevent the need for further detention. If the minor can be returned to the custody of his or her parent or guardian through the provision of those services, the court shall place the minor with his or her parent or guardian and order that the services shall be provided. If the minor cannot be returned to the custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable. Whenever a court orders a minor detained, the court shall state the facts on which the decision is based, and shall specify why the initial removal was necessary.

When the minor is not released from custody the court may order that the minor shall be placed in the suitable home of a relative or in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court for a period not to exceed 15 judicial days.

As used in this section, "relative" means an adult who is a grandparent, aunt, uncle, first cousin, or a sibling of the minor.

- SEC. 4. Section 319.1 of the Welfare and Institutions Code, as added by Section 2.5 of Chapter 1608 of the Statutes of 1984 is repealed.
- SEC. 5. Section 332 of the Welfare and Institutions Code is amended to read:
- 332. A petition to commence proceedings in the juvenile court to declare a minor a ward or a dependent child of the court shall be verified and shall contain all of the following:
  - (a) The name of the court to which it is addressed.
  - (b) The title of the proceeding.
- (c) The code section and the subdivisions thereof under which the proceedings are instituted. When the probation officer has reason to believe that the minor comes within subdivision (e) of Section 300, the petition shall include an allegation pursuant to that section.
- (d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.
- (e) The names and residence addresses, if known to the petitioner, of both parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there is none, the adult relative residing nearest to the location of the court.
- (f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.
- (g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.
- (h) A notice to the father, mother, spouse, or other person liable for support of the minor child, of all of the following: (1) Section 903 makes that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor or the parent by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the minor child. liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

- SEC. 6. Section 345 of the Welfare and Institutions Code is amended to read:
- 345. All cases under this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at such a session; however, the court may determine any issues regarding custody of the minor pursuant to Section 304 or 361.2. No person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

Cases in which the minor is detained and the sole allegation is that the minor is a person described in Section 300 shall be granted precedence on the calendar of the court for the day on which the case is set for hearing.

- SEC. 7. Section 351 of the Welfare and Institutions Code is amended and renumbered to read:
- 318. In a juvenile court hearing, where the parent or guardian is represented by counsel, the county counsel or district attorney shall, at the request of the juvenile court judge, appear and participate in the hearing to represent the petitioner.
- SEC. 8. Section 352 of the Welfare and Institutions Code is amended to read:
- 352. (a) Upon request of counsel for the parent, guardian, minor, or petitioner, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held, provided that no continuance shall be granted that is contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.

Continuances shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the evidence presented at the hearing on the motion for the continuance. Neither a stipulation between counsel nor the convenience of the parties is in and of itself a good cause. Further, neither a pending criminal prosecution nor family law matter shall be considered in and of itself as good cause. Whenever, any continuance is granted, the facts proven which require the continuance shall be entered upon the minutes of the court.

In order to obtain a motion for a continuance of the hearing, written notice shall be filed at least two court days prior to the date set for hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance.

(b) Notwithstanding any other provision of law, if a minor has been removed from the parents' or guardians' custody, no continuance shall be granted that would result in the dispositional hearing, held pursuant to Section 361, being completed longer than 60 days after the hearing at which the minor was ordered removed

- or detained, unless the court finds that there are exceptional circumstances requiring such a continuance. The facts supporting such a continuance shall be entered upon the minutes of the court. In no event shall the court grant continuances that would cause the hearing pursuant to Section 361 to be completed more than six months after the hearing pursuant to Section 319.
- (c) In any case in which the parent, guardian, or minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance. The consent does not affect the requirements of subdivision (a).
- SEC. 9. Section 356 of the Welfare and Institutions Code is amended to read:
- 356. After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300 and the specific subdivisions of Section 300 under which the petition is sustained. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly.
- SEC. 10. Section 358 of the Welfare and Institutions Code is amended to read:
- 358. (a) After finding that a minor is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the minor. Prior to making a finding required by this section, the court may continue the hearing on its own motion. The motion of the parent or guardian, or the motion of the minor, as follows:
- (1) If the minor is detained during the continuance, and the probation officer is not alleging that Section 361.5 is applicable, the continuance shall not exceed 10 judicial days; the court may make such order for detention of the minor or for the minor's release from detention, during the period of continuance, as is appropriate.
- (2) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of filing the petition. However, the court may, for cause, continue the hearing for an additional 15 days.
- (3) If the probation officer is alleging that the Section 361.5 is applicable, the court shall continue the proceedings for a period not to exceed 30 days. The probation officer shall notify each parent of the content of Section 361.5 and shall inform each parent that if the court does not order reunification a permanency planning hearing will be held, at which time the court may order the filing of a petition permanently terminating parental rights, pursuant to Section 232 of the Civil Code.
  - (b) Before determining the appropriate disposition, the court

shall receive in evidence the social study of the minor made by the probation officer, any study or evaluation made by a child advocate appointed by the court, and such other relevant and material evidence as may be offered. In any judgment and order of disposition, the court shall specifically state that the social study made by the probation officer and the study or evaluation made by the child advocate appointed by the court, if there be any, has been read and considered by the court in arriving at its judgment and order of disposition.

- (c) If the court finds that a minor is described by subdivision (e) of Section 300 or that subdivision (b) of Section 361.5 may be applicable, the court shall conduct the dispositional proceeding pursuant to subdivision (c) of Section 361.5.
- SEC. 11. Section 361 of the Welfare and Institutions Code is amended to read:
- 361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.
- (b) No dependent child shall be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated unless the juvenile court finds clear and convincing evidence of any of the following:
- (1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the custody of the parent or guardian with whom the minor resided at the time of injury.
- (2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.
- (3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.
- (4) The minor has been sexually abused by a parent, guardian, or member of his or her household or other person known to his or her parent and there are no reasonable means by which the minor can

be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to

locate him or her have been unsuccessful.

- (c) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (b), whether it was reasonable under the circumstances not to make any such efforts. The court shall state the facts on which the decision to remove the minor is based.
- (d) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:
- (1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.
- (2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.
- SEC. 12. Section 361.2 is added to the Welfare and Institutions Code, to read:
- 361.2. (a) When a court orders removal of a minor pursuant to Section 361, the court shall first determine whether there is a parent of the minor, with whom the minor was not residing at the time that the events or conditions arose that brought the minor within the provisions of Section 300, who desires to assume custody of the minor. If such a parent requests custody the court shall place the minor with the parent unless it finds that placement with that parent would be detrimental to the minor.

If the court places the minor with such a parent it may do either of the following:

- (1) Order that such parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the minor. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.
- (2) Order that the parent assume custody subject to the supervision of the juvenile court. In such a case the court may order that reunification services be provided to the parent or guardian from whom the minor is being removed, or the court may order that services be provided solely to the parent who is assuming physical

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custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the minor.

- (b) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the minor to be under the supervision of the probation officer who may place the minor in any of the following:
  - (1) The home of a relative, including a noncustodial parent.
- (2) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.
  - (3) A suitable licensed community care facility.
- (4) With a foster family agency to be placed in a suitable licensed home or other family home which has been certified by the agency as meeting licensing standards.
- (5) A home or facility in accordance with the federal Indian Child Welfare Act.
- (c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement of the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

- (e) Where the court has ordered a minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, if all of the following certification conditions are met:
- (1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.
- (2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.
- (3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.
- (f) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the minor will be served by granting visitation rights to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.
- SEC. 13. Section 361.5 is added to the Welfare and Institutions Code, to read:
- 361.5. (a) Except as provided in subdivision (b), whenever a minor is removed from a parent's or guardian's custody, the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in those services, unless the parent's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of the provision of Section 366.25 and shall specify that the parent's or parents' parental rights may be terminated permanently pursuant to Section 232 of the Civil Code if they are not able to resume custody within 12 months.

(b) Reunification services need not be provided to a parent described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

- (1) That the whereabouts of the parents is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent. The posting or publication of notices is not required in such a search.
- (2) That the parent is suffering from a mental disability that is described in paragraph (5) or (6) of subdivision (a) of Section 232 of the Civil Code and that renders him or her incapable of utilizing those services.
- (3) That the minor had been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the minor had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the minor has been returned to the custody of the parent or parents, guardian, or guardians from whom the minor had been taken originally, and that the minor is being removed pursuant to Section 361, due to additional physical or sexual abuse. However, this section is not applicable if the jurisdiction of the juvenile court has been dismissed prior to the additional abuse.
- (4) That the parent of the minor has been convicted of causing the death of another child through abuse or neglect.
- (5) That the minor was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent.
- (c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The probation officer shall prepare a report which discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months.

When paragraph (3), (4), or (5), inclusive, of subdivision (b) is applicable, the court shall not order reunification unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and postively attached to that parent. The probation officer shall investigate the circumstances leading to the removal of the minor and advise the court whether there are circumstances which indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that

reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the minor may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

- (d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision. However, the time limits specified in Section 366.25 are not tolled by the parent's absence.
- parent is released from incarceration (e) When institutionalization, the court shall order the probation officer to provide family reunification services in accordance with this subdivision.
- (f) If a court, pursuant to paragraph (2), (3), (4), or (5) of subdivision (b), does not order reunification services, it shall conduct a permanency planning hearing pursuant to Section 366.25 within 60 days of the dispositional hearing, at which it may order that a petition to terminate parental rights pursuant to paragraph (5), (6), or (8) of subdivision (a) of Section 232 of the Civil Code shall be filed in the appropriate court, or that legal guardianship proceedings shall be instituted. At such a permanency planning hearing, the court shall consider only whether to order the institution of termination proceedings or the establishment of a legal guardianship or long-term foster care arrangement. It shall apply the standards specified in Section 366.25. In any case where the minor has been in a foster home for 12 or more months, the court shall consider the views of the foster parents.
- SEC. 14. Section 362 of the Welfare and Institutions Code is amended to read:
- (a) When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may make any and all reasonable orders for the care. supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court.
- (b) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency designated by the
- (c) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and

proper to carry out the provisions of this section, including orders to appear before a county financial evaluation officer. Such an order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent or relative with whom the minor is placed may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the minor is a person described by Section 300.

- SEC. 15. Section 362.1 is added to the Welfare and Institutions Code, to read:
- 362.1. In order to maintain ties between the parent and minor, and to provide information relevant to deciding if, and when, to return a minor to the custody of his or her parent or guardian, every order placing a minor in foster care, and ordering reunification services, shall provide for visitation between the parent or guardian and the minor. Visitation shall be as frequent as possible, consistent with the well-being of the minor.
- SEC. 16. Section 364 of the Welfare and Institutions Code is amended to read:
- 364. (a) Every hearing in which an order is made placing a minor under the supervision of the juvenile court pursuant to Section 300 and in which the minor is not removed from the physical custody of his or her parent or guardian shall be continued to a specific future date not to exceed six months after the date of the original dispositional hearing. The continued hearing shall be placed on the appearance calendar. The court shall advise all persons present of the date of the future hearings, of their rights to be present, and to be represented by counsel.
- (b) At least 10 calendar days prior to the hearing, the probation officer shall file a supplemental report with the court describing the services offered to the family and the progress made by the family in eliminating the conditions or factors requiring court supervision. The probation officer shall also make a recommendation regarding the necessity of continued supervision. A copy of this report shall be furnished to all parties at least 10 calendar days prior to the hearing.
- (c) After hearing any evidence presented by the probation officer, the parent or the minor, the court shall determine whether continued supervision is necessary. The court shall terminate its jurisdiction unless the probation department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that such conditions are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate regularly in any court ordered treatment program shall constitute prima facie evidence that the conditions which justified initial assumption of jurisdiction

still exist and that continued supervision is necessary.

- (d) If the court retains jurisdiction it shall continue the matter to a specified date, not more than six months from the time of the hearing, at which point the court shall again follow the procedure specified in subdivision (c).
- (e) In any case in which the court has ordered that a parent or guardian shall retain physical custody of a minor subject to supervision by a probation officer, and the probation officer subsequently receives a report of acts or circumstances which indicate that there is reasonable cause to believe that the minor is a person described in subdivision (d) or (e) of Section 300, the probation officer shall commence proceedings under this chapter. If, as a result of the proceedings required, the court finds that the minor is a person described in subdivision (d) or (e) of Section 300, the court shall remove such minor from the care, custody, and control of the minor's parent or guardian and shall commit such minor to the care, custody, and control of the probation officer pursuant to Section 361.5.
- SEC. 17. Section 366 of the Welfare and Institutions Code is amended to read:
- 366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the permanency planning hearing required under Section 366.25 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.
- (b) Subsequent to the permanency planning hearing periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.
- SEC. 18. Section 366.2 of the Welfare and Institutions Code is amended to read:
- 366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.
- (b) Except as provided in Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on

those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

- (c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.
- (d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.
- (e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 232 of the Civil Code may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

SEC. 19. Section 366.25 of the Welfare and Institutions Code is

amended to read:

- (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who comes within subdivision (b) of Section 361.5 and for whom the court has found that reunification services should not be provided, a permanency planning hearing shall be held pursuant to Section 361.5.
- (b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.
- (c) Except in cases where permanency planning is conducted pursuant to Section 361.5, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.
- (d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:
- (1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:
- (A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.
  - (B) A minor 12 years of age or older objects to termination of

parental rights.

- (C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.
- (2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.
- (3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except certified homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.
- (B) The licensed foster family agency shall place the minor in a suitable licensed or other family home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504
- (C) Subsequent reviews for these minors shall be conducted every six months by the court. The licensed foster family agency shall be required to submit reports for each minor in its care, custody, and

control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

The juvenile court shall order counsel for the county department of social services or welfare department to file a written request with the clerk of the probate court, pursuant to Section 2700 of the Probate Code, for special notice of any petition filed to terminate or revoke guardianship.

- (f) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.
- (g) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

- (h) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is the ward of a guardian.
- SEC. 20. Section 366.3 is added to the Welfare and Institutions Code, to read:
- 366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 366.25, the court shall retain jurisdiction over the minor until the minor is adopted or the legal guardianship is established. The status of the minor shall be reviewed every six months to ensure that the adoption or guardianship is completed as expeditiously as possible. When the adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor. The court may continue jurisdiction following the establishment of a legal guardianship, if continued jurisdiction is in the interests of the minor. Following a termination of parental rights pursuant to Section 232 of the Civil Code, the

parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the minor.

(b) If the court has dismissed jurisdiction following the establishment of a legal guardianship and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing jurisdiction over the minor.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a guardianship which has been granted pursuant to Section 366.25 of this code shall be held in the juvenile court, unless the termination is due to the emancipation or adoption of the minor. If the petition to terminate guardianship is granted, the juvenile court may resume jurisdiction over the minor, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination.

Unless the parental rights of the the child's parent or parents have been terminated, they shall be notified that the guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the minor in another permanent placement. At the hearing, the parents may be considered as custodians but the minor shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the minor. The court may, if it is in the interests of the minor, order that reunification services again be provided to the parent or parents.

(c) If the minor is in a placement other than a preadoptive home or the home of a legal guardian, the status of the minor shall be reviewed every six months. This review may be conducted by the court or an appropriate local agency; the court shall conduct the review upon the request of the minor's parents or guardian or of the minor. The reviewing body shall inquire about the progress being made to provide a permanent home for the minor and shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and the adequacy of services provided to the child.

Each licensed foster family agency shall submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

Unless their parental rights have been permanently terminated, the parent or parents of the minor are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the interests of the minor, unless the parent or parents prove, by a preponderance of the evidence, that further

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efforts at reunification are the best alternative for the minor. In those cases, the court may order that further reunification services be provided to the parent or parents for a period not to exceed six months.

- SEC. 21. Section 16506 of the Welfare and Institutions Code is amended to read:
- 16506. Family maintenance services shall be provided or arranged for by county welfare department staff in order to maintain the child in his or her own home. These services shall be limited to six months, and may be extended for two three-month periods if it can be shown that the objectives of the service plan can be achieved within the extended time periods. Family maintenance services shall be available without regard to income and shall only be provided to any of the following:
- (a) Families whose child has been adjudicated a dependent of the court under Section 300, and where the court has ordered the county welfare department to supervise while the child remains in the child's home.
- (b) Families whose child is in potential danger of abuse, neglect, or exploitation, who are willing to accept services and participate in corrective efforts, and where it is safe for the child to remain in the child's home only with the provision of services.
- (c) Families in which the child is in the care of a previously noncustodial parent, under the supervision of the juvenile court.
- SEC. 22. Section 16506.1 of the Welfare and Institutions Code is amended to read:
- 16506.1. Family maintenance services shall include, but not be limited to, counseling, emergency shelter care, temporary in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training and transportation.

For the purposes of this section, "out-of-home respite care" means temporary out-of-home care for periods not exceeding 48 hours. This care shall not be limited by regulation to care over 24 hours. These services shall not be provided for the purpose of routine, ongoing child day care.

SEC. 23. Section 16507 of the Welfare and Institutions Code is amended to read:

16507. Family reunification services shall be provided or arranged for by county welfare department staff in order to reunite the child separated from his or her parent because of abuse, neglect, or exploitation. These services shall not exceed 12 months except as provided in subdivision (a) of Section 361.5. Family reunification services shall be available without regard to income to families whose child has been adjudicated or is in the process of being adjudicated a dependent child of the court under the provisions of Section 300. Family reunification services shall include a plan for visitation of the child by his or her grandparents, where the visitation is in the best interests of the child and will serve to maintain and strengthen the family relationships of the child.

Family reunification services shall only be provided when a child has been placed in out-of-home care, or is in the care of a previously noncustodial parent under the supervision of the juvenile court.

When a minor has been placed in foster care with a nonparent, family reunification services may be provided to one or both parents.

SEC. 24. The Legislature finds and declares that significant progress has been made in California to implement the child welfare services reforms of Chapter 978 of the Statutes of 1982. The Legislature finds that child abuse reporting statutes have been broadened, that public awareness has increased, and that additional children are being served by the child welfare system.

The Legislature declares that there is need to review the interrelationship between the statutes relating to child abuse reporting, dependent children, and child welfare service. To this end, the Senate Select Committee on Children and Youth shall establish a task force to study these statutes. The task force, the members of which shall be appointed by February 1, 1987, shall review current statutes, identify problem areas in the law and, by January 1, 1988, submit a report to the Legislature recommending statutory revisions to strengthen and compliment the child welfare system in California.

SEC. 25. 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 1123

An act to amend Section 25608 of the Business and Professions Code, and to amend Sections 4007, 8535, 71022, and 84520 of, to repeal Section 84811 of, and to repeal and add Sections 8152 and 84810 of, and to repeal, add, and repeal Section 8153 of, the Education Code, and to amend Section 10340 of the Public Contract Code, relating to community colleges.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986 ]

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

SECTION 1. Section 25608 of the Business and Professions Code is amended to read:

25608. Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds thereof, is guilty of a

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misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds thereof, if any of the following applies:

- (a) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.
- (b) The public schoolhouse is surplus school property and the grounds thereof are leased to a lessee which is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds thereof are located in an unincorporated area and are leased to a lessee which is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted thereon by either the lessor or the lessee and the property is not being used by persons under the age of 21 years for recreational purposes at any time during which alcoholic beverages are being sold or consumed on the premises.
- (c) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over six million people. As used in this subdivision, "events" mean football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.
- (d) The alcoholic beverages are acquired, possessed, or used during an event not sponsored by any college at a performing arts facility built by a nonprofit organization on property owned by a community college district and leased to the organization in a county of the 11th class as defined in the 1980 census.

Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Article 2 (commencing with Section 82530) of Chapter 8 of Part 49 of the Education Code.

- SEC. 2. Section 4007 of the Education Code is amended to read: 4007. No county superintendent of schools, employee of the office of a county superintendent of schools, employee of a school district, or employee of a community college district shall be a member of the county committee. Any member of the governing board of a school district or community college district in the same or any other county who is otherwise eligible may simultaneously serve as a member of the county committee.
- SEC. 3. Section 8152 of the Education Code, as amended by Chapter 1068 of the Statutes of 1983, is repealed.
- SEC. 4. Section 8152 of the Education Code, as amended by Chapter 1323 of the Statutes of 1985, is repealed.
  - SEC. 5. Section 8152 is added to the Education Code, to read:

indentured apprentice enrolled in and attending classes of related and supplemental instruction, as provided under Section 3074 of the Labor Code, shall be reimbursed at the rate of three dollars and sixty-five cents (\$3.65) per hour for the 1985–86 fiscal year and three dollars and seventy-six cents (\$3.76) per hour for the 1986–87 fiscal year. For the 1987–88 fiscal year and each fiscal year thereafter, the reimbursement rate shall be established in the annual Budget Act and the rate shall be commonly applied to all providers of instruction specified in subdivision (d).

- (b) For the purposes of this section, each hour of teaching time may include up to 10 minutes of passing time and breaks.
- (c) This section also shall apply to isolated apprentices, as defined in Section 3074 of the Labor Code, for which alternative methods of instruction are provided.
- (d) The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall make the reimbursements specified in this section for teaching time provided by high schools, unified school districts, regional occupational centers or programs, community colleges, or adult schools.
- SEC. 6. Section 8153 of the Education Code, as amended by Chapter 1068 of the Statutes of 1983, is repealed.
- SEC. 7. Section 8153 of the Education Code, as amended by Chapter 12 of the Statutes of 1985, is repealed.
  - SEC. 8. Section 8153 is added to the Education Code, to read:
- 8153. (a) Notwithstanding subdivision (a) of Section 8152, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction, as provided under Section 3074 of the Labor Code, at a firefighter apprenticeship training academy conducted under the California Firefighter Joint Apprenticeship Program shall be reimbursed at the rate of five dollars and seventy-five cents (\$5.75) per hour.
- (b) For the purposes of this section, each hour of teaching time may include up to 10 minutes of passing time and breaks.
- (c) The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall make the reimbursement specified in this section for teaching time provided by high schools, unified school districts, regional occupational centers or programs, community colleges, or adult schools.
- (d) This section shall remain in effect only until July 1, 1987, and on that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.
- SEC. 9. Section 8535 of the Education Code is amended to read: 8535. (a) When governing boards agree to transfer an existing program all legal and contractual obligations of either or both districts under the program shall be clearly stated, with appropriate time requirements, in the written transfer agreement approved by

the affected governing boards.

- (b) The written transfer agreement approved pursuant to subdivision (a) shall specify the number of units of average daily attendance and the revenue per unit of average daily attendance proposed to be transferred from the district with the existing program. A true copy of the transfer agreement shall be forwarded to the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, or both, as appropriate, no later than three months prior to the effective date of the program transfer.
- (c) When part or all of an existing program of a high school or unified school district is to be transferred to a community college district by mutual agreement of the affected governing boards, the transfer agreement shall specify that only courses that qualify as community college noncredit education under Section 84711 shall be transferred. A true copy of the complete transfer agreement shall be forwarded by the community college district to the Chancellor of the California Community Colleges as specified in subdivision (b).

When part or all of an existing program of a community college district is transferred to a high school or unified school district by mutual agreement of the affected governing boards, the transfer agreement shall specify that only those adult education courses that are described under Section 41976 shall be transferred. A true copy of the complete transfer agreement shall be forwarded by the high school or unified school district to the Superintendent of Public Instruction as specified in subdivision (b).

- (d) The Chancellor of the California Community Colleges and the Superintendent of Public Instruction shall jointly verify and approve the courses, the units of average daily attendance, and the revenue per unit of average daily attendance, including applicable inflation adjustment, if any, to be transferred under this section. Additional units of average daily attendance reported by the community college district, or the high school or unified school district, as a result of the transfer shall not be subject to any statutory limitations on fundable increases in average daily attendance, but shall be subject in subsequent years to statutory calculations of noncredit base revenue and units of average daily attendance of the community college district, or the adult base revenue and units of average daily attendance of the high school or unified school district, as applicable.
- (e) The Chancellor of the California Community Colleges and the Superintendent of Public Instruction shall jointly determine the amount of apportionment to be transferred or reappropriated, pursuant to subdivision (d), from the affected Budget Act appropriation of the State School Fund by multiplying the units of average daily attendance to be transferred by the revenue limit per unit of average daily attendance of the transferring district at the time of the transfer. The chancellor and the Superintendent of Public Instruction shall submit appropriate budget documents to the Department of Finance for approval of the transfer of funds from the applicable appropriation. The Director of Finance shall approve that

transfer.

SEC. 10. Section 71022 of the Education Code is amended to read: 71022. All meetings of the board shall be open and public except as otherwise provided.

The board may hold executive sessions closed to the public to consider the employment of any person, or the dismissal or other form of disciplinary action to be taken against any officer or employee under the jurisdiction of the board, except where that person, officer, or employee requests a public hearing. The employment status of the Chancellor of the California Community Colleges is subject to this authority of the board. The board may exclude from that meeting, whether public or closed to the public, during the examination of a witness, any or all other witnesses in the matter being investigated.

- SEC. 11. Section 84520 of the Education Code is amended to read: 84520. (a) Pursuant to the provisions of Section 84500 and rules and regulations adopted by the board of governors, the units of average daily attendance for apportionment purposes shall be computed for courses based on the type of course, the way the course is scheduled, and the length of the course.
- (b) The governing board of each community college district shall. for each of its colleges or its district, select and establish a single primary term length for credit courses that are scheduled regularly with respect to the number of days of the week and the number of hours the course meets each week. The units of average daily attendance of credit courses scheduled coterminously with the term, exclusive of independent study or work experience education courses, shall be computed by multiplying the average weekly student contact hours of active enrollment as of Monday of the weeks nearest to one-fifth and three-fifths of the length of the term, unless other weeks are specified by the chancellor to incorporate past practice, by the term length multiplier, multiplied by the statewide factor established by the board of governors subject to the approval of the Department of Finance, and divided by 525. The term length multiplier for attendance accounting purposes shall be determined in accordance with regulations of the board of governors, provided that the maximum multiplier for semester length terms shall be 17.5 and the maximum multiplier for quarter length terms shall be 11.67.
- (c) For credit courses scheduled to meet for five or more days, and scheduled regularly with respect to the number of hours during each scheduled day, but not scheduled coterminously with the college's primary term established pursuant to subdivision (b), or scheduled during the summer or other intersession, the units of average daily attendance, exclusive of independent study or work experience education courses, shall be computed by multiplying the average daily student contact hours of active enrollment as of the census days nearest to one-fifth and three-fifths of the length of the course by the number of days the course is scheduled to meet, multiplied by the statewide factor established by the board of

governors subject to the approval of the Department of Finance, and divided by 525.

- (d) For credit courses scheduled to meet for fewer than five days, and all credit courses scheduled irregularly with respect to the number of days of the week and the number of hours the course meets on the scheduled days, the units of average daily attendance, exclusive of independent or work experience education courses, shall be computed by dividing actual student contact hours of attendance by 525.
- (e) For all open entry-open exit credit courses and for all noncredit courses otherwise eligible for state aid, the units of average daily attendance shall be computed by dividing actual student contact hours of attendance by 525.
- (f) All independent study or work experience education courses are credit courses. For purposes of computing average daily attendance only, one weekly student contact hour shall be counted for each unit of credit for which a student is enrolled in one of those courses. The average daily attendance for those courses shall be computed by multiplying the average of the units of credit for which students are enrolled as of the census dates prescribed in subdivision (b) or (c), as appropriate for the primary term or intersession and duration for which the course is scheduled, by the term length multiplier as provided for in subdivision (b), and dividing by 525.
- (g) Notwithstanding subdivisions (b) and (c) of this section, the units of average daily attendance for any credit course other than independent study or work experience education courses may, at the option of the district, be computed by dividing the actual student contact hours of attendance by 525.
  - SEC. 12. Section 84810 of the Education Code is repealed.
- SEC. 13. Section 84810 is added to the Education Code, to read: 84810. (a) Notwithstanding clause (2) in Section 84500.1, commencing with the 1986–87 fiscal year, and for each fiscal year thereafter, the governing board of a community college district that provides classes for inmates of any city, county, or city and county jail, road camp, or farm for adults, may include the units of average daily attendance generated in those classes and computed pursuant to Section 84520, for purposes of state apportionments. However, apportionments for this average daily attendance, whether generated in credit or noncredit courses, shall be limited to the lesser of either the district's actual current expenses for providing those classes or the noncredit apportionment rate calculated pursuant to Sections 84702.5 and 84704.
- (b) Notwithstanding Sections 84700, 84701, and 84702, for each community college district that received an allowance during the 1985–86 fiscal year pursuant to this section or Section 84811, as those sections read during the 1985–86 fiscal year, the Chancellor of the California Community Colleges shall adjust the district's base average daily attendance and base revenue for the 1986–87 fiscal year to include the average daily attendance generated by, and the

revenue received for, the classes for which the allowance was received during the 1985-86 fiscal year.

- (c) Any courses conducted under this section shall conform to the criteria and standards adopted by the Board of Governors of the California Community Colleges under Section 71027, and shall be submitted to the Board of Governors for approval.
- (d) Commencing on September 15, 1987, and annually thereafter, the chancellor shall report to the Department of Finance and the Joint Legislative Budget Committee on the extent that courses are offered under this section. The report shall include for each district receiving state apportionments in the preceding fiscal year for courses offered under this section:
  - (1) The name of the district.
- (2) The name of the jail or other detention facility in which each course was conducted.
  - (3) The title of each course conducted.
  - (4) The headcount enrollment for each course.
- (5) The credit and noncredit average daily attendance generated by each course.
- (6) The cost of providing the courses reported by the district pursuant to subdivision (a).
- (7) The actual apportionment revenue or reimbursement received by the district pursuant to subdivision (a).
  - SEC. 14. Section 84811 of the Education Code is repealed.
- SEC. 15. Section 10340 of the Public Contract Code is amended to read:
- 10340. (a) Except as provided by subdivision (b), state agencies shall secure at least three competitive bids or proposals for each contract.
- (b) Three competitive bids or proposals are not required in any of the following cases:
- (1) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.
- (2) When the agency awarding the contract has advertised the contract in the California State Contracts Register and has solicited all potential contractors known to the agency but has received less than three bids or proposals.
- (3) The contract is with another state agency, a local governmental entity, an auxiliary organization of the California State University, an auxiliary organization of a California community college, or a foundation organized to support the Board of Governors of the California Community Colleges.
- (4) The contract meets the conditions prescribed by the department pursuant to subdivision (a) of Section 10348.
- (5) The contract has been awarded without advertising and calling for bids pursuant to Section 19404 of the Welfare and Institutions Code.
  - (c) Any agency which has received less than three bids or

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proposals on a contract shall document, in a manner prescribed by the department, the names and addresses of the firms or individuals it solicited for bids or proposals.

SEC. 16. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to community colleges for the entire 1986–87 fiscal year with respect to Sections 12, 13, and 14 of this act, and for the entire 1985–86 and 1986–87 fiscal years with respect to Sections 3, 4, 5, 6, 7, and 8 of this act. For the purpose of implementing these changes, the Chancellor of the California Community Colleges and other public officers shall have the authority to, and shall, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursement ordered from Section B of the State School Fund and other public funds.

SEC. 17. It is the intent of the Legislature that if both this bill and Assembly Bill 4125 are enacted, and Assembly Bill 4125 adds Section 8153 to the Education Code, Section 8153, as added to the Education Code by Assembly Bill 4125, shall become effective and Section 8153 of the Education Code, as added by this bill, shall not become effective, irrespective of the order in which this bill and Assembly Bill 4125 are chaptered.

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.

### CHAPTER 1124

An act to amend Sections 2550, 2558, 37250, 46144, 48915, 51731, 56741, 69612.5, 69613, 69613.2, and 69615.4 of, to add Section 35160.2 to, and to repeal Sections 39299.5 and 41379 of, the Education Code, and to amend Section 4 of Chapter 1668 of the Statutes of 1984, relating to education, and making an appropriation therefor.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986]

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

SECTION 1. Section 2550 of the Education Code is amended to read:

2550. The Superintendent of Public Instruction shall perform the computations prescribed in this section for each county superintendent of schools.

(a) The Superintendent of Public Instruction shall make the

following computations to determine the revenue limits for special schools and classes operated by county superintendents of schools:

- (1) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the 1978–79 revenue limits for the programs specified in subdivision (e) of Section 2500, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978. The Superintendent of Public Instruction shall increase these revenue limits by a percentage equal to the inflation allowance calculated in Section 2557.
- (2) For the 1979-80 fiscal year, the Superintendent of Public Instruction shall determine the allowances that county superintendents receive per unit of average daily attendance in programs operated pursuant to Section 1980 or 48633.
- (3) The Superintendent of Public Instruction shall multiply the amounts calculated in paragraphs (1) and (2) by the estimated number of classes or units of average daily attendance for those programs for the 1979–80 fiscal year.
- (b) The Superintendent of Public Instruction shall make the following computations to determine the amount to be allocated for vocational/technical schools and classes operated by county superintendents of schools:
- (1) For the 1979–80 fiscal year, for programs operated pursuant to Section 52301, the Superintendent of Public Instruction shall determine the 1978–79 revenue limits specified in Section 52317, as computed pursuant to Section 6 of Chapter 292, Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978. The Superintendent of Public Instruction shall increase these revenue limits by a percentage equal to the inflation allowance calculated in Section 2557. The Superintendent of Public Instruction shall then multiply this adjusted revenue limit by a factor of 0.95 and multiply the product by the estimated number of units of average daily attendance for those programs for the 1979–80 fiscal year. For purposes of this paragraph, this estimate shall include only average daily attendance earned by students concurrently enrolled in regular high school programs and by adults enrolled in adult programs mandated pursuant to Section 41976.
- (2) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the revenue limits per unit of average daily attendance for programs operated pursuant to Sections 1791 and 2520, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978. The Superintendent of Public Instruction shall increase these revenue limits by a percentage equal to the inflation allowance calculated in Section 2557. The Superintendent of Public Instruction shall then multiply these adjusted revenue limits by the respective number of units of average daily attendance for those programs for the 1979–80 fiscal year.
  - (c) For the 1981-82 fiscal year and each fiscal year thereafter, the

Superintendent of Public Instruction shall make the following computations to determine the amount to be allocated for direct services and other purposes provided by county superintendents of schools:

- (1) For programs operated pursuant to subdivision (a) of Section 14054, the Superintendent of Public Instruction shall:
- (A) Determine the allowances that county superintendents received per unit of average daily attendance in the prior fiscal year. The Superintendent of Public Instruction shall increase each amount by a percentage equal to the inflation allowance calculated for the current fiscal year pursuant to Section 2557.
- (B) Multiply each amount determined in subparagraph (A) by the actual number of units of average daily attendance in the prior fiscal year for programs maintained by each county superintendent. For purposes of this subparagraph, the number of units of average daily attendance shall include only elementary districts with less than 901 units of average daily attendance, high school districts with less than 301 units of average daily attendance, and unified school districts with less than 1,501 units of average daily attendance within each county superintendent's jurisdiction.
- (2) For programs operated pursuant to subdivision (b) of Section 14054, the Superintendent of Public Instruction shall:
- (A) Determine the allowances that county superintendents received per unit of average daily attendance in the prior fiscal year for programs for kindergarten and grades 1 to 12, inclusive. The Superintendent of Public Instruction shall increase each amount by a percentage equal to the inflation allowance calculated in Section 2557.
- (B) Multiply each amount determined in subparagraph (A) by the estimated units of average daily attendance in the current fiscal year for programs for kindergarten and grades 1 to 12, inclusive, maintained by each county superintendent. For the purposes of this subparagraph, the estimate shall include only the total units of average daily attendance credited to all elementary, high school, and unified school districts within each county superintendent's jurisdiction and to the county superintendent.
- SEC. 2. Section 2558 of the Education Code is amended to read: 2558. Notwithstanding any other provision of law, for the 1979–80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall apportion state aid to county superintendents of schools pursuant to the provisions of this section.
- (a) The Superintendent of Public Instruction shall total the amounts computed for the fiscal year pursuant to Sections 2550, 2551, 2551.3, 2554, 2555, and 2557. For the 1979–80 fiscal year and for purposes of calculating the 1979–80 fiscal year base amounts in succeeding fiscal years, the amounts in Sections 2550, 2551, 2552, 2554, 2555, and 2557, as they read in the 1979–80 fiscal year, shall be multiplied by a factor of 0.994. For the 1981–82 fiscal year and for purposes of calculating the 1981–82 fiscal year base amounts in

succeeding fiscal years, the amount in this subdivision shall be multiplied by a factor of 0.97.

- (b) For the 1983–84 fiscal year and each fiscal year thereafter, the amount computed in subdivision (a) shall be reduced by the amount of the decreased contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982. For the 1983–84 fiscal year and each fiscal year thereafter, the decreased contributions shall be based on the 1982–83 salaries of employees participating in the Public Employees' Retirement System during the 1982–83 fiscal year. For the purposes of this subdivision, no reduction shall be made for decreased contributions for positions that were funded totally from federal funds during the 1982–83 fiscal year.
- (c) The Superintendent of Public Instruction shall also subtract from the amount determined in subdivision (a) the sum of: (1) local property tax revenues received pursuant to Section 2573 in the then current fiscal year, and tax revenues received pursuant to Section 2556 in the then current fiscal year, (2) state and federal categorical aid for the fiscal year, (3) district contributions pursuant to Section 52321 for the fiscal year, and other applicable local contributions and revenues, and (4) any amounts that the county superintendent of schools was required to maintain as restricted and not available for expenditure in the 1978–79 fiscal year as specified in the second paragraph of subdivision (c) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 51 of the Statutes of 1979.
- (d) The remainder computed in subdivision (c) shall be distributed in the same manner as state aid to school districts from funds appropriated to Section A of the State School Fund.
- (e) If the remainder determined pursuant to subdivision (c) is a negative amount, no state aid shall be distributed to that county superintendent of schools pursuant to subdivision (d), and an amount of funds of that county superintendent equal to that negative amount shall be deemed restricted and not available for expenditure during the current fiscal year. In the next fiscal year, that amount shall be considered local property tax revenue for purposes of the operation of paragraph (1) of subdivision (c) of this section.
- SEC. 3. Section 35160.2 is added to the Education Code, to read: 35160.2. For the purposes of Section 35160, "school district" shall include county superintendents of schools and county boards of education.

This section shall be interpreted to be declaratory of existing law.

- SEC. 4. Section 37250 of the Education Code is amended to read: 37250. The governing board of a district maintaining one or more
- high schools may maintain a summer school at any of the high schools during the period between the close of one academic year and the beginning of the succeeding academic year.
  - SEC. 4.5. Section 39299.5 of the Education Code is repealed.
  - SEC. 5. Section 41379 of the Education Code is repealed.
  - SEC. 6. Section 46144 of the Education Code is amended to read:

- 46144. The minimum day in special day or Saturday vocational training programs and for pupils enrolled in a work experience education program approved under Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, except pupils enrolled in a continuation school or class pursuant to Section 48402, is four periods totaling at least 180 minutes in duration.
- SEC. 6.5. Section 48915 of the Education Code is amended to read:
- 48915. (a) The principal or the superintendent of schools shall recommend a pupil's expulsion for any of the following acts, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:
- (1) Causing serious physical injury to another person, except in self-defense.
- (2) Possession of any firearm, knife, explosive, or other dangerous object of no reasonable use to the pupil at school or at a school activity off school grounds.
- (3) Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
  - (4) Robbery or extortion.
- (b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900.
- (c) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (f), (g), (h), (i), (j), (k), or (l) of Section 48900 and either of the following:
- (1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.
- SEC. 7. Section 51731 of the Education Code is amended to read: 51731. These classes may be convened at the hours and for the length of time during the school day or evening, and at the period and for the length of time during the school year as may be determined by the governing authority.
- SEC. 8. Section 56741 of the Education Code is amended to read: 56741. As a condition to receiving an apportionment pursuant to Section 56740, together with other financial reports required by the superintendent for purposes of apportioning funds, a district or

county office shall submit an annual report to the superintendent, on forms provided by the superintendent for that purpose, which shall include all of the following information:

- (a) The individual contracted program placement costs of providing special education, transportation, residential, and designated instructional services to individuals with exceptional needs placed in nonpublic, nonsectarian schools pursuant to Sections 56365 and 56366.
- (b) The individual program placement costs specified in subdivision (a) shall be listed according to the placement categories of individuals with exceptional needs, including, but not limited to, all of the following categories:
  - (1) Full-day placement.
  - (2) Partial-day placement.
  - (3) Residential placement within the state.
  - (4) Residential placement outside the state.
- SEC. 9. Section 69612.5 of the Education Code is amended to read:
- 69612.5. (a) It is the intent of the Legislature that all loan assumptions awarded in the 1984–85 school year pursuant to Article 6 (commencing with Section 69600) be credited pursuant to the terms specified in Section 69607, as that section read in that school year, and paid from funds annually appropriated for that purpose in the Budget Act.
- (b) It is the intent of the Legislature that, commencing with the 1985-86 school year, all persons eligible to receive conditional warrants for loan assumptions pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed to teach in a designated subject matter shortage area, or in schools serving a large population of students from low-income families.
- SEC. 10. Section 69613 of the Education Code is amended to read: 69613. (a) Any person enrolled in an institution of postsecondary education participating in the loan assumption program set forth in this article, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to receive a loan assumption warrant, an applicant shall satisfy all of the conditions specified in either subdivision (b) or (c):
- (b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at a participating institution, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.
- (2) The applicant is currently enrolled in, or has been admitted to a program in which he or she will be enrolled in, at least 10 semester units, or the equivalent. The applicant shall agree to maintain not less than 10 semester units per semester, or the

equivalent, and to maintain satisfactory academic progress.

- (3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:
  - (A) Grade point average.
  - (B) Test scores.
  - (C) Faculty evaluations.
  - (D) Interviews.
  - (E) Other recommendations.
- (4) In order to meet the costs associated with obtaining a baccalaureate degree, or a California teaching credential, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:
  - (A) The federal Guaranteed Student Loan Program (GSLP).
  - (B) The National Direct Student Loan Program (NDSLP).
  - (C) Any loan program approved by the Student Aid Commission.
- (5) The applicant has agreed to teach in a public school in this state for at least three consecutive academic years after obtaining a teaching credential.
- (c) (1) The applicant holds a baccalaureate degree and agrees to participate in a teacher trainee program or teacher internship program, or is a person who will continue to be employed full time in a field other than teaching while completing the necessary coursework for a teaching credential, or is a noncredentialed teaching paraprofessional, as described in Section 44323, who will continue to serve as a teaching paraprofessional while completing the necessary coursework for a California teaching credential.
- (2) The applicant is enrolled in, or has been admitted to, a participating institution and agrees to maintain satisfactory academic progress in an academic program leading to a baccalaureate degree or in a program of professional preparation that has been approved by the Commission on Teacher Credentialing, and the applicant satisfies the conditions specified in paragraphs (3), (4), and (5) of subdivision (b).

No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this subdivision to participate in the loan assumption program set forth in this article.

- (d) Sixty percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded by that institution to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction. The warrant shall remain valid even if the subject area ceases to be a designated shortage field by the time the applicant becomes a teacher.
- (e) The remaining 40 percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded to applicants who agree to obtain teaching credentials in any subject area and to provide classroom

instruction in schools that serve large populations of students from low-income families, as designated by the superintendent for purposes of the National Direct Student Loan Program or otherwise. The warrant shall remain valid even if the school ceases to be so designated during the applicant's second or third year of teaching.

(f) A person participating in the program pursuant to this section

shall not receive more than one warrant.

- (g) The Student Aid Commission shall adopt rules and regulations regarding the reallocation of warrants where a participating institution is unable to utilize its allocated warrants or is unable to distribute them proportionately to subdivisions (d) and (e) within a reasonable period of time.
- SEC. 11. Section 69613.2 of the Education Code is amended to read:
- 69613.2. (a) The Student Aid Commission shall redeem an applicant's warrant and commence loan assumption payments as specified in Section 69613.4 upon verification that the applicant has fulfilled all of the following:
- (1) The applicant has received a teaching credential requiring a baccalaureate degree, other than an emergency teaching credential, authorizing service for kindergarten or any of the grades 1 through 12.
- (2) The applicant has provided full-time classroom instruction in a public school for one school year. For the purposes of this section, an applicant who received a warrant to obtain a teaching credential in a designated subject matter shortage area shall provide instruction in that area unless the area ceases to be a designated subject matter shortage area.
- (3) The applicant has met the requirements of the warrant and all other conditions of this article.
- (b) The commission shall adopt rules and regulations regarding the reallocation of any warrants that are not utilized within the designated period of time.
- SEC. 12. Section 69615.4 of the Education Code is amended to read:
- 69615.4. The commission shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:
  - (a) The total number of warrants awarded.
- (b) The number of warrants allocated each to juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.
- (c) The proportion of warrants awarded to applicants who pursue a credential in a subject matter shortage area.
- (d) The proportion of warrants awarded to applicants who agree to teach in schools with a high ratio of students from low-income families.
- (e) The number of warrants that are redeemed by the initial recipients.

- SEC. 13. Section 4 of Chapter 1668 of the Statutes of 1984 is amended to read:
- Sec. 4. (a) The State Department of Education shall evaluate the effects of eliminating the size and scope requirements pursuant to Section 56170.5 of the Education Code, and shall report to the Legislature on the results of this evaluation on or before November 1, 1985, and again, thereafter, on or before January 1, 1988. The evaluation shall include, but not be limited to, the following:
- (1) The impact on services to individuals with exceptional needs residing in the districts participating in the pilot study and residing in the geographic areas of the regions from which the participating districts withdrew.
  - (2) The impact on parent and pupil due process.
- (3) The impact on special education costs, including, administrative costs.
- (b) In addition to the evaluation required in subdivision (a), the report due on or before November 1, 1985, shall include an evaluation of the statewide effect of current size and scope requirements and special education governance structures. This evaluation shall consider, but shall not be limited to considering, the following:
  - (1) Services to individuals with exceptional needs.
  - (2) Parent and pupil due process rights.
  - (3) Special education costs, including administrative costs.
- (4) Whether services are provided in an efficient and effective manner.
- (c) The department shall conduct the studies required in subdivisions (a) and (b) using existing resources.
- (d) If the Superintendent of Public Instruction finds that the level of service to individuals with exceptional needs has declined in any of the geographic areas identified in paragraph (1) of subdivision (a) as a result of a district's implementation of Section 56170.5, the district shall be notified by the superintendent, and on July 1 following this notification, the school district shall rejoin the region from which it withdrew.
- SEC. 14. The sum of one million eight hundred fourteen thousand one hundred twenty-eight dollars (\$1,814,128) is hereby appropriated from the General Fund to the State Department of Education for transfer to Section A of the State School Fund in augmentation of the amounts appropriated by Schedule (e) of Item 6100-101-001 and Category (5) of Schedule (a) of Item 6100-226-001 of Section 2.00 of the Budget Act of 1986, Chapter 186 of the Statutes of 1986. Notwithstanding Provision 4 of Item 6100-101-001 of Section 2.00 of the Budget Act of 1986, three hundred seventy-one thousand two hundred seventy-six dollars (\$371,276) of the amount appropriated by this section shall be made available to apprentice programs operated in the 1984–85 fiscal year pursuant to Section 8153 of the Education Code and one million four hundred forty-two thousand eight hundred fifty-two dollars (\$1,442,852) shall be made

available for apprentice programs operated pursuant to Section 8153 of the Education Code in the 1985–86 fiscal year.

The Superintendent of Public Instruction shall apportion these funds in recognition of the funding deficiencies experienced by these apprentice programs in the 1984-85 and 1985-86 fiscal years.

SEC. 15. 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 1125

An act to amend Section 69907 of, and to repeal and add Article 9 (commencing with Section 73640), Article 16 (commencing with Section 73950), Article 25 (commencing with Section 74340), Article 25.5 (commencing with Section 74361), and Article 30 (commencing with Section 74740), of Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 69907 of the Government Code is amended to read:

69907. In the County of San Diego, in addition to any other compensation and benefits, each judge of the superior court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

SEC. 1.5. Article 9 (commencing with Section 73640) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 2. Article 9 (commencing with Section 73640) is added to Chapter 10 of Title 8 of the Government Code, to read:

### Article 9. El Cajon Judicial District

73640. This article applies to the municipal court established in a district embracing the Judicial District of El Cajon.

73641. There shall be nine judges; provided, that at such time as the board of supervisors finds there are sufficient funds and space available for one additional judge and adopts a resolution to that effect, there shall be 10 judges.

73642. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as those for the classification of chief administrative officer.

73643. There shall be one court administrator who shall serve as clerk of the court, and who shall be appointed by the majority of the judges of the court. The salary of the court administrator shall be 33 percent higher than that specified for the class of assistant court administrator of the El Cajon Judicial District.

73644. The court administrator may appoint, with the approval of the judges:

- (a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 18 percent below that specified for assistant court administrator of the San Diego Judicial District.
- (b) One deputy clerk-administrative assistant I, II, or III as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for administrative assistant I in the classified service of the County of San Diego. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for administrative assistant II in the classified service of the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for administrative assistant III in the classified service of the County of San Diego.
- (c) Two deputy clerk-division managers III each of whom shall receive a biweekly salary at a rate 15.2 percent higher than that specified for deputy clerk-division manager II of the San Diego Judicial District.
- (d) Five deputy clerk-division managers I each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V of the San Diego Judicial District.
- (e) Eighteen deputy clerks IV each of whom shall receive a biweekly salary at a rate equal to that specified for superior court clerk in the classified service of the County of San Diego.

- (f) Fifty-five deputy clerks III, II, or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for intermediate clerk-typist in the classified service of the County of San Diego. At the discretion of the court administrator, appointments to deputy clerk I may be at any step within the salary range.
- (g) Four deputy clerk-data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for data entry operator in the classified service of the County of San Diego.
- (h) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego.
- (i) One deputy clerk-interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.
- (j) One deputy clerk-research attorney I or deputy clerk-law clerk, as the case may be. A deputy clerk-research attorney I shall receive a biweekly salary equal to that specified for a deputy county counsel I in the classified service of the County of San Diego. A deputy clerk-law clerk shall receive a biweekly salary at a rate equal to that specified for a law clerk in the classified service of the County of San Diego.
- (k) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for an administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for an administrative secretary II in the classified service of the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for an administrative secretary I in the classified service of the County of San Diego.
- (1) One deputy clerk-assistant, associate, or senior accountant as the case may be. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for the class of assistant accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for the class of associate accountant in the classified service of the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for the class of senior accountant in the classified service of the County of San Diego.
- (m) Notwithstanding subdivision (b) of Section 73649 up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary level

deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with personnel employed for less than 91 working days during a fiscal year on a part-time basis.

- (n) Notwithstanding subdivision (b) of Section 73649 up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. The rate of pay for each individual employed in this class shall be within the range proposed for the class pending establishment, at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.
- (o) Notwithstanding subdivision (b) of Section 73649, the court administrator may appoint up to 10 temporary extra help deputy clerk-student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-student worker I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. A deputy clerk-student worker II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk student-worker III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego.

(p) Except as provided in this section, Section 74345 shall apply to the attachés appointed pursuant to this section and Section 73643.

73645. In the event of an increase in the number of judges the court administrator may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I, for each additional judgeship created.

73646. By order entered in the minutes of the court, a majority of judges may appoint two judicial secretaries who shall serve at the pleasure of the judges. Each judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

The position of judicial secretary shall be deemed comparable to the position of administrative secretary IV in the classified service of San Diego County. Whenever the salary of administrative secretary IV is adjusted by the Board of Supervisors of San Diego County, the salary of the judicial secretaries shall be adjusted a commensurate

percentage in the salary schedule on the same date.

Notwithstanding the provisions of Section 73649, the judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence, and similar privileges and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

73647. Persons who succeed to positions in the municipal court under provisions of the Municipal and Justice Court Act of 1949 shall receive credit for continuous prior service in superseded courts and in the sheriff's department or constabulary of the county. In determining the rate of compensation to be paid to the officers and employees named in this article, service in any city, municipal, or justice court of the State of California and service in the sheriff's department or constabulary of the County of San Diego shall be deemed to be service in the respective offices and employments in the Municipal Court of the El Cajon Judicial District.

73648. The municipal court shall hold sessions at such location, or locations, within the El Cajon Judicial District as the Board of

Supervisors of the County of San Diego may designate.

73649. (a) In addition to the salary provided in this article, the classes of attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345. The court administrator and assistant court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter

be received by the class of chief probation officer of the County of San Diego. All persons employed as deputy clerk-division manager I, deputy clerk-division manager III, or deputy clerk-administrative assistant III shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the class of administrative assistant III in the classified service of the County of San Diego. The purpose and intent of this subdivision is to provide all court attachés except judicial secretaries and court reporters with any and all, but no more than, those fringe benefits which are available to their comparable classes in the service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or county personnel director is required for the county benefit, it shall be taken or given, as to municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges of the municipal court or their designees, or as to those serving at the pleasure of the court, by the majority of the judges or their designees. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court, excluding fringe benefits.

(b) All attachés other than court reporters, judicial secretaries, and other persons serving at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever such attachés are appointed or promoted to a position, they shall serve a probationary period of at least six months, and not to exceed 18 months, as specified in the job announcement for the class prior to appointment.

73650. Official reporters in the Municipal Court of the El Cajon Judicial District appointed pursuant to Section 72194 shall be attachés of the court, and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in the court shall be paid a biweekly salary equal to that specified for official court reporters for the Superior Court of the County of San Diego. These salaries shall be a charge against the general fund of the county.

Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court may require, who shall be known as official reporters pro tempore, and who 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 those sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at a rate equal to that paid to official reporters pro tempore for the

Superior Court of the County of San Diego, which shall be a charge against the general fund of the County of San Diego.

Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, those fees shall, upon order of the court, be paid from the general fund, including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive.

Official reporters of the court shall be members of any retirement system maintained by the county. For the purpose of the retirement system the salary provided in this article for those reporters shall be deemed their entire compensation.

Notwithstanding the provisions of Section 73649, official reporters serve at the pleasure of the judges and shall receive and be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the official reporters of the Superior Court of the County of San Diego.

SEC. 3. Article 16 (commencing with Section 73950) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 4. Article 16 (commencing with Section 73950) is added to Chapter 10 of Title 8 of the Government Code, to read:

## Article 16. North County

73950. This article applies to the Municipal Court of the North County Judicial District.

73951. There shall be 10 judges.

73952. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

73953. There shall be one court administrator who shall serve as clerk of the court, who shall be appointed by, and serve at the pleasure of the majority of the judges of the court. The salary of the court administrator shall be 33 percent higher than that specified for the class of assistant court administrator of the North County Judicial District.

73954. The court administrator may appoint:

(a) One assistant court administrator at the direction of a majority of the judges of the court who shall serve at the pleasure of the majority of the judges. The salary of the assistant court administrator

shall be 18 percent below that specified for assistant court administrator of the San Diego Judicial District.

- (b) One deputy-clerk division manager III who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for deputy clerk-division managers II, in the San Diego Judicial District.
- (c) Five deputy clerk-division managers I who shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V in the San Diego Judicial District.
- (d) Nineteen deputy clerks IV, each of whom shall receive a biweekly salary at a rate equal to that specified for superior court clerk in the classified service of the County of San Diego.
- (e) Eighty-two deputy clerks III, II, or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for intermediate clerk-typist in the classified service of the County of San Diego. At the discretion of the court administrator, appointments to the deputy clerk I class may be at any step within the salary range.
- (f) Two deputy clerk-administrative secretaries IV, III, II, or I, as the case may be. A deputy clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service in the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service in the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.
- (g) Three deputy clerk interpreters who shall receive a biweekly salary at the rate equal to that specified for deputy clerk III.
- (h) One deputy clerk-administrative assistant I, II, or III, as the case may be. The deputy clerk-administrative assistant I, II, or III, shall receive a biweekly salary at the rate equal to that specified for administrative assistant I, II, or III, respectively, in the classified service of the County of San Diego.
- (i) Three deputy administrative clerks III, II, or I, as the case may be. Each deputy administrative clerk III shall receive a biweekly salary at a rate equal to that specified for deputy clerk IV. Each deputy administrative clerk II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. Each deputy administrative clerk I shall receive a biweekly salary at a rate equal to that specified for deputy clerk II. Deputy administrative clerk III, II, or I shall receive the same privileges and benefits as are received

by comparable deputy clerk classes. Funding of these positions is dependent upon enactment of an additional resolution by the Board of Supervisors of the County of San Diego.

- (j) One deputy clerk-associate or assistant accountant, as the case may be. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service in the County of San Diego. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant in the classified service of the County of San Diego.
- (k) One deputy clerk-research attorney I or law clerk, as the case may be. A deputy clerk-research attorney I shall receive a biweekly salary at a rate equal to that specified for deputy county counsel I in the classified service of the County of San Diego. A deputy clerk-law clerk shall receive a biweekly salary equal to that specified for law clerk in the classified service of the County of San Diego.
- (l) Notwithstanding subdivision (b) of Section 73957 up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.
- (m) Notwithstanding subdivision (b) of Section 73957, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. The rate of pay for each individual employed in this class shall be within the range proposed for the class pending establishment at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they

shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.

- (n) Notwithstanding subdivision (b) of Section 73957, the court administrator may appoint up to 10 temporary extra help deputy clerk-student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. Deputy clerk-student worker I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. Deputy clerk-student worker II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. Deputy clerk-student worker III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego.
- (o) Except as provided herein, the provisions of Section 74345 shall apply to the attachés appointed pursuant to this section and Section 73953.

73955. In the event that there shall be an increase in the number of judges, the clerk-administrative officer may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I for each respective additional judge. Such additional deputy clerks shall receive a biweekly salary at a rate specified in Section 73954.

The headquarters of the municipal court and the clerk and 73956. marshal of the North County Judicial District shall be located within the City of Vista or such other place as shall be designated by the Board of Supervisors of the County of San Diego. The municipal court shall hold sessions at its headquarters and at a department at a location within the City of Escondido and at such other location or locations within the North County Judicial District as shall be designated by the board of supervisors. The clerk and marshal of the North County Judicial District shall maintain branch offices at a location within the City of Escondido as shall be designated by the board of supervisors. The Escondido branch office shall maintain the same office hours as the headquarters offices and shall provide facilities for complete municipal court services, including the filing of original complaints and other documents and the posting of bail. and the board of supervisors shall provide facilities within the City of Escondido for the complete transaction of business of the court including the holding of jury trials.

73957. (a) In addition to the salary provided in this article, the classes of attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for

the employees of the County of San Diego in the comparable classes specified in Section 74345. The court administrator, and assistant court administrator, shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the chief probation officer of the County of San Diego. All persons employed as deputy clerk-division managers III and deputy clerk-division managers I shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by an administrative assistant III of the classified service of the County of San Diego. The purpose and intent of this subdivision is to provide all court attachés. except commissioners, court reporters, and judicial secretaries, with any and all fringe benefits but no more than those which are available to comparable classes in the classified service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or the county personnel director is required for the county benefit, it shall be taken or given, as to comparable municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges of the municipal court or their designees, or as to the court administrator and others serving at the pleasure of the court, by a majority of the judges or their designees. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court, excluding fringe benefits.

(b) All attachés, other than the court administrator, the assistant court administrator, commissioners, court reporters, judicial secretaries, and other persons serving at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject to such appointment, promotion, removal, suspension, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever such attachés are appointed or promoted to a position, they shall serve a probationary period of at least six months and not to exceed 18 months, as specified in the job announcement for the class prior to the appointment.

73958. Official reporters in the Municipal Court of the North County Judicial District appointed pursuant to Section 72194 shall be attachés of such court, and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court shall be paid a biweekly salary equal to that specified for official court reporters for the Superior Court of the County of San Diego. These salaries shall be a charge against the general fund of the county.

Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court may require,

who shall be known as official reporters pro tempore, and who 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 sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at a rate equal to that paid to official reporters pro tempore for the Superior Court of the County of San Diego, which shall be a charge against the general fund of the County of San Diego.

Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the general fund, including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953,

inclusive.

Official reporters of such court shall be members of any retirement system maintained by the county. For the purpose of such retirement system the salary provided in this article for such reporters shall be deemed their entire compensation.

Notwithstanding the provisions of Section 73957, official reporters serve at the pleasure of the judges and shall receive and be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the official reporters of the Superior Court of the County of San Diego.

73959. By order entered in the minutes of the court, a majority of judges may appoint two judicial secretaries who shall serve at the pleasure of the judges. Each judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego. Whenever the salary of administrative secretary IV in the classified service of the County of San Diego is adjusted by the board of supervisors; the salary of the judicial secretaries shall be adjusted a commensurate amount, effective on the same date. Notwithstanding the provisions of subdivision (a) of Section 73957, the judicial secretaries shall receive and be entitled to the same number of holidays, leaves of absence, retirement, and all other fringe benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego.

73960. By order entered in the minutes of the court, a majority of judges may appoint one commissioner who shall serve at the pleasure of the judges. The commissioner shall receive a biweekly salary equal to, as determined by local rule of court, between 50 percent and 75 percent of a judge of a municipal court. The comparable county class to commissioner for the purposes of privileges and fringe benefits shall be deputy county counsel IV in the County of San Diego.

SEC. 5. Article 25 (commencing with Section 74340) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 6. Article 25 (commencing with Section 74340) is added to Chapter 10 of Title 8 of the Government Code, to read:

# Article 25. San Diego

- 74340. This article applies to the municipal court established in a district embracing that portion of the City of San Diego not included within the South Bay Municipal Court District.
- 74341. There shall be 23 judges. However, at such time as the board of supervisors finds there are sufficient funds and space available for two additional judges and adopts a resolution to that effect, there shall be 25 judges, provided that a commissioner's position on the court is eliminated by that same resolution.
- 74342. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.
- 74343. There shall be one court administrator who shall serve as clerk of the court. Notwithstanding the provisions of Section 74348, the court administrator shall be appointed by and serve at the pleasure of the majority of the judges. The biweekly salary of the court administrator shall be 35 percent higher than that specified for the class of assistant court administrator of the San Diego Judicial District.

74344. The court administrator may appoint:

- (a) One assistant court administrator, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the court administrator in the event that the court administrator is absent or unavailable for any reason and who shall receive a biweekly salary at a rate 41.9 percent higher than that specified for deputy clerk-division manager III.
- (b) Four deputy clerk-division managers III who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for deputy clerk-division manager II. One of these positions may be designated as branch manager. When a position is designated branch manager, the incumbent shall receive a bonus of 10 percent.
- (c) Five deputy clerk-division managers II who shall receive a biweekly salary at a rate 15.5 percent higher than that specified for deputy clerk V.
- (d) Eight deputy clerks V each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.
  - (e) Fifty-two deputy clerks IV, each of whom shall receive a

biweekly salary at a rate equal to that specified for superior court clerks in the classified service of the County of San Diego.

- (f) One deputy clerk-data entry supervisor who shall receive a biweekly salary at a rate equal to that specified for data entry supervisor in the classified service of the County of San Diego. Each vacancy occurring in this class shall cause a corresponding reduction in the number of deputy clerk-data entry supervisors authorized; provided, however, that each of such vacancies shall increase by one, the number of positions designated as deputy clerk III.
- (g) One hundred eighty-six deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each deputy clerk I shall receive a biweekly salary at a rate equal to that specified for intermediate clerk-typist in the classified service of the County of San Diego. Appointments to deputy clerk I may be at any step within the salary range at the discretion of the court administrator.
- (h) One deputy clerk-assistant, associate or senior accountant, as the case may be. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service of the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior accountant in the classified service of the County of San Diego.
- (i) Five deputy clerk interpreters, each of whom shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.
- (j) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego.
- (k) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service of the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.
- (1) One deputy clerk-chief administrative services or administrative assistant III, as the case may be. A deputy clerk-chief administrative services shall receive a biweekly salary at a rate equal to that specified for chief administrative services in the classified service of the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that

specified for administrative assistant III in the classified service of the County of San Diego.

- (m) One deputy clerk-administrative assistant II or I, as the case may be. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for administrative assistant II in the classified service of the County of San Diego. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for administrative assistant I in the classified service of the County of San Diego.
- (n) One deputy clerk-DP systems manager who shall receive a biweekly salary at a rate equal to that specified for the class of EDP systems manager in the classified service of the County of San Diego.
- (o) One deputy clerk-EDP coordinator who shall receive a biweekly salary at a rate equal to that specified for a departmental EDP coordinator in the classified service of the County of San Diego.
- (p) Three deputy clerk-senior systems analysts, associate systems analysts, assistant systems analysts, or systems analyst trainees, as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the classified service of the County of San Diego.
- (q) The positions identified in subdivisions (n), (o), and (p) shall be administered by the court administrator of the San Diego Judicial District subject to policy direction by the court administrators of the San Diego, North County, El Cajon, and South Bay Judicial Districts. The purpose and intent of this subdivision is to allow all four municipal court judicial districts to determine the work assignments of data processing personnel.
- (r) One deputy clerk-print shop helper, offset equipment operator, or publication supervisor, as the case may be. A deputy clerk-print shop helper shall receive a biweekly salary at a rate equal to that specified for print shop helper in the classified service of the County of San Diego. A deputy clerk-offset equipment operator shall receive a biweekly salary at a rate equal to that specified for offset equipment operator in the classified service of the County of San Diego. A deputy clerk-publication supervisor who shall receive a biweekly salary at a rate equal to that specified for publications supervisor in the classified service of the County of San Diego.
- (s) One deputy clerk-research attorney I or research attorney II, as the case may be. A deputy clerk-research attorney I shall receive a biweekly salary at a rate equal to that specified for deputy county counsel I in the classified service of the County of San Diego. A

deputy clerk-research attorney II shall receive a biweekly salary at a rate equal to that specified for deputy county counsel II in the classified service of the County of San Diego.

- (t) Notwithstanding subdivision (b) of Section 74348, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. The rate of pay for each individual employed in this class shall be within the designated range at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.
- (u) Notwithstanding subdivision (b) of Section 74348, up to 10 extra help deputy clerk trainee positions (hourly rate) at the junior clerk-typist level, to be appointed by and serve at the pleasure of the court administrator. These appointments shall be temporary for a period not to exceed six months, plus one additional period at the court administrator's option, not to exceed six months.
- (v) Notwithstanding subdivision (b) of Section 74348, up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.
  - (w) Notwithstanding subdivision (b) of Section 74348, the court

administrator may appoint up to 10 temporary extra help deputy clerk-student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-student worker I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. A deputy clerk-student worker II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk-student worker III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego.

- (a) All matters affecting the employment compensation (including salary and fringe benefits) of municipal court officers and attachés not specifically provided for in this article or other provisions of state law shall be governed by the then-current ordinances and resolutions of the Board of Supervisors and the Rules for the Classified Service of the County of San Diego. Whenever in the rules, ordinances, or resolutions action or approval is required to be taken or given by the chief administrative officer or the county personnel director, it shall be taken or given, as to municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges or their designees, or as to persons serving at the pleasure of the court, by the majority of the judges of the municipal court, or their designees.
- (b) The hereinafter specified court classes are deemed to be comparable in job level to the specified comparable classes in the service of the County of San Diego. Whenever the salaries of such classes in the service of the County of San Diego are adjusted by the board of supervisors, the salaries of the comparable classes in the office of the court administrator shall be adjusted a commensurate amount effective on the same date. In no event shall the salary of the clerk or any deputy clerk who occupied his or her position on the day prior to the effective date of this section be less than his or her salary on that day. Any person whose title is changed as a result of the enactment of or of any amendments to this article shall receive credit for continued service which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service. The comparable classes are as follows:

Municipal court class Deputy clerk-division manager III Deputy clerk-division manager II Deputy clerk-division manager I Deputy clerk I Deputy clerk II Deputy clerk III Deputy clerk IV Deputy clerk V Deputy clerk-administrative clerk I, II, & III Supervising deputy clerk Deputy clerk-data entry supervisor Deputy clerk-data entry operator Deputy clerk interpreter Deputy clerk-administrative secretary III Deputy clerk-administrative secretary II Deputy clerk-administrative secretary, I Deputy clerk-administrative secretary IV Deputy clerk-chief administrative services Deputy clerk-administrative assistant III Deputy clerk-administrative assistant II Deputy clerk-administrative assistant I Deputy clerk-senior systems analyst Deputy clerk-associate

systems analyst,

systems analyst

analyst trainee

Deputy clerk-assistant

Deputy clerk-systems

Deputy clerk-trainee Deputy clerk-law clerk

Deputy clerk-senior accountant

Deputy clerk-associate accountant

Deputy clerk-assistant accountant

Deputy clerk-research attorney I

Deputy clerk-research attorney II

class
Superior court clerk
Superior court clerk
Superior court clerk
Intermediate clerk
Superior court clerk
Superior court clerk

County

Superior court clerk Superior court clerk

Superior court clerk Superior court clerk Data entry supervisor Data entry operator Superior court clerk Administrative secretary III Administrative. secretary II Administrative secretary I Administrative secretary IV Chief, administrative services Administrative assistant III Administrative assistant II Administrative assistant I Senior systems : analyst Associate systems analyst Assistant systems analyst Systems analyst trainee Senior accountant Associate accountant Assistant accountant Junior clerk-typist

Law clerk

Deputy county counsel I

Deputy county counsel II

Deputy clerk-EDP coordinator

Deputy clerk-print shop helper Deputy clerk-publication supervisor

Deputy clerk-offset equipment operator

Departmental EDP coordinator Print shop helper Publication supervisor

Offset equipment operator

Deputy clerk-DP systems manager DP systems manager

- (c) Persons employed on and after January 1, 1975, in a class eligible for advancement in range shall receive the same step increases applicable to persons so employed in the County of San Diego on or after July 1, 1974. Persons employed prior to January 1, 1975, in a class eligible for advancement in range shall receive the same step increases applicable to persons so employed in the County of San Diego prior to July 1, 1974.
- (d) Officers and attachés may be appointed to a class and position in the service of a court in one judicial district from the service of a court in another judicial district within the County of San Diego, from the service of the County of San Diego, from the service of the Superior Court of San Diego County, or from the service of the Marshal, in the same manner that employees of the County of San Diego may be appointed in departments of the county. In determining the step of the salary range at which such employee shall be paid, the employee shall be given credit for the immediately preceding continuous prior service to a court, the marshal, or the County of San Diego.
- (e) A promotion is an appointment to a class compensated at a higher base salary, at any like-numbered step, than the class relinquished. Upon promotion an employee shall be placed at the lowest step which provides at least a 5 percent increase over the base salary of the step occupied in the former class, but in no event higher than the top step of the class to which promoted.
- (f) A demotion is an appointment to a class compensated at a lower base salary, at any like-numbered step, than the class relinquished. The demoted employee's step shall be set at the same numbered step for the demoted class as for the former class, except that the step shall not be set lower than the normal entry step. If the demotion is to the class in which the employee served immediately prior to being promoted, the employee's step shall be that held immediately prior to the promotion.
- (a) The traffic referee shall receive a salary equal to 60 percent of the salary of a judge of the municipal court. He or she shall, after each year of service, receive an increase of 5 percent of the salary of a judge of the municipal court but in no event shall he or she receive more than 65 percent of the salary of a judge of the municipal court.
- (b) There shall be five commissioners who shall hold office at the pleasure of the judges. A commissioner shall receive a salary equal

to 75 percent of the salary of a judge of the municipal court.

- (c) A majority of judges may adopt rules to provide for vacations, sick leave, leaves of absence, and similar privileges and benefits for the commissioners.
- (d) With the approval of the judges of the court and the board of supervisors, each traffic referee and commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.

74347. For the purposes of this article, the appointing authority means the person having the power in the first instance to select the employee from an eligible list provided for that purpose.

- (a) In addition to the salary provided in this article, the classes of attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345. The court administrator and assistant court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the chief probation officer of the County of San Diego. All persons employed as deputy clerk-division managers I, II, or III, shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by administrative assistant III of the classified service of the County of San Diego. The purpose and intent of this subdivison is to provide all court attachés except judicial secretaries, commissioners, court reporters, and the traffic referee with any and all fringe benefits, but no more than those which are available to their comparable classes in the service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or the county personnel director is required by the county benefit, it shall be taken or given, as to comparable municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges of the municipal court or their designees, or as to the court administrator and others serving at the pleasure of the court, by the majority of the judges or their designees. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court, excluding fringe benefits.
- (b) All attachés other than the traffic referee, commissioners, the court administrator, court reporters, judicial secretaries, and other persons serving at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, or discharge to civil service provisions applicable to the classified personnel of the County of San

Diego. Whenever such attachés are appointed or promoted to a position, they shall serve a probationary period of at least six months, and not to exceed 18 months, as specified in the job announcement for the class prior to appointment.

74349. Official reporters in the Municipal Court of the San Diego Judicial District appointed pursuant to Section 72194 shall be attachés of such court, and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court shall be paid a biweekly salary equal to that paid to regular official reporters for the Superior Court of the County of San Diego. There shall also be one official reporter appointed by the court as chief reporter, such appointment to be entered upon the minutes of the court, who shall receive compensation in the sum of 15 percent per month in addition to any sum otherwise provided by this section. These salaries shall be a charge against the general fund of the county.

Pursuant to Section 72194, the judges of such court may appoint as many additional reporters as the business of the court may require, who shall be known as official reporters pro tempore, and who 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 those sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at a rate equal to that paid to official reporters pro tempore for the Superior Court of the County of San Diego, which shall be a charge against the general fund of the County of San Diego.

Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, those fees shall, upon order of the court, be paid from the general fund including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive.

Official reporters of the court shall be members of any retirement system maintained by the county. For the purpose of the retirement system the salary provided in this article for such reporters shall be deemed their entire compensation.

Notwithstanding the provisions of Section 74348, official reporters serve at the pleasure of the judges and shall receive and be entitled to the number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the official reporters of the Superior Court of the County of San Diego.

74350. In any civil action or proceedings filed in the San Diego, El Cajon, North County, or South Bay Judicial Districts, a reporter's filing fee of eleven dollars (\$11) shall be paid, as specified in Section 68090.5.

74351. (a) In the County of San Diego, upon the adoption of a resolution by the board of supervisors authorizing it, the courts shall

enhance the fine imposed upon a defendant in an amount not to exceed ten dollars (\$10) in either of the following circumstances:

- (1) In any case in which a defendant is convicted of a violation of the Vehicle Code and that defendant has a record of a conviction for a prior violation of the Vehicle Code.
- (2) If the defendant's driver's license or vehicle registration is attached or restricted pursuant to Section 40509 or 40509.5 of the Vehicle Code.
- (b) Notwithstanding Section 1463 of the Penal Code, all moneys collected pursuant to this section shall be paid into the county general fund to meet the costs incurred by the county in recording and maintaining a record of the defendant's prior convictions for Vehicle Code violations and the cost incurred in notifying the Department of Motor Vehicles of driver's license and vehicle registration attachments and restrictions.

74352. By order entered upon the minutes of the court, a majority of the judges of the municipal court of the San Diego Judicial District may appoint as many competent judicial secretaries as the business of the court requires, not to exceed six, who shall serve at the pleasure of the judges of the court. One of these secretaries shall be appointed by the majority of the judges of the court as the chief judicial secretary, who, while serving in that capacity, shall receive a biweekly salary at a rate 25 percent higher than that specified for judicial secretary. Appointment to such position shall be at step 5.

Each judicial secretary other than the chief judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego, commencing at step 4 at initial employment and advancing to step 5 at the end of one year of continuous service.

Whenever the salary of administrative secretary IV of the classified service of the County of San Diego is adjusted by the Board of Supervisors of San Diego County, the salaries of the chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage on the same date, such adjustments to take effect on the effective date of any amendments to this article.

Notwithstanding the provisions of Section 74348, the chief judicial secretary and judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence, and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

74353. In the event that there shall be an increase in the number of judges as provided in Section 74341, the clerk of the court may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I for each respective additional judge so

appointed. Such additional deputy clerks shall receive a biweekly salary at a rate specified in the appropriate schedule incorporated by Section 74745.

SEC. 7. Article 25.5 (commencing with Section 74361) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 8. Article 25.5 (commencing with Section 74361) is added to Chapter 10 of Title 8 of the Government Code, to read:

# Article 25.5. Marshal of San Diego County

74361. Whenever any vacancy occurs in the position of Marshal of San Diego County, after the effective date of this section, the judges of the superior court and all of the municipal courts in San Diego County by a majority vote of their aggregate number, shall select, and appoint, and discharge the marshal, who shall serve at their pleasure, under such rules and procedures as they adopt. The judges may prescribe and regulate, by a majority vote, the organization, policies, rules, and regulations for the conduct of the marshal and his offices, and it shall be their duty and that of the personnel of his offices to be governed thereby. For the purpose of voting to select, appoint or discharge a marshal, or to prescribe and regulate the organization, policies, rules and regulations pertaining to the position of marshal, upon five days' written notice, the judges of the superior court and the municipal courts in judicial districts located in San Diego County shall meet at a time and place designated by the presiding judges of the superior court and the municipal court of the judicial district in which is included the county seat. If and when, under any provision of law, the superior court judges and the municipal court judges in the judicial districts of the county have formally organized to administer all matters jointly affecting their courts, the conduct of such meetings and the voting thereat shall be pursuant to the rules or bylaws adopted by the judges for that purpose.

74362. There shall be one marshal for the superior and all municipal courts established in judicial districts in San Diego County who shall be appointed pursuant to this article. In no event shall the compensation of the marshal be less than 20 percent higher than that specified for the class of assistant marshal.

74363. The marshal shall be designated as Marshal of San Diego County.

74364. A branch office of the Marshal of San Diego County, shall be maintained in each superior and municipal court district facility.

74365. The marshal shall possess the rights and powers and perform the duties imposed upon marshals of municipal courts generally, and within San Diego County the marshal shall exercise all powers and perform all duties imposed upon sheriffs with respect to proceedings in the superior court.

74366. Within San Diego County, all provisions of law relating to duties imposed upon sheriffs with respect to court-related services

and all provisions of law relating to marshals of municipal courts, or a marshal of a municipal court and the deputies and attachés thereof, not inconsistent with the provisions of this article, apply to the Marshal of San Diego County, and to the officers, deputies, and attachés of the marshal. The judges of the superior and municipal courts of the judicial districts in San Diego County acting jointly by a vote of a majority of those judges may adopt rules not inconsistent with the provisions of this article to make effective the provisions thereof.

74367. For the purpose of this article, the appointing authority means the person having the power in the first instance to select the employee from an eligible list provided for that purpose.

74368. The marshal may make the following appointments:

- (a) One assistant marshal.
- (b) Four captains.
- (c) Four lieutenants.
- (d) Eighteen sergeants.
- (e) One hundred forty-two deputy marshals.

Any deputy marshal who may be assigned by the marshal to one of seven positions designated as lead deputy shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by the deputy.

The marshal may, at his or her discretion, fill a deputy marshal or court service officer position by accepting a lateral transfer from another California peace officer agency. The transferee must have completed a California P.O.S.T. certified basic academy and been employed for at least one year in a position enumerated in Section 830.1, 830.2, 830.3, or 830.4 of the Penal Code within the past three years.

- (f) One administrative secretary I, II, or III.
- (g) One chief, administrative services or administrative assistant III.
  - (h) Eighteen intermediate typists.
  - (i) Six senior typists.
  - (j) Thirty-five deputy marshal-cadets.

Notwithstanding any other provisions of this article, in no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. The marshal-cadet is a peace officer trainee position which requires appointees to be at least 18 years of age and meet the qualifications and standards prescribed for deputy marshals. At the time an incumbent in the class of deputy marshal-cadet attains the age of 21, he or she may be appointed by the marshal to a position in the class of deputy marshal or court service officer, provided such position is open, without further qualification or examination.

A deputy marshal-cadet shall receive 65 percent of the uniform allowance prescribed for deputy marshals. In the event that a deputy marshal-cadet is appointed to the class of deputy marshal or court service officer, he or she shall receive the amount of reimbursement of the cost of required uniforms and equipment prescribed for a newly hired deputy marshal or court service officer, less any reimbursement received by him or her for the cost of required deputy marshal-cadet uniforms and equipment.

- (k) One junior typist. Each vacancy occurring in this class shall cause a corresponding reduction in the number of junior typists hereby authorized, provided, however, that such vacancy shall increase by one, a position in the class intermediate typist under subdivision (h).
  - (1) Eight legal procedures clerks III.
  - (m) Thirty legal procedures clerks II or I.
- (n) Sixty court service officers. In no event shall a court service officer's salary be less than 80 percent of a deputy marshal at the corresponding pay step. A court service officer shall receive the same uniform allowance prescribed for a deputy marshal, under the same conditions prescribed for deputy marshals. The marshal may appoint a court service officer to a vacant position of deputy marshal without further qualification or examination. In the event that a court service officer is appointed to the class of deputy marshal, he or she shall receive the amount of reimbursement prescribed for a newly hired deputy marshal, less any reimbursement received by him or her for the cost of required court service officer uniforms and equipment. Court service officers shall be peace officers pursuant to Section 830.4 of the Penal Code. Notwithstanding any other provision of law, court service officers shall be general members of the county employees retirement system.

Any court service officer who meets length of service, educational and performance requirements established by the marshal and approved by the county personnel director may receive a biweekly compensation at a rate 7½ percent higher than that otherwise received by a court service officer. The number of court service officer positions so compensated shall not exceed one-half the total number of court service officers then employed by the marshal.

- (o) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary or administrative-personnel secretary shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified for such person's class and step.
  - (p) Two principal clerks.
  - (q) Three communications dispatchers.
  - (r) Two administrative assistants III, II, I, or trainee.
- (s) One EDP coordinator, senior systems analyst, associate systems analyst, or assistant systems analyst.
- (t) Notwithstanding the provisions of Section 74369, up to 15 extra help positions (hourly rate) to be appointed at a level as determined by and serve at the pleasure of the marshal. Such appointments shall be temporary for a period not to exceed six months, plus one additional period at the marshal's option, not to exceed six months.

Notwithstanding any other provisions of this section, the marshal may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.

(u) Notwithstanding the provisions of Section 74369, the marshal may appoint up to three temporary extra help marshal student workers I, II, or III who shall be paid at an hourly rate and shall serve at the pleasure of the marshal. A marshal student worker I, II, or III shall receive an hourly salary at the rate equal to that specified for the class of student worker I, II, or III respectively in the unclassified service of the County of San Diego.

74369. Except where this article or other provisions of state law specifically otherwise provides, the provisions of then current ordinances and resolutions of the board of supervisors and the rules for the classified service of the County of San Diego shall govern the appointment and assignment of officers, deputies, and attachés to the offices and positions enumerated in this article, and shall define their compensation (including salary and fringe benefits), rights, and privileges. All assistants, deputies, and other employees of the Marshal of San Diego County, other than those specified as serving at the pleasure of the marshal, may be appointed, promoted, removed, suspended, or discharged for cause by the said marshal, subject in such appointment, promotion, removal, suspension, or discharge to all civil service provisions applicable to the classified personnel of the office of Sheriff, County of San Diego.

74370. (a) The hereinafter enumerated classes of positions in the marshal's office of San Diego County are deemed to be equivalent in job, salary level, and fringe benefit level to certain classes in the service of the County of San Diego and whenever the salary of a class in the service of the County of San Diego is adjusted by the board of supervisors, the salary of the equivalent class in the marshal's office shall be adjusted in the same amount, effective on the same date.

The equivalent classes are as follows:

Marshal class Assistant marshal Captain

Lieutenant Sergeant

Deputy marshal Court service officer

### Cadet

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Communications dispatcher Principal clerk
Legal procedures clerk III
Legal procedures clerk II
Legal procedures clerk I
Senior typist

County class

Assistant sheriff
Deputy sheriff-captain

Deputy sheriff-lieutenant Deputy sheriff-sergeant

Deputy sheriff

Revenue and recovery offi-

cer II

Revenue and recovery offi-

cer trainee

Communications dispatcher

Principal clerk

Legal procedures clerk III Legal procedures clerk II

Legal procedures clerk. I

Senior clerk-typist

Intermediate typist Junior typist Chief, administrative services

Administrative assistant III Administrative assistant II Administrative assistant I Administrative trainee EDP coordinator Senior systems analyst Associate systems analyst Assistant systems analyst Administrative secretary III Administrative secretary II Administrative secretary I Intermediate clerk-typist
Junior clerk-typist
Chief, administrative services
Administrative assistant III
Administrative assistant II
Administrative assistant I

Administrative assistant I
Administrative trainee
EDP coordinator
Senior systems analyst
Associate systems analyst
Assistant systems analyst
Administrative secretary III
Administrative secretary II
Administrative secretary I

(b) In addition to the salary provided in this article officers, deputies, and other attachés of the marshal's office shall receive, and they shall be entitled to the same number of holidays, leaves of absence, retirement benefits, deferred compensation benefits, and all other fringe benefits as are now or may hereafter be provided for the specified comparable employees of the County of San Diego.

For purposes of providing the fringe benefits specified in this section, each class in the marshal's office shall receive benefits equal to those of the comparable class in the service of the County of San Diego as specified in this section. The marshal shall receive the same fringe benefits received by the Sheriff of the County of San Diego.

The purpose and intent of this subdivision is to provide all marshal's personnel with any and all fringe benefits, but no more than those, which are available to their comparable classes in the service of the County of San Diego, as specified in this section. Whenever action or approval by the chief administrative officer or the county personnel director is required by the county benefit, it shall be taken or given as to comparable marshal's employees, by the marshal, or as to the marshal by the majority of the judges or their designees. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The marshal may adopt rules for the conduct of and personnel privileges to be afforded marshal employees, excluding fringe benefits.

74371. In the event that the number of judges, commissioners, or referees provided for the superior court or any existing municipal court judicial district in the County of San Diego is increased, or that additional municipal court judicial districts are provided in the County of San Diego, thereby causing an increase in the number of judges, commissioners, or referees, the marshal at his discretion may appoint one deputy marshal or court service officer and one intermediate typist, legal procedures clerk, or deputy marshal-cadet each of whom shall receive compensation as specified for their

respective classifications, for each additional judge, commissioner, or

referee appointed or elected.

74372. The first 18 months served by a deputy marshal appointee or the first 12 months served by any other appointee shall be considered probationary, except for appointments to classes of positions serving at the pleasure of the appointing authority, and the appointing power shall have the authority to dismiss without cause in the case of a new employee, or demote without cause in the case of a promoted employee during said probationary period.

SEC. 9. Article 30 (commencing with Section 74740) of Chapter

10 of Title 8 of the Government Code is repealed.

SEC. 10. Article 30 (commencing with Section 74740) is added to Chapter 10 of Title 8 of the Government Code, to read:

# Article 30. South Bay Judicial District

74740. Notwithstanding Section 71040, there shall be a municipal court in a judicial district, embracing the Cities of Chula Vista, Coronado, Imperial Beach, National City, that portion of the City of San Diego lying southerly of the City of Chula Vista and the portion of the City of San Diego lying within San Diego Bay south of a westerly continuation of the northern boundary of National City to the point of intersection with the eastern boundary of the City of Coronado, and such other contiguous area as the board of supervisors may direct, designated the South Bay Judicial District.

This article applies to the municipal court established pursuant to

this section.

74741. There shall be seven judges.

74742. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in such benefits shall be effective on the same date as for those for the classification of chief administrative officer.

74743. By order entered in the minutes of the court, a majority of judges may appoint a commissioner who shall serve at their pleasure and shall receive a salary equal to 75 percent of the salary

of a judge of the municipal court.

74744. There shall be one court administrator who shall serve as clerk of the court and who shall be appointed by a majority of the judges of the court. The salary of the court administrator shall be 33 percent higher than that specified for assistant court administrator of the South Bay Judicial District.

74745. The court administrator may appoint with the approval of the judges:

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- (a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 18 percent below that specified for assistant court administrator of the San Diego Judicial District.
- (b) One deputy clerk-administrative assistant I, II, or III, as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for administrative assistant I in the classified service of the County of San Diego. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for administrative assistant II in the classified service of the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for administrative assistant III in the classified service of the County of San Diego.
- (c) One deputy clerk-division manager III who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for deputy clerk-division manager II in the San Diego Judicial District.
- (d) Three deputy clerk-division managers I each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V in the San Diego Judicial District.
- (e) One deputy clerk-assistant, associate, or senior accountant, as the case may be. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service of the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior accountant in the classified service of the County of San Diego.
- (f) Eleven deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for superior court clerk in the classified service of the County of San Diego.
- (g) Thirty-nine deputy clerks III, II, or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for intermediate clerk-typist in the classified service of the County of San Diego. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.
- (h) Three deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for data entry operator in the classified service of the County of San Diego.
- (i) Two deputy clerk-administrative secretaries IV, III, II, or I, as the case may be. A deputy clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego. A deputy clerk-administrative secretary III shall receive

a biweekly salary at the rate specified for administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service of the County of San Diego. A deputy clerk administrative secretary I shall receive a weekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

- (j) Two deputy clerk interpreters who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.
- (k) Notwithstanding subdivision (b) of Section 74749, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. The rate of pay for each individual employed in this class shall be within the range proposed for the class pending establishment, at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class shall be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.
- (1) Notwithstanding subdivision (b) of Section 74749 up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for less than 91 working days during

- a fiscal year on a part-time basis.
- (m) Notwithstanding subdivision (c) of Section 74749, the court administrator may appoint up to 10 temporary extra help deputy clerk-student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-student worker I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. A deputy clerk-student worker II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk-student worker III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego.
- (n) Except as provided herein, the provisions of Section 74345 shall apply to the attachés appointed pursuant to this section and Section 74744.
- 74746. In the event that there shall be an increase in the number of judges as provided in Section 74743, the court administrator may appoint one deputy clerk IV, one deputy clerk III, and one deputy clerk II, for each respective additional judge so appointed. Such additional deputy clerks shall receive the monthly salaries specified for their respective classes by Section 74745.
- 74747. Persons who succeed to positions in the municipal court under provisions of the Municipal and Justice Court Act of 1949 shall receive credit for continuous prior service in superseded courts and in the sheriff's department or constabulary of the county. In determining the rate of compensation to be paid to the officers and employees named in this article, service in any city, municipal or justice court of the State of California and service in the sheriff's department or constabulary of the County of San Diego shall be deemed to be service in the respective offices and employments in the Municipal Court of the South Bay Judicial District.

74748. The municipal court shall hold sessions in the City of Chula Vista and at such other places as the board of supervisors, by ordinance, may designate.

74749. (a) In addition to the salary provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345.

The court administrator and assistant court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may be hereafter received by the chief probation officer of the County of San Diego. All persons employed as deputy clerk-division manager III, deputy clerk-division manager I, or deputy clerk-administrative assistant III shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the class of

administrative assistant III in the classified service of the County of San Diego.

The purpose and intent of this subdivision is to provide all court attachés except the commisioner and court reporters with any and all fringe benefits but no more than those which are available to their comparable classes in the service of the County of San Diego as specified herein or in Section 74345. Whenever action or approval by the chief administrative officer or county personnel director is required for the county benefit, it shall be taken or given, as to comparable municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges of the municipal court or their designees, or as to those serving at the pleasure of the court, by the majority of the judges or their designees. Changes in benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of the personnel privileges to be afforded the attachés of the court excluding fringe benefits.

(b) All attachés other than the commissioner and the court reporters, and other persons serving at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever such attachés are appointed or promoted to a position, they shall serve a probationary period of at least six months and not to exceed 18 months, as specified in the job announcement for the class prior to appointment.

74750. Official reporters in the Municipal Court of the South Bay Judicial District appointed pursuant to Section 72194 shall be attachés of such court, and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court shall be paid a biweekly salary equal to that specified for official court reporters for the Superior Court of the County of San Diego. These salaries shall be a charge against the general fund of the county.

Pursuant to Section 72194, the judges of such court may appoint as many additional reporters as the business of the court may require, who shall be known as official reporters pro tempore, and who shall serve without salary but who shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in such sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at a rate equal to that paid to official reporters pro tempore for the Superior Court of the County of San Diego, which shall be a charge against the general fund of the County of San Diego.

Fees for transcription of testimony and proceedings in such court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the general fund, including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive.

Official reporters of such court shall be members of any retirement system maintained by the county. For the purpose of such retirement system the salary provided in this article for such reporters shall be deemed their entire compensation.

Notwithstanding the provisions of Section 74749, official reporters serve at the pleasure of the judges and shall receive and be entitled to the same number of holiday, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for by rule for the official reporters of the Superior Court of the County of San Diego.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

## CHAPTER 1126

An act to amend Section 1424 of the Health and Safety Code, relating to health care facilities.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 1424 of the Health and Safety Code is amended to read:

- 1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof.
- (a) In determining the amount of the civil penalty, all relevant facts shall be considered, including, but not limited to, the following:
- (1) The probability and severity of the risk which the violation presents to the patient's mental and physical condition.
  - (2) The patient's medical condition.
- (3) The patient's mental condition and his or her history of mental disability or disorder.
- (4) The good faith efforts exercised by the facility to prevent the violation from occurring.
  - (5) The licensee's history of compliance with regulations.
- (b) Class "AA" violations are violations which meet the criteria for a class "A" violation and which the state department determines

to have been a direct proximate cause of death of a patient of a long-term health care facility. A class "AA" violation is subject to a civil penalty in the amount of not less than five thousand dollars (\$5,000) and not exceeding twenty-five thousand dollars (\$25,000) for each violation. In any action to enforce a citation issued under this subdivision, the state department shall prove all of the following:

- (1) The violation was a direct proximate cause of death of a patient.
- (2) The death resulted from an occurrence of a nature which the regulation was designed to prevent.
- (3) The patient suffering the death was among the class of persons for whose protection the regulation was adopted.

If the state department meets this burden of proof, the licensee shall have the burden of proving that the licensee violating the regulation did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation may be reduced.

For each class "AA" violation within a 12-month period which has become final, the state department shall consider the suspension or revocation of the facility's license in accordance with Section 1294. For a third or subsequent class "AA" violation in a facility within that 12-month period which has been sustained following a citation review conference, the state department shall commence action to suspend or revoke the facility's license in accordance with Section 1294.

- (c) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute a class "A" violation. The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) and not exceeding ten thousand dollars (\$10,000) for each and every violation.
- (d) Class "B" violations are violations which the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients, other than class "AA" or "A" violations. Unless otherwise determined by the state department to be a class "A" violation pursuant to this chapter and rules and regulations adopted pursuant thereto, any violation of a patient's rights as set forth in Sections 72527 and 73523 of Title 22 of the California Administrative Code, which is determined by the state department to cause or under circumstances

likely to cause significant humiliation, indignity, anxiety, or other emotional trauma to a patient is a class "B" violation. A class "B" violation is subject to a civil penalty in an amount not less than one hundred dollars (\$100) and not exceeding one thousand dollars (\$1,000) for each and every violation. A citation for a class "B" violation shall specify the time within which the violation is required to be corrected.

If a class "B" violation is corrected within the time specified, no civil penalties shall be imposed, unless it is a second or subsequent violation of the same regulation occurring within the period since and including the previous full annual licensing survey inspection or 12 months, whichever is greater. In no case, shall the period extend beyond 13 months. At the citation review conference, the director's designee may, utilizing the criteria set forth in subdivision (a), waive or reduce the penalty as specified in subdivision (a) of Section 1428, taking into consideration the seriousness of the previous and present violations, the similarity between the two violations, the extent to which there is a direct relationship to the health and safety or security of patients, and the good faith exercised by the licensee in correcting the problem. The decision to waive or not to waive these penalties shall not be reviewable.

(e) Any willful material falsification or willful material omission in the health record for a patient of a long-term health care facility is a violation. "Willful material falsification," as used in this section, means any entry in the patient health care record pertaining to the administration of medication, or treatments ordered for the patient, or pertaining to services for the prevention or treatment of decubitus ulcers or contractures, or pertaining to tests and measurements of vital signs, or notations of input and output of fluids, which was made with the knowledge that the records falsely reflect the condition of the resident or the care or services provided.

"Willful material omission," as used in this section, means the willful failure to record any untoward event which has affected the health, safety, or security of the specific patient, and which was omitted with the knowledge that the records falsely reflect the condition of the resident or the care or services provided. A violation of this subdivision may result in a civil penalty not to exceed ten thousand dollars (\$10,000), as specified in paragraphs (1) to (3), inclusive. However, in no case shall the civil penalty be trebled.

- (1) The willful material falsification or willful material omission is subject to a civil penalty of not less than two thousand five hundred dollars (\$2,500) or more than ten thousand dollars (\$10,000) in instances where the health care record is relied upon by a health care professional to the detriment of a patient by affecting the administration of medications or treatments, the issuance of orders, or the development of plans of care. In all other cases, violations of this subdivision are subject to a civil penalty not exceeding two thousand five hundred dollars (\$2,500).
  - (2) Where the penalty assessed is one thousand dollars (\$1,000) or

less, the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class "B" violation, and shall include the right of appeal as specified in Section 1428 and the payment of the minimum fine as specified in subdivision (d) and in Section 1428.1. Where the assessed penalty is in excess of one thousand dollars (\$1,000), the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class "A" violation, and shall include the right of appeal as specified in Section 1428 and the payment of the minumum fine as specified in Section 1428.1.

Nothing in this section shall be construed as a change in previous law enacted by Chapter 11 of the Statutes of 1985 relative to this paragraph, but merely as a clarification of existing law.

- (3) Nothing in this subdivision shall preclude the state department from issuing a class "A" or class "B" citation for any violation which meets the requirements for that citation, regardless of whether the violation also constitutes a violation of this subdivision. However, no single act, omission, or occurrence may be cited both as a class "A" or class "B" violation and as a violation of this subdivision.
- (f) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to patient safety or health.
- SEC. 2. Section 1424 of the Health and Safety Code is amended to read:
- 1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof.
- (a) In determining the amount of the civil penalty, all relevant facts shall be considered, including, but not limited to, the following:
- (1) The probability and severity of the risk which the violation presents to the patient's mental and physical condition.
  - (2) The patient's medical condition.
- (3) The patient's mental condition and his or her history of mental disability or disorder.
- (4) The good faith efforts exercised by the facility to prevent the violation from occurring.
  - (5) The licensee's history of compliance with regulations.
- (b) Class "AA" violations are violations which meet the criteria for a class "A" violation and which the state department determines to have been a direct proximate cause of death of a patient of a long-term health care facility. A class "AA" violation is subject to a civil penalty in the amount of not less than five thousand dollars (\$5,000) and not exceeding twenty-five thousand dollars (\$25,000) for each violation. In any action to enforce a citation issued under this subdivision, the state department shall prove all of the following:
- (1) The violation was a direct proximate cause of death of a patient.
  - (2) The death resulted from an occurrence of a nature which the

regulation was designed to prevent.

(3) The patient suffering the death was among the class of persons for whose protection the regulation was adopted.

If the state department meets this burden of proof, the licensee shall have the burden of proving that the licensee violating the regulation did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation may be reduced.

For each class "AA" violation within a 12-month period which has become final, the state department shall consider the suspension or revocation of the facility's license in accordance with Section 1294. For a third or subsequent class "AA" violation in a facility within that 12-month period which has been sustained following a citation review conference, the state department shall commence action to suspend or revoke the facility's license in accordance with Section 1294.

- (c) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute a class "A" violation. The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) and not exceeding ten thousand dollars (\$10,000) for each and every violation.
- (d) Class "B" violations are violations which the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients, other than class "AA" or "A" violations. Unless otherwise determined by the state department to be a class "A" violation pursuant to this chapter and rules and regulations adopted pursuant thereto, any violation of a patient's rights as set forth in Sections 72527 and 73523 of Title 22 of the California Administrative Code, which is determined by the state department to cause or under circumstances likely to cause significant humiliation, indignity, anxiety, or other emotional trauma to a patient is a class "B" violation. A class "B" violation is subject to a civil penalty in an amount not less than one hundred dollars (\$100) and not exceeding one thousand dollars (\$1,000) for each and every violation. A citation for a class "B" violation shall specify the time within which the violation is required to be corrected.

If a class "B" violation is corrected within the time specified, no civil penalties shall be imposed, unless it is a second or subsequent

violation of the same regulation occurring within the period since and including the previous full annual licensing survey inspection or 12 months, whichever is greater. In no case, shall the period extend beyond 13 months. At the citation review conference, the director's designee may, utilizing the criteria set forth in subdivision (a), waive or reduce the penalty as specified in subdivision (a) of Section 1428, taking into consideration the seriousness of the previous and present violations, the similarity between the two violations, the extent to which there is a direct relationship to the health and safety or security of patients, and the good faith exercised by the licensee in correcting the problem. The decision to waive or not to waive these penalties shall not be reviewable.

(e) Any willful material falsification or willful material omission in the health record for a patient of a long-term health care facility is a violation. "Willful material falsification," as used in this section, means any entry in the patient health care record pertaining to the administration of medication, or treatments ordered for the patient, or pertaining to services for the prevention or treatment of decubitus ulcers or contractures, or pertaining to tests and measurements of vital signs, or notations of input and output of fluids, which was made with the knowledge that the records falsely reflect the condition of the resident or the care or services provided.

"Willful material omission," as used in this section, means the willful failure to record any untoward event which has affected the health, safety, or security of the specific patient, and which was omitted with the knowledge that the records falsely reflect the condition of the resident or the care or services provided. A violation of this subdivision may result in a civil penalty not to exceed ten thousand dollars (\$10,000), as specified in paragraphs (1) to (3), inclusive. However, in no case shall the civil penalty be trebled.

- (1) The willful material falsification or willful material omission is subject to a civil penalty of not less than two thousand five hundred dollars (\$2,500) or more than ten thousand dollars (\$10,000) in instances where the health care record is relied upon by a health care professional to the detriment of a patient by affecting the administration of medications or treatments, the issuance of orders, or the development of plans of care. In all other cases, violations of this subdivision are subject to a civil penalty not exceeding two thousand five hundred dollars (\$2,500).
- (2) Where the penalty assessed is one thousand dollars (\$1,000) or less, the violation shall be issued and enforced, except as provided in this subdivision in the same manner as a class "B" violation and shall include the right of appeal as specified in Section 1428 and the payment of the minimum fine as specified in subdivision (d) and in Section 1428.1. Where the assessed penalty is in excess of one thousand dollars (\$1,000), the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class "A" violation and shall include the right of appeal as specified in Section 1428 and the payment of the minimum fine as specified in

Section 1428.1.

Nothing in this section shall be construed as a change in previous law enacted by Chapter 11 of the Statutes of 1985 relative to this paragraph, but merely as a clarification of existing law.

- (3) Nothing in this subdivision shall preclude the state department from issuing a class "A" or class "B" citation for any violation which meets the requirements for that citation, regardless of whether the violation also constitutes a violation of this subdivision. However, no single act, omission, or occurrence may be cited both as a class "A" or class "B" violation and as a violation of this subdivision.
- (f) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to patient safety or health.
- (g) Penalties collected pursuant to this section shall be used, as specified in Section 1280.1 to provide consultative services to long-term health care facilities, and to provide grants, which shall be used to provide innovative or demonstration programs or services for residents, family members, or employees of long-term health care facilities, or to provide community education on long-term care issues.

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 that date 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 1424 of the Health and Safety Code, as amended by Section 9 of Chapter 11 of the Statutes of 1985, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1424 of the Health and Safety Code proposed by both this bill and SB 765. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 1424 of the Health and Safety Code, and (3) this bill is enacted after SB 765, in which case Section 1 of this bill shall not become operative.

#### CHAPTER 1127

An act to amend Section 15463 of the Government Code, relating to county health facilities, and making an appropriation therefor.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 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 ten million dollars (\$10,000,000) to the fund.
- (c) Moneys in the fund shall be utilized by the authority to provide assistance to counties to pay the debt service on loans for, or otherwise assist in the financing of, facilities, as defined in paragraph (8) of subdivision (d) of Section 15432, by doing any of the following:
- (1) Paying not more than 50 percent of the debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities, as determined by the authority.
- (2) Paying the cost of insurance, letters of credit, lines of credit, or by utilizing other financial devices to enhance the credit of counties in order to secure the payment of debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities.
- (3) Paying costs, fees, and expenses incurred by counties or the authority in connection with issuing, carrying, or repaying the revenue bonds or financing, acquiring, or constructing those facilities.
- (4) Providing any other financial assistance or support for those facilities, including, but not limited to, payment of any outstanding indebtedness of the county for, or secured by, those facilities, as determined necessary 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).

## CHAPTER 1128

An act to amend Sections 3700, 3700.5, 3701, 3701.5, 3702.1, 3702.3, 3702.6, 3705, 3740, 3742, 3744, and 3745 of, and to add Sections 3700.1, 3701.3, 3702.2, 3702.8, 3702.9, and 3702.10 to, the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 3700 of the Labor Code is amended to read: 3700. Every employer except the state shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.
- (c) For any county, city, city and county, municipal corporation, public district, public agency, or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702.

- SEC. 2. Section 3700.1 is added to the Labor Code, to read: 3700.1. As used in this article:
- (a) "Director" means the Director of Industrial Relations.
- (b) "Private self-insurer" means a private employer which has secured the payment of compensation pursuant to Section 3701.
- (c) "Insolvent self-insurer" means a private self-insurer who has failed to pay compensation and whose security deposit has been called by the director pursuant to Section 3701.5.
- (d) "Fund" means the Self-Insurers' Security Fund established pursuant to Section 3742.
- (e) "Trustees" means the Board of Trustees of the Self-Insurers' Security Fund.
- (f) "Member" means a private self-insurer which participates in the Self-Insurers' Security Fund.
- (g) "Incurred liabilities for the payment of compensation" means the sum of both of the following:
- (1) An estimate of future compensation, as compensation is defined by Section 3207.
- (2) An amount determined by the director to be reasonably adequate to assure the administration of claims, including legal costs. SEC. 3. Section 3700.5 of the Labor Code is amended to read:
- 3700.5. The failure to secure the payment of compensation as required by this article by one who knew, or because of his or her knowledge or experience should be reasonably expected to have known, of the obligation to secure the payment of compensation, is a misdemeanor.
  - SEC. 4. Section 3701 of the Labor Code is amended to read:
- 3701. (a) Each year every private self-insuring employer shall secure incurred liabilities for the payment of compensation and the performance of the obligations of employers imposed under this chapter by renewing the prior year's security deposit or by making a new deposit of security. If a new deposit is made, it shall be posted within 60 days of the filing of the self-insured employer's annual report with the director, but in no event later than May 1.
- (b) The minimum deposit shall be 125 percent of the private self-insurer's estimated future liability plus an amount determined by the director pursuant to regulations promulgated under Section 3702.10 to be reasonable and sufficient to secure payment of all administrative and legal costs relating to or arising from the employer's self insuring. The regulations shall be in effect by March 1, 1987. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than two hundred thousand dollars (\$200,000).
- (c) The director may only accept as security, and the employer shall deposit as security, cash, securities, surety bonds, or irrevocable letters of credit in any combination the director, in his or her discretion, deems adequate security. The current deposit shall include within its coverage all amounts covered by terminated

surety bonds or excess insurance policies.

- (d) Surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit shall be deposited with, and in a form approved by, the director, shall be exonerated only according to its terms and, in no event, by the posting of additional security.
- (e) Securities shall be deposited on behalf of the director by the self-insured employer with the Treasurer. Securities shall be accepted by the Treasurer for deposit and shall be withdrawn only upon written order of the director.
- (f) Cash shall be deposited in a financial institution approved by the director, and in the account assigned to the director. Cash shall be withdrawn only upon written order of the director.
- (g) Upon the sending by the director of a request to renew, request to post, or request to increase or decrease a security deposit, a perfected security interest is created in the private self-insured's assets in favor of the director to the extent of any then unsecured portion of the self-insured's incurred liabilities. That perfected security interest is transferred to any cash or securities thereafter posted by the private self-insured with the director and is released only upon either of the following:
- (1) The acceptance by the director of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation.
  - (2) The return of cash or securities by the director.

The private self-insured employer loses all right, title, and interest in, and any right to control, all assets or obligations posted or left on deposit as security. The director may liquidate the deposit as provided in Section 3701.5 and apply it to the self-insured employer's incurred liabilities either directly or through the Self-Insurers' Security Fund.

- SEC. 5. Section 3701.3 is added to the Labor Code, to read:
- 3701.3. The director shall return to a private self-insured employer all amounts determined, in the director's discretion, to be in excess of that needed to assure the administration of the employer's self insuring, including legal fees, and the payment of any future claims.
  - SEC. 6. Section 3701.5 of the Labor Code is amended to read:
- 3701.5. (a) If the director determines that a private self-insured employer has failed to pay workers' compensation as required by this division, the security deposit shall be utilized to administer and pay the employer's compensation obligations.
- (b) If the director determines the security deposit has not been immediately made available for the payment of compensation, the director shall determine the method of payment and claims administration as appropriate, which may include, but is not limited to, payment by a surety that issued the bond, or payment by an issuer of an irrevocable letter of credit, and administration by a surety or by an adjusting agency, or through the Self-Insurers' Security Fund,

or any combination thereof.

- (c) If the director determines the payment of benefits and claims administration shall be made through the Self-Insurers' Security Fund, the fund shall commence payment of the private self-insured employer's obligations for which it is liable under Section 3743 within 30 days of notification. Payments shall be made to claimants whose entitlement to benefits can be ascertained by the fund, with or without proceedings before the appeals board. Upon the assumption of obligations by the fund pursuant to the director's determination, the fund shall have a right to immediate possession of any posted security and the custodian, surety, or issuer of any irrevocable letter of credit shall turn over the security to the fund together with the interest that has accrued since the date of the self-insured employer's default or insolvency.
- (d) The director shall promptly audit an employer upon making a determination under subdivision (a) or (b). The employer, any excess insurer, and any adjusting agency shall provide any relevant information in their possession. If the audit results in a preliminary estimate that liabilities exceed the amount of the security deposit, the director shall direct the custodian of the security deposit to liquidate it and provide all proceeds to the Self-Insurers' Security Fund. If the preliminary estimate is that liabilities are less than the security deposit, the director shall ensure the administration and payment of compensation pursuant to subdivision (b).
- (e) The payment of benefits by the Self-Insurers' Security Fund from security deposit proceeds shall release and discharge any custodian of the security deposit, surety, any issuer of a letter of credit, and the self-insured employer, from liability to fulfill obligations to provide those same benefits as compensation, but does not release any person from any liability to the fund for full reimbursement. Payment by a surety constitutes a full release of the surety's liability under the bond to the extent of that payment, and entitles the surety to full reimbursement by the principal or his or her estate. Full reimbursement includes necessary attorney fees and other costs and expenses, without prior claim or proceedings on the part of the injured employee or other beneficiaries. Any decision or determination made, or any settlement approved, by the director or by the appeals board under subdivision (g) shall conclusively be presumed valid and binding as to any and all known claims arising out of the underlying dispute, unless an appeal is made within the time limit specified in Section 5950.
- (f) The director shall advise the Self-Insurers' Security Fund promptly after receipt of information indicating that a private self-insured employer may be unable to meet its compensation obligations. The director shall also advise the Self-Insurers' Security Fund of all determinations and directives made or issued pursuant to this section.
- (g) Disputes concerning the posting, renewal, termination, exoneration, or return of all or any portion of the security deposit, or

any liability arising out of the posting or failure to post security, or adequacy of the security or reasonableness of administrative costs, including legal fees, and arising between or among a surety, the issuer of an agreement of assumption and guarantee of workers' compensation liabilities, the issuer of a letter of credit, any custodian of the security deposit, a self-insured employer, or the Self-Insurers' Security Fund shall be resolved by the director. An appeal from the director's decision or determination may be taken to the appeals board. The appeals board may, in its discretion, assign the matter to a referee pursuant to Sections 5309 and 5310. Payment of claims from the security deposit or by the Self-Insurers' Security Fund shall not be stayed pending the resolution of the disputes unless and until the appeals board issues a determination staying a payment of claims decision or determination of the director.

- SEC. 7. Section 3702.1 of the Labor Code is amended to read:
- 3702.1. (a) No person, firm, or corporation, other than an insurer admitted to transact workers' compensation insurance in this state, shall contract to administer claims of self-insured employers as a third-party administrator unless in possession of a certificate of consent to administer self-insured employers workers' compensation claims.
- (b) As a condition of receiving a certificate of consent, all persons given discretion by a third-party administrator to deny, accept, or negotiate a workers' compensation claim shall demonstrate their competency to the director by written examination, or other methods approved by the director.
- (c) A separate certificate shall be required for each adjusting location operated by a third-party administrator. A third-party administrator holding a certificate of consent shall be subject to regulation only under this division with respect to the adjustment, administration, and management of workers' compensation claims for any self-insured employer.
- (d) A third-party administrator retained by a self-insured employer to administer the employer's workers' compensation claims shall estimate the total accrued liability of the employer for the payment of compensation for the employer's annual report to the director and shall make the estimate both in good faith and with the exercise of a reasonable degree of care. The use of a third-party administrator shall not, however, discharge or alter the employer's responsibilities with respect to the report.
  - SEC. 8. Section 3702.2 is added to the Labor Code, to read:
- 3702.2. All self-insured employers shall file a self-insurer's annual report in a form prescribed by the director.
  - SEC. 9. Section 3702.3 of the Labor Code is amended to read:
- 3702.3. Failure to submit reports or information as deemed necessary by the director to implement the purposes of Section 3701, 3702, or 3702.2 may result in the assessment of a penalty which shall not exceed 10 percent per month, or fraction thereof, for a period not to exceed 12 months, of the annual license fee. Moneys collected shall

be used for the administration of self-insurance plans.

SEC. 10. Section 3702.6 of the Labor Code is amended to read: 3702.6. The Director of Industrial Relations shall establish an audit program addressing the adequacy of estimates of future liability of claims, claims practices, and payment of workers' compensation benefits to injured workers for all self-insured employers, except the state, and shall ensure that all self-insured employers are audited within a three-year cycle by the Office of Self Insurance Plans.

SEC. 11. Section 3702.8 is added to the Labor Code, to read:

- 3702.8. (a) Private employers who have ceased to be self-insured employers shall discharge their continuing obligations to secure the payment of compensation which accrued during the period of self-insurance, for purposes of Sections 3700, 3700.5, 3706, and 3715, by compliance with all of the following obligations of current certificate holders:
- (1) Filing annual reports as deemed necessary by the director to carry out the requirements of this chapter.
- (2) Depositing and maintaining security deposit for accrued liability for the payment of any compensation which may become due, pursuant to subdivision (b) of Section 3700 and Section 3701. However, if a private employer who has ceased to be self-insured purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage for all claims for compensation arising out of injuries occurring during the period the employer was self-insured, but which were not reported during that period, the policy will discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy. The policy may not be issued by an insurer unless it has previously been approved as to form and substance by the Insurance Commissioner.
- (3) Paying within 30 days all assessments of which notice is sent, pursuant to subdivision (b) of Section 3745, within 36 months from the last day its certificate of self-insurance was in effect. Assessments shall be based on the benefits paid by the employer during the last full calendar year of self-insurance on claims incurred during that year.
- (b) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the director. An appeal from the director's determination shall be taken to the appeals board in the manner provided for in a petition for reconsideration pursuant to Section 5903. The appeals board may, in its discretion, assign the matter to a referee pursuant to Sections 5309 and 5310.
  - SEC. 12. Section 3702.9 is added to the Labor Code, to read:
- 3702.9. (a) In addition to remedies and penalties otherwise provided for a failure to secure the payment of compensation, the director may, after a determination that an obligation created in this article has been violated, also enter an order against any self-insured

- employer, including employers who are no longer self-insured, but who are required to comply with Section 3702.8, directing compliance, restitution for any losses, and a civil penalty in an amount not to exceed the following:
- (1) For a failure to file a complete or timely annual report, an amount up to 5 percent of the incurred liabilities in the last report or one thousand five hundred dollars (\$1,500), whichever is less, for each 30 days or portion thereof during which there is a failure.
- (2) For failure to deposit and maintain a security deposit, an amount up to 10 percent of the increase not timely filed or five thousand dollars (\$5,000), whichever is less, for each 30 days or portion thereof during which there is a failure.
- (3) For a failure to timely or completely pay an assessment, an amount up to the assessment or two thousand five hundred dollars (\$2,500), whichever is less, for each 30 days or portion thereof during which there is a failure.
- (4) Where the failure was by an employer which knew or reasonably should have known of the obligation, the director shall, in addition, award reimbursement for all expenditures and costs by the fund or any intervening party, including a reasonable attorney fee.
- (5) Where the failure was malicious, fraudulent, in bad faith, or a repeated violation, the director may award, as an additional civil penalty, liquidated damages of up to double the amounts assessed under paragraphs (1) to (4), inclusive, for deposit in the General Fund.
- (b) An employer may deposit and maintain a security deposit or pay an assessment, reserving its right to challenge the amount or liability therefor at a hearing. If the director or the appeals board or a court, upon appeal, concludes that the employer is not liable or the amounts are excessive, then the director may waive, release, compromise, refund, or otherwise remit amounts which had been paid or deposited by an employer. The director may condition the waiver, release, compromise, refund, or remittance upon the present and continued future compliance with the obligations of subdivision (a) of Section 3702.8 for a period up to two years.
- (c) Notwithstanding subdivision (b), where a violation has occurred, the director may waive, release, compromise, or otherwise reduce any civil penalty otherwise due upon a showing that a violation occurred through the employer's mistake, inadvertence, surprise, or excusable neglect. Neglect is not excusable within the meaning of this subdivision where the employer knew, or reasonably should have known, of the obligations.
  - SEC. 13. Section 3702.10 is added to the Labor Code, to read:
- 3702.10. The director, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt, amend, and repeal rules and regulations reasonably necessary to carry out the purposes of Section 129 and Article 1 (commencing with Section 3700), Article 2

(commencing with Section 3710), and Article 2.5 (commencing with Section 3740). This authorization includes, but is not limited to, the adoption of regulations to do all of the following:

- (a) Specifying what constitutes ability to self-insure and to pay any compensation which may become due under Section 3700.
- (b) Specifying what constitutes a marked reduction of an employer's financial strength.
- (c) Specifying what constitutes a failure or inability to fulfill the employer's obligations under Section 3702.
  - (d) Interpreting and defining the terms used.
- (e) Establishing procedures and standards for hearing and determinations, and providing for those determinations to be appealed to the appeals board.
- (f) Specifying the standards, form, and content of agreements, forms, and reports between parties who have obligations pursuant to this chapter.
- (g) Providing for the combinations and relative liabilities of security deposits, assumptions, and guarantees used pursuant to this chapter.
- (h) Disclosing otherwise confidential financial information concerning self-insureds to courts or the Self-Insurers' Security Fund and specifying appropriate safeguards for that information.
- (i) Requiring an amount to be added to each security deposit to secure the cost of administration of claims and to pay all legal costs. SEC. 14. Section 3705 of the Labor Code is amended to read:
- 3705. The Self-Insurers' Security Fund or the surety making payment of compensation hereunder shall have the same preference over the other debts of the principal or his or her estate as is given by law to the person directly entitled to the compensation.
  - SEC. 15. Section 3740 of the Labor Code is amended to read:
- 3740. It is the intent of the Legislature in enacting this article and Article 1 (commencing with Section 3700) to provide for the continuation of workers' compensation benefits delayed due to the failure of a private self-insured employer to meet its compensation obligations when the employers' security deposit is either inadequate or not immediately accessible for the payment of benefits. With respect to the continued liability of a surety for claims that arose under a bond after termination of that bond and to a surety's liability for the cost of administration of claims, it is the intent of the Legislature to clarify existing law. The Legislature finds and declares that the establishment of the Self-Insurers' Security Fund is a necessary component of a complete system of workers' compensation, required by Section 4 of Article XIV of the California Constitution, to have adequate provisions for the comfort, health and safety, and general welfare of any and all workers and their dependents to the extent of relieving the consequences of any industrial injury or death, and full provision for securing the payment of compensation.
  - SEC. 16. Section 3742 of the Labor Code is amended to read:

- 3742. (a) The Self-Insurers' Security Fund shall be established as a Nonprofit Mutual Benefit Corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code and this article. If any provision of the Nonprofit Mutual Benefit Corporation Law conflicts with any provision of this article, the provisions of this article shall apply. Each private self-insurer shall participate as a member in the fund as a condition of maintaining its certificate of consent to self-insure.
- (b) The fund shall be governed by a seven member board of trustees. The director shall hold ex officio status, with full powers equal to those of a trustee, except that the director shall not have a vote. The director, or a delegate authorized in writing to act as the director's representative on the board of trustees, shall carry out exclusively the responsibilities set forth in Division 1 (commencing with Section 50) through Division 4 (commencing with Section 3200) and shall not have the obligations of a trustee under the Nonprofit Mutual Benefit Corporation Law. The fund shall adopt bylaws to segregate the director from all matters which may involve fund litigation against the department or fund participation in legal proceedings before the director. Although not voting, the director or a delegate authorized in writing to represent the director, shall be counted toward a quorum of trustees. The remaining six trustees shall be representatives of private self-insurers. The self-insurer trustees shall be elected by the members of the fund, each member having one vote. Three of the trustees initially elected by the members shall serve two-year terms, and three shall serve four-year terms. Thereafter, trustees shall be elected to four-year terms, and shall serve until their successors are elected and assume office pursuant to the bylaws of the fund.
- (c) The fund shall establish such bylaws as are necessary to effectuate the purposes of this article and to carry out the responsibilities of the fund. The fund may carry out its responsibilities directly or by contract, and may purchase services and insurance and borrow funds as it deems necessary for the protection of the members and their employees.
- (d) The fund may receive confidential information concerning the financial condition of self-insured employers whose liabilities to pay compensation may devolve upon it and shall adopt bylaws to prevent dissemination of such information.
  - SEC. 17. Section 3744 of the Labor Code is amended to read:
- 3744. (a) The fund shall have the right and obligation to obtain reimbursement from an insolvent self-insurer up to the amount of the self-insurer's workers' compensation obligations paid and assumed by the fund, including reasonable administrative and legal costs. This right includes, but is not limited to, a right to claim for wages and other necessities of life advanced to claimants as subrogee of the claimants in any action to collect against the self-insured as debtor.
  - (b) The fund shall have the right and obligation to obtain from the

security deposit of an insolvent self-insurer the amount of the self-insurer's compensation obligations, including reasonable administrative and legal costs, paid or assumed by the fund. Reimbursement of administrative costs, including legal costs, shall be subject to approval by a majority vote of the fund's trustees. The fund shall be a party in interest in any action to obtain the security deposit for the payment of compensation obligations of an insolvent self-insurer.

- (c) The fund shall have the right to bring an action against any person to recover compensation paid and liability assumed by the fund, including, but not limited to, any excess insurance carrier of the self-insured employer, and any person whose negligence or breach of any obligation contributed to any underestimation of the self-insured employer's total accrued liability as reported to the director.
- (d) The fund may be a party in interest in any action brought by any other person seeking damages resulting from the failure of an insolvent self-insurer to pay workers' compensation required pursuant to this division.
  - SEC. 18. Section 3745 of the Labor Code is amended to read:
- 3745. (a) The fund shall maintain cash, readily marketable securities, or other assets, or a line of credit, approved by the director, sufficient to immediately continue the payment of the compensation obligations of an insolvent self-insurer pending assessment of the members. The director may establish the minimum amount to be maintained by, or immediately available to, the fund for this purpose.
- (b) The fund may assess each of its members a pro rata share of the funding necessary to carry out the purposes of this article. However, no member shall be assessed at one time in excess of 1.5 percent of the benefits paid by the member for claims incurred during the previous calendar year as a self-insurer, and total annual assessments in any calendar year shall not exceed 2 percent of the benefits paid for claims incurred during the previous calendar year. Funds obtained by assessments pursuant to this subdivision may only be used for the purposes of this article.
- (c) The trustees shall certify to the director the collection and receipt of all moneys from assessments, noting any delinquencies. The trustees shall take any action deemed appropriate to collect any delinquent assessments.
- 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.
- 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 for the Director of Industrial Relations to receive reports from self-insured employers as soon as possible, it is necessary for this act to take effect immediately.

#### CHAPTER 1129

An act to amend Section 44276 of the Education Code, relating to education.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 44276 of the Education Code is amended to read:

44276. (a) The Legislature hereby finds and declares that California's public school pupils need quality instruction and support in the areas of computer education in order to develop the skills necessary for entry into an increasingly technological society. The Legislature recognizes that computers and other technologies are an integral part of contemporary society and the state educational system.

It is the intent of the Legislature in enacting this section to provide a statewide standard for the preparation of educational personnel in the areas of computer education.

- (b) For purposes of this section, "computer education" means the process of teaching pupils about computers.
- (c) The Commission on Teacher Credentialing, in consultation with the Superintendent of Public Instruction, may develop and disseminate voluntary standards for the training and performance of teachers and resource personnel in the area of computer education.
- (d) The Commission on Teacher Credentialing shall study the effectiveness of the training and performance of teachers and resource personnel in the area of computer education, and shall submit a report on the results of the study to the Legislature on or before December 31, 1987. In conducting this study, the Commission on Teacher Credentialing shall consider the following:
- (1) The feasibility of requiring, by July 1, 1989, that all public school teachers who teach courses in computers shall possess a certificate of computer education competence issued by the Commission on Teacher Credentialing.
- (2) The appropriateness of requiring a certificate of computer education competence for teaching courses in computer-related educational technology.
  - (3) The feasibility of alternatives to completing coursework by

which public school teachers may demonstrate computer education competence, for the purpose of meeting credential and certificate requirements.

#### CHAPTER 1130

An act to amend Sections 10201 and 10205 of the Unemployment Insurance Code, relating to employment training.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 10201 of the Unemployment Insurance Code is amended to read:

10201. As used in this chapter:

- (a) "Employer" means any employer subject to Part 1 (commencing with Section 100) of Division 1, except any public entity, as defined by paragraph (3) of subdivision (a) of Section 135, and any nonprofit organization, as described in Section 608, that does not make contributions to the Employment Training Fund pursuant to Section 976.6.
- (b) "Eligible participant" means any person who, prior to beginning training or employment pursuant to this chapter, was either of the following:
- (1) Unemployed and either receiving unemployment insurance benefits, or had exhausted eligibility for unemployment insurance benefits within the previous 52 weeks.
- (2) Is employed but is determined by the panel to be likely to be displaced and therefore claiming unemployment insurance benefits because of reductions in overall employment within a business, elimination of the person's current job, or a substantial change in the skills required to remain employed due to technological change or other factors.
- (c) "Panel" means the Employment Training Panel created by Section 10202.
- (d) "Fund" means the Employment Training Fund created by Section 1610.
- (e) "Department" means the Employment Development Department.
- (f) "Training agency" means any private training entity or local educational agency.
- SEC. 2. Section 10205 of the Unemployment Insurance Code is amended to read:

10205. The panel shall do all of the following:

(a) Solicit proposals and write contracts on the basis of proposals made directly to it and on the basis of the recommendations of the

local review panels. Contracts may be written with any employer or any group of employers acting jointly or any training agency for the purpose of providing employment training. These contracts shall be in the form of fixed-fee performance contracts. Notwithstanding any provision of law to the contrary, contracts entered into pursuant to this chapter shall not be subject to competitive bidding procedures. No trainee shall receive employment training under this chapter for a period of more than 18 months. Contracts for training may be written for a period not to exceed 24 months for the purpose of administration by the panel and the contracting employer or any group of employers acting jointly or any training agency for the purpose of providing employment training.

- (b) Allocate the Employment Training Fund. In doing so, the panel shall seek to facilitate the employment of the maximum number of eligible participants in jobs with definite career potential and long-term job security. In no case shall the statewide allocation be based solely on population. Nothing in this chapter shall be construed to preclude the panel from entering into contracts with employers, groups of employers, or training agencies for the provision of training in multijurisdictional areas of the state. In writing contracts, priority shall be given to employers and training for employers who are expanding their business enterprises in this state, to employers and training for employers who are establishing enterprises in areas targeted for economic development by the Department of Commerce, and to employers and training for employers in industries in which there are critical skills shortages. Preference shall be given to apprenticeship and similar training in which a person is employed at the commencement of training.
- (c) Establish minimum standards for the consideration of proposals, which shall include, but not be limited to, the identification of employers who will employ successful trainees, the number of jobs available, the skill requirements for the identified jobs, the projected cost per trainee, and the wage level of the available jobs. No proposal shall be considered which proposes training for employment covered by a collective-bargaining agreement unless the signatory labor organization agrees in writing.
- (d) Ensure the provision of adequate fiscal and accounting controls for, monitoring and auditing of, and other appropriate technical and administrative assistance to, projects funded by this chapter.
- (e) Provide for evaluation of projects funded by this chapter. Individual project evaluations shall contain a summary description of the project, the number of persons entering training, the number of persons completing training, the number of persons employed at the end of the project, the number of persons still employed three months after the end of the project, the wages paid, the total costs of the project, and the total reimbursement received from the Employment Training Fund.
  - (f) Report annually to the Legislature, by November 30, on

projects operating during the previous state fiscal year. These annual reports shall provide separate summaries of all of the following:

(1) Projects completed during the year, including their individual

and aggregate performance and cost.

- (2) Projects not completed during the year, briefly describing each project and identifying approved contract amounts by contract and for this category as a whole, and identifying any projects in which funds are expected to be disencumbered.
- (3) Projects terminated prior to completion and the reasons for the termination.

In addition, based upon its experience in administering job training projects, the panel shall include in these reports policy recommendations concerning the impact of job training and the panel's program on economic development, labor-management relations, employment security, and other related issues. To assist in the preparation of the policy recommendations, the chair of the panel may appoint an advisory research council.

(g) Expedite the processing of contracts for firms considering locating or expanding businesses in the state, as determined by the

Department of Commerce.

# CHAPTER 1131

An act to add Sections 39254 and 39255 to the Education Code, relating to schools.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986]

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

SECTION 1. Section 39254 is added to the Education Code, to read:

- 39254. (a) Pursuant to the finding by the governing board of any school district that school overcrowding exists in the district, the governing board may enter into agreement with any school district or community college district for the use, as necessary for the district's purposes, of facilities that are situated outside of the territory of that school district.
- (b) The State Department of Education shall, for the purposes of this section, adopt standards and criteria to govern the determination of school overcrowding.
- SEC. 2. Section 39255 is added to the Education Code, to read: 39255. (a) The Superintendent of Public Instruction and the Chancellor of the California Community Colleges, with the assistance of school district governing boards, shall develop standards and procedures that shall apply to any joint use of community college facilities by community college students and high school pupils

under any agreement authorizing the use by a school district of those facilities.

- (b) The standards and procedures shall address, but not necessarily be limited to, all of the following:
- (1) The transfer of funds allocated to school districts to community colleges to pay for district use of community college facilities.
- (2) The transportation of high school pupils to community college facilities.
- (3) The leasing of community college classrooms, or buildings, or both.
- (4) The concurrent enrollment of high school pupils in community colleges.
- (5) The combination of the leasing of community college facilities and concurrent enrollment approaches.
- (6) The development of procedures to ensure the personal safety of high school pupils while these pupils use community college facilities. These procedures shall also protect the liability interests of the community colleges, the school districts, the community college students, and the high school pupils.
- 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 1132

An act to amend Sections 53630, 53632.5, 53635.5, 53637, 53638, 53648, 53649, 53651, 53654, 53656, 53660, 53665, and 53667 of, to add Sections 53648.5, 53651.2, 53651.4, and 53651.6 to, to repeal Sections 53635.5, 53637, 53638, 53648, and 53650 of, and to repeal and add Sections 53652, 53653, 53657, and 53661 to, the Government Code, relating to local agencies, and making an appropriation therefor.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986]

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

SECTION 1. Section 53630 of the Government Code is amended to read:

53630. As used in this article:

(a) "Local agency" means county, city, city and county, including a chartered city or county, or other public agency or corporation in this state.

- (b) "Treasurer" means treasurer of the local agency.
- (c) "Depository" means a state or national bank, savings association or federal association, or a state or federal credit union located in this state in which the moneys of a local agency are deposited.
- (d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the Federal Home Loan Bank of San Francisco, which is authorized to act as an agent of depository for the purposes of this article pursuant to Section 53657.
- (e) "Security" means any of the eligible securities or obligations listed in Section 53651.
- (f) "Pooled securities" means eligible securities held by an agent of depository for a depository and securing deposits of one or more local agencies.
- (g) "Administrator" means the Administrator of Local Agency Security of the State of California.
- (h) "Savings association or federal association" means a savings association, savings and loan association, or savings bank as defined by Section 5102 of the Financial Code.
- (i) For purposes of being a depository of moneys belonging to or being in the custody of a local agency, the phrases "state or national bank located in this state," "state or national bank," "state or national bank in this state," and "state or national banks in the state" include a foreign bank licensed under Article 3 (commencing with Section 1750) of Chapter 13.5 of Division 1 of the Financial Code to maintain a branch office in this state or authorized under federal law to maintain a federal branch in this state.
- SEC. 2. Section 53632.5 of the Government Code is amended to read:

53632.5. There are three classes of security for deposits:

- (a) Securities described in subdivision (m) of Section 53651.
- (b) Securities described in subdivision (p) of Section 53651.
- (c) Securities enumerated in Section 53651, except for those described in subdivisions (m) and (p) of that section.
- SEC. 3. Section 53635.5 of the Government Code, as amended by Chapter 67 of the Statutes of 1981, is repealed.
- SEC. 4. Section 53635.5 of the Government Code, as amended by Chapter 983 of the Statutes of 1985, is amended to read:
- 53635.5. The purchase by a local agency of any investment authorized pursuant to Section 53635, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a savings association or a federal association, or from a brokerage firm designated as a primary government dealer by the Federal Reserve bank.

SEC. 5. Section 53637 of the Government Code as amended by Chapter 983 of the Statutes of 1985 is repealed.

SEC. 6. Section 53637 of the Government Code as amended by Chapter 659 of the Statutes of 1984 is amended to read:

- 53637. The money shall be deposited in any bank, savings association or federal association, or state or federal credit union, with the objective of realizing maximum return, consistent with prudent financial management, except that money shall not be deposited in any state or federal credit union if a member of the legislative body of a local agency, or an employee of the administrative office, 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.
- SEC. 7. Section 53638 of the Government Code as amended by Chapter 983 of the Statutes of 1985 is repealed.
- SEC. 8. Section 53638 of the Government Code as amended by Chapter 659 of the Statutes of 1984 is amended to read:
- 53638. (a) The deposit shall not exceed the shareholder's equity of any depositary bank. For the purposes of this subdivision, shareholder's equity shall be determined in accordance with Section 118 of the Financial Code, but shall be deemed to include capital notes and debentures.
- (b) The deposit shall not exceed the total of the net worth of any depositary savings association or federal association, except that deposits not exceeding a total of five hundred thousand dollars (\$500,000) may be made to a savings association or federal association without regard to the net worth of that depositary, if such deposits are insured or secured as required by law.
- (c) The deposit to the share accounts of any regularly chartered credit union shall not exceed the total of the unimpaired capital and surplus of the credit union, as defined by rule of the Commissioner of Corporations, except that the deposit to any credit union share account in an amount not exceeding five hundred thousand dollars (\$500,000) may be made if the share accounts of that credit union are insured or guaranteed pursuant to Section 14858 of the Financial Code or are secured as required by law.
- SEC. 9. Section 53648 of the Government Code, as amended by Chapter 983 of the Statutes of 1985, is repealed.
- SEC. 10. Section 53648 of the Government Code, as amended by Chapter 659 of the Statutes of 1984, is amended to read:
- 53648. Notwithstanding this article, the treasurer may deposit moneys in, and enter into contracts with, a state or national bank, savings association or federal association, or federal or state credit union, pursuant to a federal law or a rule of a federal department or agency adopted pursuant to the law if the law or rule conflicts with this article in regulating the payment of interest on deposits of public moneys by any of the following:

- (a) Banks which are Federal Reserve System members or whose deposits are insured by the Federal Deposit Insurance Corporation.
- (b) Savings associations or federal associations which are federal home loan bank members or whose deposits are insured by the Federal Savings and Loan Insurance Corporation.
- (c) State or federal credit unions whose accounts are insured by the National Credit Union Share Insurance Fund or guaranteed by the California Credit Union Share Guaranty Corporation or insured or guaranteed pursuant to Section 14858 of the Financial Code, unless a member of the legislative body of a local agency, or an employee of the administrative office, 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.
- SEC. 11. Section 53648.5 is added to the Government Code, to read:
- 53648.5. Upon the removal by federal law of the conflicting federal law or rule the agreement between the treasurer or other authorized official and a depository may be terminated by either party.
- SEC. 12. Section 53649 of the Government Code is amended to read:
- 53649. The treasurer is responsible for the safekeeping of money in his or her custody and shall enter into any contract with a depository relating to any deposit which in his or her judgment is to the public advantage. The depository, and the agent of depository to the extent the agent of depository has been notified of deposits and the amount thereof, are responsible for securing moneys deposited pursuant to such a contract in accordance with Section 53652. One copy of each such contract shall be filed with the auditor, controller, secretary, or corresponding officer of the local agency. The contract shall:
  - (a) Fix the duration of deposits, if appropriate.
  - (b) Fix the interest rate, if any.
  - (c) Provide conditions for withdrawal and repayment.
- (d) Provide for placement of pooled securities in a named agent of depository in accordance with Section 53656.
- (e) Grant authority for agent of depository to place securities for safekeeping in accordance with Section 53659.
- (f) Set forth in accordance with Section 53665 the conditions upon which the administrator shall order pooled securities converted into money for the benefit of the local agency, and the procedure therefor.
- (g) Provide for compliance in all respects with the provisions of this article and other applicable provisions of law.
  - SEC. 13. Section 53650 of the Government Code is repealed.
- SEC. 14. Section 53651 of the Government Code is amended to read:

- 53651. Eligible securities are any of the following:
- (a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.
- (b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.
- (c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of the bonds upon all property within its boundaries subject to taxation by the local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state, local agency or district or by a department, board, agency or authority thereof.
- (d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between the public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in the contract pursuant to that subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on the obligations.
  - (e) Registered warrants of this state.
- (f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the federal home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under that act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation

established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

- (g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.
  - (h) State of California notes.
- (i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued. pursuant to a law which may contemplate, a subsequent legislative appropriation as an assurance of the continued operation and solvency of the department, board, agency or authority but which. does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided the obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.
- (j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, the Asian Development Bank, or the African Development Bank.
- (k) Participation certificates of the Export-Import Bank of the United States.
- (1) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.
- (m) Promissory notes secured by first mortgages and first trust deeds which comply with Section 53651.2.
- (n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance those bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the Education Code.

- (o) Any municipal securities, as defined by Section 3(a) (29) of the Securities Exchange Act of June 6, 1934 (15 U.S.C. Sec. 78, as amended), which are issued by this state or any local agency thereof.
- (p) With the consent of the treasurer, letters of credit issued by the San Francisco Federal Home Loan Bank which comply with Section 53651.6.
- SEC. 15. Section 53651.2 is added to the Government Code, to read:
- (a) To be an eligible security under subdivision (m) of Section 53651, a promissory note placed in a securities pool on or after January 1, 1987, shall comply with all of the following provisions:
- (1) Each promissory note shall be secured by a first mortgage or first trust deed on improved 1 to 4 unit residential real property located in California, shall be fully amortized over the term of the note, and shall have a term of no more than 30 years. No promissory note shall provide for negative amortization.
- (2) Each promissory note shall be eligible for sale to the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation; provided, however, that up to 25 percent of the total dollar amount of any promissory note securities pool established pursuant to Section 53658 may consist of promissory notes with loan amounts which exceed the maximum amounts eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, but which do not exceed: (i) five hundred thousand dollars (\$500,000) in the case of a single family dwelling; (ii) one million dollars (\$1,000,000) in the case of a 2, 3, or 4 unit dwelling.
- (b) To be an eligible security under subdivision (m) of Section 53651, a promissory note which was placed in a securities pool on or before December 31, 1986, and which remains in that securities pool continuously thereafter shall comply with all the requirements of subdivision (m) of Section 53651, as in effect on December 31, 1986, and of the regulations of the administrator adopted under that subdivision (m), as in effect on December 31, 1986.
- (c) The following shall not constitute eligible securities under subdivision (m) of Section 53651:
- (1) Any promissory note on which any payment is more than 90 days past due.
- (2) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust. For the purposes of this paragraph, no lien specified in Section 766 of the Financial Code shall be considered a prior encumbrance unless any installment or payment thereunder (other than a rental or royalty under a lease) is due and delinquent.
- (3) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

- (d) The depository may exercise, enforce, or waive any right granted to it by the promissory note, mortgage, or deed of trust.
- (e) For purposes of this article, the market value of a promissory note which is an eligible security under subdivision (m) of Section 53651, shall be determined in accordance with the regulations adopted by the State Treasurer under paragraph (2) of subdivision (m) of Section 53651, as the regulations and statute were in effect on December 31, 1986. However, if an when regulations on the subject are adopted by the administrator, the market value shall be determined in accordance with those regulations of the administrator.
- SEC. 16. Section 53651.4 is added to the Government Code, to read:
- 53651.4. (a) A depository which uses eligible securities of the class described in subdivision (m) of Section 53651 shall, within 90 days after the close of each calendar year or within such longer period as the administrator may specify, file with the administrator a report of an independent certified public accountant regarding compliance with this article and with regulations and orders issued by the administrator under this article with respect to eligible securities of that class. The report shall be based upon such audit, shall contain such information, and shall be in such form as the administrator may prescirbe. The depository shall provide a copy of the report to the treasurer on request.
- (b) If a depository which is a state bank files with the administrator, not less than 180 days before the beginning of the calendar year, a notice that it elects to be examined by the administrator instead of filing a report of an independent certified public accountant under subdivision (a) for that calendar year, the depository shall be exempt from subdivision (a) for that calendar year and shall for that calendar year be subject to examination by the administrator regarding compliance with this article and with regulations and orders under this article with respect to eligible securities of the class described in subdivision (m) of Section 53651.
- (c) A national bank may apply to the administrator to be examined, and the administrator, in his or her discretion, may examine a national bank for the purposes of satisfying the requirements of subdivision (a).
- (d) Whenever the administrator examines a depository pursuant to subdivision (b) or (c) the depository shall pay, within 30 days after receipt of a statement from the administrator, a fee of two hundred dollars (\$200) per day for each examiner engaged in the examination.
- SEC. 17. Section 53651.6 is added to the Government Code, to read:
- 53651.6. (a) To be an eligible security under subdivision (p) of Section 53651, a letter of credit shall be in such form and shall contain such provisions as the administrator may prescribe, and shall include all of the following terms:

- (1) The administrator shall be the beneficiary of the letter of credit.
- (2) The letter of credit shall be clean and irrevocable and shall provide that the administrator may draw upon it up to the total amount in the event of the failure of the depository savings association or federal association or if the depository savings association or federal association refuses to permit the withdrawal of funds by a treasurer.
  - SEC. 18. Section 53652 of the Government Code is repealed.
- SEC. 19. Section 53652 is added to the Government Code, to read: 53652. To secure active or inactive deposits a depository shall at all times maintain with the agent of depository eligible securities in securities pools, pursuant to Sections 53656 and 53658, in the amounts specified in this section. Uncollected funds shall be excluded from the amount deposited in the depository when determining the security requirements for the deposits.
- (a) Eligible securities, except eligible securities of the classes described in subdivisions (m) and (p) of Section 53651, shall have a market value of at least 10 percent in excess of the total amount of all deposits of a depository secured by the eligible securities.
- (b) Eligible securities of the class described in subdivision (m) of Section 53651 shall have a market value at least 50 percent in excess of the total amount of all deposits of a depository secured by those eligible securities.
- (c) Eligible securities of the class described in subdivision (p) of Section 53651 shall have a market value of at least 5 percent in excess of the total amount of all deposits of a depository secured by those eligible securities. For purposes of this article, the market value of a letter of credit which is an eligible security under subdivision (p) of Section 53651 shall be the amount of credit stated in the letter of credit.
- SEC. 20. Section 53653 of the Government Code, as amended by Chapter 659 of the Statutes of 1984, is repealed.
- SEC. 21. Section 53653 is added to the Government Code, to read: 53653. When in his or her discretion local conditions so warrant, the treasurer may waive security for the portion of any deposits as is insured pursuant to federal law, notwithstanding this article.
- SEC. 22. Section 53654 of the Government Code is amended to read:
- 53654. (a) The depository may add securities to the pool or substitute securities of equal value for those in the pool at any time, but shall not interchange classes of security, as defined in Section 53632.5, without prior approval of the treasurer.
- (b) Withdrawal of securities from the pool without replacement at equal value may be ordered only by two duly authorized officers or employees of the depository who satisfy the requirements as may be set by the administrator.
- (c) The agent of depository is responsible for the safekeeping and disbursement of securities placed in its custody by a depository. It.

shall release securities only upon presentation by the depository of the most reasonably current statement of the total deposits subject to this article held by the depository, such statement to be verified and countersigned by two duly authorized officers, other than those who ordered the withdrawal of securities. A copy of this statement shall be forwarded to the administrator concurrently by the agent of depository.

- SEC. 23. Section 53656 of the Government Code is amended to read:
- 53656. (a) At the time the treasurer enters into a contract with the depository pursuant to Section 53649, he or she shall authorize the agent of depository designated by the depository, but including the trust department of the depository only when acceptable to both the treasurer and the depository, to hold securities of the depository in accordance with this article to secure the deposit of the local agency.
- (b) Only those trust companies and trust departments, or the Federal Home Loan Bank of San Francisco, which have been authorized by the administrator pursuant to Section 53657 shall be authorized by treasurers to act as agents of depository.
- (c) The securities are subject to order of the depository in accordance with Section 53654 except when the provisions of subdivision (i) of Section 53661 and Section 53665 are in effect.
  - SEC. 24. Section 53657 of the Government Code is repealed.
- SEC. 25. Section 53657 is added to the Government Code, to read: 53657. (a) No person shall act as an agent of depository unless that person is a trust company located in this state, the trust department of a bank located in this state, or the Federal Home Loan Bank of San Francisco, and is authorized by the administrator to act
- as an agent of depository.

  (b) (1) An application for authorization shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the administrator so requires) be verified in such manner,
- as the administrator may prescribe.

  (2) The fee for filing an application for authorization with the administrator shall be five hundred dollars (\$500).
- (3) If the administrator finds, with respect to an application for authorization, that the applicant is competent to act as an agent of depository and that it is reasonable to believe the applicant will comply with all applicable provisions of this article and of any regulation or order issued under this article, the administrator shall approve the application. If the administrator finds otherwise, the administrator shall deny the application.
- (4) When an application for authorization has been approved, the applicant shall file with the administrator an agreement to comply with all applicable provisions of this article and of any regulation or order issued under this article. The agreement shall be in such form, shall contain such provisions, and shall be signed in such manner as the administrator may prescribe.

- (5) When an application for authorization has been approved, the applicant has complied with paragraph (4), and all conditions precedent to authorizing the applicant to act as agent of depository have been fulfilled, the administrator shall authorize the applicant to act as agent of depository.
- (c) If a trust company located in this state, the trust department of a bank located in this state, or the Federal Home Loan Bank of San Francisco was eligible to act as an agent of depository on December 31, 1986, under Section 53657, as in effect on December 31, 1986, and the regulations adopted by the administrator under that Section 53657, as in effect on December 31, 1986, that institution shall, as of January 1, 1987, be deemed to be authorized to act as agent of depository, and the administrator shall, as of January 1, 1987, authorize that institution to act as an agent of depository.
- SEC. 26. Section 53660 of the Government Code is amended to read:
- 53660. When deposits of a local agency are secured by pooled securities pursuant to Section 53656, the agent of depository shall make available to the treasurer for review at a mutually agreed upon time and location all of the following information which may be in the form of a copy of the report required in subdivision (e) of Section 53661:
- (a) A certification that there are securities in the pool in the amounts required by Section 53652 to secure deposits.
- (b) A certified report of the individual securities then on deposit in the pool with the location and total market value thereof.
- (c) The total amount of deposits then reported by the depository to be secured by the pool.
- SEC. 27. Section 53661 of the Government Code as amended by Chapter 1288 of the Statutes of 1980 is repealed.
- SEC. 28. Section 53661 of the Government Code as amended by Chapter 659 of the Statutes of 1984 is repealed.
- SEC. 29. Section 53661 is added to the Government Code, to read: 53661. (a) The Superintendent of Banks shall act as Administrator of Local Agency Security and shall be responsible for the administration of Sections 53638, 53651, 53651.2, 53651.4, 53651.6, 53652, 53654, 53655, 53656, 53657, 53658, 53659, 53660, 53661, 53663, 53664, 53665, 53666, and 53667.
- (b) The administrator shall have such powers as may be necessary or convenient to administer and enforce the sections specified in subdivision (a).
- (c) (1) The administrator shall issue regulations consistent with law as the administrator may deem necessary or advisable in executing the powers, duties, and responsibilities assigned by this article. The regulations may include regulations prescribing standards for the valuation, marketability, and liquidity of the eligible securities of the class described in subdivision (m) of Section 53651, regulations prescribing procedures and documentation for adding, withdrawing, substituting, and holding pooled securities, and

regulations prescribing the form, content, and execution of any application, report, or other document called for in any of the sections specified in subdivision (a) or in any regulation or order issued under any of those sections.

- (2) The administrator, for good cause, may waive any provision of any regulation adopted pursuant to paragraph (1) or any order issued under this article, where the provision is not necessary in the public interest.
- (d) The administrator may enter into any contracts or agreements as may be necessary, including joint underwriting agreements, to sell or liquidate eligible securities securing local agency deposits in the event of the failure of the depository or if the depository fails to pay all or part of the deposits of a local agency.
- (e) The administrator shall require from every depository a report certified by the agent of depository listing all securities, and the market value thereof, which are securing local agency deposits together with the total deposits then secured by the pool, to determine whether there is compliance with Section 53652. These reports may be required whenever deemed necessary by the administrator, but shall be required at least four times each year at the times designated by the Comptroller of the Currency for reports from national banking associations. These reports shall be filed in the office of the administrator by the depository within 20 business days of the date the administrator calls for the report.
- (f) The administrator may have access to reports of examination made by the Comptroller of the Currency insofar as the reports relate to national banking association trust department activities which are subject to this article.
- (g) (1) The administrator shall require the immediate substitution of an eligible security, where the substitution is necessary for compliance with Section 53652, if (i) the administrator determines that a security listed in Section 53651 is not qualified to secure public deposits, or (ii) a treasurer, who has deposits secured by the securities pool, provides written notice to the administrator and the administrator confirms that a security in the pool is not qualified to secure public deposits.
- (2) The failure of a depository to substitute securities, where the administrator has required the substitution, shall be reported by the administrator promptly to those treasurers having money on deposit in that depository and, in addition, shall be reported as follows:
- (A) When that depository is a national bank, to the Comptroller of the Currency of the United States.
- (B) When that depository is a state bank, to the Superintendent of Banks.
- (C) When that depository is a federal association, to the Federal Home Loan Bank Board.
- (4) When that depository is a savings association, to the Savings and Loan Commissioner.
  - (5) When that depository is a federal credit union, to the National

Credit Union Administration.

- (6) When that depository is a state credit union, to the Commissioner of Corporations.
- (h) The administrator may require from each treasurer a registration report and at appropriate times a report stating the amount and location of each deposit together with other information deemed necessary by the administrator for effective operation of this article. The facts recited in any report from a treasurer to the administrator are conclusively presumed to be true for the single purpose of the administrator fulfilling responsibilities assigned to him or her by this article and for no other purpose.
- (i) (1) If, after notice and opportunity for hearing, the administrator finds that any depository or agent of depository has violated or is violating, or that there is reasonable cause to believe that any depository or agent of depository is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued under any of those sections, the administrator may order the depository or agent of depository to cease and desist from the violation or may by order suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.
- (2) (A) If the administrator makes any of the findings set forth in paragraph (1) with respect to any depository or agent of depository and, in addition, finds that the violation or the continuation of the violation is likely to seriously prejudice the interests of treasurers, the administrator may order the depository or agent of depository to cease and desist from the violation or may suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.
- (B) Within five business days after an order is issued under subparagraph (A), the depository or agent of depository may file with the administrator an application for a hearing on the order. The administrator shall schedule a hearing at least 30 days, but not more than 40 days, after receipt of an application for a hearing or within a shorter or longer period of time agreed to by a depository or an agent of depository. If the administrator fails to schedule the hearing within the specified or agreed to time period, the order shall be deemed rescinded. Within 30 days after the hearing, the administrator shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded. The right of a depository or agent of depository to which an order is issued under subparagraph (A) to petition for judicial review of the order shall not be affected by the failure of the depository or agent of depository to apply to the administrator for a hearing on the order pursuant to this subparagraph.
- (3) Whenever the administrator issues a cease and desist order under paragraph (1) or (2), the administrator may in the order

restrict the right of the depository to withdraw securities from a security pool; and, in that event, both the depository to which the order is directed and the agent of depository which holds the security pool shall comply with the restriction.

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- (4) In case the administrator issues an order under paragraph (1) or (2) suspending or revoking the authorization of an agent of depository, the administrator may order the agent of depository at its own expense to transfer all pooled securities held by it to such agent of depository as the administrator may designate in the order. The agent of depository designated in the order shall accept and hold the pooled securities in accordance with this article and regulations and orders issued under this article.
- (j) In the discretion of the administrator, whenever it appears to the administrator that any person has violated or is violating, or that there is reasonable cause to believe that any person is about to violate any of the sections specified in subdivision (a) or any regulation or order issued thereunder, the administrator may 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 those sections or any regulation or order issued thereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and the court may not require the administrator to post a bond.
- (k) In addition to other remedies, the administrator shall have the power and authority to impose the following sanctions for noncompliance with the sections specified in subdivision (a) after a hearing if requested by the party deemed in noncompliance.
- (1) Assess against and collect from a depository a fine not to exceed two hundred fifty dollars (\$250) for each day the depository fails to maintain with the agent of depository securities as required by Section 53652.
- (2) Assess against and collect from a depository a fine not to exceed one hundred dollars (\$100) for each day beyond the time period specified in subdivision (b) of Section 53663 the depository negligently or willfully fails to file in the office of the administrator a written report required by that section.
- (3) Assess against and collect from a depository a fine not to exceed one hundred dollars (\$100) for each day beyond the time period specified in subdivision (e) of Section 53661 that a depository negligently or willfully fails to file in the office of the administrator, a written report required by that section.
- (4) Assess and collect from an agent of depository a fine not to exceed one hundred dollars (\$100) for each day the agent of depository fails to comply with any of the applicable sections specified in subdivision (a) or any applicable regulation or order issued thereunder.
- SEC. 30. Section 53665 of the Government Code is amended to read:
  - 53665. If a depository fails to pay all or part of the deposits of a

local agency secured by pooled securities in accordance with the contract provided for in Section 53649, and on demand of its treasurer or other authorized official and the treasurer files a report with the administrator, or if the depository fails:

- (a) In case the pooled securities consist of securities other than securities of the class described in subdivision (p) of Section 53651, the administrator shall order the agent of depository holding the pooled securities to convert into money that portion of the pooled securities necessary to produce an amount equal to the sum of (i) the deposits of the local agency, (ii) any accrued interest due on the deposits, and (iii) the reasonable expenses of the agent of depository in complying with the order of the administrator and to pay the sum of items (i) and (ii) to the treasurer in satisfaction of the deposits. The agent of depository shall be reimbursed out of the proceeds of the conversion for its reasonable expenses in complying with the order of the administrator, as approved by the administrator. Any excess moneys resulting from the conversion shall be retained by the agent of depository as part of the securities pool until the depository substitutes for the excess moneys securities having a market value sufficient to bring the total of pooled securities up to the amount required by Section 53652.
- (b) In case the pooled securities consist of a security of the class described in subdivision (p) of Section 53651, the administrator shall draw on the letter of credit an amount equal to the sum of (i) the deposits of the local agency, (ii) any accrued interest on the deposits, and (iii) the reasonable expenses of the administrator in paying the deposits and pay the sum of items (i) and (ii) to the treasurer in satisfaction of the deposits.
- SEC. 31. Section 53667 of the Government Code is amended to read:
- 53667. (a) Expenses incurred by the administrator in carrying out the duties and responsibilities assigned to the administrator by the sections specified in subdivision (a) of Section 53661, shall be borne by the Local Agency Deposit Security Fund, which is hereby created and continuously appropriated to the administrator for the administration of the sections specified in subdivision (a) of Section 53661. This fund shall consist of fines levied pursuant to Section 53661, fees collected pursuant to the sections specified in subdivision (a) of Section 53661, and assessments levied pursuant to this section.
- (b) Each fiscal year the administrator shall levy an assessment on a pro rata basis on those depositories which at any time during the preceding fiscal year held local agency deposits which were secured pursuant to this article. The total assessment levied on all of those depositories shall be in an amount which, when added to the amount of fines and fees that the administrator estimates will be collected during the fiscal year when the assessment is levied, is sufficient in the judgment of the administrator to meet the expenses of the administrator in administering the sections specified in subdivision (a) of Section 53661 and to provide a reasonable reserve for

contingencies. The basis of the apportionment of the assessment among the depositories assessed shall be the proportion that the average amount of local agency deposits held by each of those depositories bears to the average total amount of local agency deposits held by all of those depositories as shown by the reports of depositories to the administrator for the preceding fiscal year, as required in subdivision (e) of Section 53661; provided, however, that the amount of the assessment levied on each of those depositories shall be not less than twenty-five dollars (\$25).

(c) On or before the last day of each fiscal year the administrator shall notify each depository by mail of the amount levied against it. The depository shall pay the amount levied within 20 days after such notice into the Local Agency Deposit Security Fund for the administration of the sections specified in subdivision (a) of Section 53661. If payment is not made to the administrator within such time, the administrator shall assess and collect, in addition to the annual assessment, a penalty of 5 percent of the assessment for each month or part thereof that the payment is delinquent.

SEC. 32. The sum of ninety thousand dollars (\$90,000) is hereby appropriated from the Local Agency Deposit Security Fund to provide funding to the administrator for expenses and 4.0 personnel years to carry out the additional supervision and enforcement duties provided in Section 53661 of the Government Code.

SEC. 33. The amendment of subdivision (a) of Section 53630 of the Government Code made by Section 1 of this act does not constitute a change in, but is declaratory of, the existing law.

# CHAPTER 1133

An act to amend Section 7587 of the Government Code, to add Section 255.3 to the Health and Safety Code, and to amend Items 4440-131-001 and 6100-161-001 of Section 2.00 of Chapter 186 of the Statutes of 1986, relating to minors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 7587 of the Government Code is amended to read:

7587. By January 1, 1986, each state department named in this chapter shall develop regulations, as necessary, for the department or designated local agency to implement this act. All regulations shall be reviewed by the Superintendent of Public Instruction prior to filing with the Office of Administrative Law, in order to ensure

consistency with federal and state laws and regulations governing the education of handicapped children. The directors of each department shall adopt all regulations pursuant to this section as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall not be subject to automatic repeal until the final regulations take effect on or before May 1, 1987, and the final regulations shall become effective immediately upon filing with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

SEC. 2. Section 255.3 is added to the Health and Safety Code, to read:

255.3. When the California Children's Service medical therapy unit conference team, based on a medical referral recommending medically necessary occupational or physical therapy in accordance with subdivision (b) of Section 7575 of the Government Code, finds that a handicapped child, as defined in Section 250.5, needs medically necessary occupational or physical therapy, that child shall be determined to be eligible for therapy services. If the California Children's Services medical consultant disagees with such a determination of eligibility by the California Children's Services medical therapy unit conference team, the medical consultant shall communicate with the conference team to ask for further justification of its determination, and shall weigh the conference team's arguments in support of its decision in reaching his or her own determination.

This section shall not change eligibility criteria for the California Children's Services programs as described in Sections 250.5 and 253.5.

This section shall not apply to children diagnosed as specific learning disabled, unless they otherwise meet the eligibility criteria of the California Children's Services.

SEC. 3. Item 4440-131-001 of Section 2.00 of Chapter 186 of the Statutes of 1986 is amended to read:

4440-131-001—For local assistance, Department of Mental Health	2,000,000
Schedule:	
(a) 10.80-Assessments, Treatment, and	
Case Management of special edu-	
cation pupils pursuant to Chapter	
1747 of the Statutes of 1984 and	
Chapter 1274 of the Statutes of	
1985 4,700,000	

- (b) Reimbursements ...... -2,700,000 Provisions:
- No funds in this item shall be encumbered sooner than 30 days after notification in writing of the necessity thereof to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee or his or her designee, may in each instance determine.
- Notwithstanding any other provision of law counties shall not be required to match funds in this item for services provided pursuant to Chapter 1747 of the Statutes of 1984 and Chapter 1274 of the Statutes of 1985.
- 3. In allocating to the counties funds for services to severely emotionally disturbed children as defined by paragraph 8 of subdivison (b) of Section 300.5 of Title 34 of the Code of Federal Regulations, the Department of Mental Health may allocate the funds based on the individual county's needs, in lieu of Section 5600 of the Welfare and Institutions Code.

By January 1, 1987, the Director of the Department of Mental Health shall submit to the Legislature a report addressing the following issues: the manner in which the funds were allocated; factors considered by the department in developing a methodolgy for allocating funds to the counties; whether mental health treatment services were to be provided, or were funds solely for assessments and case management services; whether more funds will be needed later for treatment services; specific criteria used to identify a severely emotionally disturbed child and determine whether or not the child required mental health treatment; specific case management services to be provided to these children, and manner in which these services differ from those already provided for by the Department of Social Services; and whether treatment is for persons having previously received Department of Mental Health services or for new patient treatment services and degree of treatment provided for each.

SEC. 4. Item 6100-161-001 of Section 2.00 of Chapter 186 of the Statutes of 1986 is amended to read:

901,457,000

- Funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1986–87 fiscal year pursuant to Section 14002 and 41301 of the Education Code, for apportionment pursuant to Part 30 of the Education Code, superseding all prior law.
- 2. No more than \$350,000 of the funds appropriated by this item may be used for in-service training for special education teacher.
- 3. Of the amount appropriated in this item, no more than \$31,114,000 may be used for the purposes of Article 9 (commencing with Section 56780) of Chapter 7 of Part 30 of the Education Code.
- 4. Of the amount appropriated in this item, \$24,-100,000 shall be available for program growth pursuant to Section 56728.6 of the Education Code. The funds allocated pursuant to this provision and Provision 5 shall be the only funds available in this item for program growth.
- 5. Of the amount appropriated in this item, \$5,000,000 shall be available for growth in the number of instructional personnel service units in programs for individuals with exceptional needs who are younger than three years of age, as defined in Section 56026 of the Education Code. These funds shall be allocated for instructional personnel service units, with the following average number of pupils per unit:
  - (a) For special classes and centers-16,
  - (b) For resource specialist programs—24,
  - (c) For designated instructional services-16.
- 6. Of the amount appropriated in this item, \$200,000 shall be used for the purposes of Chapter 4.6 (commencing with Section 56460) of Part 30 of the Education Code.
- Of the amount appropriated in this item, no more than \$300,000 shall be available for the purposes of Section 56775.5 of the Education

Code.

- 8. Of the amount appropriated in this item, \$1,000,-000 shall be available for the development of a model transition program which provides for the transition from school to working life for individuals with exceptional needs through an outcome-oriented process encompassing broad array of services and experiences that lead to employment. Transition is a period that includes high school, the point of graduation, additional postsecondary education or adult services, and the initial years of employment. The model transition program shall offer opportunities and services for a broad range of individuals with exceptional needs including, but not limited to: (1) Employment and academic training; (2) Strategic planning; (3) Interagency coordination; and (4) Parent training. The program shall build on existing resources and knowledge and will include, but not be limited to: (1) The development and provision of inservice training programs, resource materials, and handbooks that include the major components of an effective school based transition program: (3) The development of the role and responsibilities of special education in the transition process; (4) The development and implementation of systematic and longitudinal vocational education curriculum; (5) The development of materials, resource manuals, and inservices training programs to support the active participation of parents in the planning and implementation of transition-related goals and activities; (6) The development of resources and in-service training that will support the implementation of individualized transition planning for all individuals with exceptional needs: and (7) A research and development program that will support the major programmatic aspects of the model transition program. The Superintendent of Public Instruction shall submit a report to the education policy and fiscal committees of the Legislature by March 1, 1987, describing the accomplishments of the model transition program and goals and objectives for the subsequent year.
- Notwithstanding Section 56728 of the Education Code, for the purposes of computing funding for aides other than those in classes for the severely

- handicapped, a full-time equivalent aide shall be equivalent to 0.925 times a full-time equivalent aide entitlement for those aides in the 1980– 81 fiscal year. \$16,800,000 of the funds appropriated in this item are available for the purposes of this provision.
- 10. \$7,000,000 of the funds appropriated in this item are available for purchase of specialized books, materials, and equipment for pupils with low-incidence disabilities, as defined in Section 56026.5 of the Education Code.
- 11. \$3,500,000 of the funds appropriated in this item are available for matching funds for the purposes of PL98-524, and for vocational training and job placement for special education students. As a condition of receiving these funds, each agency must certify that the amount of nonfederal resources, exclusive of funds received pursuant to this provision, devoted to the provision of vocational education for special education pupils shall be maintained at or above the level provided in 1984-85. The Superintendent of Public Instruction may waive this requirement for agencies which can demonstrate that the requirement would impose a severe hardship.
- Of the funds appropriated in this item, \$1,100,000 shall be available for the purposes of paragraph (2) of subdivision (a) of Section 46201.5 of the Education Code.
- 13. Of the funds appropriated in this item, \$2,700,000 is available for transfer to the Department of Mental Health for the purpose of conducting assessments required by Section 7572 and 7572.5 of the Government Code and for providing mental health treatment services.
- 14. Of the funds appropriated in this item, \$5,400,000 is available for transfer to the Department of Social Services for the purposes of Chapter 6 (commencing with Section 18350) of Part 6 of Division 9 of the Welfare and Institutions Code.
- 15. For the purpose of Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and Chapter 6 (commencing with Section 18350) of Part 6 of Division 9 of the Welfare and Institutions Code, the Superintendent of Public Instruction shall develop, by September 1, 1986, a standard methodology for use by local education agencies to identify the

appropriate noneducational costs of providing services to special education pupils. Based upon this methodology, local education agencies shall report to the superintendent, by November 1. 1986, the total costs incurred, including costs funded from state, federal, and local sources, for providing noneducational services in the 1985— 86 fiscal year to special education pupils who (1) received psychotherapy or other mental health services pursuant to an individualized education plan, or (2) were classified as seriously emotionally disturbed, as defined by paragraph 8. subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations, and received residential care pursuant to an individualized education plan. Local education agencies shall also report the number of pupils who met the above criteria in the 1985–86 fiscal year, and, for pupils with residential placements, the duration of such placements. The superintendent shall, for any education agency which he determines engaged in willful failure to report this data accurately, reduce funding provided pursuant to Chapter 7 (commencing with Section 56700) of Part 30 of the Education Code by 150 percent of the amount reported in error. The data collected by the superintendent shall be made available to the Legislature and the Department of Finance no later than November 15, 1986.

- 16. The Auditor General shall review the data reported by local education agencies pursuant to Provision 15 to determine if the amounts reported are accurate, and shall report his findings and recommendations to the Legislature and the Department of Finance by February 1, 1987. This review may be based, if necessary, upon a random sample. The Auditor General may adjust the reported costs by the percentage inflation adjustment provided in Item 6100-226-001(g) in order to reflect the effects of inflation on 1985-86 costs.
- 17. Based upon the recommendations of the Auditor General, as described in Provision 16, and the data collected by the Superintendent of Public Instruction, pursuant to Provision 15, the Director of Finance may transfer additional amounts from this item to the State Departments of Mental Health and Social Services, provided that such transfers shall be authorized not

- sooner than 30 days after notification in writing to the chairpersons of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of such committee, or his or her designee, may determine. The total amounts transferred, including the amounts transferred pursuant to Provisions 13 and 14. shall not exceed the amounts spent by local education agencies in the 1985-86 fiscal year, as verified and adjusted by the Auditor General. for providing residential care, psychotherapy, and other mental health services, pursuant to individualized education plans, to those pupils reported in Provision 15.
- 18. Notwithstanding any other provision of law, the superintendent shall ensure that special education entitlements are permanently reduced by the total amount transferred pursuant to Provisions 13, 14, and 17, in the following manner. First, the superintendent shall withdraw authorization for designated instructional service (DIS) units providing psychotherapy, as appropriate. Second, the superintendent shall ensure that nonpublic school entitlements calculated pursuant to Sections 56156.6, 56740, and 56775 of the Education Code are reduced by 70 percent of the total noneducational costs reported by local education agencies pursuant to Provision 15, as revised and adjusted by the Auditor General, exclusive of DIS-related costs. Third. the superintendent shall permanently reduce. on an equal, pro rata basis, all special education entitlements computed pursuant to Article 1 (commencing with Section 56700) of Chapter 7 of Part 30 of the Education Code by an amount equal to 30 percent of these noneducational costs, and by any additional amounts necessary to reduce entitlements by the total amount transferred pursuant to Provision 17. For purposes of this provision, the amount transferred to the State Department of Mental Health shall be deemed as not including the amount specified in Provision 19.
- 19. In the report required by Provision 16, the Auditor General shall estimate to what extent, if any, the amount recommended for transfer to the State Department Mental Health pursuant

to Provision 17 exceeds the amount expended by local education agencies in the 1985–86 fiscal year (as adjusted for inflation) for psychotherapy and other mental health services provided pursuant to an individualized education plan and which, pursuant to Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, will be provided by the State Department of Mental Health commencing in the 1986–87 fiscal year. Funds equal to the amount of this excess (as adjusted and verified by the Auditor General) shall be provided for purposes of Chapter 7 (commencing with Section 56700) of Part 30 of the Education Code through a deficiency appropriation.

- 20. It is the intent of the Legislature that the total amount paid to nonpublic schools for services rendered to seriously emotionally disturbed pupils with IEP-prescribed residential placements, including amounts paid for residential and educational services, shall not exceed total costs paid in the 1985-86 fiscal year for comparable types of students, as adjusted by the percentage inflation adjustment provided in Item 6100-226-001(g). The Auditor General shall collect information from state and local agencies and from nonpublic schools to determine the degree of compliance with this provision, and shall report his or her findings and recommendations to the Legislature, as appropriate.
- Of the funds appropriated in this item, \$150,000 shall be available for allocation to the Riverside County Office of Education for the purpose of leasing portable facilities for special education classes.
- SEC. 5. This act shall become operative on July 1, 1986.
- 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 for this act to become operative at the same time as other provisions relating to interagency responsibilities for providing services to handicapped children, it is necessary that this act take effect immediately.

#### CHAPTER 1134

An act to amend Section 66796.40 of the Government Code, to amend Section 42314.1 of, and to add Section 42315 to, the Health and Safety Code, and to amend Section 25523 of, and to add Section 21151.1 to, the Public Resources Code, relating to air pollution.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986]

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

SECTION 1. Section 66796.40 of the Government Code is amended to read:

- 66796.40. (a) An enforcement agency shall not issue, and the board shall not concur in the issuance of, a solid waste facilities permit to any stationary project designed to convert solid waste from offsite sources into energy or synthetic fuels until the enforcement agency makes all the following findings:
- (1) The proposed project meets the requirements specified in paragraphs (1) and (2) of subdivision (a) of Section 66796.34.
- (2) The proposed project is consistent with state solid waste management policy.
- (3) The proposed project has a defined source of waste, including waste available from existing solid waste transfer and processing stations.
- (4) The project is guaranteed, by contract or other commitments, more than sufficient quantities of waste to maintain the project's economic feasibility for the life of the bonded indebtedness of the project. In guaranteeing quantities of waste, those materials which are being recycled or which may reasonably be expected to be recycled shall not be included in these quantities.
- (5) The project applicant has considered for the inclusion in its project, or for the inclusion in its contracts or commitments for municipal waste, reasonable and feasible methods to remove recyclable materials from the waste stream prior to incineration.
- (b) Facilities for the recovery of methane gas from disposal sites are not subject to this section.
- SEC. 2. Section 42314.1 of the Health and Safety Code is amended to read:
- 42314.1. (a) Except as provided in subdivision (b), to the extent permissible under federal law, and notwithstanding any state or local new source review or prevention of significant deterioration rule or regulation, at the request of an applicant, a district shall issue permits for the construction of a project which burns municipal waste, landfill gas, or digester gas, if all of the following conditions are met:
- (1) The project produces less than 50 megawatts of electricity, except as provided in paragraph (4).
  - (2) The project will utilize the appropriate degree of pollution

control technology (BACT or LAER) required by the new source review rule of the district.

- (3) The project applicant has, in the judgment of the district, made a good faith effort to secure all available emission offsets to mitigate the impact of the project, but sufficient offsets or other mitigation measures are not available. The applicant, however, is required to secure all the offsets which are available to mitigate the air quality impact of the project, except for projects which constitute a modification to an existing source under the district's new source review rule, in which case the applicant is only required to provide offsets from facilities which the applicant owns or operates within the air basin.
- (4) The project produces 50 megawatts or more, but less than 80 megawatts, of electricity, meets the requirements of paragraphs (2) and (3), is located in a district whose state implementation plan revisions have been approved by the Environmental Protection Agency and that has attained, or is reasonably expected to attain, national air quality standards for any criteria pollutant for which sufficient growth allowances are available in the air quality maintenance plan or, in the event the project would cause any criteria pollutant to exceed the available or possible future growth allowance, the applicant secures offsets in an amount equal to the excess in the growth allowance, and processes municipal wastes from one or more municipalities. Any project under this paragraph shall comply with applicable prevention of significant deterioration rules and regulations.
- (b) If a proposed project permitted under subdivision (a) has an electrical generating capacity of 50 megawatts or more, the district shall determine whether the project meets the requirements of this section and, in making its determination, shall consider the potential emission of noncriteria pollutants from project facilities and shall develop appropriate permit conditions. The district shall submit its determination and supporting analyses, including the analysis of noncriteria pollutants and appropriate permit conditions, to the State Energy Resources Conservation and Development Commission for use pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.
- (c) Any permit issued pursuant to subdivision (a), and any determination made by a district pursuant to subdivision (b), shall meet the additional requirements of Section 42315.
- SEC. 3. Section 42315 is added to the Health and Safety Code, to read:
- 42315. (a) No district shall issue or renew a permit for the construction of, renew a permit for the operation of, or issue a determination of compliance for, any project which burns municipal waste or refuse-derived fuel unless all of the following conditions have been met:
- (1) The project will not prevent or interfere with the attainment or maintenance of state and federal ambient air quality standards.

- (2) The project will comply with all applicable emission limitations established prior to issuance of the permit or the determination of compliance.
- (3) The project will, after issuance of the permit or determination of compliance, comply with toxic air contaminant control measures adopted by the district pursuant to Section 39666, and regulations adopted by the district pursuant to Section 41700 for the protection of public health. Notwithstanding Section 42301.5, compliance with this subdivision shall be consistent with a reasonable schedule, as determined by the district.
- (4) (A) A health risk assessment is performed and is submitted by the district to both the state board and the State Department of Health Services for review. The state board shall review and, within 15 days, notify the district and the applicant as to whether the data pertaining to emissions and their impact on ambient air quality are adequate for completing its review pursuant to this subdivision, and what additional data, if any, are required to complete its review. Within 45 days of receiving the health risk assessment, the state board shall submit its comments in writing to the district, on the data pertaining to emissions and their impact on ambient air quality. The district shall forward a copy of the comments of the state board to the State Department of Health Services. The State Department of Health Services shall review and, within 90 days of receiving the health risk assessment, shall submit its comments to the district on the data and findings relating to health effects.
- (B) For purposes of complying with the requirements of this paragraph, the State Department of Health Services may select a qualified independent contractor to review the data and findings relating to health effects. In those cases, the review by the independent contractor shall comply with the following requirements:
- (i) Be performed in a manner consistent with guidelines provided by the state department.
- (ii) Be reviewed by the state department for accuracy and completeness.
- . (iii) Be submitted by the state department to the district in accordance with the schedules established by this paragraph.
- (C) Notwithstanding Section 6103 of the Government Code, the district shall reimburse the State Department of Health Services; or a qualified independent contractor designated by the state department pursuant to subparagraph (B), for its actual costs incurred in reviewing a health risk assessment for any project subject to this section.
- (D) An application for any project which burns municipal waste or refuse-derived fuel is not complete until both of the following have been accomplished:
- (i) The health risk assessment has been performed and is submitted to the district.
  - (ii) The state board and the State Department of Health Services,

- or a qualified independent contractor designated by the state department pursuant to subparagraph (B) have completed their review pursuant to this paragraph, and have submitted their comments to the district, unless the state board and the State Department of Health Services have failed to submit their comments to the district within 90 days and the district makes a finding that the application contains sufficient information for the district to begin its initial review.
- (E) This paragraph shall not apply to an application for permit renewal for any project otherwise subject to this section.
- (5) The district finds and determines, based upon the health risk assessment, comments from the state board and the State Department of Health Services, and any other relevant information, that no significant increase in the risk of illness or mortality, including, but not limited to, increases in the risk of cancer and birth defects, is anticipated as a result of air pollution from the construction and operation of the project. This paragraph shall not apply to an application for permit renewal for any project otherwise subject to this section.
- (6) Prior to, and during, commercial operation of the project, periodic monitoring of emissions, including, but not limited to, toxic air contaminants, is performed pursuant to specifications established by the district.
- (b) This section does not prohibit a district from requiring ambient air monitoring under any other provision of law.
- (c) This section does not apply to any project which does any of the following:
- (1) Exclusively burns digester gas produced from manure or other animal solid or semisolid waste.
- (2) Exclusively burns methane gas produced from a disposal site as defined in Section 66714.1 of the Government Code, which is used only for the disposal of solid waste as defined in Section 66719 of the Government Code.
- (3) Exclusively burns forest, agricultural, wood, or other biomass wastes.

Nothing in this subdivision is intended to prohibit a district from requiring those projects to meet one or more of the conditions of this section.

- (d) Nothing in this section prohibits the permit applicant from entering into a contract with any person pursuant to which the person may enforce this section or any other provision of law.
- SEC. 4. Section 21151.1 is added to the Public Resources Code, to read:
- 21151.1. (a) Notwithstanding paragraph (6) of subdivision (b) of Section 21080, or Section 21080.5 or 21084, or any other provision of law, a lead agency shall prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report for the construction of any project which burns municipal waste or refuse-derived fuel.

- (b) Subdivision (a) does not apply to any project which does any of the following:
- (1) Exclusively burns digester gas produced from manure or any other solid or semisolid animal waste.
- (2) Exclusively burns methane gas produced from a disposal site as defined in Section 66714.1 of the Government Code, which is used only for the disposal of solid waste as defined in Section 66719 of the Government Code.
- (3) Exclusively burns forest, agricultural, wood, or other biomass wastes.

Nothing in this subdivision is intended to exempt those projects from the other requirements of this division.

- (c) Subdivision (a) does not apply to any project for which the State Energy Resources Conservation and Development Commission has assumed jurisdiction under Chapter 6 (commencing with Section 25500) of Division 15.
- SEC. 4. Section 25523 of the Public Resources Code is amended to read:
- 25523. The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:
- (a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.
- (b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.
- (c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.
- (d) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or

regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

- (e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.
- (f) Findings regarding the conformity of the proposed facility with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305.
- (g) In the case of a geothermal site and related facility, findings on whether there are sufficient commercial quantities of geothermal resources available to operate the proposed facility for its planned life.
- (h) In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.
- 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 1135

An act to amend Section 49455 of the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. The net proceeds from the sale of vacant land at the California School for the Deaf in Riverside, described as follows: Approximately 5.92 acres of vacant land, fronting on Lincoln Avenue between Maude and Horace streets and known as 3044 Horace Street, Riverside, are hereby appropriated in augmentation of the support appropriation to the State Department of Education for the state special schools for the 1987–1988 fiscal years. These funds shall be allocated to the California School for the Deaf in Riverside for the purpose of installing air-conditioning and any necessary and related facility improvements, as determined by the State Department of Education. The funds appropriated in this section shall not be used to offset any past or future appropriations to the California School for

the Deaf in Riverside for similar purposes.

# CHAPTER 1136

An act to amend Sections 48900 and 48901 of the Education Code, relating to schools.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986]

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

SECTION 1. Section 48900 of the Education Code is amended to read:

- 48900. A pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has:
- (a) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
  - (e) Committed robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stolen or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.
  - (i) Committed an obscene act or engaged in habitual profanity or

vulgarity.

- (j) Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- (l) Knowingly received stolen school property or private property.

No pupil shall be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including, but not limited to, any of the following:

- (1) While on school grounds.
- (2) While going to or coming from school.
- (3) During the lunch period whether on or off the campus.
- (4) During, or while going to or coming from, a school sponsored activity.

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

- SEC. 2. Section 48901 of the Education Code is amended to read: 48901. (a) No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.
- (b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

# CHAPTER 1137

An act to amend Section 14005 of the Elections Code, relating to elections, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986]

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

SECTION 1. Section 14005 of the Elections Code is amended to read:

14005. The clerk shall furnish to the precinct officers:

- (a) Printed copies of the indexes.
- (b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.
  - (c) Envelopes in which to enclose returns.
- (d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14231, 14232, 14241, 14244, 14248, 14249, 14403, 17001, 17004, 17005, 17009, 17010, 17011, 29470, 29480, 29644, and 29649.
- (e) A digest of the election laws with any further instructions the county clerk may desire to make.
- (f) An American Flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.
- (g) A ballot container, properly marked on the outside indicating its contents.
- (h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.
- (i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross (+) may be made with either end. If ballots are to be counted by vote tabulating equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.
- (j) When a candidate or candidates have qualified to have his or their names counted pursuant to Chapter 9 (commencing with Section 17100) of Division 12, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of such candidate or candidates.
- (k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her precinct location. The card shall state that the voter may call collect during polling hours.
- (l) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.
- (m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14203.
- (n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14251 of the Elections Code. Any person who removes, tears, marks or otherwise defaces this index

with the intent to falsify or prevent others from readily ascertaining the name, address or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

- (o) A roster of voters for each precinct in the form prescribed in Section 14005.5.
- (p) In addition, the clerk may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.
  - (q) The signs described in Section 14001.1.
- (r) At least one easily graspable pen or other writing device and, if voting is done by puncturing a ballot in order to indicate the voter's choice, at least one approved and easily graspable voting stylus.

This section shall remain in effect until January 1, 1990, and as of that date is repealed.

- 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.
- SEC. 3. The Legislature finds that, in anticipation of future requirements to be imposed by this bill, various counties have incurred costs by purchasing easily graspable pens or writing devices for use in upcoming elections, and that these costs should be reimbursed to those counties.
- SEC. 4. A sum not to exceed seventy-five thousand dollars (\$75,000) is hereby appropriated from the General Fund to the Controller to reimburse counties for costs incurred in purchasing easily graspable pens and writing devices for use by the elderly and the physically handicapped in polling places. The Controller shall consult with the Secretary of State to establish the criteria for reimbursement.
- SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to apply to the November 4, 1986, general election, it is necessary that it take effect immediately.

## CHAPTER 1138

An act relating to education, and making an appropriation therefor.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986.]

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

SECTION 1. It is the intent of the Legislature that the governing boards of school districts and community college districts, in cooperation with the State Board of Education and the Board of Governors of the California Community Colleges, assess the feasibility of articulated "2+2" vocational and professional programs that lead to the associate degree and, further, that these boards work with the Trustees of the California State University and the Regents of the University of California to assess the feasibility of extending this form of articulated preparation to the baccalaureate degree. The California Postsecondary Education Commission shall coordinate this assessment.

- SEC. 2. (a) No later than January 1, 1988, the California Postsecondary Education Commission shall do the following:
- (1) Identify those articulated career programs currently being offered or planned in California between high schools and community colleges, and between the community colleges and public and independent four-year institutions.
- (2) Review articulated career programs in other states and report on their effectiveness in various fields as determined by independent program evaluations done in those states.
- (3) Review, with involvement of interested private sector employers and of faculty and curriculum specialists from the K-12 schools, community colleges, California State University, and the University of California, model curricula in selected career fields.
- (4) Determine the barriers and obstacles to the implementation of these programs.
- (5) Make recommendations for appropriate models for California, necessary changes in law, regulations, and program guidelines and, as the commission deems advisable, suggest pilot projects among specific sets of institutions in particular careers or professions.
- (b) A report on the feasibility of establishing "2+2" vocational and professional programs, including recommendations, shall be prepared and submitted on or before January 1, 1988, by the California Postsecondary Education Commission to the Legislature, the Governor, the Superintendent of Public Instruction, the Board of Governors of the California Community Colleges, the California State University Trustees, and the University of California Regents.
- SEC. 3. The sum of fifteen thousand dollars (\$15,000) is hereby appropriated from the General Fund to the California Postsecondary

Education Commission without regard to fiscal year for the purpose of coordinating the assessment required by Section 1 of this act, and for purposes of the report required under Section 2 of this act.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

#### CHAPTER 1139

An act to amend Sections 10434 and 10435 of the Insurance Code, relating to insurance.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 10434 of the Insurance Code is amended to read:

- 10434. (a) An admitted life insurer shall not pay or contract to pay, directly or indirectly, to any of the parties specified in subdivision (b) any commission or other compensation contingent upon any of the following acts:
- (1) The writing or procuring of any policy of life, disability or both classes of insurance issued by the insurer.
  - (2) Procuring an application therefor by any person.
- (3) The payment of any renewal premium or the assumption of any life, disability or both of these classes of insurance by the insurer.
  - (b) It shall not pay this compensation to:
  - (1) Its president.
  - (2) Its vice president.
  - (3) Its secretary.
  - (4) Its treasurer.
  - (5) Its actuary.
- (6) Its medical director or other physician charged with the duty of examining risks or applications for any of these classes of insurance.
- (7) Any member of its board of directors, except when that compensation to be paid to the director would be less than the lesser of 1 percent of the insurer's statutory net gain from operations or 1 percent of commissions on premiums and annuity considerations for the preceding calendar year. This exception shall not apply when more than two of the members of the board of directors of the insurer, when the total number of board members is more than 10, or more than one of the members of the board of directors of the insurer, when the total number of board members is less than 10,

would receive that compensation, nor shall this exception apply to any director who has served more than two years as a director. Any director receiving compensation pursuant to this paragraph shall be ineligible, to vote on all matters directly relating to that compensation and shall not be counted for purposes of a quorum as to those matters.

- (8) Any officer of the insurer other than its agent or solicitor.
- (c) Nothing in this article shall prevent the payment of compensation to an officer of the insurer based upon the aggregate amounts of insurance issued by the insurer, or issued and in force, during any specified period if the officer is not directly responsible for recommending, underwriting, rating, or otherwise approving the acceptability of insurance risks.
- SEC. 2. Section 10435 of the Insurance Code is amended to read: 10435. Whenever any insurer violates Section 10434, the commissioner may revoke its certificate of authority or refuse to issue a certificate of authority to that insurer.

#### CHAPTER 1140

An act to add Sections 25103 and 25152.5 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 25103 is added to the Health and Safety Code, to read:

25103. The Legislature has found that access by the people of this state to public records is a fundamental and necessary right. The Legislature finds that it is necessary to further the public's right of access to public records pertaining to hazardous waste management, information, and cleanup, to assure the fullest opportunity for public participation in permitting and other decisions in order to protect public health and the environment.

- SEC. 2. Section 25152.5 is added to the Health and Safety Code, to read:
- 25152.5. (a) For purposes of this section, the following definitions apply:
  - (1) "Unusual circumstances" means only the following:
- (A) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (B) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

- (C) The need to consult with another agency having a substantial interest in the determination of whether to respond to the request.
- (2) "Public records" means any public record, as defined in Section 6252 of the Government Code, of the department relating to this chapter, Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300). "Public records" includes unprinted information relating to this chapter, Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) which is stored in data or word processing equipment either owned by an employee and located on premises under control of the department or owned by the department.
- (b) Notwithstanding any other provision of law, the department shall not limit the hours during the normal working day or limit the number of working days during which public records are open for inspection.
- (c) Notwithstanding any other provision of law, the department shall make public records which are not exempt from disclosure by law, including Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, promptly available to any person, within the time limits specified in Section 6256 of the Government Code, upon payment of a fee established by the department to cover the direct costs of duplication, as specified in subdivision (f). In addition, a person requesting copies by mail may be required to pay the mailing costs.

If any portion of a record is exempt from disclosure, that part which is not exempt shall be provided as prescribed in this section.

- (d) Any person may request access to, or copies of, public records of the department in person or by mail. A request shall reasonably describe an identifiable record or information to be produced therefrom.
- (e) If the department determines that an unusual circumstance exists, the department shall comply with the notification procedures and the time limits specified in Section 6256.1 of the Government Code.
- (f) The department shall, upon request, provide any person with the facts upon which it bases its determination of the direct costs of copying for each page which is requested. The department shall not impose a minimum fee for a copy of a public record which is greater than its direct per page copying costs and the department shall not impose limits on the types or amounts of public records which the department will provide to persons requesting these records, upon payment of any fees covering the direct costs of duplication by the department.
- (g) This section does not authorize the department, or any employee of the department, to delay access for purposes of inspecting or obtaining copies of public records, unless there are unusual circumstances.
- -(h) Any denial of a request for records shall set forth in writing the reasons for the denial and the names and titles or positions of

each person responsible for the denial. This written response shall be provided to the requester within five working days of the denial.

## CHAPTER 1141

An act to add Section 12304.3 to the Welfare and Institutions Code, relating to in-home supportive services.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 12304.3 is added to the Welfare and Institutions Code, to read:

- 12304.3. Any recipient of services under this article who has received benefits under this article for at least one year, and who hires and pays his or her own service providers, as permitted under subdivision (b) of Section 12304, may receive his or her grant under this article through an electronic transfer. The Controller shall offer electronic transfer services to these recipients as soon as the option of electronic transfer is available to state employees for the receipt of wages.
- 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 1142

An act to amend Sections 1634 and 11580.9 of the Insurance Code, relating to insurance.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 1634 of the Insurance Code is amended to read:

- 1634. No license is required under this chapter for a person to act in any of the following capacities:
- (a) As a full-time salaried employee of a title insurer, controlled escrow company or an underwritten title company.
- (b) As a salaried solicitor or agent of a mortgage insurer or mortgage guaranty insurer provided no part of the compensation of

such person is on a commission basis.

- (c) As the attorney in fact of a reciprocal or interinsurance exchange.
  - (d) As a life and disability insurance analyst.
  - (e) As a surplus line broker or special lines surplus line broker.
  - (f) As a bail agent, bail solicitor or bail permittee.
- (g) As an employee, not paid on a commission basis, of a home protection company.
- (h) As an employee of a creditor who secures and forwards information for the purpose of obtaining group credit life, credit disability, or involuntary unemployment insurance, or for enrolling individuals in a group credit life, credit disability, or involuntary unemployment insurance plan or issuing certificates of insurance thereunder where no commission is paid to the employee for those services.
- SEC. 2. Section 11580.9 of the Insurance Code is amended to read:
- 11580.9. (a) Where two or more policies affording valid and collectible automobile liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, and one policy affords coverage to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing motor vehicles, then both of the following shall be conclusively presumed:
- (1) If, at the time of loss, the motor vehicle is being operated by any person engaged in any of these businesses, or by his or her employee or agent, the insurance afforded by the policy issued to the person engaged in the business shall be primary, and the insurance afforded by any other policy shall be excess.
- (2) If, at the time of loss, the motor vehicle is being operated by any person other than as described in paragraph (1), the insurance afforded by the policy issued to any person engaged in any of these businesses shall be excess over all other insurance available to the operator as a named insured or otherwise.
- (b) Where two or more policies apply to the same loss, and one policy affords coverage to a named insured engaged in the business of renting or leasing motor vehicles without operators, it shall be conclusively presumed that the insurance afforded by such policy to a person other than the named insured or his or her agent or employee, shall be excess over and not concurrent with, any other valid and collectible insurance applicable to the same loss covering the person as a named insured or as an additional insured under a policy with limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code. The presumption provided by this subdivision shall apply only if, at the time of the loss, the involved motor vehicle either:
- (1) Qualifies as a "commercial vehicle" as that term is used in Section 260 of the Vehicle Code.
  - (2) Has been leased for a term of six months or longer.

- (c) Where two or more policies are applicable to the same loss arising out of the loading or unloading of a motor vehicle, and one or more of the policies is issued to the owner, tenant, or lessee of the premises on which the loading or unloading occurs, it shall be conclusively presumed that the insurance afforded by the policy covering the motor vehicle shall not be primary, notwithstanding anything to the contrary in any endorsement required by law to be placed on the policy, but shall be excess over all other valid and collectible insurance applicable to the same loss with limits up to the financial responsibility requirements specified in Section 16056 of the Vehicle Code; and, in such event, the two or more policies shall not be construed as providing concurrent coverage, and only the insurance afforded by the policy or policies covering the premises on which the loading or unloading occurs shall be primary and the policy or policies shall cover as an additional insured with respect to the loading or unloading operations all employees of the owner, tenant. or lessee while acting in the course and scope of their employment.
- (d) Except as provided in subdivisions (a), (b), and (c), where two or more policies affording valid and collectible liability insurance apply to the same motor vehicle or vehicles in an occurrence out of which a liability loss shall arise, it shall be conclusively presumed that the insurance afforded by that policy in which the motor vehicle is described or rated as an owned automobile shall be primary and the insurance afforded by any other policy or policies shall be excess.
- (e) Any insurance policy which, under the terms of subdivisions (a) to (d), inclusive, applies as excess coverage may provide with respect to any primary policy or to any loss to which primary insurance is not valid and collectible in whole or in part, that the excess policy shall apply only to the extent necessary to provide the insured with the coverage limits specified in Section 16056 of the Vehicle Code.
- (f) The presumptions stated in subdivisions (a) to (d), inclusive, may be modified or amended only by written agreement signed by all insurers who have issued a policy or policies applicable to a loss described in these subdivisions and all named insureds under these policies.
- (g) For purposes of this article, a certificate of self-insurance issued pursuant to Section 16053 of the Vehicle Code or a deposit of cash made pursuant to Section 16054.2 of the Vehicle Code or a bond in effect pursuant to Section 16054 of the Vehicle Code or a report of governmental ownership or lease filed pursuant to Section 16051 of the Vehicle Code shall be considered a policy of automobile liability insurance. However, this subdivision does not establish or provide the basis for any other form of liability for or upon a self-insurer or other person or entity holding, issuing, or establishing any form of security as described herein.

#### CHAPTER 1143

An act to add Sections 99211.5, 99268.16, and 99268.18 to, and to add and repeal Section 99268.17 of, the Public Utilities Code, relating to transit.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 99211.5 is added to the Public Utilities Code, to read:

- 99211.5. "Ridesharing services" means a comprehensive organizational effort which is designed to reduce the number of vehicles on the highways during peak travel periods within a defined area by encouraging the planning and marketing of high-occupancy vehicle facilities, increases in the number of passengers per vehicle in vehicles used for ridesharing, alternative work schedules, and other transportation demand management strategies among employers and commuters.
- SEC. 2. Section 99268.16 is added to the Public Utilities Code, to read:
- 99268.16. Notwithstanding subdivision (a) of Section 99247, the costs of providing ridesharing services are excluded from operating costs.
- SEC. 3. Section 99268.17 is added to the Public Utilities Code, to read:
- 99268.17. (a) Notwithstanding subdivision (a) of Section 99247, liability and casualty insurance premiums and payments in settlement of claims arising out of the operator's liability are excluded from operating costs.
- (b) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.
- SEC. 4. Section 99268.18 is added to the Public Utilities Code, to read:
- 99268.18. The exclusions contained in Sections 99268.16 and 99268.17 shall not be applicable for purposes of determining an operator's compliance with Section 99268.

## CHAPTER 1144

An act to amend and repeal Section 75080 of the Government Code, relating to the Judges' Retirement System.

[Approved by Governor September 24, 1986 Filed with Secretary of State September 25, 1986.]

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

SECTION 1. Section 75080 of the Government Code, as amended by Section 2.5 of Chapter 1640 of the Statutes of 1982, is amended to read:

- 75080. (a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section. If a retired judge becomes entitled to any salary for assignment to a court by the Chairman of the Judicial Council after retirement under Section 75060, the retirement allowance otherwise payable to him shall, during the time he is entitled to receive that salary or other compensation, be reduced by the amount of such salary or compensation.
- (b) A judge who is retired for disability and is less than 70 years of age may, without loss or reduction in allowance, engage in the practice of law or any other gainful occupation other than a public office as long as the compensation earned in any month when combined with the judge's allowance does not exceed 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, and the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earning in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.
- (c) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

When a person affected by this section reaches age 70, his or her retirement allowance shall be made equal to the amount it would be if not reduced under this section, and shall not again be modified for any cause.

(d) A judge who is retired for disability or becomes entitled to any salary for assignment to a court by the Chairman of the Judicial Council after retirement under Section 75060 shall not be eligible to receive service credit in another public retirement system or under this chapter or to be reinstated to this system.

The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

The Board of Administration of the Public Employees' Retirement System shall study and make recommendations regarding the implementation of this section and shall transmit a report to the Legislature prior to January 1, 1987.

SEC. 2. Section 75080 of the Government Code, as amended by Section 3.5 of Chapter 1640 of the Statutes of 1982, is repealed.

## **CHAPTER 1145**

An act to amend Sections 779.2 and 779.32 of the Insurance Code, relating to insurance.

[Approved by Governor September 24, 1986. Filed with Secretary of State September 25, 1986]

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

SECTION 1. Section 779.2 of the Insurance Code is amended to read:

779.2. All life insurance and all disability insurance sold in connection with loans or other credit transactions shall be subject to the provisions of this article, except (a) such insurance sold in connection with a loan or other credit transaction of more than 10 years duration, and (b) such insurance where its issuance is an isolated transaction on the part of the insurer not related to an agreement or a plan or regular course of conduct for insuring debtors of the creditor. Nothing in this article shall be construed to relieve any person from compliance with any other applicable law of this state, including, but not limited to, Article 6.5 (commencing with Section 790), nor shall anything in this article be construed so as to alter, amend, or otherwise affect existing case law.

For the purpose of this article:

- (1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction, exclusive of any such insurance procured at no expense to the debtor. Insurance shall be deemed procured at no expense to the debtor unless the cost of the credit transaction to the debtor varies depending on whether or not the insurance is procured.
- (2) "Credit disability insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or

- other credit transaction while the debtor is disabled as defined in the policy, exclusive of any insurance procured at no expense to the debtor. Insurance shall be deemed to have been procured at no expense to the debtor unless the cost of the credit transaction to the debtor varies depending on whether or not the insurance is procured.
- (3) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction or any successor to the right, title or interest of any such lender, vendor or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them.
- (4) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.
- (5) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.
- SEC. 2. Section 779.32 of the Insurance Code is amended to read: (a) The term "compensation," for the purpose of this article means any valuable consideration including, but not limited to, all paid or credited commissions, contingent commissions, service fees, fees, consulting fees paid or credited within or outside this state in relation to business produced or to be produced or written or to be written in this state, electronic data process equipment or services, supplies (other than forms approved by the commissioner and the usual claims and reporting forms and envelopes for transmitting the claims and brochures, rate books, and rate charts). rental equipment of any type, advertising, telephone provided by an insurer, its agent, or any related person without charge of actual charge or at a charge less than the usual cost, profit sharing plans, experience rating refunds, experience rating credits, dividends, expense allowances, stock plans or bonuses, and any other form of credit, including moneys assumed, or expenditures in any form whatsoever, direct or indirect, paid by or on behalf of the insurer, or by any subsidiary or parent, or subsidiary of the parent of the insurer, or by any other person to or on behalf of any group policyholder, agent, general agent, or disability broker or withheld by any group policyholder, agent, general agent, or disability broker.
- (b) The maximum amount of total compensation, as defined in subdivision (a), payable by any insurer shall not exceed 35 percent of the prima facie credit life insurance rates and 30 percent of the prima facie disability insurance rates. Of the maximum total compensation allowable, the creditor shall be limited to a compensation rate of 27.5 percent of the prima facie credit life insurance rates and 23.75 percent of the prima facie credit disability insurance rates. The general agent's maximum total compensation allowable shall be limited to 7.5 percent of the prima facie credit life insurance rates and 6.25 percent of the prima facie credit disability

insurance rates. A creditor may not receive both the creditor's and the general agent's compensation on its own produced insurance. A general agent may also receive additional primary compensation deducted from the maximum primary compensation allowable to the creditor.

If the commissioner has reason to believe that compensation is in fact or is contracted to be in excess of the maximum amount specified in this section; the commissioner may conduct a hearing or investigation, including the right to examine any contracts relating to the direct or indirect payment of compensation, to determine whether the insurer, general agent, or any other person is paying or whether an agent, general agent, or broker is receiving any form of compensation in excess of the applicable maximum amount of compensation specified in this section.

- (c) On and after January 1, 1988, no contract of credit life or credit disability insurance shall be issued in this state unless, if applicable, the maker first ascertains, using reasonable diligence, that any nonadmitted reinsurer possesses capital and surplus of at least one million dollars (\$1,000,000).
- (d) Nothing in this article shall be construed to authorize the payment of any form of compensation to any creditor or to any person otherwise prohibited from receiving that form of compensation. Nor shall this article be construed to authorize the payment of experience rating refunds prior to the anniversary date of the policy. Those refunds shall be computed annually based on premiums earned to that anniversary date.

## CHAPTER 1146

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

[Approved by Governor September 25, 1986. Filed with Secretary of State September 25, 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 Costa-McCorquodale-Keene Distressed County Assistance Act of 1986.

SEC. 2. The Legislature finds that the provision of basic justice and social welfare programs by counties is a matter of statewide interest. California residents should not be denied the benefits of these basic programs because counties are unable to provide them due to a very severe lack of funds for these purposes. In many cases, a county's general purpose revenues have been insufficient to finance these programs. A county should not be required to drastically divert general purpose revenues from vital public

programs in order to pay for mandated local shares. Accordingly, it is the intent of the Legislature in enacting this act to protect the public peace, health, and safety by supplementing the funding provided by Chapter 977 of the Statutes of 1985.

SEC. 3. As used in this act:

- (a) "Eligible county" means any county which during the previous fiscal year, had an unemployment rate which was greater than 130 percent of the statewide unemployment rate and the ratio of general purpose revenue expenditures for eligible welfare programs above the statewide average ratio.
- (b) "Eligible welfare programs" means the county costs for both aid and administration of the Aid to Families with Dependent Children program as described in Section 11250 of the Welfare and Institutions Code.
- (c) "Justice programs" means those justice, detention, and corrections programs described in the Controller's Annual Report of Financial Transactions Concerning Counties.
- (d) "General purpose revenues" means revenues received by a county whose purpose is not restricted by state law or decicated to a particular purpose or program. General purpose revenues are limited to:
- (1) Property tax revenues, exclusive of those revenues dedicated to repay voter approved indebtedness, received pursuant to Part 0.5 (commencing with Section 50) of Division 1 of the Revenue and Taxation Code or received pursuant to Section 33401 of the Health and Safety Code.
- (2) Sales tax revenues received pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
  - (3) Other taxes.
  - (4) Fines and forfeitures.
- (5) General purpose revenues derived from the use of money and property.
- (6) Vehicle license fees received pursuant to Section 11005 of the Revenue and Taxation Code.
- (7) Trailer coach fees received pursuant to Section 11003.3 of the Revenue and Taxation Code.
- (8) Revenues from cigarette taxes received pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code.
- (9) Revenues received as open space subventions pursuant to Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code.
- (10) Revenues received as homeowner's property tax exemption subventions pursuant to Chapter 2 (commencing with Section 16120) of Part 1 of Division 4 of Title 2 of the Government Code.
- (11) General revenue sharing funds received from the federal government.
  - (12) Other revenues.
  - SEC. 4. (a) The Department of Finance shall analyze the

expenditures for the programs described in Section 3 on or before October 31, 1986, and determine the amount each county has spent on welfare and justice programs. The Director of Finance shall determine the eligible counties based on county expenditures for welfare and justice programs, consultations with eligible welfare and justice programs, consultations with eligible counties, and other factors which the Director deems appropriate.

- (b) The Controller shall issue a warrant to an eligible county, upon the direction from the Director of Finance, using the following formula:
- (1) The Director of Finance shall first determine the amount for each eligible county for the general purpose revenue welfare costs above the statewide average ratio and 10 percent of the costs for justice programs.
- (2) The amount determined in (1) shall be reduced by the amount appropriated to an eligible county by Chapter 977 of the Statutes of 1985.
- (3) A ceiling of \$1 million shall be imposed on the amount determined for an eligible county in (1) and (2).
- (4) Moneys distributed to eligible counties shall be based on a prorata share of the amount appropriated in Section 5.

Nothwithstanding the above, no eligible county shall receive more than five hundred thousand dollars (\$500,000) pursuant to subdivision (b) in addition to the amount appropriated by Chapter 977 of the Statutes of 1985.

- (c) Moneys distributed to counties pursuant to this section may be used for any county purpose.
- SEC. 5. The sum of five million dollars (\$5,000,000) is hereby appropriated from the General Fund to the Controller for the purpose of issuing warrants to eligible counties pursuant to Section 4 of this act.
- SEC. 6. The appropriation contained in this act constitutes a one time allocation to counties with financial needs not met by Chapter 977 of the Statutes of 1985. No additional funding for the purposes of this act in the 1986–87 fiscal year shall be provided.
- SEC. 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
- SEC. 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:

County general purpose revenues are being spent in greater proportions to meet the matching requirements of federal and state-mandated programs. These requirements ignore the impact of high unemployment and other extenuating factors which cause the growth in the county matching funds requirement to far exceed its

growth in general purpose revenues. Counties have been forced to use discretionary funds to meet the matching requirements and, therefore, have had to make undesirable spending reductions in essential services like law enforcement, fire protection, streets and roads maintenance programs, and personnel costs not related to the mandated programs. In order to alleviate these problems at the earliest possible time, it is necessary that this act take effect immediately.

## CHAPTER 1147

An act to add Chapter 2.5 (commencing with Section 15373) to Part 6.7 of Division 3 of Title 2 of the Government Code, relating to rural economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1986. Filed with Secretary of State September 25, 1986.]

I am reducing the appropriation contained in Senate Bill No 2117 by deleting the

\$50,000 grant funding provided for an urban county

I believe the funding for the urban county is inconsistent with the purpose of the program to provide economic development assistance to rural counties.

With this reduction, I approve Senate Bill No 2117.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 2.5 (commencing with Section 15373) is added to Part 6.7 of Division 3 of Title 2 of the Government Code. to read:

#### CHAPTER 2.5. RURAL ECONOMIC DEVELOPMENT

#### Article 1. General Provisions

15373. This chapter shall be known, and may be cited as, the McCorquodale-Nielsen-Hauser Rural Economic Development Act of 1986.

15373.05. The Legislature finds and declares all of the following:

- (a) California's rural areas are an integral part of the state's well-being. However, the chronically depressed economic economies of these communities require targeted programs to enhance their competitiveness as a location for business investment and attendant job creation.
- (b) There is severe unemployment in many rural areas that have been economically dependent on lagging industries such as lumber, mining, agriculture, and fishing.
- (c) The economic problems of many of these areas are aggravated by the absence of adequate infrastructure which is necessary for

economic revitalization.

- (d) Economic conditions in rural communities can significantly improved through the creation of a focused program to fund infrastructure improvements.
- (e) Existing infrastructure financing programs are not sufficient to meet growing investment demands and do not give priority to the immediate creation of permanent, private sector jobs. Some programs are experiencing substantial reductions in federal program support.
- (f) There is also a significant need in rural counties for assistance to encourage their efforts in promoting the startup of new businesses, and the retention and expansion of existing businesses.

## Article 2. Definitions

- 15373.1. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.
  - (a) "County" means either of the following:
- (1) A county with both 200,000 or less in population according to the 1980 Federal Census and an average annual unemployment rate equal to or greater than the state's 1984 annual average unemployment rate determined by the Employment as Development Department.
- (2) A county with both 600,000 or less in population according to the 1980 Federal Census and an average annual unemployment rate of 130 percent or greater than the state's 1984 annual average as determined by the Employment unemployment rate Development Department.

  - (b) "Department" means the Department of Commerce.(c) "Fund" means the Rural Economic Development Fund.
  - (d) "Local agency" means any of the following:
  - (1) A county as defined in subdivision (a).
  - (2) Any city within a county as defined in subdivision (a).
- (3) A county that is not defined in subdivision (a) or a city which is outside of an urbanized area as designated by the United States Bureau of the Census from the 1980 Federal Census and which is within that county.
- (e) "Panel" means the Rural Economic Development Infrastructure Panel.

## Article 3. Rural Economic Development Fund

- (a) In order to carry out the provisions of this chapter, there is hereby created in the State Treasury the Rural Economic Development Fund.
- (b) The fund shall receive state funds appropriated to it, repayment of loans and interest on those loans pursuant to this chapter, interest which accrues to the moneys in the fund pursuant to subdivision (c), fees or charges pursuant to subdivision (d), and

penalties prescribed by the panel.

- (c) The Treasurer shall invest moneys contained in the fund not needed to meet current obligations in the same manner as other public funds are invested. The moneys resulting from this investment shall be used to support the three rural small business assistance and development centers previously established through the department and the Employment Development Department. The department shall grant these interest moneys to the centers upon request to provide for the continued operation of the centers. If sufficient interest moneys are not available at a time when the centers require additional funds, the department shall lend the centers necessary funds from the Rural Economic Development Fund, if the expected interest earnings from the fund will repay the loans. Funds received under this subdivision shall not be considered when the department reviews and approves applications pursuant to Article 4 (commencing with Section 15397.3). Each center shall receive a maximum of one hundred thousand dollars (\$100,000) each fiscal year. Interest earnings in excess of three hundred thousand dollars (\$300,000) per fiscal year shall be available for expenditure by the department pursuant to this chapter.
- (d) In order to defray costs to the department for administration of Article 5 (commencing with Section 15373.6), the department may impose reasonable charges on all applications, and approved loans. The department may use these fees or other charges for those costs necessary to protect the state's position as a lender-creditor. These costs include, but are not limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, removal and storage for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.
- (e) Notwithstanding Section 13340, all moneys in the fund are continuously appropriated to, and shall remain available for expenditure by, the department for the purposes of this chapter only until July 1, 1991, and on that date any remaining funds shall revert to the Special Account for Capital Outlay.
- (f) No money in the fund shall be used in lieu of any existing state infrastructure financing program, including, but not limited to, the State Transportation Improvement Program or the Clean Water Bond Program.

# Article 3.5. Duties of the Department

15373.25. The department shall be responsible for all of the following:

- (a) Providing comprehensive technical and financial assistance to rural-based local public, private, and nonprofit agencies in order to facilitate the planning and implementation of rural economic development projects.
  - (b) Coordinating state and federal economic development

programs on behalf of rural agencies to ensure that the needs of rural California are adequately and effectively addressed. To the extent possible, the department shall endeavor to serve as the single source for rural agencies seeking economic development assistance from the state.

- (c) Administering the economic development programs established pursuant to this chapter.
- (d) Serving as a clearinghouse of information on available state and federal programs which may be of assistance to improving job opportunities and general economic conditions in rural California.
- (e) Report, as a part of the annual report required under subdivision (e) of Section 15323, its activities pursuant to this chapter. This report shall include a list of applications received for funding under Article 4 (commencing with Section 15373.3) and Article 5 (commencing with Section 15373.6), a list of approved applications, a summary of actual revenues and expenditures for the preceding fiscal year, and an estimate of the revenues and expenditures for the coming fiscal year. The report shall also include an evaluation of the success of the promotion and infrastructure programs including, but not limited to, information on the number of jobs created, businesses attracted, and tax revenues generated.

## Article 4. Rural Economic Development Promotion Program

- 15373.3. To assist rural areas in their efforts to promote economic development, the Rural Economic Development Promotion Program is hereby established in the department.
- 15373.4. (a) A county may apply singly or in conjunction with other counties to the department for grants under the Rural Economic Development Promotion Program for economic development purposes.
- (b) Grants under this article shall be based on the proposal for expenditure submitted by the county and shall not exceed the following per-county maximums:

Counties	Maximum Grant Amount
Alpine	\$75,000
Amador	75,000
Butte	322,000
Calaveras	75,000
Colusa	75,000
Del Norte	75,000
El Dorado	202,400
Fresno	500,000
Glenn	75,000
Humboldt	224,200
Imperial	207,600
Inyo	75,000
Kern	500,000

Kings	167,000
Lake	94,000
Lassen	75,000
Madera	150,600
Mariposa	75,000
Mendocino	145,400
Merced	315,800
Modoc	75,000
Mono	75,000
Monterey	500,000
Napa	204,000
Nevada	132,600
Placer	270,600
Plumas	75,000
San Benito	75,000
San Joaquin	500,000
Santa Cruz	411,000
Shasta	256,200
Sierra	75,000
Siskiyou	84,100
Stanislaus	500,000
Sutter	115,200
Tehama	87,500
Trinity	75,000
Tulare	500,000
Tuolumne	78,800
Yolo	244,800
Yuba	106,600
Additional Grant	50,000
Total	\$7,995,400

- (c) The additional grant category in the amount of fifty thousand dollars (\$50,000) shall be available to a county if the county has a large unincorporated area outside of an urbanized area as designated by the United States Bureau of the Census from the 1980 Federal Census. In order to apply for this grant, the county must comply with the criteria set forth by the Department of Commerce covering application procedures.
- 15373.5. (a) The department shall review county applications to ensure that proposals are consistent with statewide promotion of California's rural areas, make a decision on awarding the grant within 90 days after the county submits the application to the department, and shall give written approval of the proposal of the county or counties prior to awarding of a grant.
- (b) Counties shall use the grant funds in concert with local economic development and business and tourism promotion organizations to perform the activities of the grant agreement.
- (c) Eligible counties shall be encouraged to recognize the benefits of a multicounty regional promotional program and to

prepare a joint application consistent with this article. Counties shall also be encouraged to use the funds for multiyear projects.

- (d) Eligible uses of grant funds shall be all of the following:
- (1) Promotion and advertising of economic development and tourism.
- (2) Staffing and operating costs of local economic development programs.
- (3) Data collection, site inventories, and brochure development and printing.
- (4) Market studies, project feasibility studies, and local economic development strategic plans.
  - (5) Other direct job creation and retention activities.
- (e) Counties shall not use more than 15 percent of the grant for administrative costs.
  - (f) Grant funds shall not be expended for any of the following:
- (1) Any promotional effort or activity which is derogatory or detrimental to any other area of the state.
- (2) Any activity which would effect the relocation of any substantial operations of a company from one area of the state to another, or in the abandonment of any substantial operations of a company within other areas of the state.
- (g) Each county shall certify that it will not use the grant funds to supplant any of its noneconomic development activities.
- (h) Each grant recipient shall submit to the department a report of the grant expenditures every year during the period of the grant and an independent financial audit of all grant expenditures within 90 days after the closure of the grant.

# Article 5. Rural Economic Development Infrastructure Program

- 15373.6. There is hereby established within the department the Rural Economic Development Infrastructure Program to provide financial assistance to rural areas of the state for infrastructure. The purpose of the program is to encourage the creation of permanent private sector jobs through the retention, expansion, and location of businesses in rural areas.
- 15373.7. (a) The program shall be guided by the Rural Economic Development Infrastructure Panel, which is hereby created. The panel shall consist of the Secretary of the Business, Transportation and Housing Agency, who shall serve as chairperson, the director of the department, and the Director of the Office of Local Government Affairs in the Governor's Office of Planning and Research. In addition, the panel shall consist of two public members with expertise in the economic development of rural areas. One public member shall be appointed by the Senate Rules Committee and the other shall be appointed by the Speaker of the Assembly.
  - (b) The panel shall do all of the following:
- (1) Establish guidelines and rules to carry out the purposes of this article. This shall include establishing criteria for projects in addition

to those specified in this article.

- (2) Request assistance and information from any department, division, board, commission, or other agency of the state as the panel may need to carry out the purposes of this article.
- (3) Prepare and promulgate regulations to carry out the purposes of this article.
- (4) Adopt bylaws for the regulation of its affairs and conduct of its business.
- 15373.8. (a) (1) The panel shall meet regularly to conduct its business and to review and approve projects pursuant to this article for funding from the Rural Economic Development Fund. The panel shall make a decision on any application within 90 days after a local agency submits the application to the department. This financing shall be in the form of loans and grants.
- (A) Loans shall be limited to a maximum of one million dollars (\$1,000,000) per project. The terms of any approved loan shall be specified in a loan agreement between the local agency and the panel. Repayment of loans shall begin within nine months of the date of the loan and shall be made quarterly. Each loan shall be for a term not to exceed 10 years from the date of the loan. The local agency shall pay interest at a rate specified in the loan agreement which shall not exceed 2 percent less than the rate earned by the state Surplus Money Investment Fund. Penalties, if established by the panel, shall be uniformly applied. Any loan or grant approved for a local agency shall not be considered debt within the meaning of Section 18 of Article XVI of the California Constitution.
- (B) Grants shall be limited to two hundred fifty thousand dollars (\$250,000) per project and shall be made only if a local agency demonstrates an inability to repay a loan or similar extraordinary circumstances. In no event shall more than 10 percent of the available moneys in the fund in any fiscal year be allocated as grants.
- (2) Subject to paragraph (3), a local agency which submits an application pursuant to Section 15373.9 may, at the time the application is submitted, request the panel to approve a loan amount, term, interest rate, beginning payment, or frequency of repayment which differs from the requirements of paragraph (1). The panel may approve the request or may change and approve the request only if all of the following exist:
- (A) The local agency provides sufficient documentation to the panel that the local agency or special district responsible for repaying the loan will be unable to repay a loan under the conditions specified in paragraph (1).
- (B) The local agency provides sufficient documentation to the panel that other sources of financing which offer similar rates and terms to those determined by the panel to be affordable to the local agency or special district responsible for repaying the loan are unavailable or infeasible to finance the project.
- (C) The loan is equal to or less than one million dollars (\$1,000,000) or the loan is for more than one million dollars

- (\$1,000,000) and the local agency provides sufficient documentation of special circumstances.
- (3) The panel shall not approve a loan in an amount of more than two million dollars (\$2,000,000), nor shall it approve a loan which provides for an indefinite deferral of the repayment of principle and interest, or for a term for more than 50 years. The panel shall make a decision on any request made pursuant to paragraph (2) at the time the panel makes a decision on the loan application.
- (b) Loans and grants may be made to a local agency, and for projects which meet the criteria specified in Section 15373.9, for the purpose of assisting in financing public improvements, including, but not limited to, sewer and water facilities, streets, storm drains, bridges, and related costs, such as engineering design. Funds may be used for the development of new facilities, or the rehabilitation, alteration, expansion, or improvement of existing facilities.
- (c) Any county which does not meet the definition of a county provided for under subdivision (a) of Section 15373.1 may apply for a loan or grant under this article only with respect to an unincorporated area outside of an urbanized area as designated by the United States Bureau of the Census from the 1980 Federal Census.
- (d) Projects financed under this article shall meet all of the following requirements:
- (1) Be associated with either an expansion, retention, relocation, or new location of an identified private sector firm. This firm shall be a manufacturing, service, research and development, production, assembly, warehousing, or industrial distribution facility. Commercial business activity, as well as tourist and recreation facilities, which are found by the panel to significantly increase permanent private sector employment and substantially improve the economic prosperity of an area may also qualify the project.
- (2) Directly lead to the creation or retention of permanent private sector jobs within the applicant's jurisdictional boundaries. Projects shall also create at least one full-time job for every fifty thousand dollars (\$50,000) in loan funds received except in the case of research and development facilities in which the economic job creation standard shall be set by the panel.
- (e) Priority shall be given to those projects which create jobs in communities with particularly high levels of unemployment and declining resource-based economics. Consideration shall be given to other community factors in awarding loans and grants, including, but not limited to, those communities which are facing local government fiscal crises, a high poverty rate, or which exhibit an active commitment to diversifying and expanding their economic base. To the extent possible, loans and grants shall be equitably distributed throughout the various rural regions of the state.
- (f) Financing shall not be provided for projects which would result in increased production or availability of goods, materials, or services where sufficient capacity exists in the community to meet

current and future demands.

- (g) Loans or grants may not finance projects which would either effect the relocation of any substantial operations of the company from one area of the state to another, or result in the abandonment of any substantial operations of the company within other areas of the state, unless completion of the project or operation of the facility 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.
- (h) The proceeds of repayment of loan principal and the payment of interest prior to July 1, 1991, shall be deposited in the fund. The proceeds of repayment of loan principal and the payment of interest on and after July 1, 1991, shall be deposited in the Special Account for Capital Outlay.
- 15373.9. A local agency may submit an application to the department for loan or grant funds pursuant to this article. A local agency may submit an application on behalf of a special district. Any application shall include information concerning the project which shall do all of the following:
  - (a) Demonstrate community need for economic development.
  - (b) Demonstrate financial need for state assistance.
  - (c) Demonstrate financial source of loan repayment and interest.
- (d) Provide evidence of firm financial commitment on the part of the business or enterprise associated with the project.
- (e) Provide evidence of site control, including any leases, easements, covenants, or encumbrances which may affect the project.
- (f) Demonstrate that the applicant has the ability to administer the project and state assistance requirements.
- (g) Demonstrate that the project is consistent with a city, county, or city and county general plan.
- (h) Demonstrate that the project will comply with the California Environmental Quality Act as set forth in Division 13 (commencing with Section 21000) of the Public Resources Code.
- SEC. 2. (a) There is hereby appropriated the sum of eight million dollars (\$8,000,000) from the Special Account for Capital Outlay to the Rural Economic Development Fund for allocation to the Rural Economic Development Promotion Program, as established by Article 4 (commencing with Section 15373.3) of Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of the Government Code.
- (b) The sum of one hundred forty-three thousand dollars (\$143,000) is hereby appropriated from the General Fund to the Department of Commerce as follows:
- (1) The sum of one hundred thousand dollars (\$100,000) for allocation to the Rural Economic Infrastructure Panel in order to implement paragraph (3) of subdivision (b) of Section 15373.7 of the Government Code.
  - (2) The sum of forty-three thousand dollars (\$43,000) for one

personnel year to support two positions for six months each in the Department of Commerce for the purposes of implementing Section 1 of this act.

The funds appropriated pursuant to this subdivision shall remain available for expenditure only until July 1, 1987, and on that date any unexpended funds shall revert to the General Fund.

- SEC. 3. It is the intent of the Legislature that Article 5 (commencing with Section 15373.6) of Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of the Government Code shall have priority for funding from the Special Account for Capital Outlay in the Budget Act of 1987.
- 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 promptly proceed with implementation of the Rural Economic Development Program to encourage the revitalization of economically depressed rural areas of the state by providing permanent private sector jobs and reducing dependency on government social welfare programs, it is necessary that this act go into immediate effect.

#### CHAPTER 1148

An act to add Section 7062 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 7062 is added to the Revenue and Taxation Code, to read:

7062. The board shall determine the amount of sales tax in the 1987 tax year attributed to sales to operators of waterborne vessels and shall report that amount to the Legislature on or before July 1, 1988.

## CHAPTER:1149

An act making an appropriation to pay claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. The sum of ten million six hundred twelve thousand two hundred fifty-six dollars and seventy-four cents (\$10,612,256.74) is hereby appropriated to the Secretary of the State Board of Control to pay claims accepted by the State Board of Control. These funds shall be appropriated in accordance with the following schedule:

- (a) Six million eight hundred sixty-one thousand four hundred twenty-two dollars and twenty-seven cents (\$6,861,422.27) from the General Fund.
- (b) Three million seven hundred fifty thousand eight hundred thirty-four dollars and forty-seven cents (\$3,750,834.47) from the Motor Vehicle Account, State Transportation Fund.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and to end hardships to claimants as soon as possible, it is necessary for this act to take effect immediately.

## CHAPTER 1150

An act to amend Sections 1241, 1623, 35015, 35035, 42103, 42123, and 42127 of, to add Sections 1241.1, 1623.5, 35015.1, 35015.2, 41020.2, 42127.5, and 42129 to, and to add Chapter 13 (commencing with Section 11200) to Part 7 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 1241 of the Education Code is amended to read:

- 1241. The county superintendent of schools shall also:
- (a) Enforce the course of study.
- (b) Enforce the use of state textbooks and of high school textbooks

regularly adopted by the proper authority.

- (c) Preserve carefully all reports of school officers and teachers.
- (d) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the State Department of Education.
- (e) Submit two reports during the fiscal year to the county board of education. The first report shall cover the financial and budgetary status of the county office of education for the period ending no earlier than October 31 nor later than December 31. The second report shall cover the period ending March 31. Both reports shall be reviewed by the county office governing board and approved by the county superintendent no later than 45 days after the close of the period being reported. As part of each report, the superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year. The certifications shall be classified as positive, qualified, or negative, as prescribed by the Superintendent of Public Instruction, for the purposes of determining subsequent state agency actions pursuant to Section 1241.1. Copies of each report in which the superintendent is unable to certify unqualifiedly that these financial obligations will be met shall be sent to the Controller and the Superintendent of Public Instruction at the time it is submitted to the county board of education, together with a completed transmittal form provided by the Controller.

Each report shall specify outstanding obligations of the county office of education and significant budgetary and financial conditions known to exist at the time of certification by the superintendent. Each report shall be based upon the financial and budgetary reports normally submitted by county superintendents of schools as required by Section 1245 and other statutory provisions.

This subdivision does not preclude the submission of additional budgetary or financial reports by the superintendent to the county board of education or the Superintendent of Public Instruction.

- SEC. 2. Section 1241.1 is added to the Education Code, to read: 1241.1. Whenever a county superintendent of schools transmits to the Controller and the Superintendent of Public Instruction a qualified or negative certification as required by subdivision (e) of Section 1241, the State Department of Education, in cooperation with the Controller's office, shall review the certification and the attached report and any other pertinent information, and take the following actions or other actions as deemed appropriate:
- (a) With respect to qualified certifications, direct the county superintendent to prepare alternative plans for resolving the identified fiscal problems.
- (b) With respect to negative certifications, conduct an onsite review and direct the county superintendent to prepare alternative plans for resolving the identified fiscal problems.
  - SEC. 3. Section 1623 of the Education Code is amended to read:

1623. (a) On or before September 15, the county board of education shall hold a public hearing on the county school service fund budget. Notice of the public hearing shall be published at least once in a newspaper of general circulation published within the county. The notification shall be no earlier than August 1, nor later than August 31, but not less than 10 days prior to the date set for the hearing. The cost of publication shall be a proper and legal charge against the county school service fund and shall not exceed the rate fixed by the board of supervisors for official advertising. The published notice shall include the time, place, and purpose of the public hearing, and other information that may be determined by the county board of education, and shall state that any taxpayer directly affected by the county school service fund budget may appear before the county board of education and speak to the proposed budget or any item therein.

Following the public hearing, the final budget shall be adopted by the county board of education and filed with the Superintendent of Public Instruction, the board of supervisors, and the county auditor.

- (b) On or before November 1, the Superintendent of Public Instruction shall approve the county office budget after doing the following:
- (1) Examining the adopted final budget to determine that proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic.
- (2) Examining the adopted final budget and suggesting, if necessary, any technical corrections needed to bring the budget into compliance with school financial and budget reporting requirements as prescribed in the California School Accounting Manual.
- (c) If, after examining the final adopted budget of a county office of education, it is the opinion of the Superintendent of Public Instruction that the proposed expenditures will exceed anticipated revenues as described in paragraph (1) of subdivision (b) or that specific technical corrections as described in paragraph (2) of subdivision (b) should be made, he or she shall, by November 1, transmit to the county superintendent of schools, in writing, his or her recommendations and the reasons therefor.
- (d) The county superintendent of schools and county board of education shall, by November 30, do the following:
- (1) Review the recommendations of the Superintendent of Public Instruction at a public hearing of the county board of education.
- (2) Respond to the recommendations of the Superintendent of Public Instruction. The response shall include the proposed actions to be taken, if any, as a result of the recommendations of the Superintendent of Public Instruction.
- SEC. 3.5. Section 1623.5 is added to the Education Code, to read: 1623.5. The superintendent of any county office of education that reported a negative unrestricted fund balance or a negative cash balance in the annual report required by Section 1623 or in the audited annual financial statements required by Section 41020 shall

include with the budget submitted in accordance with Section 1623 and the certifications required by subdivision (e) of Section 1241 a statement identifying the reasons for the negative unrestricted fund balance or negative cash balance and the steps that will be taken to ensure that the negative balance will not occur at the end of the current fiscal year.

SEC. 4. Chapter 13 (commencing with Section 11200) is added to Part 7 of the Education Code, to read:

#### CHAPTER 13. MICROCOMPUTERS

11200. The Legislature recognizes that school business functions have become increasingly complex and that the prudent use of microcomputers by school districts and county offices of education can improve efficiency in business operations and help solve numerous business problems that, in some cases, directly affect the quality of educational offerings.

- 11201. The State Department of Education shall take a leadership role in providing school districts and county offices of education that elect to use microcomputers in school business applications with information and other material that will facilitate their use of microcomputers. In addition, the State Department of Education may make grants, not to exceed ten thousand dollars (\$10,000) each, to develop microcomputer software that will assist a large number of school districts and county offices of education. The department also shall establish a statewide microcomputer advisory group composed of field experts in the use of microcomputers for school business functions. This group shall meet regularly and advise the department on the following:
- (a) Identifying current applications and future trends in microcomputer use in school business.
- (b) Cataloging and disseminating information regarding high quality business software.
- (c) Identifying areas of school business in which small grants could be used to develop custom software that would have great value and application for a large number of microcomputer users in school business offices.
- (d) Developing staff development strategies for more effectively utilizing microcomputers in school business.
- SEC. 5. Section 35015 of the Education Code is amended to read: 35015. As prescribed in subdivision (g) of Section 35035, the governing board of each school district shall certify, within 45 days, in writing whether or not the school district is able to meet its financial obligations for the remainder of the fiscal year. These certifications shall be based upon the board's assessment of the district's probable cash within the county treasury and the district's probable unrestricted fund balances that will be available for meeting their obligations. The certifications shall be classified as positive, qualified, or negative certifications, as prescribed by the

Superintendent of Public Instruction for the purposes of determining subsequent state agency actions pursuant to Section 35105.1. These certifications shall be based upon the financial and budgetary reports required by subdivision (g) of Section 35035 but may include additional financial information known by the governing board to exist at the time of each certification. A copy of each certification shall be filed with the county superintendent of schools. Copies of any certification in which the governing board is unable to certify unqualifiedly that these financial obligations will be met shall be sent to the Controller and the Superintendent of Public Instruction at the time of the certification, together with a completed transmittal form provided by the Controller. County superintendents shall comment within 75 days of the close of the reporting period on all school district certifications that are classified as qualified or negative pursuant to this section and send those comments to the Superintendent of Public Instruction and the Controller.

- SEC. 6. Section 35015.1 is added to the Education Code, to read: 35015.1. Whenever a district governing board transmits to the Controller and the Superintendent of Public Instruction a qualified or negative certification as required by Section 35015, the State Department of Education, in cooperation with the Controller's office, shall review the certification and the attached report together with the comments by the county superintendent and any other pertinent information available to them. After consulting with the county superintendent of schools the State Department of Education, in cooperation with the Controller's office, may take the following actions, or other actions as appropriate:
- (a) With respect to qualified certifications, direct the county superintendent of schools to exercise his or her authority as prescribed in Section 42637.
- (b) With respect to negative certifications, conduct an onsite review, direct the county superintendent of schools to exercise his or her authority as prescribed in Section 42637, and direct the district to prepare alternative plans for resolving the identified fiscal problem.
- SEC. 7. Section 35015.2 is added to the Education Code, to read: 35015.2. On or before June 30 each year, each county superintendent of schools shall report to the Controller and the Superintendent of Public Instruction as to whether the governing boards of each of the school districts under his or her jurisdiction have submitted the certification required by Section 35015.
- SEC. 8. Section 35035 of the Education Code is amended to read: 35035. The superintendent of each school district shall, in addition to any other powers and duties granted to or imposed upon him or her:
- (a) Be the chief executive officer of the governing board of the district.
  - (b) Except in a district where the governing board has appointed

- or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare and submit a budget, prepare and submit to the governing board of the district, at such time as it may direct, the budget of the district for the next ensuing school year, and revise and take such other action in connection with the budget as the board may desire.
- (c) Subject to the approval of the governing board, assign all employees of the district employed in positions requiring certification qualifications, to the positions in which they are to serve. This power to assign includes the power to transfer a teacher from one school to another school at which the teacher is certificated to serve within the district when the superintendent concludes that the transfer is in the best interest of the district.
- (d) Upon adoption, by the district board, of a district policy concerning transfers of teachers from one school to another school within the district, have authority to transfer teachers consistent with that policy.
- (e) Determine that each employee of the district in a position requiring certification qualifications has a valid certificated document registered as required by law authorizing him or her to serve in the position to which he or she is assigned.
- (f) Enter into contracts for and on behalf of the district pursuant to Section 39656.
- (g) Submit two reports during the fiscal year to the governing board. The first report shall cover the financial and budgetary status of the district for the period ending no earlier than October 31 nor later than December 31. The second report shall cover the period ending March 31. Both reports shall be approved by the district governing board no later than 45 days after the close of the period being reported. As part of each report, the superintendent shall identify outstanding obligations of the district.
- SEC. 9. Section 41020.2 is added to the Education Code, to read: 41020.2. (a) If a school district governing board has entered into a contract for an independent audit of its financial statements in accordance with Section 41020 and the audited financial statements have not been filed with the county superintendent of schools on or before the due date established under Section 41020, the county superintendent of schools may investigate the causes for the delay and initiate one of the following actions that will provide the required audited financial statements in the most effective manner:
- (1) The county superintendent of schools may, after consultation with the school district governing board, the auditors under contract to the district, and the Controller's office, grant an appropriate extension for the completion of the audit and the filing of the audited financial statements. An extension does not waive the legal deadline, but permits the filing of the report after the deadline.
- (2) The county superintendent of schools may, after consultation with the school district governing board, the auditors under contract to the district, and the Controller's office, contract with another

qualified certified public accountant or public accountant to obtain the required audited financial statements and charge the cost of the audit to the funds of the district. The county superintendent of schools shall, to the extent feasible, assist the district in initiating action to avoid payment to the auditors under contract who did not complete the original audit.

- (3) The county superintendent of schools may request the Controller's office to investigate the situation and initiate action as provided in subdivision (b).
- (b) If the audited financial statements required by Section 41020 have not been filed by a school district or county superintendent of schools with the Controller's office on or before the due date established under Section 41020, the Controller's office shall determine the most advantageous method of obtaining the required audited financial statements. The Controller's office may do any of the following:
- (1) Accept the action of the county superintendent of schools permitted by subdivision (a).
- (2) Conduct the audit and prepare the auditor's report, utilizing the staff available within that office and charge the cost of the audit to the next regular apportionment from the State School Fund to the district or county superintendent of schools.
- (3) Contract with any qualified certified public accountant or public accountant, utilizing the appropriate contracting procedures, for the conduct of the audit and preparation of the audited financial statements and charge the cost of the audit to the next regular apportionment from the State School Fund to the district or county superintendent of schools.
- (4) Grant a reasonable extension of the time for filing the report if, in the judgment of the Controller's office, this will provide the required audited financial statements within the shortest time period. The extension of the time for filing does not waive the legal deadline, but permits the filing of the report after the deadline.

The Controller's office shall consult with the district governing board, the county superintendent of schools, and the auditors under contract to the district or county superintendent of schools before making the determination of the method to be used in obtaining the audited financial statements. The Controller's office shall, to the extent feasible, assist the district or county superintendent in initiating action to avoid payment to the auditors under contract who did not complete the original audit.

(c) Notwithstanding any extension granted under paragraph (1) of subdivision (a) or paragraph (4) of subdivision (b), the Controller's office may determine at any time after the due date for filing of audit reports established by Section 41020 that the audited financial statements not yet filed with that office are delinquent and that the audit will be performed under paragraph (2) or (3) of subdivision (b).

SEC. 10. Section 42103 of the Education Code is amended to read:

42103. The governing board of each school district shall hold a public hearing on the proposed budget in a district facility, or some other place conveniently accessible to the residents of the district. The public hearing shall be held any day on or before September 15, but at least three days following availability of the proposed budget for public inspection. At the hearing any resident in the district may appear and object to the proposed budget or any item in the budget.

The hearing may be concluded on the proposed budget when there are no requests for further hearing on file. The budget shall not be finally adopted by the governing board of the district until after

the public hearing has been held.

The proposed budget, shall show expenditures, cash balances, and all revenues as required to be tabulated in Sections 42122 and 42123. Further any district tax requirement computed pursuant to subdivision (c) of Section 42127 for the school year to which the proposed budget is intended to apply, and any recommendations made by the county superintendent pursuant to subdivision (b) of Section 42127 shall be made available by the district for public inspection in a facility of the district or in some other place conveniently accessible to residents of the district.

Notification of dates and location or locations at which the proposed budget may be inspected by the public and the date, time, and location of the public hearing on the proposed budget shall be published by the county superintendent of schools in a newspaper of general circulation in the district, or if there is no such newspaper, then in any newspaper of general circulation in the county, at least three days prior to the availability of the proposed budget for public inspection. The publication of the dates and location shall occur no earlier than August 1, nor later than August 31, but not less than 10 days prior to the date set for hearing. The cost of the publication shall be a legal and proper charge against the school district for which the publication is made.

- SEC. 11. Section 42123 of the Education Code is amended to read: 42123. Each budget shall be itemized to set forth the necessary revenues and expenditures in each fund to operate the public schools of the district as authorized by law and on forms prescribed by the Superintendent of Public Instruction.
- SEC. 12. Section 42127 of the Education Code is amended to read: 42127. (a) On or before the first day in July in each year, each school district shall file a tentative budget with the county superintendent of schools.
- (1) The budget shall indicate the date, time, and location at which the governing board of the district will hold the public hearing required pursuant to Section 42103.
- (2) If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, the budget shall include a statement of

the amount or portion for which a levy shall not be made.

- (b) On or before August 1, in each year, the county superintendent of schools:
- (1) Shall examine and make corrections to the tentative budget and indicate changes he or she deems desirable or necessary to determine any tax requirement.
- (2) Shall make any recommendations he or she deems necessary to ensure that the proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic, and shall transmit to the governing board a written explanation of the reasons for those recommended changes.
- (3) May make written recommendations as to anticipated revenues at any time prior to final adoption of the budget by the governing board of the district.
- (4) May accept changes in the date, time, or location of the public hearing pursuant to Section 42103 and changes in the statement required by paragraph (2) of subdivision (a) of the amount or portion for which a property tax levy shall not be made.
- (c) The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes which exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.
- (d) On or before September 15, the governing board of each school district shall adopt a final budget including any tax requirements computed pursuant to subdivision (c) as adjusted by paragraph (2) of subdivision (a) of Section 42127 and shall file that budget with the county superintendent of schools.
- (e) On or before November 1, the county superintendent shall approve the adopted budget for each school district after doing the following:
- (1) Examining the adopted final budget to determine that the proposed expenditures do not exceed the anticipated revenues, including prior year ending balances, and that the anticipated revenues are realistic.
- (2) Examining the adopted final budget and suggesting, if necessary, any corrections needed to bring the budget into compliance with school financial and budget reporting requirements as prescribed in the California School Accounting Manual.
- (f) If, after examining the adopted final budget of a school district, it is the opinion of the county superintendent that proposed expenditures will exceed anticipated revenues, including prior year ending balances, as described in paragraph (1) of subdivision (e), or

that specific technical corrections as described in paragraph (2) of subdivision (e) should be made, he or she shall, by November 1, transmit to the governing board, in writing, his or her recommendations and the reasons therefor.

- (g) The superintendent and district governing board shall, by November 30, do all of the following:
- (1) Review the recommendations of the county superintendent of schools at a public hearing of the governing board.
- (2) Respond to the recommendations of the county superintendent. The response shall include the proposed actions to be taken, if any, as a result of the county superintendent's recommendations.
- (h) On or before November 30, the county superintendent of schools shall transmit a copy of each district's adopted final budget to the county auditor. Further, he or she shall transmit to the Superintendent of Public Instruction a copy of each district's adopted final budget, if he or she provided the district governing board recommendations deemed to be significant and the governing board did not take actions he or she deemed appropriate. Accompanying these budgets shall be a copy of the county superintendent's recommendations and the school district's response to those recommendations as prescribed by paragraph (2) of subdivision (g).
- SEC. 13. Section 42127.5 is added to the Education Code, to read: 42127.5. The governing board of any school district that reported a negative unrestricted fund balance or a negative cash balance in the annual report required by Section 42127 or in the audited annual financial statements required by Section 41020 shall include with the budget submitted in accordance with Section 42127 and the certifications required by Section 35015 a statement that identifies the reasons for the negative unrestricted fund balance or negative cash balance and the steps that have been taken to ensure that the negative balance will not occur at the end of the current fiscal year.
- SEC. 14. Section 42129 is added to the Education Code, to read: 42129. School districts and county offices of education shall transmit to the State Department of Education, on a timely basis, all budget and audit reports as prescribed by Sections 1623, 41020, and 42127 of the Education Code and, those reports used to calculate the first, second, and annual principal apportionments, and special purpose apportionments for school districts and county offices of education. In the event that the reports are not submitted to the Superintendent of Public Instruction within 14 days after the submission date prescribed in the statute or specified by the Superintendent of Public Instruction, the Superintendent of Public Instruction may direct the county auditor to withhold payment of any stipend, expenses, or salaries to the district superintendent, county superintendent, or members of the governing boards, as appropriate. The withholding shall continue only until the delinquent reports have been submitted to the State Department of

Education.

SEC. 15. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

SEC. 16. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for purposes of Chapter 13 (commencing with Section 11200) of Part 7 of the Education Code.

## CHAPTER 1151

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

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. The California State World Trade Commission shall review, analyze, and catalogue all significant agricultural trade barriers imposed by nations covered by the General Agreement on Tariffs and Trade (GATT). The identification of specific nations to be included in this study shall be made by the members of the California State World Trade Commission's advisory council's subcommittee on agricultural trade, subsequent to consultation with the Chairperson of the Assembly Committee on Agriculture, and the Chairperson of the Senate Committee on Agriculture and Water Resources.

The California State World Trade Commission may contract for the performance of the study required by this section. The California State World Trade Commission shall, not later than June 30, 1987, report all of its findings and recommendations made pursuant to this act, including information on how it plans to monitor agricultural trade barriers in the future, to the Governor, the Lieutenant Governor, the Secretary of State, the Senate Rules Committee, and the Speaker of the Assembly.

- SEC. 2. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the California State World Trade Commission in order to implement Section 1 of this act.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assist California's agricultural community in preparing for the upcoming multilateral trade negotiations, and thereby expanding export markets and improving economic opportunities, as soon as possible, it is necessary that this act go into immediate effect.

# CHAPTER 1152

An act to amend Sections 13800 and 13801 of, and to add Sections 13701 and 13712 to, the Water Code, relating to water quality.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 13701 is added to the Water Code, to read: 13701. The Legislature finds and declares all of the following:

- (a) Improperly constructed and abandoned water, cathodic protection, and groundwater monitoring wells can allow contaminated water on the surface to flow down the well casing, thereby contaminating the usable groundwater.
- (b) Improperly constructed and abandoned water, cathodic protection, and groundwater monitoring wells can allow unusable or low quality groundwater from one groundwater level to flow along the well casing to usable groundwater levels, thereby contaminating the usable groundwater.
- (c) Contamination of groundwater poses serious public health and economic problems for many areas of the state.
  - SEC. 2. Section 13712 is added to the Water Code, to read:
- 13712. "Monitoring well" as used in this chapter, means an artificial excavation by any method for the purpose of monitoring the fluctuations in groundwater levels, the quality of underground waters, or the concentration of contaminants in underground waters.
  - SEC. 3. Section 13800 of the Water Code is amended to read:
- 13800. The department, after such studies and investigations pursuant to Section 231 as it finds necessary, on determining that water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction standards are needed in an area to protect the quality of water used or which may be used for any beneficial use, shall so report to the appropriate regional water quality control board and to the State Department of Health Services. The report shall contain standards for water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction which, in the department's opinion, are necessary to protect the quality of any affected water.
  - SEC. 4. Section 13801 of the Water Code is amended to read:
  - 13801. (a) The regional board, upon receipt of a report from the

- department pursuant to Section 13800, shall hold a public hearing on the need to establish well standards for the area involved. The regional board may hold a public hearing with respect to any area regardless of whether a report has been received from the department if it has information that standards may be needed.
- (b) Notwithstanding subdivision (a), the state board shall, not later than September 1, 1989, adopt a model water well, cathodic protection well, and monitoring well drilling and abandonment ordinance implementing the standards for water well construction, maintenance, and abandonment contained in Bulletin 74-81 of the department. If the model ordinance is not adopted by this date, the state board shall report to the Legislature as to the reasons for the delay. The state board shall circulate the model ordinances to all cities and counties .
- (c) Notwithstanding any other provision of law, each county, city, or water agency, where appropriate, shall, not later than January 15, 1990, adopt a water well, cathodic protection well, and monitoring well drilling and abandonment ordinance that meets or exceeds the standards contained in Bulletin 74-81. Where a water agency which has permit authority over well drilling within the agency adopts a water well, cathodic protection well, and monitoring well drilling and abandonment ordinance that meets or exceeds the standards contained in Bulletin 74-81, a county or city shall not be required to adopt an ordinance for the same area.
- (d) If a county, city, or water agency, where appropriate, fails to adopt an ordinance establishing water well, cathodic protection well, and monitoring well drilling and abandonment standards, the model ordinance adopted by the state board pursuant to subdivision (b) shall take effect on February 15, 1990, and shall be enforced by the county or city and have the same force and effect as if adopted as a county or city ordinance.
- (e) The minimum standards recommended by the department and adopted by the state board or local agencies for the construction, maintenance, abandonment, or destruction of monitoring wells or class 1 hazardous injection wells shall not be construed to limit, abridge, or supersede the powers or duties of the State Department of Health Services in their application of standards to the construction, maintenance, abandonment, or destruction of monitoring wells or class 1 hazardous injection wells at facilities which treat, store, or dispose of hazardous waste or at any site where the State Department of Health Services is the lead agency responsible for investigation and remedial action at that site, as long as the standards used by the State Department of Health Services meet or exceed those in effect by any city, county, or water agency where appropriate, responsible for developing ordinances for the area in question.
- 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 1153

An act to add Section 798.61 to the Civil Code, relating to mobilehome parks.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 798.61 is added to the Civil Code, to read: 798.61. (a) As used in this section, "abandoned mobilehome" means a mobilehome (1) less than 12 feet in width, (2) located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days, (3) that is unoccupied, and (4) which the management reasonably believes to be abandoned.

- (b) After determining a mobilehome in a mobilehome park to be an abandoned mobilehome, the management shall post a notice to that effect on the mobilehome for not less than 30 days, and shall deposit copies of the notice in the United States mail, postage prepaid, addressed to the homeowner at the last known address and to any known registered owner, if different from the homeowner, and to any known holder of a security interest in the mobilehome. This notice shall be mailed by registered mail with a return receipt requested.
- (c) Thirty or more days following posting pursuant to subdivision (a), the management may file a petition in the municipal or justice court for the judicial district in which the mobilehome park is located for a judicial declaration of abandonment of the mobilehome. Copies of the petition shall be served upon the homeowner, any known registered owner, and any known person having a lien or security interest of record in the mobilehome. This service may be by publication under the conditions and in the manner specified in Section 415.50 of the Code of Civil Procedure.
- (d) Hearing on the petition shall be given precedence over other matters on the court's calendar. In no event shall the hearing be scheduled more than 60 days following initial posting under subdivision (b). If, upon the hearing, the petitioner shows by a preponderance of the evidence that the mobilehome meets the criteria for an abandoned mobilehome and no party establishes an interest therein at the hearing, the court shall enter a judgment of abandonment, determine the amount of charges to which the petitioner is entitled, and award costs to the petitioner. However, at any time prior to sale under this section, any person having a right to possession of the mobilehome may recover it upon payment to the

management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court.

- (e) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court. During this period the management shall post and mail notice of intent to sell the abandoned mobilehome and its contents under this section, and announcing the date of sale, in the same manner as provided for the notice of determination of abandonment under subdivision (b), and by publication in a newspaper of general circulation published in the city in which the park is located or, if located in an unincorporated area, in the county where the park is located.
- (f) Prior to the sale, the abandoned mobilehome and its contents shall not be moved from its site, but the management shall be entitled to storage costs in the same amount as the contract rent and other charges that would be applicable if the mobilehome had not been abandoned.
- (g) Not less than 30 days following the judgment of abandonment, the management may conduct a public sale of the abandoned mobilehome and its contents. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.
- (h) Within 30 days of the date of the sale, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to subdivision (e).
- (i) The management shall provide the purchaser at the sale with a copy of the judgment of abandonment and evidence of title, as shall be specified by the State Department of Housing and Community Development, which shall register title in the mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the mobilehome to the purchaser free of any prior interest, including any security interest or lien, in the mobilehome.
- 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 1154

An act to add Section 309.1 to the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 309.1 is added to the Public Utilities Code, to read:

309.1. The Governor may appoint one adviser for each member of the commission upon the request of the commission member. Each adviser shall receive a salary as shall be fixed by the commission with the approval of the Department of Personnel Administration. In no event shall the total number of advisers exempt from civil service exceed five.

#### CHAPTER 1155

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

> [Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

- SECTION 1. The Off-Highway Motor Vehicle Recreation Commission shall prepare a report regarding the adequacy of existing facilities for the use of off-highway vehicles. The report shall specifically identify areas where facilities are inadequate and shall include recommendations for expansion or establishment of new facilities where appropriate. The report shall be submitted to the Legislature not later than March 1, 1987.
- SEC. 2. The sum of forty-five thousand dollars (\$45,000) is hereby appropriated from the Off-Highway Vehicle Fund to the Off-Highway Motor Vehicle Recreation Commission to contract for assistance in preparing the report required by this act.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the report required by this to be completed and submitted to the Legislature not later than March 1, 1987, this act must take effect immediately.

# CHAPTER 1156

An act to amend Sections 17145 and 23701m of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 17145 of the Revenue and Taxation Code is amended to read:

- 17145. (a) If, at the close of each quarter of its taxable year, at least 50 percent of the value of the total assets of a management company, or series thereof, consists of obligations, interest on which is exempt from taxation by this state under the Constitution or laws of this state, that company or series of that company shall be qualified to pay exempt-interest dividends to its shareholders.
  - (b) For purposes of this section-
- (1) "Exempt-interest dividend" means any dividend or part thereof paid by a management company or series thereof in an amount not exceeding the interest received by it during its taxable year on obligations, interest on which is exempt from taxation by this state under the Constitution or laws of this state, and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year.
- (2) "Management company" means a corporation or business trust or other organization which meets the requirements of Section 23701m.
- (3) "Series" means a segregated portfolio of assets, the beneficial interest in which is owned by the holders of a class or series of stock of the management company that is exclusive of all other classes or series with respect to that portfolio of assets.
- (4) "Value" means, with respect to securities (other than those of majority-owned subsidiaries) for which market quotations are readily available, the market value of those securities; and with respect to other securities and assets, fair market value as determined in good faith by the board of directors or trustees, except that in the case of securities of majority-owned subsidiaries which are investment companies, as defined in the Investment Company Act of 1940, that fair value shall not exceed market value or asset value,

whichever is higher.

- (c) An exempt-interest dividend shall be treated by recipients thereof as an item of interest excludable from income under Section 17133.
- SEC. 2. Section 23701m of the Revenue and Taxation Code is amended to read:

23701m. Corporations, business trusts, or other organizations classified as either diversified or nondiversified management companies under Section 5 of the Federal Investment Company Act of 1940, and registered as provided in that act.

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

#### CHAPTER 1157

An act to amend Section 4516.6 of, and to add Section 4516.8 to, the Public Resources Code, relating to forest practices.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 4516.6 of the Public Resources Code is amended to read:

(a) In order to provide for adequate public review and **4**516.6. comment, notwithstanding Section 4582.7, the director shall not approve a timber harvesting plan in any county for which rules and regulations have been adopted pursuant to Section 4516.5 or 4516.8 until 35 days from the date of filing of the plan, and timber operations shall not commence until five days from the date of approval of the plan. The board may provide, by regulation, for those periods to be waived or shortened by the department upon a determination, pursuant to criteria and procedures established by the board, that the proposed timber operations will cause no significant environmental damage or threat to public safety, or where the timber operations are necessary to reduce a threat to public safety, health, or general welfare. If the chairman of the board of supervisors of the county in which the proposed timber operations are located notifies the director and the plan submitter that the county intends to appeal the approval of the plan and that the county meets the requirements for filing an appeal, no timber operations shall occur until the final determination of the appeal. If the board of supervisors determines not to appeal the approval of the plan, it shall immediately notify the director and the plan submitter in writing of that determination, and timber operations pursuant to the plan may commence immediately.

(b) The board of supervisors of the county for which rules and regulations have been adopted pursuant to Section 4516.5 or 4516.8

may, not later than 10 days after approval of the plan by the director, appeal that approval, if the county (1) participated in the initial inspection of the plan area with the director and (2) participated in a multidisciplinary review of the plan. The board may establish procedures for filing an appeal and may specify findings which the board of supervisors is required to make in filing an appeal in order to demonstrate that a substantial issue is raised with respect to the environment or public safety.

- (c) The board shall grant a hearing if it determines that the appeal raises substantial issues with respect to the environment or to public safety. The board, by regulation, may delegate this determination to its chairman.
- (d) The board shall hold a public hearing within 30 days of filing of the appeal, or a longer period mutually agreed upon by the board, the county, and the plan submitter. Upon conclusion of the hearing, the board shall approve or deny the plan. The basis of the board's decision shall be conformance with the rules of the board, including any rules enacted with respect to the county pursuant to Section 4516.5 or 4516.8, and this chapter. In denying a plan, the board may make findings that set forth conditions under which it believes the plan would have been approved. The board may delegate conduct of the hearing and the decision to a committee of three members to be appointed for that hearing by the chairman of the board. The committee shall consist of at least two general public members of the board. The chairman of the board or the chairman's designee shall conduct the hearing. The decision of the committee shall have the full force of a decision of the full board.
- (e) This section does not apply to timber operations on any land area of less than three acres and which is not zoned timberland production.
- SEC. 2. Section 4516.8 is added to the Public Resources Code, to read:
- 4516.8. In addition to the authority provided in Section 4516.5, the Counties of Marin, Monterey, San Mateo, Santa Clara, and Santa Cruz may recommend that the board adopt additional rules and regulations for the content of timber harvesting plans and the conduct of timber operations which provide a requirement that each timber harvesting plan contain a description of all log hauling routes, a statement of whether an encroachment permit is required by any public agency, and a requirement that no timber harvesting plan be approved by the director without the condition that the timber operator secure all required encroachment permits prior to commencement of timber operations.
- 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.

An act to amend Sections 5808, 6150, 6503, 7450, 7451, 7500, 8009, 8160, and 8201 of, and to add Sections 6477 and 7450.2 to, the Financial Code, relating to financial institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 5808 of the Financial Code is amended to read:

- 5808. No association that is a subsidiary in this state of any savings and loan holding company that does not have in effect a certificate of registration as required by this article or whose holding company has failed to comply with (1) an order of a court made in respect to the provisions of this division or (2) an order of the commissioner under Section 8200, shall knowingly, without consent of the commissioner, do any of the following:
- (a) Transfer or register stock or other securities on its books for or issue certificates to its holding company.
- (b) Pay dividends on stock of which its holding company is the record or beneficial owner.
- (c) Make any other payments of any nature to its holding company.
- (d) Enter into any agreement, contract, or transaction with its holding company.
- SEC. 2. Section 6150 of the Financial Code is amended to read:
- 6150. (a) The business of each association shall be directed by a board of directors elected by ballot by a plurality of the votes of the members or stockholders present or voting by proxy.
- (b) Each director and officer of an association has a legal responsibility and fiduciary duty to administer the affairs of and provide sound management to the association.
- (c) In the case of an association which converts from a mutual association to a stock association, for a period of up to five years from the date of conversion, cumulative voting shall not be required in the election of directors unless otherwise provided in the association's articles of incorporation.
  - SEC. 3. Section 6477 is added to the Financial Code, to read:
- 6477. Any association which, for the purpose of evading provisions of this division or any order of the commissioner, knowingly participates, directly or indirectly, in an exchange with another association of any loan, investment, or other asset held by either association in violation of any provision of this division or any order of the commissioner, shall, upon direction of the commissioner, set up and maintain a reserve in the full amount of the asset acquired

and shall not include that reserve in its statutory net worth.

- SEC. 4. Section 6503 of the Financial Code is amended to read: 6503. (a) An association may acquire, hold, sell, develop, subdivide, dispose of, and convey real and personal property consistent with its objects and powers. It may mortgage, pledge, or lease any real or personal property and may take the property by gift, devise, or bequest.
- (b) No association or subsidiary thereof, without the written consent of the commissioner, shall enter into any transaction or modification of any transaction with an affiliated person to buy, lease, or sell real or personal property, or take such property by gift.
- SEC. 5. Section 7450 of the Financial Code is amended to read: 7450. (a) An association may make any loan authorized by this division, but the association shall first determine that the type, amount, purpose, and repayment provisions of the loan in relation to the borrower's resources and credit standing support the reasonable belief that the loan will be financially sound and will be repaid according to its terms, and that the loan is not otherwise unlawful.
- (b) Subject to any regulations of the commissioner, an association may make loans to, or acquire loans made to, any director, officer, or affiliated person or to any parent or subsidiary, or make any loans, the proceeds of which are intended to inure to the benefit of these parties.
- SEC. 6. Section 7450.2 is added to the Financial Code, to read: 7450.2. Except with the prior written consent of the commissioner, no association shall knowingly make:
- (a) Any loan to any corporation of which 10 percent or more of the stock is owned or controlled individually or collectively by any one or more of the directors, officers, employees, or substantial stockholders of the association.

As used in this subdivision, "substantial stockholder" means a person who has a real or beneficial ownership of more than 10 percent of the outstanding stock of the association. For this purpose, stock owned by the person's immediate family shall be deemed owned by that person.

- (b) Any loan the proceeds of which are intended to inure to the benefit of any corporation specified in subdivision (a).
- SEC. 8. Section 7451 of the Financial Code is amended to read: 7451. Except as otherwise provided by the commissioner, an association shall not make or acquire total loans with respect to one borrower or on one project in an amount exceeding the lesser of (a) the net worth of the association or (b) 10 percent of the deposits of the association. This section does not apply to loans to an association's service corporation or wholly owned subsidiary described in Section 7300. As used in this section, "one borrower" has the meaning defined in Section 7453.
- SEC. 9. Section 7500 of the Financial Code is amended to read: 7500. (a) Subject to limitations, if any, within this chapter, an association may originate, invest in, sell, purchase, service,

participate, or otherwise deal in (including brokerage or warehousing) loans, including construction loans, made on the security of residential or nonresidential real property, or interests in these loans.

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- (b) No investment in real property or a real estate loan shall be made until a qualified person or persons engaged directly by the association and approved by the board of directors have made a physical inspection and submitted to the association a fully documented appraisal of the real estate that would secure the loan or constitute the investment, or, in the case of a purchased loan, the person or persons have reviewed and approved an appraisal report in support of the loan. If the balance of any purchased loan is one million dollars (\$1,000,000) or more, the person or persons reviewing and approving the appraisal report shall have inspected the real estate. Each appraisal report submitted to an association pursuant to this subdivision shall be signed and shall include the tax identification number, social security number, or other form of verifiable identification of the person or persons signing the appraisal report.
- (c) For the purpose of determining appraised value, unimproved property without offsite improvements shall be evaluated as though offsite improvements have been installed if a subdivision map has been recorded and a bond or other instrument guaranteeing installation of the offsite improvements has been accepted by the governing authorities in connection with the recording of the subdivision map.
- SEC. 10. Section 8009 of the Financial Code is amended to read: 8009. (a) Except where required by law, regulation, or court order, or permitted under subdivision (b), the commissioner, and all employees of the department, shall not disclose any information acquired by them in the discharge of their duties as prescribed by this division.
- (b) The commissioner may furnish information relating to the condition or operation of any association or other person to state and federal authorities that supervise financial institutions, to state, local and federal law enforcement agencies, and state agencies that are engaged in any investigation of an unsafe or unsound business practice.
- SEC. 11. Section 8160 of the Financial Code is amended to read: 8160. (a) If an association fails to furnish the commissioner any report required by this article within five days of the due date set forth in this article or, if no due date is set forth in this article, the date specified by the commissioner, the commissioner shall assess the association a penalty of one hundred dollars (\$100) per day for each additional day the report is delayed or withheld up to and including the 25th day after the first day of the assessment of the penalty; thereafter from the 26th day to the 60th day the penalty shall be three hundred dollars (\$300) per day and from the 61st day until receipt of the report the penalty shall be one thousand dollars (\$1,000) per day.

- (b) Upon written application by an association showing good cause satisfactory to the commissioner, the commissioner may grant an extension of time for filing any report required by this article and may specifically waive or reduce the penalty required by this section.
  - SEC. 12. Section 8201 of the Financial Code is amended to read:
- 8201. (a) The commissioner may require that any director, officer, or employee of an association, savings and loan holding company, or any of their subsidiaries, who has participated in a violation or an unsafe or unsound practice as described in Section 8200 or who has breached his or her fiduciary duty, be removed from the association or other person if the action of the individual or individuals concerned was knowingly and willfully taken.
- (b) Prior to issuance of an order of removal, the commissioner shall deliver a full statement of the objectionable acts and conduct to the board of directors of the association or other person and the individual or individuals concerned and of the commissioner's intention to enter a removal order. If a hearing on the matter is requested within 10 days after delivery of the statement, the commissioner shall hold a public hearing at which any pertinent evidence relating to the matters set forth in the statement may be presented. After the hearing, the commissioner, on the basis of the evidence presented at the hearing, may proceed to enter an order for the immediate removal of the director, officer, or employee affected, a reprimand of the individuals and association or other person concerned, or a dismissal of the entire matter.
- (c) If no hearing is requested within the time specified, the commissioner may proceed to issue an order of removal on the basis of the facts set forth in the original statement.
- (d) No director, officer, or employee who has been removed from his or her position pursuant to a removal order that has become final, shall thereafter participate in any manner in the conduct of the affairs of the association or other person from which that director, officer, or employee was removed, or without prior written approval of the commissioner, serve as a director, officer, or employee of any other association or service corporation of an association.
- (e) In respect to any officer, director, or employee of an association or service corporation thereof who is the subject of a statement delivered by the commissioner pursuant to subdivision (b), the commissioner may, if the commissioner deems it necessary for the protection of the association or service corporation, by written notice to that effect served upon the officer, director, or employee, suspend him or her from office or prohibit him or her from further participation in any manner in the conduct of the affairs of the association or service corporation, or take both these actions. The suspension or prohibition shall become effective upon service of the notice and, unless stayed by a court in proceedings authorized by subdivision (f), shall remain in effect pending completion of the proceedings pursuant to the statement delivered under subdivision (b) and until the effective date of an order entered by the

commissioner under subdivision (b) or subdivision (c). Copies of the notice shall also be served upon the association or service corporation of which the person is a director, officer, or employee.

- (f) Within 10 days after any director, officer, or employee has been suspended from office or prohibited from participation in the conduct of the affairs of an association or service corporation thereof under subdivision (d), the director, officer, or employee may apply to a court having jurisdiction for a stay of the suspension or prohibition pending completion of the proceedings pursuant to subdivision (b), and the court shall have power to stay the suspension or prohibition.
- SEC. 13. 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. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Savings and Loan Commissioner has determined that certain unsafe and unsound practices by a small segment of the savings association industry must be deterred and eliminated as soon as possible to help preserve and foster the strength and stability of the industry. In addition to strengthening the conflict-of-interest and control provisions as soon as possible in order to enhance the commissioner's ability to control transactions and circumstances which have created severe financial problems for some associations, this legislation clarifies and expands application and oversight provisions in order to facilitate commissioner responses to that activity. In order to provide more specific guidelines and penalties, prohibit certain insider transactions and establish more stringent standards for association officers, directors, and employees in conducting the business of an association under the laws of this state, without delay, it is essential that this act take effect immediately.

An act to add Sections 13224 and 13225 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

- SECTION 1. (a) The Legislature finds and declares that terminating a recipient's participation in a training program which is consistent with the employability plan is a waste of training moneys and ignores the fact that the client is more likely to obtain sustained and continuous employment if he or she completes the second half of the training and is placed in a job consistent with the individual's interests, training, and employment history.
- (b) The Legislature also finds and declares that while the inability to speak English is not, in itself, an absolute barrier to employment, opportunities for career advancement and sustained employment are enhanced with the ability to speak English.
- SEC. 2. Section 13224 is added to the Welfare and Institutions Code, to read:
- 13224. Any refugee covered by this chapter who has completed over one-half of an employment training program that is approved by the central intake unit as consistent with the client's employability plan shall be allowed to complete that training unless the refugee has received an offer of employment.
- SEC. 3. Section 13225 is added to the Welfare and Institutions Code, to read:
- 13225. To the maximum extent possible, refugees who are unable to speak English but are also determined to be employable shall be encouraged to enroll concurrently in an English-as-a-second-language class while they are in the employment search component of the demonstration project.

#### CHAPTER 1160

An act relating to the Public Utilities Commission, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. The sum of two hundred thirty-five thousand dollars (\$235,000) is hereby appropriated from the Transportation

Rate Fund to the Public Utilities Commission for implementation of the commission's new regulatory program for highway carriers whereby rates are to be set by or for highway carriers at a level adequate to support compliance with applicable safety laws and regulations.

#### CHAPTER 1161

An act to amend Section 352 of the Code of Civil Procedure, relating to limitations of actions.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 352 of the Code of Civil Procedure is amended to read:

- 352. (a) If a person entitled to bring an action, mentioned in Chapter 3 of this title, be, at the time the cause of action accrued, either:
  - 1. Under the age of majority; or,
  - 2. Insane; or,
- 3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life; the time of such disability is not a part of the time limited for the commencement of the action.
- (b) This section does not apply to an action against a public entity or public employee upon a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) or Chapter 2 (commencing with Section 910) of Part 3, or Chapter 3 (commencing with Section 950) of Part 4, of Division 3.6 of Title 1 of the Government Code. This subdivision shall not apply to any claim presented to a public entity prior to January 1, 1971.
- (c) This section does not apply to an action, other than an action to recover damages or that portion of an action that is for the recovery of damages, relating to the conditions of confinement of a person described in paragraph 3 of subdivision (a), including an action brought by that person pursuant to Section 1983 of Title 42 of the United States Code.

An act to amend Section 1797.88 of, and to add Section 1798.101 to, the Health and Safety Code, relating to emergency medical services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 1797.88 of the Health and Safety Code is amended to read:

1797.88. "Hospital" means an acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2, with a permit for basic emergency service or an out-of-state acute care hospital which substantially meets the requirements of Chapter 2 (commencing with Section 1250) of Division 2, as determined by the local EMS agency which is utilizing the hospital in the emergency medical services system, and is licensed in the state in which it is located.

SEC. 2. Section 1798.101 is added to the Health and Safety Code, to read:

1798.101. (a) In rural areas, as determined by the authority, where the use of a base hospital having a basic emergency medical service special permit pursuant to subdivision (c) of Section 1277 is precluded because of geographic or other extenuating circumstances, a local EMS agency, in order to assure medical direction to prehospital emergency medical care personnel, may utilize other hospitals which do not have a basic emergency medical service permit if both of the following apply:

- (1) Medical control is maintained in accordance with local EMS agency policies and procedures.
  - (2) Approval is secured from the authority.
- (b) (1) In rural areas, as determined by the authority, when the use of a hospital having a basic emergency medical service special permit is precluded because of geographic or other extenuating circumstances, the local EMS agency may authorize another hospital or hospitals which do not have this special permit to receive patients requiring emergency medical services if the hospital or hospitals have adequate staff and equipment to provide these services, as determined by the local EMS agency.
- (2) A local EMS agency which utilizes in its EMS system any hospital which does not have a special permit to receive patients requiring emergency medical care pursuant to paragraph (1) shall submit to the authority, as part of the plan required by Section 1797.254, protocols to ensure that the use of that hospital is in the best interests of patient care. The protocols addressing patient safety and the use of nonpermit hospitals shall take into account, but not be

limited to, the following:

- (A) The medical staff, and the availability of the staff at various times to care for patients requiring emergency medical services.
- (B) The ability of staff to care for the degree and severity of patient injuries.
- (C) The equipment and facilities available at the hospital necessary to care for patients requiring emergency medical services and the severity of their injuries.
- (D) The availability of more comprehensive emergency medical services and the distance and travel time necessary to make the alternative emergency medical services available.
- (E) The time of day and any limitations which may apply for a nonpermit hospital to treat patients requiring emergency medical services.
- (3) Any change in the status of a nonpermit hospital, authorized pursuant to this subdivision to care for patients requiring emergency medical services, with respect to protocols and the hospital's ability to care for the patients shall be reported by the hospital to the local EMS agency.
- 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 make emergency medical services available to the areas covered by this act at the earliest possible time, it is necessary for this act to take effect immediately.

#### CHAPTER 1163

An act to amend Sections 2961 and 2963 of the Business and Professions Code, relating to psychology.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 2961 of the Business and Professions Code is amended to read:

- 2961. The committee may deny an application for, or issue subject to terms and conditions, or suspend or revoke, or impose probationary conditions upon, a license or registration after a hearing as provided in Section 2965.
- SEC. 2. Section 2963 of the Business and Professions Code is amended to read:
- 2963. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions and duties of a psychologist or

psychological assistant is deemed to be a conviction within the meaning of this article. The committee may order the license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

## CHAPTER 1164

An act to amend Section 66.7 of Chapter 268 of the Statutes of 1984, relating to parks and recreation.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 66.7 of Chapter 268 of the Statutes of 1984 is amended to read:

66.7. Pursuant to Section 5080.18 of the Public Resources Code, the Legislature hereby authorizes the term of the concession contract for Pan Pacific Park that is approved as part of the Department of Parks and Recreation's budget in the Budget Act of 1984 to exceed 20 years, if necessary to secure financing of the leasehold improvements to be made pursuant to the contract. However, in no event shall the authorized term of the contract extend beyond March 20, 2043.

The Director of General Services, upon the approval of the Director of Parks and Recreation, may grant and convey to the County of Los Angeles all right, title, and interest of the state in the property known as Willowbrook State Recreation Area on the conditions that the property be used as a public park and recreation area and that park improvements conform to the Willowbrook State Recreation Area General Plan adopted pursuant to Section 5002.2 of the Public Resources Code, except that the plan may be amended in accordance with the procedures for amendment of specific plans set forth in Article 8 (commencing with Section 65450) and Article 9 (commencing with Section 65500) of Chapter 3 of Division 1 of Title 7 of the Government Code, if, prior to adoption of amendments, duly noticed public hearings are conducted by both the County of Los Angeles Regional Planning Commission and the County of Los Angeles Board of Supervisors. In reviewing any amendment of that plan, the board of supervisors shall consider the development criteria of Section 5019.56 of the Public Resources Code.

Upon any breach of those conditions, the state may reenter the property, and upon that reentry, the interest of the County of Los Angeles shall terminate and all right, title, and interest in the property shall revert to the state.

## CHAPTER 1165

An act to add Section 69506.7 to the Education Code, relating to student aid.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 69506.7 is added to the Education Code, to read:

69506.7. Notwithstanding Section 69506, neither the Student Aid Commission nor any public postsecondary educational institution shall consider the income of an applicant's noncustodial parent in the determination of an applicant's financial need if the applicant meets either of the following requirements:

(a) The noncustodial parent did not provide court-ordered child support.

(b) The court-ordered child support provided by the noncustodial parent will not continue after the applicant reaches 18 years of age.

The Student Aid Commission and any public postsecondary educational institution may require the submission of appropriate court documents in these cases.

Nothing in this section shall exempt any applicant from submitting parental income information pursuant to Section 69672, or from submitting such information solely because the applicant comes within the provisions of Section 211 of the Civil Code.

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.

An act to amend Section 16366.7 of the Government Code, and to amend Sections 4014.5 and 4202 of the Welfare and Institutions Code, relating to health and welfare reporting.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 16366.7 of the Government Code is amended to read:

16366.7. Since federal block grant funds were reduced by an average of 26 percent during the 1981–82 fiscal year and are proposed for further reductions during the 1982–83 fiscal year, the Legislature declares that the state's administrative costs and processes must be reduced in order to insure that maximum funds are available to continue essential direct human services.

Therefore, notwithstanding any other provision of law, all of the following state procedures shall be implemented within 60 days after the effective date of this section:

- (a) All state agencies, offices, or departments administering federal block grant funds shall have the authority, subject to the approval of the Department of Finance, to grant advance payments of federal funds to contractors or local governmental agencies in such amounts as the administering state department deems necessary for startup or continued provision of services or program operation.
- (b) Departmental service contracts utilizing federal block grant funds shall be exempt from approval by the Department of Finance and the State Department of General Services prior to their execution. Instead, the proper state fiscal controls over federal block grant funds shall be insured by all of the following provisions:
- (1) State departments which award block grant funds to local agencies shall permit, as appropriate, to the extent that federal funds are available for this purpose, local agencies to provide for federally mandated financial and compliance audits of block grant awards in accordance with the federal audit provisions and standards promulgated by the Comptroller General of the United States, and consistent with the department's approved audit plan.
- (2) The Department of Finance, in consultation with the Controller, shall establish fiscal reporting requirements for the departments to use on a quarterly basis with all providers.
- (3) In the event a contractor has not engaged in a contract for these program purposes before with the state, state administering departments shall have the authority to conduct a preaudit or fund a preaudit by the Controller in order to certify the ability of the contractor to administer the funds.
  - (4) The Auditor General shall provide audit findings regarding

each block grant to the Legislature no later than May 1 of each year.

- (c) Each administering state department shall develop standard definitions for units of service, costs per unit of service, citizen participation processes, and due process notification for clients in relation to diminishing federal funds within 60 days after the effective date of this section and shall incorporate all of these elements into each agreement or contract.
- (d) Administering state departments shall prepare a report to the Legislature each year no later than the date of the submission of the Governor's Budget proposal to the Legislature summarizing current year funding and allocations relative to their service populations, identify and analyze problems and develop a series of program options for the continued administration of federal block grant funds.
- (e) To the extent possible, compliance with this section shall be consistent with federal policies and procedures. Reports required under this section shall be combined, where practical, with any other similar reports required by the Legislature and by the federal government.
- SEC. 2. Section 4014.5 of the Welfare and Institutions Code is amended to read:
- 4014.5. In order to assure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Mental Health shall plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and psychologists with forensic skills.
- SEC. 3. Section 4202 of the Welfare and Institutions Code is amended to read:
- 4202. The advisory boards of the several state hospitals are advisory to the State Department of Mental Health and the Legislature with power of visitation and advice with respect to the conduct of the hospitals and coordination with community mental health programs. The members of the boards shall serve without compensation other than necessary expenses incurred in the performance of duty. They shall organize and elect a chairman. They shall meet at least once every three months and at such other times as they are called by the chairman, by the medical director, by the head of the department or a majority of the board. No expenses shall be allowed except in connection with meetings so held.

An act to amend and repeal Section 4590 of the Government Code, relating to public contracts.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 4590 of the Government Code is amended to read:

4590. Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract, provided that substitution of securities provisions shall not be required in contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

Securities eligible for investment under this section shall include those listed in Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the contractor and the public agency.

The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Failure to include these provisions in bid and contract documents shall void any provisions for performance retentions in a public agency contract.

For purposes of this section, the term "public agency" shall include, but shall not be limited to, chartered cities.

The Legislature hereby declares that the provisions of this section are of statewide concern and are necessary to encourage full participation by contractors in public contract procedures.

The escrow agreement used hereunder shall be null, void, and unenforceable unless it is substantially similar to the following form:

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# ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between
whose address is
hereinafter called "Owner," whose address is
hereinafter called "Contractor" and
whose address is
hereinafter called "Escrow Agent."
For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:  (1) Pursuant to Section 4590 of Chapter 13 of Division 5 of Title 1 of the Government Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between the Owner and Contractor for in the amount of dated (hereinafter referred to as the "Contract"). When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within ten days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor Socurities shall be held to the contract between the Owner and
Contractor. Securities shall be held in the name of, and shall

- designate the Contractor as the beneficial owner.

  (2) The Owner shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
- (3) Alternatively, the Owner may make payments directly to Escrow Agent in the amount of retention for the benefit of the Owner until such time as the escrow created hereunder is terminated.
- (4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Contractor and Escrow Agent.
- (5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.
  - (6) Contractor shall have the right to withdraw all or any part of

the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

- (7) The owner shall have a right to draw upon the securities in the event of default by the contractor. Upon seven days' written notice to the escrow agent from the owner of the default, the escrow agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the owner.
- (8) Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.
- (9) Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (4) to (6), inclusive, of this agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.
- (10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On	behalf of	Owner:	On	behalf	of	Contractor

Title	Title	
Name	Name	
Signature	Signature	
Address	Address	
On behalf of Escrow Agent:		
Title		
Name		
Signature		
Address		

At the time the Escrow Account is opened, the Owner and

Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner

Contractor

Title	Title	Title		
Name	Name			
	<del></del>	<del></del>		
Signature	Signature			

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 chaptered on or before January 1, 1992, 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 1168

An act to amend Section 7590.1 of the Business and Professions Code, relating to alarm companies.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 7590.1 of the Business and Professions Code is amended to read:

7590.1. The following terms as used in this chapter have the meaning expressed in this article:

- (a) "Person" means any individual, firm, company, association, organization, partnership, or corporation.
  - (b) "Department" means the Department of Consumer Affairs.
  - (c) "Director" means the Director of Consumer Affairs.
- (d) "Bureau" means the Bureau of Collection and Investigative Services.
- (e) "Chief" means the Chief of the Bureau of Collection and Investigative Services.
- (f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records,

and withholds all legally required deductions and contributions.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control.

(h) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the

payroll records of the employer.

- (i) "Licensee" means a business entity, whether an individual, partnership, or corporation licensed under this chapter.
- (j) "Qualified manager" means an individual who is in active control, management, and direction of the licensee's business, and who has been issued a qualified manager's certificate pursuant to this chapter.
- (k) "Registrant" means any person registered or who has applied for registration under this chapter.
- (1) "Branch office" means any location, other than the principal place of business of the licensee, which is licensed as set forth in Article 11 (commencing with Section 7599.20).
- (m) "Branch office manager" means an individual designated by the qualified manager to manage the licensee's branch office and who has met the requirements as set forth in Article 11 (commencing with Section 7599.20).
- (n) "Alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.
- (o) "Alarm agent" means a person employed by an alarm company operator whose duties include selling on premises, altering, installing, maintaining, moving, repairing, replacing, servicing, responding, or monitoring an alarm system, or a person who manages or supervises a person employed by an alarm company to perform any of the duties described in this subdivision or any person in training for any of the duties described in this subdivision.
- (p) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles; any dirk, dagger, pistol, revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; or any metal pipe or bar used or intended to be used as a club.
- (q) "Firearms permit" means a permit issued by the bureau, pursuant to the provisions of Article 6 (commencing with Section 7596), to a licensee, a qualified manager, or an alarm agent, to carry an exposed firearm while on duty.
  - (r) (1) "Advertisement" means:
- (A) Any written or printed communication for the purpose of soliciting, describing, or promoting the licensed business of the licensee, including a brochure, letter, pamphlet, newspaper, periodical, publication, or other writing.
- (B) A directory listing caused or permitted by the licensee which indicates his or her licensed activity.

- (C) A radio, television, or similar airwave transmission which solicits or promotes the licensed business of the licensee.
  - (2) "Advertisement" does not include any of the following:
- (A) Any printing or writing used on buildings, vehicles, uniforms, badges, or other property where the purpose of the printing or writing is identification.
- (B) Any printing or writing on communications, memoranda, or any other writings used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of business.
- (C) Any printing or writing on novelty objects used in the promotion of the licensee's business where the printing of the information required by this chapter would be impractical due to the available area or surface.
- (s) "Residential sales agreement" means and includes an agreement between an alarm company operator and an owner or tenant for the purchase of an alarm system to be utilized in the personal residence of the owner or tenant.
- 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.

An act to add Part 40.5 (commencing with Section 67175) to the Education Code, and to add Chapter 3.9 (commencing with Section 15820.70) to Part 10b of Division 3 of Title 2 of the Government Code, relating to postsecondary education.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986]

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

SECTION 1. Part 40.5 (commencing with Section 67175) is added to the Education Code, to read:

# PART 40.5. CAPITAL OUTLAY REQUIREMENTS

- 67175. The California State University, any community college district, the California Maritime Academy, and the University of California may be reimbursed by the state for expenditures made for preliminary plans and working drawings for a capital outlay project, if all of the following conditions are met:
  - (a) The project was authorized in a budget act or other statute

before the preliminary plans and working drawings were prepared.

- (b) Funds for the reimbursement are appropriated by the Legislature.
- (c) All other applicable procedures were followed by the California State University, the community college district, the California Maritime Academy, or the University of California in expending the funds. The advance of funds by the California State University, a community college district, the California Maritime Academy, or the University of California, for preliminary plans and working drawings, shall be made to promote early completion of a capital outlay project authorized by the Legislature.
- SEC. 2. Chapter 3.9 (commencing with Section 15820.70) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

# CHAPTER 3.9. FINANCING FOR PUBLIC POSTSECONDARY EDUCATIONAL FACILITIES AND EQUIPMENT

## Article 1. General Provisions

15820.70. The Legislature finds and declares that California's public colleges and universities, recognized as being among the world's finest, require assistance in reducing their operating costs or increasing their income, or both. To this end the Legislature finds that it is in the public interest to construct, renovate, and equip facilities or acquire equipment, or both, that may be leased or lease-purchased by the University of California, the California State University, the California Maritime Academy, and the community college districts with the specific purpose of reducing the operating costs or increasing the income, or both, of these institutions and, and through the use of the savings in the support budgets of these postsecondary institutions or an increase in the income of these postsecondary institutions or through the use of a combination of savings and an increase in the income of these postsecondary institutions, to amortize the investment of the State Public Works Board over a reasonable period of time.

It is the intent of the Legislature that the savings in operating costs or increase in income, or both, from these improvements financed by the State Public Works Board be available to the colleges and universities for the purpose of making the lease or lease-purchase payments to the State Public Works Board. In addition, it is the intent of the Legislature that upon completion of the obligations to the State Public Works Board, the college and universities use the remaining savings, if any remain, for further improvements in these institutions.

It is also the intent of the Legislature that the cost of any construction, renovation, or acquisition authorized by statute pursuant to this chapter shall be considered an expenditure of state or community college district funds in the fiscal year in which

payments are made to the State Public Works Board under the terms of the lease or lease-purchase agreement.

# Article 2. Construction, Renovation, Equipping of Facilities, and Acquisition of Equipment

- 15820.71. (a) For the purposes of this chapter the board may finance the construction, renovation, and equipping of facilities or acquisition of equipment, or both, on a site or sites within the University of California, the California State University, the California Maritime Academy, or the community college districts.
- (b) The board shall lease-purchase to the Regents of the University of California and lease or lease-purchase to the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and the community college districts, pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code, any public building or facility constructed or renovated and equipped, or any equipment purchased pursuant to this chapter. The duration of each lease or lease-purchase agreement and the amount to be paid under each lease or lease-purchase agreement shall be determined by mutual agreement of the parties. The board shall contract with the lessee for all activities required to acquire equipment or to plan, construct, renovate, and equip facilities
- (c) For purposes of financing the improvements described in subdivision (a), the governing bodies shall certify to the Legislature that each project will result in reduced operating costs or increased income, or both, of these institutions and that the reduction in operating costs or the increase in income, or both, of these institutions will amortize the investment of the board over a reasonable period of time.
- (d) Savings in operating costs or increases in income, or both, from the improvements described in subdivision (a) shall be available to the institutions for the purposes of making the lease or lease-purchase payments to the board. In addition, these institutions, upon completion of the obligations to the board, shall use any remaining savings for further improvements in these institutions.
- (e) The cost of any improvement authorized by statute pursuant to this chapter shall be considered an expenditure of state or community college district funds in the fiscal year in which payments are made to the board under the terms of the lease or lease-purchase agreement.
- 15820.72. The board may contract for a project authorized by the Legislature before issuing certificates, revenue bonds, notes, or bond anticipation notes pursuant to Section 15820.74 if any segment of higher education provides from any lawful source temporary construction financing to meet contract payments for the project or if the board obtains a loan from the General Fund. Any loan from the General Fund shall be specifically authorized by the Legislature and

shall not exceed the amount authorized by the Legislature. The loan amount shall be repaid by the board to the General Fund, together with interest, in the amount that those moneys would have earned in the Pooled Money Investment Account.

15820.73. The California State University, any community college district, the California Maritime Academy, and the University of California may be reimbursed for expenditures for preliminary plans and working drawings for a project, if all the following conditions are met:

- (a) The project was authorized in a budget act or other statute before the preliminary plans and working drawings were prepared.
- (b) Funds for the reimbursement are appropriated by the Legislature.
- (c) All other applicable procedures were followed by the California State University, the community college district, the California Maritime Academy, or the University of California in expending the funds. The advance of funds by the California State University, a community college district, California Maritime Academy, or University of California, for preliminary plans and working drawings shall be made to promote early completion of a project authorized by the Legislature.

# Article 3. Financial Provisions

- 15820.74. (a) The board may issue certificates pursuant to Chapter 4 (commencing with Section 15821) or revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of the equipment acquisition, or the construction or renovation and the equipping of the public buildings or facilities authorized by this chapter.
- (b) The revenues, rentals, or receipts from the public buildings or facilities or equipment authorized by this chapter shall be pledged to the payment of the principal of, and the interest on, the certificates, revenue bonds, notes, or anticipation notes issued to finance the equipment acquisition or the construction or renovation and the equipping of the public buildings or facilities.
- (c) No certificates, revenue bonds, notes, or anticipation notes shall be issued, and no equipment acquisition or construction or renovation and the equipping for any public building or facility authorized by this chapter shall be commenced or purchased, unless the Legislature, by statute, authorizes the total amount of certificates, revenue bonds, notes, or anticipation notes that may be used to finance the equipment acquisition or the construction of the public building or facility.

An act to add Section 17718.5 to the Education Code, and to add Section 53313.9 to the Government Code, relating to school facilities.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 17718.5 is added to the Education Code, to read:

17718.5. (a) The Legislature intends for the board to encourage school districts to utilize alternative methods to fund school facilities.

- (b) The board shall approve applications pursuant to the requirements of this section which request the board to share a portion of the cost of projects constructed 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 of the Government Code. The board shall disregard the fact that structures have been constructed in accordance with that act and neither consider nor approve any application for cost sharing until the time that the applicant school district would have become eligible for approval of its application during the normal process established for considering and approving applications. Structures constructed with funds derived through the issuance of bonds pursuant to the Mello-Roos Community Facilities Act of 1982 prior to February 11, 1986, are not eligible for financing pursuant to this section.
- (c) The board shall approve applications for cost sharing based on both of the following factors:
- (1) Estimates of average daily attendance at the time the application is considered.
  - (2) The amount of cost sharing requested.
- (d) The costs shared by the board shall be an amount equal to the cost which would have been allowed for the project had it been originally approved pursuant to this chapter less 5 percent per year depreciation, exclusive of land, for each year that the project was constructed in advance of the application approval, but no more than the lesser of an amount equal to 75 percent of the allowable cost of the project or the principal amount of any outstanding callable bonds and other debts incurred to finance the project under the Mello-Roos Community Facilities Act of 1982.
- (e) If the board utilizes a point system to prioritize applications for funding, the computation of priorities for an application pursuant to this section shall be increased by 4 percent for each year from the date of construction of the project to the date of approval of the cost sharing application.
- SEC. 2. Section 53313.9 is added to the Government Code, to read:

- 53313.9. (a) All or any part of the cost of any school facilities financed by a community facilities district may be shared by the State Allocation Board pursuant to Section 17718.5 of the Education Code.
- (b) If the State Allocation Board shares in any part of the cost of the school facilities, the ownership of those facilities and the real property upon which the facilities are located shall be transferred to the State of California. A copy of the deed by which the title is transferred shall be recorded in the office of the county recorder of the county in which the property is located. The deed shall be indexed by the county recorder in the grantor-grantee index to the name of the school district as grantor and to the State of California as grantee. In addition, the community facilities district shall take one or more of the following actions:
- (1) Reduce the amount of bonds authorized to be issued by the community facilities district.
- (2) Reduce the amount of any special tax which is levied within the community facilities district.
- (3) Reduce the amount of outstanding bonds or provide for the defeasance of outstanding bonds.
- (4) Shorten the period of time during which a special tax is levied within the community facilities district.
- (c) The amount of savings achieved pursuant to the actions taken in accordance with subdivision (b) shall be in an amount equal to the amount of costs shared by the State Allocation Board pursuant to Section 17718.5 of the Education Code.

An act to amend Sections 198, 205, and 610 of the Code of Civil Procedure, relating to jurors.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

- SECTION 1. Section 198 of the Code of Civil Procedure is amended to read:
- 198. (a) Except as provided in subdivision (b), a person is competent to act as juror if he or she is all of the following:
- (1) A citizen of the United States of the age of 18 years who meets the residency requirements of electors of this state.
- (2) In possession of his or her natural faculties and of ordinary intelligence, provided that no person shall be deemed incompetent solely because of the loss of sight or hearing in any degree or other disability which impedes the person's ability to communicate or which impairs or interferes with the person's mobility.

- (3) Possessed of sufficient knowledge of the English language.
- (b) A person may be challenged for cause upon any ground specified in Section 602.
- SEC. 2. Section 205 of the Code of Civil Procedure is amended to read:
- 205. (a) The qualified jury list shall be drawn from a master jury list or source lists and shall include persons suitable and competent to serve as jurors. In making such selections there shall be taken only the names of persons who are not exempt from serving, who are in the possession of their natural faculties, who are of fair character and approved integrity, and who are of sound judgment.
- (b) A person shall not be deemed incompetent, and shall not be excluded from the qualified jury list solely because of the loss of sight or hearing in any degree or other disability which impedes the person's ability to communicate or which impairs or interferes with the person's mobility.
- (c) Notwithstanding any provisions in this section, a person may be challenged for cause upon any ground specified in Section 602. SEC. 3. Section 610 of the Code of Civil Procedure is amended
- to read:
- 610. (a) If a party does not cause the removal by challenge of an individual juror who is handicapped by loss of hearing, sight, or power of speech in any degree and who requires the services of a sign language interpreter; reader, or speech interpreter to facilitate communication, the party shall (1) stipulate to the presence of that attendant in the jury room during jury deliberations and (2) prepare and deliver to the court proposed jury instructions to that attendant.
- (b) If the services of a sign language interpreter, reader, or speech interpreter are required during the course of jury deliberations, the court shall instruct the jury and that attendant that the attendant for the disabled juror is not to participate in the jury's deliberations in any manner except to facilitate communication between the disabled juror and other jurors.

An act to amend Section 1050 of the Penal Code, relating to courts.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 1050 of the Penal Code is amended to read: 1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly

congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings.

- (b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary; and (2), within two court days of learning that he or she has a conflict in the scheduling of any court hearing, including a trial, an attorney shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify people's witnesses and the defense attorney shall notify defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court. The superior and municipal courts of a county may adopt rules, which shall be consistent, regarding the method of giving the notice or waiver of service required by this subdivision, where a continuance is sought because of a conflict between scheduled appearances in the courts of that county.
- (c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.
- (d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the

moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

- (e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.
- (f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.
- (g) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.
- (h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.
- (i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.
- (j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chairman of the Iudicial Council.
- (k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

# CHAPTER 1173

An act to amend Sections 1626, 1680, and 1718.3 of the Business and Professions Code, relating to dentistry.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 1626 of the Business and Professions Code is amended to read:

1626. It is unlawful for any person to engage in the practice of dentistry in the state, either privately or as an employee of a governmental agency or political subdivision, unless the person has a valid, unexpired license or special permit from the board.

The following practices, acts and operations, however, are exempt from the operation of this chapter:

- (a) The practice of oral surgery by a physician and surgeon licensed under the Medical Practice Act.
- (b) The operations by bona fide students of dentistry or dental hygiene in the clinical departments or the laboratory of a reputable dental college approved by the Board of Dental Examiners, including operations by unlicensed students while engaged in dental extension programs which have been approved by a school of dentistry, and approved by the Board of Dental Examiners, and which are offered by the educational institution comprising the approved school of dentistry, and which are under the general programmatic and academic supervision of such school of dentistry.
- (c) The practice of dentistry by licensed dentists of other states or countries while appearing and operating as bona fide clinicians or instructors in dental colleges approved by the Board of Dental Examiners.
- (d) The practice of dentistry by licensed dentists of other states or countries in conducting or making a clinical demonstration before any bona fide dental or medical society, association or convention; provided, however, the consent of the Board of Dental Examiners to the making and conducting of such clinical demonstration must be first had and obtained.
- (e) The construction, making, alteration or repairing of bridges, crowns, dentures, or other prosthetic appliances, or orthodontic appliances, when the casts or impressions for this work have been made or taken by a licensed dentist, but a written authorization signed by a licensed dentist shall accompany the order for the work or it shall be performed in the office of a licensed dentist under his supervision. The burden of proving written authorization or direct supervision is upon the person charged with the violation of this chapter.

It is unlawful for any person acting under the exemption of this

subdivision (e) to represent or hold out to the public in any manner that he will perform or render any of the services exempted by this subdivision that are rendered or performed under the provisions of this chapter by a licensed dentist, including the construction, making, alteration or repairing of dental prosthetic or orthodontic appliances.

(f) The manufacture or sale of wholesale dental supplies.

- (g) The practice of dentistry or dental hygiene by applicants during a licensing examination conducted in this state by the licensing agency of another state which does not have a dental school; provided, however, that the consent of the board to the conducting of such examination shall first have been obtained and that the examination shall be conducted in a dental college accredited by the board.
- (h) The practice by personnel of the Air Force, Army, Coast Guard, or Navy or employees of the United States Public Health Service, Veterans' Administration, or Bureau of Indian Affairs when engaged in the discharge of official duties.
- SEC. 2. Section 1680 of the Business and Professions Code is amended to read:
- 1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:
  - (a) The obtaining of any fee by fraud or misrepresentation.
- (b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.
- (c) The aiding or abetting of any unlicensed person to practice dentistry.
- (d) The aiding or abetting of a licensed person to practice dentistry unlawfully.
- (e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.
- (f) The use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.
- (g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions or other services or articles supplied to patients.
- (h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.
- (i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by

subdivision (h) of Section 651.

- (j) The employing or the making use of solicitors.
- (k) The advertising of any free dental work, or free examination.
- (1) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.
- (m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 8 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
  - (n) The violation of any of the provisions of this division.
- (o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.
- (p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600) or by imprisonment for a term of not less than 60 days or more than 180 days or by both such fine and imprisonment.

- (q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.
- (r) Suspension or revocation of a license issued by another state or territory on grounds which would be the basis of discipline in this state.
  - (s) The alteration of a patient's record with intent to deceive.
- (t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.
- (u) The abandonment of the patient by the licentiate, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.
- (v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.
- (w) Use of fraud in the procurement of any license issued pursuant to this chapter.
- (x) Any action or conduct which would have warranted the denial of the license.
- (y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.
  - (z) The failure to report to the board in writing within seven days

- either: (1) the death of his or her patient during the performance of any dental procedure; or, (2) the discovery of the death of a patient whose death is causally related to a dental procedure performed by him or her.
- (aa) Participating in or operating any group advertising and referral services which is in violation of Section 650.2.
- (bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall by regulation define what constitutes a fail-safe machine.
  - (cc) Engaging in the practice of dentistry with an expired license.
- SEC. 3. Section 1718.3 of the Business and Professions Code is amended to read:
- 1718.3. A license which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the holder of the license may apply for and obtain a new license if:
- (a) No fact, circumstance, or condition exists which would justify denial of licensure under Section 480,
- (b) He or she pays all of the fees which would be required of him or her if he or she were then applying for the license for the first time, and
- (c) He or she takes and passes the examination, if any, which would be required of him or her if he or she were then applying for the license for the first time, or otherwise establishes to the satisfaction of the board that with due regard for the public interest, he or she is qualified to practice the profession or activity in which he or she again seeks to be licensed.

The board may impose conditions on any license issued pursuant to this section, as it deems necessary.

The board may by regulation provide for the waiver or refund of all or any part of the examination fee in those cases in which a license is issued without an examination under this section.

# CHAPTER 1174

An act to amend Section 917.1 of the Code of Civil Procedure, relating to undertakings on appeal.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 917.1 of the Code of Civil Procedure is amended to read:

917.1. (a) The perfecting of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order is for money or directs the payment of money, whether consisting of

a special fund or not, and whether payable by the appellant or another party to the action, unless an undertaking is given.

- (b) The undertaking shall be on condition that if the judgment or order or any part of it is affirmed or the appeal is withdrawn or dismissed, the party ordered to pay shall pay the amount of the judgment or order, or the part of it as to which the judgment or order is affirmed, as entered after the receipt of the remittitur, together with any interest which may have accrued pending the appeal and entry of the remittitur, and costs which may be awarded against the appellant on appeal. This section shall not apply in cases where the money to be paid is in the actual or constructive custody of the court; and such cases shall be governed, instead, by the provisions of Section 917.2. The undertaking shall be for double the amount of the judgment or order unless given by an admitted surety insurer in which event it shall be for one and one-half times the amount of the judgment or order. The liability on the undertaking may be enforced if the party ordered to pay does not make the payment within 30 days after the filing of the remittitur from the reviewing court.
- (c) If a surety on the undertaking pays the judgment, either with or without action, after the judgment is affirmed, the surety is substituted to the rights of the creditor and is entitled to control, enforce, and satisfy the judgment, in all respects as if the surety had recovered the judgment.
- (d) Costs awarded by the trial court under Chapter 6 (commencing with Section 1021) of Title 14 shall be included in the amount of the judgment or order for the purpose of applying subdivisions (a) and (b).

#### CHAPTER 1175

An act to amend Section 44266 of, and to repeal and add Section 35300 of, the Education Code, relating to schools.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 35300 of the Education Code is repealed.

SEC. 2. Section 35300 is added to the Education Code, to read: 35300. (a) The governing board of any school district may provide a comprehensive educational counseling program for all pupils enrolled in the schools of the district.

For purposes of this section, "educational counseling" means specialized services provided by a school counselor possessing a valid credential with a specialization in pupil personnel services who is assigned specific times to directly counsel pupils.

(b) Educational counseling shall include, but not be limited to, all

of the following:

- (1) Academic counseling, in which pupils receive counseling in the following areas:
- (A) Establishment and implementation with parental involvement of the pupil's immediate and long-range educational plans.
- (B) Optimizing progress towards achievement of proficiency standards.
- (C) Completion of the required curriculum in accordance with the pupil's needs, abilities, interests, and aptitudes.
- (D) Academic planning for access and success in higher education programs including advisement on courses needed for admission to public colleges and universities, standarized admissions tests, and financial aid.
- (2) Career and vocational counseling, in which pupils are assisted in doing all of the following:
  - (A) Planning for the future.
  - (B) Becoming aware of their career potential.
  - (C) Developing realistic perceptions of work.
  - (D) Relating to the work world.
- (3) Personal and social counseling, in which pupils receive counseling pertaining to interpersonal relationships for the purpose of promoting the development of their academic abilities, careers and vocations, personalities, and social skills.
- (c) Nothing in this section shall be construed as prohibiting persons participating in an organized advisory program approved by the governing board of a school district, and supervised by a school district counselor, from advising pupils pursuant to the organized advisory program.
- (d) Notwithstanding any provisions of this section to the contrary, any person who is performing these counseling services pursuant to law authorizing the performance thereof in effect before January 1, 1987, shall be authorized to continue to perform those services on and after that date without compliance with the additional requirements imposed by this section.
- SEC. 3. Section 44266 of the Education Code is amended to read: 44266. The minimum requirements for the services credential with a specialization in pupil personnel services are a baccalaureate degree or higher degree, except in professional education, from an approved institution, a fifth year of study, and any specialized and professional preparation that the commission shall require, including completion of a commission-approved program of supervised field experience that includes direct classroom contact, jointly sponsored by a school district and a college or university.

The services credential with a specialization in pupil personnel services shall authorize the holder to perform, at all grade levels, the pupil personnel service approved by the commission as designated on the credential, which may include, but need not be limited to, school counseling, school psychology, child welfare and attendance

services, and school social work.

# CHAPTER 1176

An act to add Section 19577 to the Business and Professions Code, relating to horseracing.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 19577 is added to the Business and Professions Code, to read:

19577. (a) Any blood, urine, saliva, or other test samples required by the board to be taken from horses entered in any race shall be taken in duplicate if requested by the trainer or the owner of the horse to be tested and only if there is a sufficient test sample available after the official test sample has been taken. One sample shall be sent to the official racing laboratory approved and designated by the board, and the remaining sample shall be sent to an independent laboratory participating in the National Association of State Racing Commissioners Laboratory Quality Assurance Program. The board shall adopt regulations to ensure the security of obtaining all samples and the testing of those samples.

(b) The requesting party shall pay the testing costs of the

duplicate sample.

(c) If the test results from the independent laboratory are negative, a presumption affecting the burden of producing evidence pursuant to Section 603 of the Evidence Code of no evidentiary medication in the animal shall exist for purposes of this chapter.

#### CHAPTER 1177

An act to amend Section 2601 of the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 2601 of the Penal Code is amended to read: 2601. Notwithstanding any other provision of law, each person described in Section 2600 shall have the following civil rights:

(a) To inherit, own, sell, or convey real or personal property,

including all written and artistic material produced or created by such person during the period of imprisonment; provided that, to the extent authorized in Section 2600, the Department of Corrections may restrict or prohibit sales or conveyances that are made for business purposes.

- (b) To correspond, confidentially, with any member of the State Bar or holder of public office, provided that the prison authorities may open and inspect incoming mail to search for contraband.
- (c) To purchase, receive, read, and permit other inmates to read any and all legal materials, newspapers, periodicals, and books accepted for distribution by the United States Post Office, except those which describe the making of any weapon, explosive, poison, or destructive device, or which in the judgment of the Director of Corrections, in the director's sole discretion, depicts, portrays, or describes a sexual assault upon a correctional employee. Nothing in this section shall be construed as limiting the right of prison authorities (1) to open and inspect any and all packages received by an inmate and (2) to establish reasonable restrictions as to the number of newspapers, magazines, and books that the inmate may have in his or her cell or elsewhere in the prison at one time.
- (d) To have personal visits; provided that the department may provide such restrictions as are necessary for the reasonable security of the institution.
  - (e) To initiate civil actions.
  - (f) To marry.
  - (g) To create a power of appointment.
  - (h) To make a will.
- (i) To receive all benefits provided for in Sections 3370 and 3371 of the Labor Code and in Section 5069 of this code.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately provide for greater safety within correctional institutions, it is necessary that this act go into immediate effect.

# CHAPTER 1178

An act to amend Sections 6435 and 6500 of, to add and repeal Section 6511 of, and to repeal and add Section 6327, of, the Labor Code, relating to safety in employment.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 6327 of the Labor Code is repealed. SEC. 2. Section 6327 is added to the Labor Code, to read:

- 6327. Once an authorized representative of the division has prohibited entry in or use of a place of employment, machine, device, apparatus, or equipment, as specified in Section 6325, the employer may contest the order and shall be granted, upon request, a hearing by the division to review the validity of the representative's order. The hearing shall be held within 24 hours following the employer's request.
  - SEC. 3. Section 6435 of the Labor Code is amended to read:
- 6435. (a) Any employer who violates any of the requirements of Chapter 6 (commencing with Section 6500) of this part shall be assessed a civil penalty under the appropriate provisions of Sections 6427 to 6430, inclusive.
- (b) This section shall become inoperative on January 1, 1987, and shall remain inoperative until January 1, 1991, at which time it shall become operative, unless a later enacted statute, which becomes effective on or before January 1, 1991, deletes or extends that date.
  - SEC. 4. Section 6500 of the Labor Code is amended to read:
- 6500. For those employments or places of employment which by their nature involve a substantial risk of injury, the division shall require the issuance of a permit prior to the initiation of any practices, work, method, operation, or process of employment. The employment or places of employment shall be limited to any of the following:
- (a) Construction of trenches or excavations which are five feet or deeper and into which a person is required to descend.
- (b) The construction of any building, structure, falsework, or scaffolding more than three stories high or the equivalent height.
- (c) The demolition of any building, structure, falsework, or scaffold more than three stories high or the equivalent height.
- (d) The underground use of diesel engines in work in mines and tunnels.
  - SEC. 5. Section 6511 is added to the Labor Code, to read:
- 6511. (a) Notwithstanding Sections 6317 and 6434, any employer, except an employer that is a governmental entity, who violates this chapter or any standard, rule, order, or regulation adopted to implement this chapter, shall be assessed a civil penalty under the

- appropriate provisions of Sections 6427 to 6430, inclusive, except that in no case shall the penalty be less than two hundred fifty dollars (\$250).
- (b) Abatement periods fixed by the division pursuant to Section 6317 for violations of this chapter or any standard, rule, order, or regulation adopted to implement this chapter, shall be limited to two working days.
- (c) The filing of an appeal with the appeals board pursuant to Sections 6319 and 6600 shall not stay the abatement period fixed by the division for a violation of this chapter or any standard, rule, order, or regulation adopted to implement this chapter.
- (d) The division shall consult with the Legislative Analyst regarding the data that should be collected to evaluate the effect of subdivisions (a), (b), and (c) on the occupational safety and health of employees and the reduction of hazards at worksites where permits are required, and shall provide necessary data to the Legislative Analyst by October 1, 1989. The Legislative Analyst shall assess the information and report its findings in the 1990–91 Analysis of the Budget Bill.
- (e) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which enacted before January 1, 1991, deletes or extends that date.
- 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 1179

An act to amend Section 51005 of the Health and Safety Code, relating to the California Housing Finance Agency.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 51005 of the Health and Safety Code is amended to read:

51005. (a) The agency shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business and Transportation Agency, the Director of Housing and Community Development, the Treasurer, the Joint Legislative Budget Committee, and the Legislature. The report shall set forth a complete operating and financial statement of the agency during the

concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of housing developments purchased during the previous fiscal year by housing sponsors who are persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents, and managing agents.

- (b) The report shall also include specific information evaluating the extent to which the programs administered by the agency have attained the statutory objectives of the agency, including, but not limited to, the primary purpose of the agency in meeting the housing needs of persons and families of low or moderate income pursuant to Section 50950; the occupancy requirements for very low income households established pursuant to Sections 50951 and 51226; and the elderly and orthopedic disability occupancy requirements established pursuant to Section 51230. The report shall include specific information on the use of surplus moneys pursuant to Section 51007 and any recommendations described in Section 51227.
- (c) The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.
- (d) The agency shall also include in its annual report information with respect to the number of manufactured housing units assisted by the agency.
- (e) Commencing with the report prepared for the 1986–87 fiscal year, the agency shall include information with respect to the proceeds derived from the issuance of bonds or securities and any interest or other increment derived from the investment of bonds or securities, and the uses for which those proceeds or increments are being made as provided for in Section 51365. The report shall include the amount by which each fund balance exceeds indenture requirements.
- SEC. 2. Section 51005 of the Health and Safety Code is amended to read:
- 51005. (a) The agency shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business, Transportation and Housing Agency, the Director of Housing and Community Development, the Treasurer, the Joint

Legislative Budget Committee, and the Legislature. The report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of housing developments purchased during the previous fiscal year by housing sponsors who are persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents, and managing agents.

- (b) The report shall also include specific information evaluating the extent to which the programs administered by the agency have attained the statutory objectives of the agency, including, but not limited to, the primary purpose of the agency in meeting the housing needs of persons and families of low or moderate income pursuant to Section 50950; the occupancy requirements for very low income households established pursuant to Sections 50951 and 51226; and the elderly and orthopedic disability occupancy requirements established pursuant to Section 51230. The report shall include specific information on the use of surplus moneys pursuant to Section 51007 and any recommendations described in Section 51227.
- (c) The report shall also include all of the following information on the implementation and administration of Davis-Garamendi Senior Citizens Housing Assistance Act of 1986, established pursuant to Chapter 9 (commencing with Section 51450):
  - (1) The number of assisted units in rental housing developments.
- (2) The number of units in rental housing developments occupied by, or available to, eligible households.
- (3) The number of units in rental housing developments occupied by, or available to, very low income eligible households.
- (4) The average income of, and the distribution of annual incomes among, eligible households.
- (5) The average and median cost of a unit in each rental housing development.
- (6) The administrative costs incurred by the agency to implement and manage the program.
- (7) The agency's recommendations, as needed, to improve the operation of that program.
- (d) The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the

Department of Finance not more often than once each fiscal year.

- (e) The agency shall also include in its annual report information with respect to the number of manufactured housing units assisted by the agency.
- (f) Commencing with the report prepared for the 1986–87 fiscal year, the agency shall include information with respect to the proceeds derived from the issuance of bonds or securities and any interest or other increment derived from the investment of bonds or securities, and the uses for which those proceeds or increments are being made as provided for in Section 51365. The report shall include the amount by which each fund balance exceeds indenture requirements.
- (g) The Legislative Analyst shall include an analysis of the information submitted pursuant to subdivision (c) in the Legislative Analyst's Analysis of the 1989 and 1990 Budget Bills and evaluate the extent to which the objectives of the Davis-Garamendi Senior Citizens Housing Assistance Act of 1986, established pursuant to Chapter 9 (commencing with Section 51450) are being accomplished along with any recommendations for improving program performance and meeting statutory objectives.
- SEC. 3. Section 2 of this bill incorporates amendments to Section 51005 of the Health and Safety Code proposed by both this bill and AB 2051. 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 51005 of the Health and Safety Code, and (3) this bill is enacted after AB 2051, in which case Section 51005 of the Health and Safety Code, as amended by AB 2051, 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 1180

An act to amend Section 66780.1 of the Government Code, relating to solid waste.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 66780.1 of the Government Code is amended to read:

66780.1. (a) Each county, in cooperation with affected local jurisdictions, shall prepare, subject to the approval of the plan by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county, a comprehensive, coordinated solid waste management plan,

consistent with state policy and any appropriate regional or subregional solid waste management plan, for all waste disposal within the county or any other designated jurisdiction, based upon population and waste generated, and for all waste originating within the county or jurisdiction which is to be disposed of outside of the county. Each solid waste management plan shall be submitted for review and comments to the regional planning agency for the region prior to submission to the board. Any county, with the agreement of a majority of the cities within the county which contain a majority of the population of the incorporated area of the county, may transfer the responsibility for the preparation of the solid waste management plan to the regional planning agency for the region. Each plan shall include an implementation schedule, as defined in Section 66714.9, no later than July 1, 1984. Each plan shall also include an analysis of the economic feasibility of the plan, including the cost of waste disposal in the designated jurisdiction. Where appropriate, the plan may include elements providing for subregional solid waste management covering more than one county or parts thereof and providing for related costs of additional fees or charges. The plan shall not supersede plans of any local jurisdiction unless there is agreement by all parties concerned.

- (b) On or before January 1, 1989, the board shall review, after consultation with local officials, the adoption, application and cost of the implementation schedules required by subdivision (a) and report its findings to the Legislature.
- 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 1181

An act to add and repeal Section 199.79 of, and to add Section 199.80 to, the Health and Safety Code, relating to acquired immune deficiency syndrome.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) According to the statistics of the AIDS Advisory Committee as of November 1, 1985, there were 3,378 reported cases of AIDS in California, of which 1,180 had died. Furthermore, according to this committee, there are an estimated 16,800 persons in California with

AIDS-related condition (ARC).

- (b) In Los Angeles County, it is estimated that there are now 135,000 people infected with the AIDS virus, and that over 13,000 of these will develop AIDS in the next two to five years. Los Angeles County has experienced 1,100 cases of AIDS to date.
- (c) It is necessary to determine the number of persons in California who have been diagnosed as having AIDS-related condition (ARC) with disabling symptoms, which although it is not a diagnosis of AIDS, can result in the transmitting of the AIDS virus, and in debilitating symptoms similar to AIDS that put a severe burden on county-supported health programs.
- (d) It is also necessary for the Legislature to recognize and establish public policy relating to the fact that the inhaling of alkyl nitrites, manufactured and marketed as incense or room odorizers and often sold for use as stimulants, has tentatively been implicated by several research studies as being immunosuppressive, and as being a cofactor in the development of Kaposi's sarcoma, one of the principal manifestations of AIDS.
- SEC. 2. Section 199.79 is added to the Health and Safety Code, to read:
- 199.79. (a) The State Department of Health Services shall submit a report to the Legislature on or before January 1, 1988, on the following aspects of AIDS-related condition (ARC):
- (1) A definition of ARC that results in debilitating and disabling symptoms requiring extensive medical care and treatment, as defined by the state department in consultation with the California Conference of Local Health Officers and taking into consideration any definition developed by the Center for Disease Control.
- (2) A report on the estimated incidence of ARC in California that results in debilitating and disabling symptoms requiring extensive medical care and treatment, developed after consultation with the California Conference of Local Health Officers, the AIDS Advisory Committee created pursuant to Section 196, the Center for Disease Control, and other sources of epidemiological expertise, as determined by the state department.
- (3) A report on the types of public services and programs that serve persons with ARC that results in debilitating and disabling symptoms requiring extensive medical care and treatment, and the average cost of care per patient for these services and programs, developed after consultation with the California Conference of Local Health Officers, the AIDS Advisory Committee, County Welfare Directors Association, Medi-Cal contract hospitals, county hospitals, and other sources of cost information, as determined by the state department.
- (b) 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 199.80 is added to the Health and Safety Code, to read:

- 199.80. (a) Every person who sells alkyl nitrites shall at the point of sale of the alkyl nitrites, post a sign measuring no less than five by seven inches to read as follows:
- "Warning: These products contain alkyl nitrites ('poppers'). Inhaling or swallowing alkyl nitrites may be harmful to your health. The use of alkyl nitrites may affect the immune system. Several studies have suggested that their use is associated with the development of Kaposi's sarcoma (an AIDS condition)."
- (b) The signs required by subdivision (a) shall be furnished by the manufacturers or distributors of alkyl nitrites in California in sufficient quantity with the shipments of alkyl nitrites to allow posting at all points of sale.
- (c) "Point of sale" for purposes of this section is that place within close proximity of the shelves or other area where the alkyl nitrites are displayed for consumer purchase.

### CHAPTER 1182

An act to amend Section 66723 of the Government Code, relating to solid waste.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 66723 of the Government Code is amended to read:

- 66723. "Transfer/processing station" or "station" includes those facilities utilized to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport. "Transfer/processing station" or "station" does not include any of the following:
- (a) A facility, whose principal function is to receive, store, separate, convert, or otherwise process in accordance with state minimum standards, manure.
- (b) A facility, whose principal function is to receive, store, convert, or otherwise process wastes which have already been separated for reuse and are not intended for disposal.
- (c) The operations premises of a duly licensed solid waste handling operator who receives, stores, transfers, or otherwise processes wastes as an activity incidental to the conduct of a refuse collection and disposal business. The board may adopt regulations specifying those operations subject to this subdivision. These regulations shall prohibit the storing of more than 90 cubic yards of

waste in covered containers during any 72-hour period and the transfer of uncontainerized refuse from smaller refuse hauling motor vehicles to larger refuse transfer motor vehicles for transport to the point of ultimate disposal.

#### CHAPTER 1183

An act to amend Section 13710 of the Penal Code, relating to criminal law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. The Legislature hereby finds and declares that confusion in the law has caused some courts to incorrectly exclude domestic violence cases from the coverage of protective order issued pursuant to Section 136.2 of the Penal Code.

It is the intent of the Legislature in enacting this act to ensure that courts shall issue protective, stay-away orders under Section 136.2 of the Penal Code in appropriate domestic violence cases.

The Legislature further requests that the Judicial Council shall inform each court with jurisdiction over a criminal matter of this declaration of legislative intent.

- SEC. 2. Section 13710 of the Penal Code is amended to read:
- 13710. Law enforcement agencies shall maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, including orders issued pursuant to Section 136.2, restraining orders, and proofs of service in effect. This shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders in effect.
- 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 clarify the legal authority of courts to issue protective orders in domestic violence cases at the earliest possible time, it is necessary that this act take effect immediately.

### CHAPTER 1184

An act to amend Section 24603 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 24603 of the Vehicle Code is amended to read:

- 24603. Every motor vehicle which is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall at all times be equipped with stoplamps mounted on the rear as follows:
- (a) Every such vehicle shall be equipped with one or more stoplamps.
- (b) Every such vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1958, shall be equipped with two stoplamps, except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one stoplamp which shall be mounted at or near the vertical centerline of the trailer. If such vehicle is equipped with two stoplamps, they shall be mounted as specified in subdivision (d).
- (c) Except as provided in subdivision (h), stoplamps on vehicles manufactured on or after January 1, 1969, shall be mounted not lower than 15 inches nor higher than 72 inches, except that a tow car, in addition to being equipped with the required stoplamps, may also be equipped with two stoplamps which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position.
- (d) Where two stoplamps are required, at least one shall be mounted at the left and one at the right side, respectively, at the same level.
- (e) Stoplamps on vehicles manufactured on or after January 1, 1979, shall emit a red light. Stoplamps on vehicles manufactured before January 1, 1979, shall emit a red or yellow light. All stoplamps shall be plainly visible and understandable from a distance of 300 feet to the rear both during normal sunlight and at nighttime, except that stoplamps on a vehicle of a size required to be equipped with clearance lamps shall be visible from a distance of 500 feet during such times.
- (f) Stoplamps shall be activated upon application of the service (foot) brake and the hand control head for air, vacuum, or electric brakes. In addition, all stoplamps may be activated by a mechanical device designed to function only upon sudden release of the accelerator while the vehicle is in motion. Stoplamps on vehicles

equipped with a manual transmission may be manually activated by a mechanical device when the vehicle is downshifted if the device is automatically rendered inoperative while the vehicle is accelerating.

(g) Any vehicle may be equipped with supplemental stoplamps mounted to the rear of the rearmost portion of the driver's seat in its rearmost position in addition to the lamps required to be mounted on the rear of the vehicle. Supplemental stoplamps installed after January 1, 1979, shall be red in color and mounted not lower than 15 inches above the roadway. The supplemental stoplamp on that side of a vehicle toward which a turn will be made may flash as part of the supplemental turn signal lamp.

A supplemental stoplamp may be mounted inside the rear window of a vehicle, if it is mounted at the centerline of the vehicle and is constructed and mounted so as to prevent any light, other than a monitorial indicator emitted from the device, either direct or reflected, from being visible to the driver.

- (h) Any supplemental stoplamp installed after January 1, 1987, shall comply with Federal Motor Vehicle Safety Standard No. 108 (49 C.F.R. 571.108). Any vehicle equipped with a stoplamp which complies with the federal motor vehicle safety standards applicable to that make and model vehicle shall conform to that applicable safety standard unless modified to comply with the federal motor vehicle safety standard designated in this subdivision.
- 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 1185

An act to amend Sections 387 and 396 of the Vehicle Code, relating to manufactured homes.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 387 of the Vehicle Code is amended to read: 387. "Manufactured home" is a manufactured home, as defined in Section 18007 of the Health and Safety Code, a commercial coach, as defined in Section 18001.8 of the Health and Safety Code, a mobilehome, as defined in Section 18008 of the Health and Safety Code, factory-built housing, as defined in Section 18971 of the Health and Safety Code, and a trailer coach which is in excess of 102 inches

in width, or in excess of 40 feet in overall length measured from the foremost point of the trailer hitch to the rear extremity of the trailer. Manufactured home does not include a recreational vehicle, as defined in Section 18010 of the Health and Safety Code.

SEC. 2. Section 396 of the Vehicle Code is amended to read:

396. "Mobilehome" is a structure as defined in Section 18008 of the Health and Safety Code. For the purposes of enforcement of highway safety laws and regulations, a mobilehome is a trailer coach which is in excess of 102 inches in width, or in excess of 40 feet in overall length measured from the foremost point of the trailer hitch to the rear extremity of the trailer.

#### CHAPTER 1186

An act to add Division 13.5 (commencing with Section 16500) to the Fish and Game Code, relating to Indian fishing rights.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Division 13.5 (commencing with Section 16500) is added to the Fish and Game Code, to read:

# DIVISION 13.5. STATE-TRIBAL AGREEMENTS GOVERNING INDIAN FISHING ON THE KLAMATH RIVER

#### CHAPTER 1. LEGISLATIVE FINDINGS

16500. 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 within Indian country 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 on the Klamath River.

- (e) That the Department of Fish and Game has exercised jurisdiction over the Klamath River from the mouth of the river through the Klamath River Reservation (also known as the Hoopa Valley Indian Reservation), but that the Bureau of Indian Affairs and the Indian tribes thereon have also asserted jurisdiction over that river. The river itself lies within a disputed area and proper management of the resource presents, therefore, unique and difficult problems in the exercise of fishing practices by all users groups.
- (f) Although commercial fishing may not be a traditional practice of the tribes existing along the Klamath River within the boundaries of the land of the Klamath River Reservation, nevertheless, the Department of Fish and Game has historically supported the concept of tribal fishing, including a tribal commercial fishing industry where the industry is consistent with the need to preserve the species, sound management, and where such usage would not adversely effect other user groups, including sport fishing and the ocean commercial fishery.
- (g) That a commercial fishery existed on the Klamath River in the late 19th Century and early 20th Century, in which the Indian tribes existing along the river participated, but that the commercial fishing was abolished in 1933 with the passage of the predecessor to Section 8434, and, further, that salmon resources have declined historically due to past water developmental policies and timber harvesting practices. With a reduced number of fish available, special laws are needed to protect those resources and allocate them fairly among the various user groups.
- (h) This division is not only enacted to provide the legal mechanism described above, but is also intended to encourage cooperative agreements to allow protection of the resource among all of the user groups. In so doing, the Legislature recognizes the unique status of the Klamath River and the fishing therein.

#### CHAPTER 2. GENERAL PROVISIONS AND DEFINITIONS

16510. The definition in this chapter shall govern the construction of this division.

16511. "Klamath River Indian Tribes" means those tribes existing within the boundaries of the Klamath River Indian Reservation, or Hoopa Valley Indian Reservation, located in Humboldt and Del Norte Counties in California, which tribes are recognized as an Indian tribe by the Secretary of the Interior.

16512. "Take" means pursue, catch, capture, or kill, or attempt to

pursue, catch, capture, or kill.

16513. "Traditional Indian fishing practice" means a mode, method, or way of taking fish that is recognized in the customs and traditions of the Klamath River Indian Tribes.

16514. "Klamath River Reservation or Hoopa Valley Reservation" means the land extending one mile in width on each side of the Klamath River from the mouth of the Klamath River to the confluence of the Trinity and Klamath Rivers and those lands lying within the Hoopa Square.

16515. "Disputed area" means that part of the Klamath River or Trinity River where jurisdiction to regulate Indian fishing is asserted by both the State of California and by one or more of the Indian tribes in the Klamath River Indian Tribes or by the United States government acting as trustee therefor.

16516. "Subsistence purposes" means fish or game taken by qualified Indian tribal members of the Klamath River Indian Tribes for personal consumption by the tribal members or their immediate families.

16517. "Ceremonial or religious purposes" means fish taken by qualified Indian tribal members of the Klamath River Indian Tribes for recognized religious or ceremonial activities, which activities are consistent with the customs and traditions of the particular tribe in the Klamath River Indian Tribes.

16518. "Commercial fishing" means the taking of fish by qualified Indian tribal members of the Klamath River Indian Tribes, for sale or to be offered for sale within California.

16520. "Klamath River Salmon Management Group" means that group which is composed of one representative each from the Pacific Fishery Management Council, National Marine Fisheries Service, Department of Interior, Oregon Department of Fish and Wildlife, California Department of Fish and Game, and the Hoopa Valley Tribal Council.

16521. "Klamath River Salmon Allocation Committee" means that working committee with the Klamath River Salmon Management Group which provides recommendations regarding allocation of salmon and is composed of the members representing the Klamath River Salmon Management Group and equitable representation of the recognized and affected user groups of the Klamath River salmon resource.

#### Chapter 3. Negotiation and Approval of Agreement

16530. The director may enter into a mutual agreement or compact with the Hoopa Valley Indian Tribal Council and with the Bureau of Indian Affairs acting as trustee for other Klamath River Basin tribes regarding the taking of fish from the Klamath River within the exterior boundaries of the Klamath River Reservation.

16531. Negotiations shall take place following the completion each year of the user group salmon allocation agreement

recommended by the Klamath River Salmon Allocation Committee, adopted by the Klamath River Salmon Management Group, and subsequently adopted by the Pacific Fishery Management Council and the United States Department of Commerce. Any agreement or compact under this division shall reflect those user group allocations.

16532. Notwithstanding Sections 8434, 8685.5, 8685.6, and 8685.7, the compact or agreement may include provisions for commercial sales of salmon allocated to qualified Indian members of the Klamath River Indian Tribes and that the salmon may be taken by traditional Indian methods, including, but not limited to, use of gill nets, if the agreement or compact includes a provision for marking of the salmon to be sold, limits on the number of the salmon to be sold, and provides for a portion of the sales to benefit the members or programs of the Klamath River Indian Tribes, in accordance with the wishes of the tribes or the Bureau of Indian Affairs acting on behalf of the tribes as trustee.

16533. The department shall, on or before January 30 of each year, beginning January 30, 1987, prepare a report summarizing the status and content of these agreements or compacts and shall submit the report to the commission and the Legislature.

### CHAPTER 4. ENFORCEABILITY OF AN AGREEMENT OR COMPACT

16540. Any agreement or compact entered into pursuant to this division shall be enforceable by the parties only to the extent and in the form or forms provided for under the terms of the agreement or compact.

16541. The department may adopt regulations consistent with the provisions of any agreement or compact entered into pursuant to Section 16530 or 16531. The application and enforcement of those regulations shall be in accordance with the express provisions of the agreement or compact.

#### CHAPTER 1187

An act to amend Sections 25160, 25169, 25173, 25185, 25185.5, 25186, 25187, 25189, 25189.2, 25192, 25194.5, 25197.1, and 25197.2 of, to add Sections 25185.6, 25186.1, 25186.2, and 25189.3 to, and to repeal Sections 25116.5 and 25168.2 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 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 "Hazardous Waste Enforcement Act of 1986."

- SEC. 2. Section 25116.5 of the Health and Safety Code is repealed. SEC. 3. Section 25160 of the Health and Safety Code is amended to read:
- 25160. (a) For purposes of this chapter, "manifest" means the Uniform Hazardous Waste Manifest required by this section. A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials which the person completing the manifest reasonably believes are hazardous waste.
- (b) Any person producing a hazardous waste shall provide the person who will transport the hazardous waste with an applicable Uniform Hazardous Waste Manifest, which is completed as required by the department. The producer shall provide the manifest to the driver if the hazardous waste will be transported by vehicle, or to the person designated by the railroad corporation or vessel operator if the hazardous waste will be transported by rail or vessel. The producer shall also send a copy of the manifest to the department within 30 days after submitting the hazardous waste for transport.
- (c) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.) or by regulations adopted by the United States Department of Transportation. However, the form of the manifest and the information required shall be consistent with federal regulations.

Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations, including, but not limited to, the number of the vehicle which will transport the hazardous waste, as specified in the certificate of compliance issued pursuant to Section 25168.3.

- (d) Any person who transports hazardous waste in a vehicle shall have a manifest in his or her possession while transporting the hazardous waste. The manifest shall be shown upon demand to any representative of the department, officer of the California Highway Patrol, any local health officer, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations and shall also enter on the shipping papers any information concerning the hazardous waste which the department may require.
- (e) Any person who transports any waste, as defined by Section 25124, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.
  - (f) Any person who transports hazardous waste shall transfer a

copy of the manifest to the person who is responsible for the disposal of the waste, at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. Any person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

- (g) Any person who receives hazardous waste for disposal, which was transported with a manifest pursuant to this section, shall submit a copy of the manifest to the department within 30 days after receiving the hazardous waste.
- SEC. 4. Section 25168.2 of the Health and Safety Code is repealed. SEC. 5. Section 25169 of the Health and Safety Code is amended to read:
- 25169. (a) Every transporter of hazardous waste shall maintain ability to respond in damages resulting from the operation of that business consistent with whichever of the following requires the highest limits:
- (1) The liability limits prescribed pursuant to Section 3631 of the Public Utilities Code.
- (2) The liability limits prescribed pursuant to Section 3631.5 of the Public Utilities Code.
- (3) A higher limit than that prescribed pursuant to paragraph (1) or (2), when deemed necessary and so established by the department.
- (b) The department shall, within two working days of being informed of any violation of subdivision (a), transmit a notice of violation to the transporter suspected of the violation. If the transporter so notified does not present proof of compliance with subdivision (a) to the department's satisfaction within 30 days of transmittal of the notice, the department shall immediately, notwithstanding Section 25186, suspend the registration. If proof of compliance is not submitted within 60 days, the registration shall immediately be revoked, notwithstanding Section 25186. A transporter whose registration is revoked pursuant to this subdivision may apply again for registration upon furnishing proof of compliance with subdivision (a).
- SEC. 6. Section 25173 of the Health and Safety Code is amended to read:
- 25173. The department shall establish procedures to ensure that trade secrets used by a person regarding methods of hazardous waste handling and disposal are utilized by the director, the department, or any authorized representative of the department only in connection with the responsibilities of the department pursuant to this chapter and that such trade secrets are not otherwise disseminated by the director, the department, or any authorized representative of the department without the consent of the person.

However, any information shall be made available to governmental agencies for use in making studies and for use in judicial review or enforcement proceedings involving the person furnishing the information.

"Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

- SEC. 7. Section 25185 of the Health and Safety Code is amended to read:
- 25185. (a) In order to carry out the purposes of this chapter, any authorized representative of the department or of the local health officer may, at any reasonable hour of the day, or as authorized pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, do any of the following:
- (1) Enter and inspect a factory, plant, construction site, waste disposal site, transfer station, establishment or any other place or environment where hazardous wastes are stored, handled, processed, disposed of, or being treated to recover resources.
- (2) Carry out any sampling activities necessary to carry out this chapter, including obtaining samples from any individual or taking samples from the property of any person or from any vehicle in which any authorized representative of the department or a local health officer reasonably believes has transported or is transporting hazardous waste. However, upon request, split samples shall be given to the person from whom, or from whose property or vehicle, the samples were obtained.
- (3) Stop and inspect any vehicle reasonably suspected of transporting hazardous wastes when accompanied by a uniformed peace officer in a clearly marked vehicle.
- (4) Inspect and copy any records, reports, test results, or other information required to carry out this chapter.
- (5) Photograph any waste, waste container, waste container label, vehicle, waste treatment process, waste disposal site, or condition constituting a violation of law found during an inspection.
- (b) During the inspection, the inspector shall comply with all reasonable security, safety, and sanitation measures. In addition, the inspector shall comply with reasonable precautionary measures specified by the operator.
- (c) A report listing any violations found during the inspection shall be prepared by the inspector and shall be kept on file in the department. A copy of the report shall be provided to the operator.
- (d) Whenever photographs have been taken pursuant to paragraph (5) of subdivision (a), the department shall comply with

all procedures established pursuant to Section 25173 and shall notify the person whose facility was photographed prior to public disclosure of the photographs, and, upon request of that person, shall submit a copy of any photograph to that person for the purpose of determining whether trade secret information, as defined in Section 25173, or facility security would be revealed by the photograph. "Public disclosure," as used in this section, shall not include review of the photographs by a court of competent jurisdiction or an administrative law judge. That review may be conducted in camera at the discretion of the court or judge.

- (e) "Local health officer," as used in this section, means county health officers, city health officers, and district health officers, as defined in this code.
- SEC. 8. Section 25185.5 of the Health and Safety Code is amended to read:
- 25185.5. In order to carry out the purposes of Article 11 (commencing with Section 25220), any authorized representative of the department may, at any reasonable hour of the day, or as authorized pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, enter and inspect any real property which is within 2,000 feet of a deposit of hazardous waste or a hazardous waste property and do any of the following:
- (a) Obtain samples of the soil, vegetation, air, water, and biota on or beneath the land.
- (b) Set up and maintain monitoring equipment for the purpose of assessing or measuring the actual or potential migration of hazardous wastes on, beneath, or toward the land.
- (c) Survey and determine the topography and geology of the land.
- (d) Photograph any equipment, sample, activity, or environmental condition described in subdivision (a), (b), or (c). The photographs shall be subject to the requirements of subdivision (d) of Section 25185.
- (e) This section does not apply to any hazardous waste facility which is required to be permitted pursuant to this chapter and which is subject to inspection pursuant to Section 25185.
- (f) An inspector who inspects pursuant to this section shall make a reasonable effort to inform the owner or his or her authorized representative of the inspection and shall provide split samples to the owner or representative upon request and shall comply with the provisions of subdivision (b) of Section 25185.
- SEC. 9. Section 25185.6 is added to the Health and Safety Code, to read:
- 25185.6. Consistent with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. Sec. 9601 et seq.), and the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), the department, in connection with any action authorized by this division, may require any of the following persons to furnish and transmit to the designated

offices of the department any existing information relating to hazardous substances, hazardous wastes, or hazardous materials:

- (1) Any person who owns or operates any hazardous waste facility.
- (2) Any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous waste.
- (3) Any person who has generated, stored, treated, transported, disposed of, or otherwise handled hazardous waste.
- (4) Any person who arranges, or has arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.
- (5) Any person who applies, or has applied, for any permit, registration, or certification under this chapter.

Any person required to furnish this information shall pay any costs of photocopying or transmitting this information.

When requested by the person furnishing this information the department shall follow the procedures established under Section 25173.

SEC. 10. Section 25186 of the Health and Safety Code is amended to read:

25186. The department may deny, suspend, or revoke any permit, registration, or certificate applied for, or issued, pursuant to this chapter in accordance with the procedures specified in Sections 25186.1 and 25186.2, where the applicant or holder of the permit, registration, or certificate, or in the case of a business concern, any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in or debt liability of that business concern, has engaged in any of the following:

- (a) Any violation of, or noncompliance with, this chapter, Chapter 6.7 (commencing with Section 25280), Chapter 6.8 (commencing with Section 25300), the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Sec. 1801 et seg.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) or any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle Code, if the violation or noncompliance shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment.
- (b) The aiding, abetting, or permitting of any violation of, or noncompliance with, this chapter, Chapter 6.7 (commencing with Section 25280), Chapter 6.8 (commencing with Section 25300), the Porter-Cologne Water Quality Act (Division 7 (commencing with

Section 13000) of the Water Code), the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Sec. 1801 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), or any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle Code, if the violation or noncompliance shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment.

- (c) Any violation of, or noncompliance with, any order issued by a state agency or by a hearing officer or a court relating to the generation, transportation, treatment, storage, recycling, disposal or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle Code.
- (d) Any misrepresentation or omission of a significant fact or other required information in the application for the permit, registration, or certificate, or in information subsequently reported to the department.
- (e) Activities resulting in any federal or state conviction which are significantly related to the fitness of the applicant or holder of the permit, registration, or certificate to perform the applicant's duties or activities under the permit, registration, or certificate. For the purposes of this subdivision, "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department may take pursuant to this subdivision relating to the denial, suspension or revocation of a permit, registration, or certificate may be based upon a conviction for which any of the following has occurred:
  - (1) The time for appeal has elapsed.
  - (2) The judgment of conviction has been affirmed on appeal.
- (3) Any order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code permitting that person to withdraw the person's 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.
- (f) Activities resulting in the revocation or suspension of any license, permit, registration or certificate held by the applicant or holder of the permit, registration or certificate or, if the applicant or holder of the permit, registration, or certificate is a business concern, by any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in, or debt liability of that business concern relating to, the generation, transportation, treatment,

storage, recycling, disposal, or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle Code.

SEC. 11. Section 25186.1 is added to the Health and Safety Code, to read:

25186.1. Except as specified in Section 25186.2, proceedings for the denial, suspension or revocation of a permit, registration or certificate under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of a conflict between this chapter and the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of Government Code, the provisions of the Government Code shall prevail.

SEC. 12. Section 25186.2 is added to the Health and Safety Code, to read:

The department may temporarily suspend any permit, 25186.2. registration or certificate issued pursuant to this chapter prior to any hearing if the department determines that the action is necessary to prevent or mitigate an imminent and substantial danger to the public health or safety or the environment. The department shall notify the holder of the permit, registration, or certificate of the temporary suspension and the effective date thereof and at the same time shall serve the person with an accusation. Upon receipt by the department of a notice of defense to the accusation from the holder of the permit, registration, or certificate, the department shall, within 15 days, set the matter for a hearing, which 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 hearing is completed and the department has made a final determination on the merits, which shall be made within 60 days after the completion of the hearing. If the determination is not transmitted within this period, the temporary suspension shall be of no further effect.

SEC. 13. Section 25187 of the Health and Safety Code is amended to read:

25187. (a) Whenever the department determines that any person has violated, or is in violation of, this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code to violate this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Article 3 (commencing with Section 25810) of Chapter 7.6, of this division, the department may issue an order or proposed order specifying a schedule for compliance or correction. An order issued pursuant to this section may include a requirement

that the person take corrective action with respect to hazardous waste, including the cleanup of the hazardous waste, abatement of the effects thereof, and any other necessary remedial action. The order shall incorporate as a condition of the order any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order or proposed order. The department may also include any more stringent requirement which the department determines is necessary or appropriate to protect water quality. Persons who are subject to an order pursuant to this section include present and prior owners, lessees, or operators of the property where the hazardous waste is located, present or past generators, storers, treaters, transporters, disposers, and handlers of hazardous waste, and persons who arrange, or have arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.

- (b) Any order or proposed order issued pursuant to subdivision (a) shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing.
- (c) Any person served with an order or proposed order pursuant to subdivision (b) who has been unable to resolve any violation or deficiency on an informal basis with the department may file, within 10 days after service of the order or proposed order, a notice of intent to challenge the order and request a public hearing. A notice of intent to challenge the order and request a public hearing shall be deemed filed within the 10-day period provided by this subdivision if it is postmarked within that 10-day period. If no notice of intent to challenge the order and request for a public hearing is filed within the time limits provided by this subdivision, the order or proposed order shall become final.
- (d) Any hearing requested under subdivision (c) shall be conducted by an independent hearing officer, in accordance with the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise specified in this section. In making a determination, the hearing officer shall take into consideration the nature, circumstances, extent, and gravity of the violation and the various abatement and cleanup remedies which are appropriate in the given circumstances and which are consistent with the primary emphasis of protecting the public health and safety and the environment. After conducting any hearing requested under subdivision (c), the hearing officer shall, within 30 days after the case is submitted, issue a decision, including any order, if appropriate. The hearing officer's decision, including any order

issued therewith, shall be served by the department on each party by personal service or by certified mail.

- (e) Any provision of an order issued under subdivision (a) shall take effect upon issuance by the department if the department finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a decision by the hearing officer under subdivision (d). However, in the event that the department determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, then the order as a whole shall take effect upon issuance by the department and a request for a hearing shall not stay the effect of the order as a whole pending a decision by the hearing officer under subdivision (d). Any order issued after a hearing requested under subdivision (c) shall take effect upon issuance by the hearing officer.
- (f) Within 30 days after service of a copy of a decision issued by the hearing officer, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of a decision or order of the hearing officer in any judicial proceedings brought to enforce the decision or order or for other remedies. Except as otherwise specified in this section, Section 1094.5 of the Code of Civil Procedure shall govern the proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the hearing officer if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.
- SEC. 14. Section 25189 of the Health and Safety Code is amended to read:
- 25189. (a) Any person who intentionally or negligently makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each separate violation or, for continuing violations, for each day that violation continues.
- (b) Except as provided in subdivision (c) or (d), any person who intentionally or negligently violates any provision of this chapter or any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation of a separate provision or, for continuing violations, for each

day that violation continues.

- (c) Any person who intentionally disposes or causes the disposal of any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) or more than twenty-five thousand dollars (\$25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person has knowledge thereof is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.
- (d) Any person who negligently disposes or causes the disposal of any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person had knowledge thereof is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.
- (e) Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.
- (f) No person shall be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189.2 for the same act or failure to act.
- SEC. 15. Section 25189.2 of the Health and Safety Code is amended to read:
- 25189.2. (a) Any person who makes any false statement or representation in any application, label, manifest, record, report, permit, or other document, filed, maintained, or used for purposes of compliance with this chapter, is liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each separate violation or, for continuing violations, for each day that the violation continues.
- (b) Except as provided in subdivision (c), any person who violates any provision of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.
- (c) Any person who disposes, or causes the disposal of, any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter is liable for a

civil penalty of not more than ten thousand dollars (\$10,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court or, in the case of an administrative action, a hearing officer, may direct. Each day on which the deposit remains is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

- (d) No person may be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189 for the same act or failure to act.
- (e) Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to Section 25189.3.
- SEC. 16. Section 25189.3 is added to the Health and Safety Code, to read:
- (a) The department may issue a complaint to any 25189.3. person on whom civil liability may be imposed pursuant to Section 25189.2. The complaint shall allege the acts or failures to act that constitute a basis for liability and the amount of the proposed civil liability. The complaint shall be served by personal service or certified mail and shall inform the party so served that a hearing shall be conducted within 60 days after the party has been served, unless the party waives the right to a hearing. If the party waives the right to a hearing, the department shall issue an order setting liability in the amount proposed in the complaint unless the department and the party have entered into a settlement agreement, in which case the department shall issue an order setting liability in the amount specified in the settlement agreement. Where the party has waived the right to a hearing or where the department and the party have entered into a settlement agreement, the order shall not be subject to review by any court or agency.
- (b) Any hearing required under this section shall be conducted by an independent hearing officer according to the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise specified in this section. In making a determination, the hearing officer shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the proposed civil penalty, and the prophylactic effect that imposition of the proposed penalty will have on both the violator and on the regulated community as a whole. After conducting any hearing required under this section, the hearing officer shall, within 30 days after the case is submitted, issue a decision, including an order setting the amount of civil penalty to be imposed.
  - (c) Orders setting civil liability issued under this section shall

become effective and final upon issuance thereof, and payment shall be made within 30 days of issuance. Copies of these orders shall be served by personal service or by certified mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

- (d) Within 30 days after service of a copy of a decision issued by the hearing officer, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of a decision or order of the hearing officer in any judicial proceedings brought to enforce the decision or order or for other remedies. Except as otherwise provided in this section, Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the hearing officer if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.
- (e) All penalties collected under this section shall be placed in a separate subaccount in the Hazardous Waste Control Account and shall be available for expenditure by the department only upon appropriation by the Legislature.

SEC. 17. Section 25192 of the Health and Safety Code is amended to read:

- 25192. (a) Except as provided in subdivision (b), all civil and criminal penalties collected 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 this 50 percent share 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 penalties collected administratively pursuant to Section 25189.3 shall be paid to the department except that, if more than one state or local agency investigated the violation for which the administrative penalty is imposed, the penalty amount shall be apportioned in the following manner:
- (1) The hearing officer awarding the penalty, if the penalty is imposed pursuant to a hearing, or the director, if the penalty is imposed pursuant to a settlement agreement, shall equitably apportion 50 percent of the penalty among the state and local

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 department.
- (c) All civil and criminal penalties collected by a state agency pursuant to this chapter shall be deposited in a subaccount in the Hazardous Waste Control Account in the General Fund, and shall be available for expenditure, upon appropriation by the Legislature.
- (d) 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) or (b), and shall be deposited in the Hazardous Waste Enforcement Training Fund, which is hereby created in the General Fund.
- (e) All 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.
- (f) 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 apportionment of the penalty amount pursuant to subdivision (a) or (b) and before the deduction is made pursuant to subdivision (d).
- SEC. 18. Section 25194.5 of the Health and Safety Code is amended to read:
- 25194.5. (a) The withdrawal of an application for a permit, registration, or certificate, 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 permit, registration, or certificate upon any ground provided by law or to enter an order denying the permit, registration, or certificate upon any ground, and a withdrawal shall not affect the authority of the department to institute or continue a proceeding against the applicant pertaining to any violation of this chapter or any rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter.
- (b) The suspension, expiration, or forfeiture by operation of law of a permit, registration, or certificate issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court, or its surrender or attempted or actual transfer without the written consent of the department shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the holder of a permit, registration, or certificate upon any ground, or of its authority to enter an order suspending or revoking the permit, registration, or certificate, or otherwise taking an action against the holder or a permit, registration, or certificate on any ground.

- SEC. 19. Section 25197.1 of the Health and Safety Code is amended to read:
- 25197.1. (a) The Governor shall establish a Hazardous Waste Enforcement Unit within the department and shall appoint an enforcement coordinator to administer that unit and carry out the duties specified in subdivision (b).
  - (b) The enforcement coordinator shall do all of the following:
- (1) Provide assistance and coordination to city attorneys and district attorneys in the prosecution of persons violating this chapter and any other law or regulation relating to hazardous waste. The enforcement coordinator shall require that information which the department receives concerning a violation of this chapter or any regulation or order issued pursuant to this chapter is routinely and expeditiously transmitted from the department to the appropriate city attorney or district attorney, or to the Attorney General.
- (2) Provide training and assistance to city attorneys and district attorneys in the enforcement of this chapter and any other law or regulation relating to hazardous waste.
- (3) Make recommendations of persons to be awarded payment pursuant to Section 25191.7.
- (4) Make annual recommendations to the Governor and the Legislature of statutory changes to increase the capability of city attorneys and district attorneys to prosecute violations of this chapter.
- (5) Submit an annual report to the Governor and the Legislature concerning all specific actions taken during that year by the enforcement coordinator to carry out this section and the results obtained from those actions in increasing the effectiveness of local and state hazardous waste enforcement activities.
- (c) Nothing in this article limits the authority of a city attorney, a district attorney, or the Attorney General to investigate or prosecute violations of hazardous waste laws or regulations.
- (d) Nothing in this article limits the authority of the department or any agency specified in subdivision (a) of Section 25197.2 to request that a civil or criminal action be brought by a city attorney, a district attorney, or the Attorney General under any other law or regulation.
- SEC. 20. Section 25197.2 of the Health and Safety Code is amended to read:
- 25197.2. (a) The department shall establish a statewide Hazardous Waste Strike Force which shall consist of a representative from each of the following agencies:
  - (1) The Department of Transportation.
  - (2) The Department of Industrial Relations.
  - (3) The Department of Food and Agriculture.
  - (4) The State Water Resources Control Board.
  - (5) The State Air Resources Board.
  - (6) The Department of the California Highway Patrol.
  - (7) The State Fire Marshal.

- (8) The California Waste Management Board.
- (9) The Department of Fish and Game.
- (10) The Department of Forestry.
- (11) The Office of Emergency Services.
- (12) The State Department of Health Services.
- (13) The Attorney General.
- (b) The director, or the director's designee, shall direct and coordinate the activities of the Hazardous Waste Strike Force.
  - (c) The Hazardous Waste Strike Force shall do all of the following:
- (1) Establish a standardized program among the agencies represented on the Hazardous Waste Strike Force for the purposes of uniformly enforcing state hazardous waste statutes and regulations and reporting violators of these statutes and regulations.
- (2) Develop a program to coordinate and publicize the statewide 24-hour phone numbers which are available to the public for reporting information concerning violations of this chapter and any other hazardous waste statutes and regulations.
- SEC. 21. 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 highter level of service on local government and because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. 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 1188

An act to add Article 8 (commencing with Section 550) to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Article 8 (commencing with Section 550) is added to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, to read:

# Article 8. Sustainable Agriculture

550. This article shall be known and may be cited as the "Sustainable Agriculture Research and Education Act of 1986."
551. The Legislature finds and declares all of the following:

- (a) There is a growing movement in California and the nation to change farming techniques by adopting more resource-conserving, energy efficient systems of agriculture. The objective of these changes is to produce agricultural products which may reduce the use of petrochemicals, improve means of biological pest management, improve soil productivity, improve erosion control, and improve irrigation, cultivation, and harvesting techniques.
- (b) Over the long term, adoption of more efficient resource conserving systems of agricultural production can benefit both the producing and consuming public.
- (c) The resolution of many agricultural problems depends on immediate efforts to provide farmers with practices that are both resource-conserving and economical for food producers, and to foster food production and distribution methods that reduce dependence on petroleum-based inputs.
- 552. The purpose of this article is to promote more research and education on sustainable agricultural practices, such as organic methods, biological control, and integrated pest managements, and including the analysis of economic factors influencing the long-term sustainability of California agriculture. This article is intended to foster economically and ecologically beneficial means of soil improvement, pest management, irrigation, cultivation, harvesting, transportation, and marketing for California agriculture based on methods designed to accomplish all of the following:
- (a) The control of pests and diseases of agricultural importance through alternatives that reduce or eliminate the use of pesticides and petrochemicals.
- (b) Produce, process, and distribute food and fiber in ways that consider the interactions among soil, plant, water, air, animals, tillage, machinery, labor, energy, and transportation to enhance agricultural efficiency, public health, and resource conservation.
- 553. (a) It is the intent of the Legislature that the Regents of the University of California establish the Sustainable Agriculture Research and Education Program to support all of the following:
- (1) Competitive grants for research on topics described in Section 552.
- (2) The giving of instructions and practical demonstrations in agriculture and imparting information through demonstrations, publications, and otherwise, and for printing and distribution of information in connection with the Sustainable Agriculture Research and Education Program. Where feasible, these demonstrations shall include field research conducted on cooperator farms.
- (3) Planning for and management of University of California farmlands committed to supporting long-term continuous research in sustainable agricultural practices and farming systems.
- (b) Those eligible to apply for competitive grants under subdivision (a) shall include individuals affiliated with public and private institutions of higher education and with nonprofit tax-exempt organizations.

- (c) All grant applications shall be subject to peer review for scientific merit.
- (d) In awarding grants, preference shall be given to projects that include field evaluation and offer the greatest potential for measurable progress toward attaining the long-term goals pursuant to Section 552.
- 554. (a) (1) If the Sustainable Agriculture Research and Education Program is established by the regents, the President of the University of California shall establish and appoint a Program Advisory Committee and a Technical Advisory Committee.
- (2) The duties of the Program Advisory Committee shall include recommending goals and priorities for this program, including, but not limited to, reviewing the priority of grant applications.
- (3) The program committee shall be composed of a majority of individuals representing agriculture, as well as representatives from government, public organizations, and institutions of higher education all of whom are knowledgeable regarding the issues and practices of sustainable agriculture.
- (4) The duties of the Technical Advisory Committee shall include making recommendations about the scientific merit of grant applications submitted pursuant to Section 553.
- (5) The Technical Advisory Committee shall be composed of faculty and staff of the University of California and other experts from outside the university.
- (6) Members of the Program Advisory Committee and Technical Advisory Committee who are not employed by the University of California shall be appointed for a period not exceeding three years and receive compensation for expenses incurred in the performance of their duties according to applicable university regulations and guidelines.
- (b) If the Sustainable Agriculture Research and Education Program is established by the regents, the Regents of the University of California shall report on January 1, 1988, and then biennially to the Legislature regarding the expenditures and activities of the program.
- 555. If the Sustainable Agriculture Research and Education Program is established by the regents, it shall be established from existing resources.

#### CHAPTER 1189

An act to amend Section 66602 of the Education Code and Sections 10430 and 10760 of the Public Contract Code, relating to the government.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 66602 of the Education Code is amended to read:

- 66602. (a) The board shall be composed of the following four ex officio members: the Governor, the Lieutenant Governor, the Superintendent of Public Instruction, and the person named by the trustees to serve as the Chancellor of the California State University; a representative of the alumni associations of the state university and colleges, selected for a two-year term by the alumni council, California State University, which representative shall not be an employee of the California State University during the two-year term; and 16 appointive members appointed by the Governor and subject to confirmation by two-thirds of the Senate.
- (b) There shall also be appointed by the Governor for a two-year term, a student from a California state university or college who shall have at least a junior year standing at the institution he or she attends, and shall remain in good standing as a student for the two-year term. In the selection of a student as a member of the board, the Governor shall appoint the student from a list of names of not more than five persons furnished by student representatives of each of the universities and colleges of the California State University. The student representative of a university or college shall be the elected student body president or, in the case of a university or college not having an elected student body president, the person receiving the highest number of votes cast at a student body election held to select the student representative. Any appointment to fill a vacancy of a student member shall be effective only for the remainder of the term of the person's office that became vacated.

The term of office of the student member of the board appointed pursuant to this subdivision whose term was scheduled to expire on December 31, 1986, shall expire on June 30, 1987. The term of office of the student member appointed to the board for the term immediately following the term that expires on June 30, 1987, shall commence on July 1, 1987, and expire on June 30, 1989, and thereafter, each two-year term of office shall commence on July 1 and expire on June 30.

- (c) The Speaker of the Assembly shall be an ex officio member, having equal rights and duties with nonlegislative members.
  - (d) There shall also be appointed by the Governor for a two-year

term, a faculty member from the California State University who shall be tenured at the California state university or college at which he or she teaches. In the selection of a faculty member as a member of the board, the Governor shall appoint the faculty member from a list of names of at least two persons furnished by the Academic Senate of the California State University.

The faculty member of the board appointed by the Governor pursuant to this subdivision shall not participate on any subcommittee of the board responsible for collective bargaining negotiations.

The term of office of the faculty member of the board appointed pursuant to this subdivision whose term was scheduled to expire on December 31, 1986, shall expire on June 30, 1987. The term of office of the faculty member appointed to the board for the term immediately following the term that expires on June 30, 1987, shall commence on July 1, 1987, and expire on June 30, 1989, and thereafter, each two-year term of office shall commence on July 1 and expire on June 30.

SEC. 2. Section 10430 of the Public Contract Code is amended to read:

10430. This chapter does not apply to any of the following:

- (a) The Regents of the University of California.
- (b) Transactions covered under Chapter 3 (commencing with Section 12100).
- (c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295. However, the Trustees of the California State University shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.
- (d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.
- (e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment of each meeting of the board or commission, payment for preparatory time, and payment for per diem.
- (f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.
- SEC. 3. Section 10760 of the Public Contract Code is amended to read:
- 10760. The trustees may, and on contracts the estimated cost of which exceeds three hundred thousand dollars (\$300,000) the trustees shall, require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder's financial ability and experience in performing public works. When completed, the questionnaire and financial statement shall be

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verified under oath by the bidder in the manner in which pleadings in civil actions are verified.

SEC. 4. The provisions of Section 2 of this bill are declaratory of existing law.

## CHAPTER 1190

An act to amend Section 65913.4 of the Government Code, and to amend Sections 33760, 33760.5, 34312.3, 51335, 52080, and 52097.5 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 65913.4 of the Government Code is amended to read:

- 65913.4. (a) If a developer agrees to construct a housing development with 20 percent or more of the units reserved for occupancy by lower income households, as defined by Section 50079.5 of the Health and Safety Code, including elderly persons and families, as defined by Section 50067 of the Health and Safety Code, who meet the criteria for lower income households, a city, county, or city and county issuing permits for the housing development shall, unless it makes one of the findings described in subdivision (b), provide at least one, and may provide more, of the following regulatory concessions or incentives to ensure that the housing development will be produced at a reduced cost:
- (1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required.
  - (2) Density bonuses, as defined by Section 65915.
- (3) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
- (4) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county which result in identifiable cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county or the waiver of fees or dedication requirements.

Any density bonus granted pursuant to this subdivision is an alternative to, and not in addition to, a density bonus granted pursuant to Section 65915.

- (b) After evaluating the regulatory concessions or incentives which could result in the housing development being produced at a reduced cost pursuant to subdivision (a), a city, county, or city and county may determine that it is unnecessary or inappropriate to take any of the actions identified in subdivision (a). This determination shall be supported by either of the following written findings:
- (1) The housing development does not need additional local assistance because the reserved units in the development would be affordable to very low income households, as defined by Section 50105 of the Health and Safety Code, without additional assistance.
- (2) The actions identified in subdivision (a) would have a substantial adverse impact upon the public health or safety. This finding shall be based upon substantial evidence in the public record.
- (c) This section applies to any housing development containing five or more units, including, but not limited to, those developments that receive federal, state, or local construction or mortgage financing assistance, mortgage insurance, or rent subsidies. Except for units financed under Sections 1472 and 1490a of Title 42 of the United States Code, the units for lower income households specified in subdivision (a) shall be reserved for a period of 10 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
- SEC. 2. Section 33760 of the Health and Safety Code is amended to read:
- 33760. (a) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under this chapter and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties, or make loans to qualified mortgage lenders, for financing any of the following:
  - (1) Residential construction within a redevelopment project area.
- (2) Residential construction of residences in which the dwelling units are committed, for the period during which the loan is outstanding, for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.
- (3) To the extent required by Section 103A of Title 26 of the United States Code, as amended, to maintain the exemption from federal income taxes of interest on bonds or notes issued by the

- agency under this chapter, residences located within targeted areas, as defined by Section 103(b) (12) (A) of Title 26 of the United States Code. Any loans to qualified mortgage lenders shall be made under terms and conditions which, in addition to other provisions as determined by the agency, shall require the qualified mortgage lender to use all of the net proceeds thereof, directly or indirectly, for the making of mortgage loans or construction loans in an appropriate principal amount equal to the amount of the net proceeds. Those mortgage loans may, but need not, be insured.
- (b) (1) Not less than 20 percent (15 percent in target areas) of the units in any residential project financed pursuant to this section on or after January 1, 1986, shall be occupied by, or made available to, individuals of low and moderate income, as defined by Section 103(b) (12) (C) of Title 26 of the United States Code. If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a four-bedroom unit.
- (2) Not less than one-half of the units described in paragraph (1) shall be occupied by, or made available to, very low income households, as defined by Section 50105. The rental payments for those units paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.
- (c) No agency may issue any bonds on or after January 1, 1986, until the information required to be filed pursuant to Section 8855.5 of the Government Code has been filed with the California Debt Advisory Commission and the Treasurer certifies to the Legislature that the agency has filed that information.
- (d) Units required to be reserved for occupancy as provided in subdivision (b) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.
- SEC. 3. Section 33760.5 of the Health and Safety Code is amended to read:
  - 33760.5. (a) Notwithstanding the requirements of Section 33760,

agencies which operate within a jurisdiction, the population of which is in excess of 600,000 persons, as determined by the Department of Finance, may additionally provide financing for residential construction of multifamily rental units outside of a redevelopment project area as set forth in and subject to the limitations of this section.

- (b) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under this chapter and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties for financing residential construction of multifamily rental units.
- (c) Not less than 20 percent (15 percent in target areas) of the units in each project financed pursuant to this section shall be occupied by, or made available to, individuals of low and moderate income, as defined in Section 103 (b) (12) (C) of Title 26 of the United States Code. If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.
- (d) Not less than one-half of the low and moderate income units described in subdivision (c) shall be occupied by, or made available to, very low income households, as defined in Section 50105. The rental payments for those units paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937, (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a four-bedroom unit.
- (e) No agency may issue any bonds on or after January 1, 1986, until the information required to be filed pursuant to Section 8855.5 of the Government Code has been filed with the California Debt Advisory Commission and the Treasurer certifies to the Legislature that the agency has filed that information.
- (f) Units required to be reserved for occupancy by subdivisions (c) and (d) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.

- (g) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.
- SEC. 4. Section 34312.3 of the Health and Safety Code is amended to read:
- 34312.3. (a) Subject to the requirements of this section and of Article 5 (commencing with Section 34350), an authority may do any of the following:
- (1) Issue revenue bonds for the purpose of financing the construction or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing.
- (2) Make or undertake commitments to make construction loans and mortgage loans to finance the development of multifamily rental housing.
- (3) Purchase or undertake, directly or indirectly through lending institutions, commitments to purchase, construction loans, and mortgage loans originated in accordance with a financing agreement with the authority to finance the development of multifamily rental housing or make loans to lending institutions under terms and conditions which, in addition to other provisions determined by the authority, shall require the lending institutions to use the net proceeds of the loans for the making, directly or indirectly, of construction loans or mortgage loans to finance the development of multifamily rental housing.
- (b) An authority may develop, rehabilitate, or finance housing projects or participate in the development, rehabilitation, or financing of housing projects; or purchase, sell, lease, own, operate, or manage housing projects so assisted, subject to all of the requirements of this section.

So long as the proceeds of any sale, lease, or other disposition of real property, net of the cost of sale, are to be used directly to assist a housing project pursuant to this section for persons of low income, and the funds in any trust fund established pursuant to subdivision (f) are used directly to assist housing units for persons of very low income, an authority may, after a public hearing, sell, lease, or otherwise dispose of the real property without complying with any provision of law concerning disposition of surplus property, including, but not limited to, Sections 34315.5 and 34315.7.

An authority may convey surplus lands it acquires from another public agency to a nonprofit or private developer for development of single-family homes where the development will provide for homeownership for persons and families of low or moderate income, as defined in Section 50093. This conveyance shall be after a public hearing. With the exception of subdivisions (b), (c), and (d) of Section 34315.7, the conveyance need not comply with any law concerning the disposition of surplus properties, including, but not limited to, Section 34315.5 or subdivision (a) of Section 34315.7. The proceeds of any sale or other disposition of surplus land, net of the

cost of sale, shall be used to assist a housing project pursuant to this section for persons of low income.

- (c) (1) (A) Not less than 20 percent of all units in housing projects assisted by an authority pursuant to this section shall be available for occupancy on a priority basis to persons of low income. In the case of housing projects located within a targeted area, as defined by Section 103(b) (12) (A) of Title 26 of the United States Code, not less than 15 percent of all units in such housing projects assisted pursuant to this section shall be for occupancy on a priority basis by persons of low income.
- (B) If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.
- (2) (A) Not less than one-half of the units required to be available for occupancy pursuant to paragraph (1) and financed with any bonds issued on or after January 1, 1986, shall be occupied by, or made available to, very low income households, as defined by Section 50105.
- (B) The rental payments for those units paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a four-bedroom unit.
- (3) Any indebtedness incurred pursuant to a mortgage loan financed under the terms of this chapter shall be subject to acceleration and the balance owing declared immediately due and payable upon any sale of an owner-occupied residence to a purchaser who does not meet the required qualifications for borrowers as established by the authority.
- (4) The authority shall require the owners of housing projects assisted pursuant to this section to accept as tenants, on the same basis as all other prospective tenants, in the units reserved for very low income households, any very low income households who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor. The authority shall not permit a selection criteria to be applied to Section 8 certificate

holders that is any more burdensome than the criteria applied to all other prospective tenants.

- (5) No resident in housing units assisted pursuant to this section shall be denied continued occupancy or ownership because, after admission, the resident's family income increases to exceed the eligibility level. However, the authority shall ensure that percentage requirements of this section shall continue to be met by providing the next available unit or units to persons of low income or by taking other actions to satisfy the percentage requirements of this section.
- (6) In determining whether the percentage requirements of subdivision (c) have been achieved, the following terms and conditions shall be applied:
- (A) The requirement that 20 percent or 15 percent, as the case may be, of the housing units assisted by an authority pursuant to this section shall be available on a priority basis to, or occupied by, households whose adjusted gross income does not exceed the applicable limits prescribed by subdivision (c) shall apply to the aggregate number of units assisted by an authority pursuant to this section.
- (B) This section applies only to housing units first assisted after January 1, 1983, and the percentage requirements of subdivision (c) shall be complied with by January 1, 1986, and on January 1 of each even-numbered year thereafter.
- (C) The percentage requirements of subdivision (c) shall be achieved within each of the following categories: (1) rental housing developments; (2) homeownership developments; and (3) rehabilitation financing. Housing units provided by rehabilitation financing shall not be counted within either of the first two categories.
- (d) Units required to be reserved for occupancy by subdivision (c) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.
- (e) No housing authority may issue any bonds on or after January 1, 1986, until the information required to be filed pursuant to Section 8855.5 of the Government Code has been filed with the California Debt Advisory Commission and the Treasurer certifies to the Legislature that the housing authority has filed that information.
- (f) Multifamily rental housing financed pursuant to this section shall not be subject to the requirements of subparagraph (B) of paragraph (1) and paragraph (2) of subdivision (c), and the requirements of subdivision (d), if all of the following requirements are fulfilled:
- (1) The housing authority offers each tenant a homeownership opportunity when the bonds are retired.
- (2) A special trust fund or account which is funded with bond issuance proceeds or developer contributions, or both, is established no later than the time that the multifamily rental housing is first occupied. The initial funding of the account shall be no less than 5

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percent of the face value of the bonds issued for the multifamily rental housing project. Upon repayment of the bonds, these funds, and all interest accruing thereon, less any amounts necessary to pay outstanding claims, shall be used to assist housing units for persons of very low income.

- (3) The requirements of subparagraph (A) of paragraph (1) and subparagraph (A) of paragraph (2) of subdivision (c) shall remain in effect for the periods required by Section 103(b) (12) (B) of Title 26 of the United States Code.
- (g) It is the intent of the Legislature, and the Legislature declares, that housing authorities are the local entities with primary responsibility for providing housing for low-income and very low income households within their jurisdictions. However, recognizing that housing projects only for low-income households cannot be adequately assisted or developed with currently available funds, and that excess funds from housing projects assisted pursuant to this section can be utilized to further assist in the provision of housing for lower income households, it is the intent of the Legislature that the authorization of this section is to be used to enhance and supplement the traditional housing authority role of providing housing only for low-income households.
- SEC. 5. Section 51335 of the Health and Safety Code is amended to read:
- 51335. (a) (1) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issuance of the agency shall be for occupancy on a priority basis by lower income households. If a multifamily rental housing development is located within a targeted area project, as defined by Section 103 (b) (12) (A) of Title 26 of the United States Code, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. Not less than one-half of the units required for occupancy on a priority basis by lower income households shall be for occupancy on a priority basis for very low income households.

The rental payments on the units required for occupancy by very low income households paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income. If the sponsor elects to establish a base rent for all or part of the units for lower income households and very low income households, the base rents shall be adjusted for household size. In adjusting rents for household size, the agency shall assume that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, four persons will occupy a three-bedroom unit, and five persons will

occupy a four-bedroom unit.

- (2) The local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements such as the following:
  - (A) Reductions in construction and design requirements.
- (B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.
  - (C) Granting density bonuses.
  - (D) Providing expedited processing of permits.
- (E) Modifying zoning code requirements to allow mixed use zoning.
- (F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.
- (G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.
- (H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the agency. The agency shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to enhance the feasibility of the project and to provide housing for lower income households and very low income households.
- (3) The agency shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is any more burdensome than the criteria applied to all other prospective tenants.
- (4) It is the intent of the Legislature that the agency finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal. The Legislature finds and declares that the design standards utilized by the agency in the past including, but not limited to, the design requirements adopted to govern the new construction program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), are substantially in excess of those required for a decent, healthy, and safe residential unit and intends, by the amendment adding this paragraph to this section by the Statutes of 1985, that the agency finance multifamily rental developments with substantially less costly design requirements than those required by the agency prior to January 1, 1986.
- (5) It is the intent of the Legislature that the agency finance projects that assist in meeting the urgent need for providing shelter

for families. To that end, developments with three- and four-bedroom units affordable to larger families shall have priority over competing developments.

- (b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the agency providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the agency as grantee.
- (c) The agency shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.
- (d) (1) The agency shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees for multifamily rental housing developments which incorporate innovative and energy-efficient techniques which reduce development or operating costs and which have the lowest feasible per unit cost, as determined by the agency, based on efficiency of design, the elimination of improvements that are not required by applicable building standards, or a reduction in the amount of local fees imposed on the development.
- (2) The agency shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees on multifamily rental housing developments which do any of the following:
  - (A) Utilize federal housing or development assistance.
- (B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land, or for which local fees have been reduced.
  - (C) Are sponsored by a nonprofit housing organization.
- (D) Provide a significant number of housing units, as determined by the agency, as part of a coordinated jobs and housing plan adopted by a local government.
- (E) Exceed a ratio whereby 20 percent of the units are reserved for occupancy by lower income households, or whereby 10 percent of the units are reserved for occupancy by very low income households, or which provide units for lower income households or very low income households for the longest period of time beyond the minimum number of years.
- (e) (1) New and existing rental housing developments may be syndicated after prior written approval of the agency. The agency shall grant that approval only after the agency determines that the

terms and conditions of the syndication comply with this section.

- (2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the state shall be subordinated to the syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.
- (f) At the option of the agency, the amendments to this section made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

SEC. 6. Section 52080 of the Health and Safety Code is amended to read:

52080. (a) (1) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issuance of the city or county shall be for occupancy on a priority basis by lower income households, as defined by Section 50079.5. If a multifamily rental housing development is located within a targeted area project, as defined by Section 103(b) (12) (A) of Title 26 of the United States Code, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. Not less than one-half of the units required for occupancy on a priority basis by lower income households shall be for occupancy on a priority basis for very low income households, as defined by Section 50105.

The rental payments on the units required for occupancy by very low income households paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income. If the sponsor elects to establish a base rent for all or part of the units for lower income households and very low income households, the base rents shall be adjusted for household size. In adjusting rents for household size, the agency shall assume that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, four persons will occupy a three-bedroom unit, and five persons will occupy a four-bedroom unit.

(2) The governing body shall ensure that the local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements such as the following:

- (A) Reductions in construction and design requirements.
- (B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.
  - (C) Granting density bonuses.
  - (D) Providing expedited processing of permits.
- (E) Modifying zoning code requirements to allow mixed use zoning.
- (F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.
- (G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.
- (H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the governing body. The governing body shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to enhance the feasibility of the project and to provide housing for lower income households and very low income households.
- (3) The governing body shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is more burdensome than the criteria applied to all other prospective tenants.
- (4) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal. The Legislature finds and declares that the design standards utilized in the past, including, but not limited to, the design requirements adopted to govern the new construction program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), are substantially in excess of those required for a decent, healthy, and safe residential unit and intends, by the amendment adding this paragraph to this section by the Statutes of 1985, that cities and counties finance multifamily rental developments with substantially less costly design requirements than those required by the governing body prior to January 1, 1986.
- (5) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing shelter for families. To that end, developments with three- and four-bedroom units affordable to larger families shall have priority over competing developments.
- (b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the city

or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the city or county as grantee.

- (c) The governing body shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.
- (d) (1) The city or county shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees for multifamily rental developments which incorporate innovative and energy-efficient techniques which reduce development or operating costs and which have the lowest feasible per unit cost, as determined by the city or county, based on efficiency of design or the elimination of improvements that are not required by applicable building standards.
- (2) The city or county shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees on multifamily rental housing developments which do any of the following:
  - (A) Utilize federal housing or development assistance.
- (B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land.
  - (C) Are sponsored by a nonprofit housing organization.
- (D) Provide a significant number of housing units, as determined by the city or county, as part of a coordinated jobs and housing plan adopted by the city or county.
- (E) Exceed a ratio whereby 20 percent of the units are reserved for occupancy by lower income households, or whereby 10 percent of the units are reserved for occupancy by very low income households, or which provide units for lower income households or very low income households for the longest period of time beyond the minimum number or years.
- (e) (1) New and existing rental housing developments may be syndicated after prior written approval of the governing body. The governing body shall grant that approval only after the city or county determines that the terms and conditions of the syndication comply with this section.
- (2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the city or county shall be subordinated to the

syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

- (f) At the option of the city or county, the amendments to this subdivision made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.
- SEC. 7. Section 52097.5 of the Health and Safety Code is amended to read:
- 52097.5. (a) At least 30 days prior to issuing bonds pursuant to this chapter, a charter provision, or an ordinance for the purposes specified in Section 52097, an issuer shall notify the Mortgage Bond Allocation Committee in writing that the issuer intends to issue bonds pursuant to this chapter or such other authority. The notification shall specify the amount of bonds expected to be issued, the development or developments to be financed, and the development or developments, if any, that are subject to the restriction on occupancy described in subdivision (d). The Mortgage Bond Allocation Committee shall advise the issuer of the aggregate amount of bonds previously issued in the calendar year pursuant to this chapter, charter provisions, or ordinances.
- (b) An issuer shall certify to the Mortgage Bond Allocation Committee, at the time of filing the notification of intent to issue, that it has in an escrow specifically established for the purpose, an amount equal to 1 percent of the amount of bonds expected to be issued for developments other than developments to be owned by nonprofit or public entities. To the extent that bonds are not issued for the development or developments before the later of the end of the calendar year in which the notification of intent was filed or the passage of nine months during which amounts were available for the issuance under subdivision (d), a pro rata proportion of the amount in the escrow shall be forwarded to the Mortgage Bond Allocation Committee for immediate deposit in the Rental Housing Construction Fund established pursuant to Section 50740. To the extent that bonds are issued for the development or developments, or notwithstanding the preceding sentence, are not issued during the periods specified in the preceding sentence for reasons beyond the control of the issuer or the developer, as determined by the issuer, the amount in escrow may be released by the issuer to the appropriate person or entity and not forwarded to the committee for deposit in that fund.
- (c) Within five days, exclusive of weekends and holidays, of the issuance of bonds pursuant to this chapter, a charter provision, or an ordinance for the purposes specified in Section 52097, the city, county, or city and county shall notify the Mortgage Bond Allocation Committee of the amount of the bonds issued.
- (d) The maximum aggregate amount of bonds which may be issued pursuant to this chapter, charter provisions, or ordinances for

the purposes specified in Section 52097, shall not exceed one billion five hundred million dollars (\$1,500,000,000) in any calendar year. Not less than 10 percent of the total number of units in any development which is financed with any bonds issued on or after January 1, 1986, shall be reserved for occupancy by individuals or families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sec. 1437f), or its successor, and the rents for those units shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937, (42 U.S.C.A. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(e) No city, county, or city and county may issue any bonds until any information required to be filed pursuant to Section 8855.5 of the Government Code has been filed with the California Debt Advisory Commission and the Treasurer certifies to the Legislature that the city, county, or city and county has filed that information. Section 52098 shall not apply to bonds issued on or after January 1, 1986.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that changes in the law, which are essential to increase housing available in this state, may be given effect without delay, it is necessary that this act take effect immediately.

#### CHAPTER 1191

An act to amend Section 46205 of the Education Code, relating to education.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 46205 of the Education Code is amended to read:

46205. For purposes of this article, instructional time for school districts conducting early-late reading programs in kindergarten and grades 1 through 8 shall be computed by adding the total amount of instructional time provided in each portion of the early-late reading

programs to the amount of instructional time offered when all pupils in the class are scheduled to attend. It is not the intent of the Legislature to disrupt or restrict early-late reading programs for pupils in kindergarten and grades 1 through 8.

This section shall be applicable only if the early-late reading program was in operation during the 1983-84 fiscal year, except that the Superintendent of Public Instruction may approve, based on educational reasons, the application of this section to programs commencing operation after the 1983-84 fiscal year.

## CHAPTER 1192

An act to amend Section 54734 of, and to add Sections 52610.5 and 52616.2 to, the Education Code, relating to education.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. The Legislature finds that there is a large percentage of pupils that may not receive a high school diploma, or its equivalent, because of a variety of causes, including teenage pregnancy. Research findings indicate that these pupils will face additional hardships in their lives as a result of not being prepared to enter the world of work.

Legislation enacted in 1985 provided additional opportunities for youth and adults to develop the necessary academic preparation leading to a high school diploma, and the technical skills needed to enter the world of work.

The Legislature also finds that adult education courses and classes offered by school districts or county superintendent of schools can provide education and support services to parents of pupils who are at risk, and especially to pregnant minors who, without this service, would not complete a high school education.

SEC. 2. Section 52610.5 is added to the Education Code, to read: 52610.5. Notwithstanding Section 52610, any minor, regardless of age, who is pregnant or is a parent actively engaged in raising one or more of his or her children, is eligible to enroll in any adult education course or class described in subdivision (a) of Section 41976 or in Section 52616.2. The attendance of any such pupil in that course or class shall be counted for adult education apportionment purposes, except that no district shall be entitled to claim average daily attendance for apportionment purposes in excess of the amount authorized by subdivision (b) of Section 52616. In addition, no district may count the attendance of any pupil toward the computation of both adult average daily attendance, computed pursuant to Section 46350, and regular average daily attendance

computed pursuant to Section 46300.

- SEC. 3. Section 52616.2 is added to the Education Code, to read: 52616.2. For purposes of calculating the adult block entitlement under Section 52616 for any school district that maintains education programs for adults, as described under subdivision (a) of Section 41976, the Superintendent of Public Instruction shall include the average daily attendance for any parenting programs offered by the district for parents of high-risk pupils, as defined in Section 54721, between the ages of 5 and 18 years, inclusive, which programs shall include, but not necessarily be limited to, instruction in the value of the following pupil objectives:
- (a) Completion of the educational process leading to the granting of a diploma of graduation from high school.
  - (b) Study and learning in conjunction with other pupils.
  - (c) Fulfillment of school homework requirements.
- (d) School attendance and participation as preparation for employment and other activities.
- SEC. 4. Section 54734 of the Education Code is amended to read: 54734. The Superintendent of Public Instruction shall do all of the following:
- (a) Assist districts and schools, upon request, to design, implement, or evaluate school plans authorized by this article.
- (b) Apportion funds in accordance with the provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28 and this article.
  - (c) Conduct program quality and fiscal reviews to:
- (1) Ensure that funds allocated pursuant to this article are expended for the purposes intended.
- (2) Provide information helpful to local schools in improving their programs.
- (3) Provide information and technical assistance helpful to schools in improving the school-based pupil motivation and maintenance programs.
- (d) Establish an information dissemination repository, including, but not limited to, model programs, instructional strategies, and effective practices for working with high-risk pupils and increasing the pupil retention of schools and school dropout recovery programs. This repository shall be made available to school districts.
- (e) Request that school plans submitted pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28 by the local governing board be in compliance with this article and any implementing administrative regulations.

#### CHAPTER 1193

An act to amend Section 12024.12 of the Business and Professions Code, relating to kosher food, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 12024.12 of the Business and Professions Code is amended to read:

12024.12. (a) Any person who sells fresh meat or poultry advertised or represented to be kosher shall retain, on the premises, for one year, a true and legible copy of all invoices and records of cash or charge transactions from the packer or producer of the kosher meat or poultry and shall make these documents, and other evidence of the source of the meat being housed or sold by that person, available for inspection by the Department of Food and Agriculture or its representatives, upon request.

(b) Notwithstanding any other provision of law, the Director of Food and Agriculture shall enforce this section, as a pilot program in the Counties of Alameda, Los Angeles, Orange, San Diego, and Santa Clara and the City and County of San Francisco until July 1, 1988, if adequate funding, as determined by the director, is made available.

- (c) 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. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.
- SEC. 3. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture for expenditure during the 1986–87 and 1987–88 fiscal years to carry out the purposes of Section 12024.12 of the Business and Professions Code.

## CHAPTER 1194

An act to amend Sections 360, 361, 362, 363, 364, 364.1, 364.2, 365, 366, 368, and 371.5 of, and to repeal Sections 367, 371.3, 372, and 373 of, the Health and Safety Code, relating to health.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 360 of the Health and Safety Code is amended to read:

360. The Legislature finds that 95 percent of all children in California have dental disease in the form of dental caries and periodontal disease. Dental disease in childhood can and does result in significant lifetime disability, dental pain, missing teeth, time lost from school and work, and the need for dentures. Poor nutrition in childhood is a major contributing factor in lifetime dental disability. The cost of treating the results of dental disease is close to two billion dollars (\$2,000,000,000) per year in California, of which approximately one hundred million dollars (\$100,000,000) is paid by the State of California for Denti-Cal treatment costs alone.

The Legislature also finds that dental disease in children and the resultant abnormalities in adults can be prevented by education and treatment programs for children. It is the intent of the Legislature in enacting this article to establish for children in preschool through sixth grade, and in classes for individuals with exceptional needs, preventive dental programs which shall be financed and have standards established at the state level and which shall be operated at the local level.

- SEC. 2. Section 361 of the Health and Safety Code is amended to read:
- 361. A community dental disease prevention program may be offered to school children in preschool through sixth grade, and in classes for individuals with exceptional needs, by a local sponsor. A local sponsor may be a city or county health department, county office of education, superintendent of schools office, school district or other public or private nonprofit agency approved by the State Department of Health Services. The program shall include, but not be limited to, the following:
- (a) Educational programs, focused on development of personal practices by pupils, that promote dental health. Emphasis shall include, but not be limited to, causes and prevention of dental diseases, nutrition and dental health, and the need for regular dental examination with appropriate repair of existing defects.
- (b) Preventive services including, but not limited to, ongoing plaque control and supervised application of topical prophylactic agents for caries prevention, in accordance with the provisions of

Chapter 11 (commencing with Section 3500) of Division 4 or other preventive agents approved by the department. Services shall not include dental restoration, orthodontics, or extraction of teeth. Any acts performed, or services provided, under this article constituting the practice of dentistry shall be performed or provided by, or be subject to the supervision of, a licensed dentist in accordance with the provisions of Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

- SEC. 3. Section 362 of the Health and Safety Code is amended to read:
- 362. An advisory board, including representatives from education, dental professions, and parent groups shall be designated by the local sponsor to advise on dental health programs funded under this article. The use of existing advisory bodies is encouraged. The board shall hold public meetings at least twice a year after appropriate notification in order that interested parties may provide input regarding the dental health needs of the community.
- SEC. 4. Section 363 of the Health and Safety Code is amended to read:
- 363. The minimal standards of the community dental disease prevention program shall be determined by the department in accordance with the purposes of this article, and may be revised periodically as deemed necessary by the department to further the purposes of this article.
- SEC. 5. Section 364 of the Health and Safety Code is amended to read:
- 364. The local health officer of each local health department interested in participating in the community dental disease prevention program, or his or her designee, in cooperation with the appropriate education personnel and the local advisory board, shall submit a proposal for the program to the state department annually. The proposal shall include the methods by which the program will be implemented in each jurisdiction and program results reported. However, this function shall be the responsibility of the state department for all counties which contract with the state for health services under Section 1157. Such contract counties, at the option of the board of supervisors, may provide services pursuant to this article in the same manner as other county programs, provided such option is exercised six months prior to the beginning of each fiscal year.

If the local health officer elects not to submit a program proposal, the state department may solicit program proposals from other public or private nonprofit agencies and contract directly with the agencies. These proposals shall meet the same requirements as specified for local health officers in this section.

- SEC. 6. Section 364.1 of the Health and Safety Code is amended to read:
- 364.1. The state department shall review the program proposals and approve programs which meet criteria established pursuant to Section 363. The state department shall, through contractual

arrangements, reimburse local sponsors with approved programs at an amount of four dollars and fifty cents (\$4.50) in fiscal year 1986–87, and each fiscal year thereafter, per participating child per year for administration and services, pursuant to Section 361.

- SEC. 7. Section 364.2 of the Health and Safety Code is amended to read:
- 364.2. The local health officer or other sponsor may utilize or contract with, or both utilize and contract with, other local public and private nonprofit agencies, as well as school districts and county superintendents of schools, in conducting the program. The Legislature recognizes that these agencies, districts, and schools are currently engaged in a limited number of dental disease prevention projects and it is the intent of the Legislature that this participation be continued.
- SEC. 8. Section 365 of the Health and Safety Code is amended to read:
- 365. The State Department of Education shall assist the state department in developing and evaluating educational programs in dental health and dental disease prevention. These programs may include, but are not limited to, teacher and program coordinator in-service workshops, development and review of appropriate educational materials, and evaluation of classroom dental health education presentations.
- SEC. 9. Section 366 of the Health and Safety Code is amended to read:
- 366. It shall be the responsibility of the governing board of each school district participating in the program and the governing authority of each private school participating in the program to cooperate with the local sponsor administering the community dental disease prevention program in carrying out the program in any school under their jurisdiction.

Each participating school shall maintain participation records for each child and the necessary educational materials and supplies for plaque control and other required dental disease prevention methods provided by the program.

Nothing in this article shall require participation by a public or private school in a program established pursuant to this article.

- SEC. 10. Section 367 of the Health and Safety Code is repealed. SEC. 11. Section 368 of the Health and Safety Code is amended to read:
- 368. No child shall receive a preventive agent as part of a program established pursuant to this article unless the child's parent or guardian has given written notice to the governing body of the public or private school that the child may receive a preventive agent.
  - SEC. 12. Section 371.3 of the Health and Safety Code is repealed.
- SEC. 13. Section 371.5 of the Health and Safety Code is amended to read:
  - 371.5. It is the intent of the Legislature that the program

established by this article shall be placed in effect in the areas of greatest identified need as determined by the state department, in cooperation with the State Department of Education.

SEC. 14. Section 372 of the Health and Safety Code is repealed. SEC. 15. Section 373 of the Health and Safety Code is repealed.

#### CHAPTER 1195

An act to amend Sections 14010, 14025, 14035.5, 14081, 14125, and 14131 of the Corporations Code, to add Section 15328.5 to the Government Code, and to amend Section 10 of Chapter 1235 of the Statutes of 1984, relating to business development.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 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) (1) Unless otherwise defined by the board by regulation, "small business loan" means a loan to 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 that will create or retain employment as a result of the loan.
- (2) From time to time, the executive director, in consultation with the board, shall provide guidelines as to the preferred ratio of jobs created or retained to total funds borrowed for guidance to the corporations.
- (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 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) (1) Unless otherwise defined by the board by regulation, "small business loan" means a loan to 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 that will create or retain employment as a result of the loan.
- (2) From time to time, the executive director, in consultation with the board shall provide guidelines as to the preferred ratio of jobs created or retained to total funds borrowed for guidance to the corporations.

- (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.
- (i) "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).
- (1) "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 14025 of the Corporations Code is amended to read:
- 14025. If the executive director determines that the corporation is not meeting the criteria, rules, and regulations adopted pursuant to this part, its written proposed plan of operation submitted under subdivision (d) of Section 14023, and the purposes expressed in Section 14002, the executive director may take action to suspend the corporate powers. With the approval of the board and the Department of Finance, the executive director may withdraw state funds allocated to a regional small business development corporation loan guarantee fund which are not encumbered or obligated by outstanding guarantees, and the state funds may be allocated to other regional small business development corporation loan guarantee funds.

If the executive director gives notice of the withdrawal of state

funds, and the corporation does not return these funds within 15 days after the notice, the corporate powers, rights, and privileges of the corporation shall be suspended. Such suspension shall in no way impair the effectiveness of any outstanding loan or guarantee.

State funds shall include those funds allocated to a regional corporation loan guarantee fund and the return from investment of those funds whether retained in a trust account or paid out to and retained unexpended by a regional corporation.

The executive director shall transmit the name of the corporation to be suspended to the Secretary of State, and the suspension shall thereupon become effective upon the issuance of a certificate of the Secretary of State which shall be prima facie evidence of suspension.

Funds allocated to a corporation and the return on investment of those funds remain state funds and the corporation's use of those funds is conditional pursuant to this section and Section 14044.1. Each corporation shall enter into a written signed agreement with the state at the beginning of each fiscal year pursuant to this subdivision. In the event the state and corporation do not reach an agreement or the state finds the corporation has violated the terms of an active agreement, the corporation shall have no authority to withdraw or encumber the corporation loan guarantee funds or the return on those funds by issuance of guarantees, by incurring expenses against the fund and its return or in any manner whatsoever, and the state may take action under this section and Section 14044.1 or other action as appropriate. Any guarantee or other encumbrance made by the corporation in violation of this section shall be null and void, and neither the state nor the corporation loan guarantee fund shall be liable therefor absent ratification by the board and the executive director.

- SEC. 4. Section 14035.5 of the Corporations Code is amended to read:
- 14035.5. Each small business development corporation shall have provisions establishing a grievance procedure for employees, clients, or potential clients, to appeal a decision or obtain redress of an action done by the staff or loan committee of the corporation. If a client or potential client is dissatisfied with the decision under that procedure, the matter may be submitted to and reviewed by OSB, in accordance with rules and procedures established by it.
- SEC. 5. Section 14081 of the Corporations Code is amended to read:

14081. In furtherance of the purposes set forth in Section 14002, a small business development corporation may lend money to, and guarantee, endorse, or act as surety on the bonds, notes, contracts, or other obligations of, or assist financially, any person, firm, corporation or association, and may establish and regulate the terms and conditions with respect to any such loans or financial assistance and the charges for interest and service connected therewith, except that the corporation shall not make or guarantee any loan unless and until it determines:

- (a) There is no probability that the loan or other financial assistance would be granted by a financial institution under reasonable terms or conditions, and the borrower has demonstrated a reasonable prospect of repayment of the loan.
- (b) The loan proceeds shall be used exclusively in the region of the corporation.
- (c) The loan qualifies as a small business loan or an employment incentive loan.
- (d) That the borrower has a minimum equity interest in the business as determined by the board.
- (e) As a result of the loan, the jobs generated or retained by employment incentive borrowers equal or exceed the numbers specified by statute, or the job generation or retention of small business borrowers demonstrates reasonable conformance to the guidelines established pursuant to paragraph (2) of subdivision (f) of Section 14010.
- SEC. 6. Section 14125 of the Corporations Code is amended to read:
- 14125. (a) The board may authorize the establishment of a new regional corporation which will become an urban development corporation or rural development corporation within six months of such designation. To qualify for consideration as a regional corporation, an organization must have had a minimum of two years' experience in small business finance, management, and technical assistance. These qualifications may be waived by the board and the executive director in areas of high unemployment.
- (b) The regional corporations designated as urban development corporations or rural development corporations shall within a reasonable period of time take action to amend their articles of incorporation and bylaws to conform to the provisions of this article.
- (c) Thirty days after designation as an urban development corporation or rural development corporation, the corporation shall submit to the board a plan for an urban or rural development program which is independent of state funding, pursuant to this chapter, within four years. The board shall notify the urban development corporation or rural development corporation of its recommended acceptance or rejection for cause, within 60 days of submission of the plan. Upon acceptance, the plan shall be the basis for all the urban development corporations' or rural development corporations' funding pursuant to this chapter. Until the plan is accepted, the urban development corporation or rural development corporation designee shall continue to operate as a regional corporation as defined in Articles 1 through 13 of Chapter 1.
- (d) The state, through the Office of Small Business, shall continue to have jurisdiction and to exercise supervision over urban development corporations and rural development corporations which have achieved independence from state administrative funding. The state shall have the right to review and approve the activities and expenditure of funds of those urban development

corporations and rural development corporations to ensure conformity with the provisions and intent of the Small Business Corporation Law and the regulations thereof. The use of state funds paid out to the corporation loan guarantee fund and the return on those funds from investment pursuant to Section 14044 is conditional pursuant to Sections 14025 and 14044.1. Each corporation shall enter into a written signed agreement with the state at the beginning of each fiscal year. The agreement shall govern the activities in which the corporations engage, the investment of state funds and its return. and the budgeted administrative expenses the corporations may incur. In the event the state and corporation do not reach an agreement, or the state finds the corporation has violated the terms of an active agreement, the state may take action under Sections 14025 and 14044.1 or other action as appropriate. In the event the state and corporation do not reach agreement or the state finds the corporation has violated the terms of an active agreement, the corporation shall have no authority to withdraw or encumber the corporation loan guarantee funds or the return on those funds by the issuance of guarantees, by incurring expenses against the fund and its return in any manner whatsoever, and the state may take action under Sections 14025 and 14044.1 or other action as appropriate. Any such guarantee or other encumbrance made by the corporation in. violation of this section shall be null and void, and neither the state nor the corporation loan guarantee fund will be liable therefor.

SEC. 7. Section 14131 of the Corporations Code is amended to read:

- 14131. (a) The UDC's or RDC's guarantee shall be backed by funds on deposit in the UDC's or RDC's own loan guarantee fund account established pursuant to Articles 5 (commencing with Section 14040) and 6 (commencing with Section 14045).
- (b) Loans made under an UDC or RDC guarantee shall be secured by a 100 percent reserve. The guarantee portion may be no more than 90 percent of the required total financing arranged from all lending sources. However, the guaranteed portion may be 100 percent for revolving lines of credit, personal farm operating loans, interim financing where another lender or guarantor will take out the corporation's position within 180 days, loans to UDC's or RDC's, and loans where traditional lenders have turned down the loan because it is too small.
- (c) The UDC or RDC shall guarantee loans wherever possible. However, earnings from the trust funds may be used for direct lending provided that UDC or RDC direct loan funds do not constitute more than one-third of the loan. However, if a firm has received a Phase 1 or Phase 2 Small Business Innovation Research Grant awarded by a federal agency and is suffering cash flow problems because of delay in receipt of grant funds from the date of incurring expenses related to the grant project, a UDC or RDC may advance an interim loan covering 80 percent of the project expenses from trust fund earnings, provided the firm assigns proceeds of grant

invoices (or other documentations submitted by the firm to the federal agency for payment) to the corporation for payment of the interim loan advanced and the federal agency agrees to the assignment.

- (d) In furtherance of the purposes of this part, up to one-half of the corporate loan guarantee funds may be used to guarantee loans utilized to establish a Business and Industrial Development Corporation (BIDCO) under Division 15 (commencing with Section 33000) of the Financial Code.
- (e) The UDC or RDC may assume a negotiated equity position of not more than 5 percent of the current equity in an eligible small business, in lieu of part or all of the fees chargeable to such business or through direct purchase, provided state funds are not used to purchase the equity position. An equity position of 5 percent or less shall not be construed as a conflict of interest in terms of financial and technical assistant participation.
- SEC. 8. Section 15328.5 is added to the Government Code, to read:
- 15328.5. The department shall have authority to adopt regulations for the purposes of administering the Economic Development Grants and Loan Fund pertaining to area eligibility criteria, project eligibility criteria, processing fees charged, minimum borrower or grantee financial project participation levels, interest rates, loan or grant durations, loan or grant conditions, payback requirements, and procedures with respect to defaulted loan collections.
- SEC. 9. Section 10 of Chapter 1235 of the Statutes of 1984 is amended to read:
- 10. This act 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. If that date is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 14010 of the Corporations Code, as added by Section 6 of Chapter 770 of the Statutes of 1983 and as amended by Section 2 of the act that amended this section, and Section 14046 of the Corporations Code, as amended by Section 14 of Chapter 875 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

## **CHAPTER 1196**

An act to add Article 18 (commencing with Section 69950) to Chapter 2 of Part 42 of the Education Code, relating to student financial aid, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

4240

SECTION 1. Article 18 (commencing with Section 69950) is added to Chapter 2 of Part 42 of the Education Code, to read:

## Article 18. California State Work-Study Program

69950. The Legislature finds and declares all of the following:

- (a) Rising student costs for housing, food, books, supplies, and transportation, plus increases in student fees and tuition, require a corresponding commitment by the state to provide the financial aid necessary to offset these increases and ensure educational access and choice for eligible students.
- (b) Reductions in available federal student aid and stricter eligibility requirements for federal funding have increased the need for the state to reassess the adequacy of its student aid programs.
- (c) Increased reliance on student loans has resulted not only in escalating long-term indebtedness of youth entering the labor force, but has also increased default rates and concomitant government efforts to ensure lender and borrower accountability.
- (d) Institutional and employer contributions to work-study financial aid programs extend the availability and effectiveness of limited government financial aid funds.
- (e) Work-study programs exemplify a "self-help" approach to financial aid, whereby students develop self-reliance and discipline as well as work skills by earning at least a portion of their educational expenses.
- 69951. The California State Work-Study Program is hereby created to provide eligible college and university students with the opportunity to earn money to help defray their educational costs, while gaining valuable experience in educationally beneficial or career-related employment. The California State Work-Study Program shall be administered by the Student Aid Commission.
- 69952. (a) Any postsecondary educational institution currently eligible to participate in state-funded student financial aid programs pursuant to this chapter or in federal financial aid programs shall be eligible to be selected to participate in the California State Work-Study Program.
- (b) Prior to participating in the program, each institution shall sign an institutional agreement with the Student Aid Commission,

- acknowledging its willingness to administer the program pursuant to this article and program regulations and guidelines adopted for that purpose by the commission. The agreement shall include the procedures that the institution shall use to ensure that each work-study position is related to the student's course of study or career interests.
- (c) Each participating institution shall be required, as a condition of participation in the program, to comply with such auditing or other fiscal reporting requirements as the commission may establish. These requirements shall be applied by the commission so as to ensure that no payments received by any private institution pursuant to this article are applied to any sectarian or denominational purpose, or to the general aid or support of the institution.
- 69954. (a) All of the following entities shall be eligible to employ students participating in the California State Work-Study Program:
  - (1) Public postsecondary educational institutions.
- (2) Public schools operated by school districts, county superintendents of schools, the Department of the Youth Authority, or the State Department of Education.
- (3) Nonsectarian, nonpolitical organizations or corporations, whether nonprofit or profit-seeking enterprises licensed to conduct business in California.
- (4) Out-of-state employers licensed to conduct business in their home state, subject to the prior approval of the Student Aid Commission.
- (b) Private postsecondary educational institutions shall not be eligible to employ students participating in the California State Work-Study Program.
- 69956. Any student satisfying all of the following criteria shall be eligible to participate in the California State Work-Study Program:
- (a) Enrollment, or acceptance for enrollment, on at least a half-time basis at a participating postsecondary educational institution.
- (b) Resident classification pursuant to Part 41 (commencing with Section 68000).
- (c) Demonstrated maintenance of satisfactory academic progress in a program leading to a degree or a certificate, as determined by the postsecondary educational institution in which the student is enrolled, applying standards of eligibility for federal financial aid.
- (d) Demonstrated financial need, as determined by the financial aid office of the institution in which the student is enrolled pursuant to the uniform methodology system of need analysis. If individual circumstances affect the ability of the student or the student's family to contribute to the student's total financial resources, the financial aid administrator may make reasonable individualized adjustments to the computed total applicant resources.
- 69958. (a) Potential work-study positions may be located by the institution or by eligible students in cooperation with the institution.

Each position located shall be critically reviewed by the appropriate student financial aid and experiential education personnel to determine whether it satisfies all the conditions specified in Section 69960. To assist the institution in assessing the position, the employer shall submit a written statement to the institution which provides all of the following information:

- (1) The total number of positions available.
- (2) A job description of each available position, including the suggested rate of pay.
  - (3) The skills required of the prospective work-study employee.
  - (4) The educational benefits provided by the position.
- (b) Once the institution has approved the work-study position, the employer and the institution, acting as the authorized agent of the Student Aid Commission, shall execute a written agreement which confirms the employer's eligibility to participate in the program and its willingness to comply with all program requirements, and specifies the responsibilities of each of the parties. The agreement shall be subject to annual renewal by mutual agreement of the institution and the employer.
- (c) Following execution of the agreement pursuant to subdivision (b), the employer may interview prospective work-study employees. The institution shall provide the employer and each applicant for the work-study position with adequate information to facilitate a proper placement. Provided that the priorities specified in Section 69959 have been met, the employer may indicate his or her hiring preferences. No employer shall discriminate between applicants on the basis of race, color, sex, religion, or national origin, or subject any applicant to any other discriminatory practices prohibited by state or federal law.

69959. The following priorities shall be followed at the time of job referral and placement:

- (a) The primary objective shall be to place students in educationally beneficial positions which relate to the student's course of study, career objective, or the exploration of career objectives. Preference in awarding work-study positions shall be given to those students able to locate employment related to their academic program or potential career.
- (b) The program shall include and emphasize placements for students with off-campus, private, profit-making employers.
- (c) The program shall also include work-study positions with school districts to provide tutorial and other educational services for pupils, except for those participating institutions in which this type of placement would be geographically unfeasible.

69960. The institution shall assure that each work-study position meets all of the following conditions:

- (a) The position shall be educationally beneficial or related to a particular career interest or the exploration of career options.
- (b) The work performed by the student shall not be related to the activities of any sectarian organization or to any partisan or

nonpartisan political activities.

- (c) The employment of a work-study student shall not displace workers currently employed by the participating employer, or impair existing contracts for services. No position filled by a work-study student shall have been occupied by a regular employee during the current or immediately preceding 12 months.
- (d) The work-study position shall not violate any applicable collective bargaining agreements, or fill any vacancies due to a labor dispute.
- (e) The student shall be paid at a comparable rate to that paid for comparable positions within the employing organization. If the employing organization has no comparable position, the student shall be paid at a rate comparable to that paid by other organizations in the field for work involving comparable duties and responsibilities. The positions shall be compared on the basis of the nature of the work performed and the background and skills required for the position, and not upon the employee's part-time or student status.
- (f) The hours of employment shall not exceed an average of 20 hours per week while classes are in session, or 40 hours per week when classes are not in session. The employer shall provide the institution with an accurate accounting of hours worked and wages earned.
- (g) The total compensation received by the student shall not exceed the total amount authorized by the institution.
- (h) The employer shall provide the student with reasonable supervision.
- (i) No funds appropriated under this article shall supplant any state, federal, or institutional funds used to support existing paid positions for students in profit or nonprofit organizations.
  - 69962. A participating institution shall do all of the following:
- (a) For each work-study employer, negotiate an agreement which specifies the percentage share of student compensation to be paid by the employer and by the California State Work-Study Program, respectively.
- (1) For work-study positions with public educational institutions or nonprofit corporations, the program shall provide no more than 70 percent of the student's compensation.
- (2) For work-study positions with for-profit employers, the program shall provide no more than 50 percent of the student's compensation.
- (b) For each work-study position, maintain all necessary records, including, but not limited to, need analysis documents, employer agreements, financial aid award documents, time sheets, and records of payments provided to the student.
- 69963. A participating institution may grant academic credit for work performed in a work-study position.
- 69964. (a) The program shall include summer work-study in order to provide work-study positions for eligible students who find it difficult to locate meaningful employment because of a rigorous

academic program that does not allow them to work during the academic year or because they are required to participate in an intensive work experience that satisfies academic requirements.

(b) In addition to meeting the criteria specified in Section 69956, to be eligible to participate in the summer work-study program, a student shall be enrolled at least half-time in summer courses required for completion of a degree or certificate, or accepted for enrollment on at least a half-time basis for the following normal academic term.

69965. For the 1987–88 fiscal year, the Student Aid Commission, in consultation with the advisory committee established under Section 69966, shall designate at least 15 but not more than 25 eligible postsecondary institutions to participate in the program. The participating institutions shall be located throughout the state and shall be selected in part from each of the segments of postsecondary education. It is the intent of the Legislature that participation of each segment of postsecondary education be substantially equal.

- 69966. The Student Aid Commission shall convene an advisory committee to assist in the selection of institutions to participate in the program during the first year of its implementation and to assist in the development of necessary rules, regulations, and guidelines. The membership of the advisory committee, which may be an existing advisory committee, shall include, but need not be limited to, financial aid and student employment administrators from each segment of postsecondary education, students, public schools, nonprofit employers, private sector employers, the California Postsecondary Education Commission, and experiential education personnel. The advisory committee shall provide recommendations regarding all of the following:
  - (a) Program direction and administration.
- (b) The parameters to be included in the formula prescribed for distribution of work-study funds to participating institutions.
- (c) Criteria for the selection of institutions to participate in the program.
- (d) Guidelines for implementing the objectives of the program pursuant to Section 69959.
  - 69967. The Student Aid Commission shall do all of the following:
- (a) Adopt any necessary rules, regulations, and guidelines to assist participating employers and institutions to administer the program.
- (b) Ensure that student placements are consistent with the objectives stated in Section 69959.
- (c) Monitor institutional expenditures to ensure proper allocation and utilization of work-study funds.
- (d) At the close of each fiscal year, compile data regarding the population served by the program during that fiscal year.
- (e) Review the administrative practices of each participating institution to ensure compliance with program requirements.
  - (f) Ensure that appropriate audits of the program are conducted. 69968. (a) The receipt of any funding, or other participation, by

any private institution under this article is authorized only to the extent that the funding or other participation is in compliance with Section 8 of Article IX, and Section 5 of Article XVI, of the California Constitution.

- (b) If any provision of this act or the application thereof to private institutions, or to any other person or circumstances, is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
- SEC. 2. An interagency agreement shall be executed between the Student Aid Commission and the office of the Legislative Analyst, which shall provide for the transfer of fifty thousand dollars (\$50,000) for the purpose of contracting with an individual, group of individuals, firm, or organization deemed qualified and competent by the Legislative Analyst to perform an evaluation of the California State Work-Study Program. The evaluation shall include, but not be limited to, all of the following information:
- (a) Demographic information regarding students, institutions, and employers, including characteristics of students and types of institutions and employers participating in the program.
- (b) The nature of the employment in which students are placed, and the possible displacement of existing employees by students participating in the California State Work-Study Program.
- (c) The effect on academic performance, and retention of students participating in the program.
- (d) The effect of the financial incentive offered by the program in creating new jobs.
- (e) The efficiency and cost effectiveness of the program's administration at both the state and campus level.
- (f) The extent to which the institutions have demonstrated that no funds appropriated under this article have been used to supplant any state, federal, or institutional funds used to support existing paid positions for students in profit or nonprofit organizations.
- (g) The extent to which the institutions have established procedures to ensure that each work-study position is related to the student's course of study or career interests. The procedures shall include, where applicable, coordination between an institution's office of student financial aid and experiential education programs for the purpose of assessing the education and career relatedness of work-study positions. A preliminary evaluation shall be submitted to the Legislature and Governor by April 15, 1989, and the final evaluation shall be submitted no later than April 15, 1990.
- SEC. 3. (a) The sum of two hundred thousand dollars (\$200,000) is hereby appropriated from the General Fund to the Student Aid Commission for purposes of the California State Work-Study Program, for allocation according to the following schedule:

(1) For program development, advisory committee, and administrative costs incurred by the Student Aid Commission in the last half of the 1986–87 fiscal year ......

\$125,000

(2) For startup costs incurred by participating institutions in the last half of the 1986–87 fiscal year

\$75,000

(b) It is the intent of the Legislature that funding for the purposes of Sections 1 and 2 of this act for the 1987–88 fiscal year, and for each fiscal year thereafter, be appropriated in the annual Budget Act.

# CHAPTER 1197

An act to amend Section 1271 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 1271 of the Unemployment Insurance Code is amended to read:

- (a) Notwithstanding any other provision of this division, any unemployed individual receiving benefits payable under this part, Part 3 (commencing with Section 3501), or Part (commencing with Section 4001). or any other unemployment compensation law, who, no later than the 16th week of his or her unemployment, applies for a determination of potential eligibility for benefits under this article and is determined eligible for benefits under this article, is eligible for a maximum of 52 times his or her weekly benefit amount under the provisions of this division. The department shall notify every individual who applies for unemployment compensation in this state of his or her opportunity to receive benefits under this article and to receive extended benefits under this article if application is made by the 16th week of
- (b) Any claimant receiving benefits pursuant to subdivision (a) who becomes eligible to file an unemployment compensation claim under state law or any other federal unemployment compensation law, shall file the claim in order to remain eligible under this article.
- (c) Additional benefits paid under this section, and not otherwise payable under this division, shall be charged to individual employer reserve accounts, consistent with other provisions of this code.
- (d) To the extent permitted by federal law, benefits payable under any federal unemployment compensation law shall be included as benefits payable 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 1198

An act to add Article 3.6 (commencing with Section 4065) to Chapter 9 of Division 2 of the Business and Professions Code, relating to pharmacy, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. Article 3.6 (commencing with Section 4065) is added to Chapter 9 of Division 2 of the Business and Professions Code, to read:

# Article 3.6. Clinical Permits

- 4065. (a) Notwithstanding anything contained in this chapter, a surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the clinic, as provided in subdivision (b). The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of seven years for inspection by all properly authorized personnel.
- (b) The drug distribution service of a surgical clinic shall be limited to the use of drugs for administration to the patients of the surgical clinic and to the dispensing of drugs for the control of pain and nausea for patients of the clinic. Drugs shall not be dispensed in an amount greater than that required to meet the patient's needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.
- 4065.1. On and after July 1, 1988, a surgical clinic shall not operate without a permit issued by the board nor shall it be entitled to the benefits of Section 4065 until it has obtained a permit from the board. Each permit shall be issued to a specific clinic and for a specific location.
- 4065.2. (a) Each application for a permit under this article shall be made on a form furnished by the board. Each initial application shall contain a statement from a consulting pharmacist certifying

that the policies and procedures of the clinic's drug distribution service, relative to inventories, security procedures, training, protocol development, recordkeeping, packaging, dispensing, and patient consultation are consistent with the promotion and protection of health and safety of the public. Upon the filing of the application and the payment of a fee sufficient to cover the cost of administering the program, but not more than three hundred dollars (\$300), the board shall make a thorough investigation to determine whether the applicant and the premises for which application for a permit is made qualify for a permit. The board shall also determine whether this article has been complied with, and shall investigate all matters directly related to the issuance of the permit. The board shall not, however, investigate any matters connected with the operation of a premises, including operating hours, parking availability, or operating noise, except those matters relating to the furnishing, sale, or dispensing of drugs or devices. The board shall deny an application for a permit if either the applicant or the premises for which application for a permit is made do not qualify for a permit under this article.

- (b) If the board determines that the applicant and the premises for which application for a permit is made qualify for a permit under this article, the executive officer of the board shall issue a permit authorizing the clinic to which it is issued to purchase drugs at wholesale pursuant to Section 4065. The permit shall be renewed annually upon payment of a renewal fee.
- 4065.3. The form of application for a permit under this article shall contain the name and address of the applicant, whether the applicant is licensed, the type of services the facility will offer, the name of its professional director, the name of its administrator, and the name of its consulting pharmacist.
- 4065.4. The board may revoke or suspend a permit issued under this article in the manner and for the grounds specified in Article 9 (commencing with Section 4350).
- 4065.5. Prior to the issuance of a clinic permit authorized under this article the clinic shall comply with all applicable laws and regulations of the State Department of Health Services and the board relating to drug distribution to insure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation are carried out in a manner that is consistent with the promotion and protection of the health and safety of the public.

These policies and procedures shall include a written description of the method used to develop, approve, and revise those policies and procedures.

The dispensing of drugs in a clinic which has received a permit under this article shall be performed only by a physician and surgeon, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

- 4065.6. Each clinic which makes an application for a permit under this article shall show evidence that the professional director is responsible for the safe, orderly, and lawful provisions of pharmacy services.
- 4065.7. No clinic holding a permit pursuant to this article shall be eligible for any professional dispensing fee which may be authorized under the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code). No clinic holding a permit pursuant to this article shall offer drugs for sale or shall charge or bill for professional services for the dispensing or administering of drugs.
- 4065.8. No Schedule II controlled substance shall be dispensed in the clinic. This limitation does not prohibit a licensed physician and surgeon from dispensing a Schedule II drug to the extent permitted by subdivision (b) of Section 11158 of the Health and Safety Code and all other provisions of law, nor does it prevent the lawful administration of Schedule II drugs on the premises of the clinic.
- 4065.9. The board shall have the authority to inspect a clinic at any time in order to determine whether a clinic is, or is not, operating in compliance with the requirements of this article and all other provisions of the law. If the board determines that a clinic is not operating in compliance with this article and other applicable provisions of law, the board may revoke or suspend the clinic permit issued under this article, or otherwise discipline the holder of that permit, in the manner specified in Article 9 (commencing with Section 4350).

# CHAPTER 1199

An act to add Sections 1947.7 and 1947.8 to the Civil Code, relating to real property.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

- SECTION 1. Section 1947.7 is added to the Civil Code, to read: 1947.7. (a) The Legislature finds and declares that the operation of local rent stabilization programs can be complex and that disputes often arise with regard to standards of compliance with the regulatory processes of those programs. Therefore, it is the intent of the Legislature to limit the imposition of penalties and sanctions against an owner of residential rental units where that person has attempted in good faith to fully comply with the regulatory processes.
- (b) An owner of a residential rental unit who is in substantial compliance with an ordinance or charter that controls or establishes

a system of controls on the price at which residential rental units may be offered for rent or lease and which requires the registration of rents, or any regulation adopted pursuant thereto, shall not be assessed a penalty or any other sanction for noncompliance with the ordinance, charter, or regulation.

Restitution to the tenant or recovery of the registration or filing fees due to the local agency shall be the exclusive remedies which may be imposed against an owner of a residential rental unit who is in substantial compliance with the ordinance, charter, or regulation.

"Substantial compliance," as used in this subdivision, means that the owner of a residential rental unit has made a good faith attempt to comply with the ordinance, charter, or regulation sufficient to reasonably carry out the intent and purpose of the ordinance, charter, or regulation, but is not in full compliance, and has, after receiving notice of a deficiency from the local agency, cured the defect in a timely manner, as reasonably determined by the local agency.

"Local agency," as used in this subdivision, means the public entity responsible for the implementation of the ordinance, charter, or regulation.

- (c) Nothing in this section shall be construed to grant to any public entity any power which it does not possess independent of this section to control or establish a system of control on the price at which accommodations may be offered for rent or lease, or to diminish any such power which that public entity may possess, except as specifically provided in this section.
  - SEC. 2. Section 1947.8 is added to the Civil Code, to read:
- 1947.8. (a) If an ordinance or charter controls or establishes a system of controls on the price at which residential rental units may be offered for rent or lease and requires the registration of rents, the ordinance or charter, or any regulation adopted pursuant thereto, shall provide for the establishment and certification of permissible rent levels for the registered rental units, and any changes thereafter to those rent levels, by the local agency as provided in this section.
- (b) If the ordinance, charter, or regulation is in effect on January 1, 1987, the ordinance, charter, or regulation shall provide for the establishment and certification of permissible rent levels on or before January 1, 1988, including completion of all appeals and administrative proceedings connected therewith. If the ordinance, charter, or regulation is adopted on or after January 1, 1987, the ordinance, charter, or regulation shall provide for the establishment and certification of permissible rent levels within one year after it is adopted, including completion of all appeals and administrative proceedings connected therewith. Upon the request of the landlord or the tenant, the local agency shall provide the landlord and the tenant with a certificate or other documentation reflecting the permissible rent levels of the rental unit. The landlord or the tenant may appeal the determination of the permissible rent levels reflected in the certificate. The permissible rent levels reflected in

the certificate or other documentation shall, in the absence of misrepresentation or fraud, be binding and conclusive upon the local agency unless the determination of the permissible rent levels is being appealed.

- (c) After the establishment and certification of permissible rent levels under subdivision (b), the local agency shall, upon the request of the landlord or the tenant, provide the landlord and the tenant with a certificate of the permissible rent levels of the rental unit. The certificate shall be issued within five business days from the date of request by the landlord or the tenant. The permissible rent levels reflected in the certificate shall, in the absence of misrepresentation or fraud, be binding and conclusive upon the local agency unless the determination of the permissible rent levels is being appealed. The landlord or the tenant may appeal the determination of the permissible rent levels reflected in the certificate. Any appeal of a determination of permissible rent levels as reflected in the certificate, other than an appeal made pursuant to subdivision (b). shall be filed with the local agency within 15 days from issuance of the certificate. The local agency shall notify, in writing, the landlord and the tenant of its decision within 60 days following the filing of the appeal.
- (d) The local agency may charge the person to whom a certificate is issued a fee in the amount necessary to cover the reasonable costs incurred by the local agency in issuing the certificate.
- (e) The absence of a certification of permissible rent levels shall not impair, restrict, abridge, or otherwise interfere with either of the following:
  - (1) A judicial or administrative hearing.
- (2) Any matter in connection with a conveyance of an interest in property.
- (f) The record of permissible rent levels is a public record for purposes of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.
- (g) Any notice specifying the rents applicable to residential rental units which is given by an owner to a public entity or tenant in order to comply with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code shall not be considered a registration of rents for purposes of this section.
- (h) "Local agency," as used in this section, means the public entity responsible for the implementation of the ordinance, charter, or regulation.
- (i) Nothing in this section shall be construed to grant to any public entity any power which it does not possess independent of this section to control or establish a system of control on the price at which accommodations may be offered for rent or lease, or to diminish any such power which that public entity may possess, except as specifically provided in this section.
- . SEC. 3. No reimbursement shall be made from the State

Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

# CHAPTER 1200

An act to amend Sections 17052.5 and 23601 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

- 17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in paragraph (2), (3), or (6).
- (2) Except as provided in subparagraph (A), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (h)) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. For any such solar energy system installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and before August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (g) shall be 50 percent, and the credit shall not exceed three thousand dollars (\$3,000) per solar energy system as defined in subdivision (h). For purposes of determining the eligibility of systems installed on multifamily dwellings, the percentage credit specified by this paragraph shall apply to multifamily dwellings if (i) a written binding contract to purchase the primary components of a system is entered into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. For any such solar energy system installed on dwellings, excluding multifamily dwellings, on or after August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (g) shall be 10 percent and the credit shall not exceed one thousand dollars (\$1,000) per solar energy system as defined in subdivision (h).
- (A) Only the owner of the premises (as defined in subdivision (h)) on which the solar energy system is installed may claim the tax

credit for costs incurred; however, an owner-builder or owner-developer of new single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new single-family dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system installed prior to August 1, 1985, for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations made prior to August 1, 1985, which qualify for this credit, the credit shall be as defined in this paragraph.

- (B) The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new single-family dwelling on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the single-family dwelling.
- (C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formula in this paragraph, so long as the total amount of the credit claimed does not exceed three thousand dollars (\$3,000) per system for installations made on or before July 31, 1985, and one thousand dollars (\$1,000) per system for installations made on or after August 1, 1985.
- (3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in subdivision (h)) of the solar energy system, except for wind energy systems installed on or after January 1, 1986, for which the credit shall be 15 percent of the cost. This paragraph shall apply to solar energy systems installed on multifamily dwellings on or after August 1, 1985, except as provided in paragraph (2).

A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed by this paragraph.

- (4) If a solar energy system serves two or more dwellings, the owner or owners of the system shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in subdivision (h)) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in paragraph (2) or (6) to the per dwelling cost. This paragraph shall not apply to systems installed on or after August 1, 1985, except for those multifamily installations described in paragraph (2).
- (5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the date of installation of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the dates of installation of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.
- (6) Taxpayers who lease a solar energy system installed on premises in California owned by the taxpayer shall receive a tax credit as provided in subparagraph (A) or (B) provided the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.
- (A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (h)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars (\$3,000) for each system installed on or before July

- 31, 1985, and one thousand dollars (\$1,000) for each system installed on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subparagraph shall be 50 percent. For any solar energy system installed on dwellings, exclusive of multifamily dwellings, on or after August 1, 1985, the percentage specified by this subparagraph shall be 10 percent.
- (B) In the case of premises other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the credit shall equal 25 percent of the cost (as defined in subdivision (h)) of the purchased portion and 25 percent of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years. This subparagraph shall apply to systems installed on multifamily dwellings on and after August 1, 1985, except as provided in paragraph (2). In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year.
- (7) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit provided by this section shall be reduced by any grant provided by a public entity for such system.
- (b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and any grant provided by a utility or public agency for such solar energy system. The basis adjustment shall be made for the taxable year for which the credit is allowed.
- (c) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises.
- (d) In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.
- (e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in succeeding taxable years, until the credit is used. The credit shall be applied first to the earliest years possible. With respect to solar energy systems installed before January 1, 1985, where the credit allowed exceeds the taxpayer's net tax for the taxable year in which the system was installed, no excess portion of the credit shall be

applied against the taxpayer's "net tax" for the 1985 taxable year and no more than one-third of the excess portion of the credit shall be applied against the taxpayer's "net tax" for each of the 1986, 1987, and 1988 taxable years. For the 1989 taxable year and taxable years thereafter, any remaining excess credit may be applied and carried forward without restriction. With regard to wind energy systems purchased and installed on or after August 1, 1985, and on or before December 31, 1985, no more than one-third of the allowable credit under this section shall be applied against the taxpayer's "net tax" for each of the 1985, 1986, and 1987 taxable years. Any credit remaining after the 1987 taxable year shall be applied and carried forward without restriction. However, the full credit allowed under this section for wind energy systems may be applied against the taxpaver's "net tax" for the 1985 taxable year if (i) a written binding contract to purchase the primary components of a system is entered into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. With regard to wind energy systems installed on or after January 1, 1986, no more than one-third of the allowable credit under this section shall be applied against the taxpayer's "net tax" for each of the taxpayer's 1986, 1987, and 1988 taxable years. Any credit remaining after the 1988 taxable year shall be applied and carried forward without restriction.

- (f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. These guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.
- (g) To the extent that federal energy tax credits are allowed or allowable for costs incurred by a taxpayer for the purchase and installation of a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) and subparagraph (A) of paragraph (6) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of these costs, notwithstanding the carryover provisions of subdivision (e). For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subdivision shall be 50 percent. This subdivision shall not apply to solar energy systems installed on or after August 1, 1985, except those multifamily installations described in paragraph (2) of subdivision (a).
  - (h) For purposes of this section:
- (1) "Installed" means placed in position in a functionally operative state.
  - (2) "Cost" includes all of the following:
  - (A) Equipment and installation charges.

- (B) Compensation paid to the owner of burdened property in connection with the acquisition of a solar easement, as defined in Section 801.5 of the Civil Code, and the fees for the recording of this easement.
- (C) In the case of a system which is leased, the principal recovery portion of lease payments, which is the cost incurred by the taxpayer in acquiring the solar energy system excluding interest charges and maintenance expenses.

"Cost" does not include interest charges and costs associated with the acquisition of an easement other than a solar easement.

- (3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.
- (4) "Premises" means the principal stationary location in California where the system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.
- (5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes each of the following:
- (A) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.
- (B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings, including buildings and any other common areas of a condominium maintained by a homeowners' association.
- (6) (A) "Solar energy system" means the use of solar devices for the individual function of:
  - (i) Domestic or service water heating.
  - (ii) Space conditioning.
  - (iii) Production of electricity.
  - (iv) Process heat.
  - (v) Solar mechanical energy.
- (vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

- (B) Eligible solar energy systems shall have a useful life of not less than three years.
- (7) "Solar device" means the equipment associated with the collection, conversion, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more

solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

- (8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.
- (9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living or commercial space to provide for collection, storage, or distribution of solar energy for heating or cooling.
- (10) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.
- (11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses or which issues permits to companies engaged in the leasing of this equipment.
- (i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17250. In addition, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.
- (j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.
- (k) This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.
- (l) (1) Notwithstanding the provisions of subdivision (k), a taxpayer or any other party who has undertaken significant construction or expenditures associated with the acquisition or installation of a solar energy system on or before October 31, 1986, shall be eligible for the tax credit authorized by this section in the taxable year in which the system is installed if the installation is completed on or before June 30, 1987.
- (2) Notwithstanding paragraph (1) or the provisions of subdivision (k), a taxpayer or any other party who has undertaken significant construction or expenditures associated with the acquisition or installation of a solar energy system which is capable of providing 500 kilowatts of capacity or more, other than a system described in clause (vi) of paragraph (6) of subdivision (h) and a wind-driven system, on or before October 31, 1986, shall be eligible

for the tax credit authorized by this section in the taxable year in which the system is installed if the installation is completed on or before December 31, 1987.

- (3) For purposes of this subdivision, "significant construction or expenditures associated with the acquisition or installation of a solar energy system" requires the completion of at least two of the following:
- (A) The placement of at least 50 percent of the funds necessary for project completion in an escrow account. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other debt arrangement.
- (B) The payment of all necessary earnest money required to maintain interconnection priority with a purchasing utility and the receipt of all required building permits or zoning approval, such as a conditional use permit.
- (C) The signing of a binding agreement (such as a lease, easement, or purchase agreement) for the land necessary for the solar energy system and the signing of a binding agreement for major solar energy production equipment purchases necessary for the solar energy system.
- SEC. 2. Section 23601 of the Revenue and Taxation Code is amended to read:
- 23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (6).
- (2) Except as provided in subparagraph (A), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (f)) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. For any such solar energy system installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and before August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (e) shall be 50 percent, and the credit shall not exceed three thousand dollars (\$3,000) per solar energy system as defined in subdivision (f). For purposes of determining the eligibility of systems installed on multifamily dwellings, the percentage credit specified by this paragraph shall apply to multifamily dwellings if (i) a written binding contract to purchase the primary components of a system is entered into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. For any such solar energy system installed on single-family dwellings, on or after August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (e) shall be 10 percent, and the credit shall not exceed one thousand dollars (\$1,000) per solar energy system as defined in subdivision (f).
  - (A) Only the owner of the premises (as defined in subdivision (f))

on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new single-family dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election if necessary, by a written document signed by the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system installed prior to August 1, 1985, for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations made prior to August 1, 1985, which qualify for this credit, the credit shall be as defined in this paragraph.

- (B) The solar energy tax credit shall be claimed in the state return for the income year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new single-family dwelling on which the system is installed may claim the credit for the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the single-family dwelling.
- (C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the income year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formula in this paragraph, so long as the total amount of the credit claimed does not exceed three thousand dollars (\$3,000) per system for installations made on or before July 31, 1985, and one thousand dollars (\$1,000) per system for installations made on or after August 1, 1985.
- (3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in subdivision (f)) of the solar energy system, except for wind energy systems installed on or after January 1, 1986, for which the credit shall be 15 percent of the cost. This paragraph shall apply to solar energy systems installed on multifamily dwellings on or after August 1, 1985, except as provided in paragraph (2).

A taxpayer, who claimed the solar energy tax credit on the state income tax return for the income year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed by this paragraph.

- (4) If a solar energy system serves two or more dwellings, the owner or owners of the system shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in subdivision (f)) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in paragraph (2) or (6) to the per dwelling cost. This paragraph shall not apply to systems installed on or after August 1, 1985, except for those multifamily installations described in paragraph (2).
- (5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the date of installation of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the dates of installation of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.
- (6) Taxpayers who lease a solar energy system installed on premises in California owned by the taxpayer shall receive a tax credit as provided in subparagraph (A) or (B) provided that the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.
- (A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (f)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars (\$3,000) for each system installed on or before July

- 31, 1985, and one thousand dollars (\$1,000) for each system installed on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subparagraph shall be 50 percent. For any solar energy system installed on single-family dwellings on or after August 1, 1985, the percentage specified by this subparagraph shall be 10 percent.
- (B) In the case of premises other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the credit shall equal 25 percent of the cost (as defined in subdivision (f)) of the purchased portion and 25 percent of the principal recovery portion (as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years. This subparagraph shall apply to systems installed on multifamily dwellings on or after August 1, 1985, except as provided in paragraph (2). In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year.
- (7) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit provided by this section shall be reduced by any grant provided by a public agency for such system.
- (b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and grant provided by a utility or public agency for such solar energy system. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years until the credit is used. The credit shall be applied first to the earliest years possible. With respect to solar energy systems installed before January 1, 1985, where the credit allowed exceeds the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year in which the system was installed, no excess portion of the credit shall be applied against the taxpayer's taxes imposed by this part for the 1985 income year and no more than one-third of the excess portion of the credit shall be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on

preference income) for each of the 1986, 1987, and 1988 income years. For the 1989 income year and income years thereafter, any remaining excess credit may be carried forward and applied against the taxpayer's tax imposed by this part (except for the minimum franchise tax and the tax on preference income) without restriction. With regard to wind energy systems purchased and installed on or after August 1, 1985, and on or before December 31, 1985, no more than one-third of the allowable credit under this section shall be applied against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1985, 1986, and 1987 income years. Any credit remaining after the 1987 taxable year may be carried forward without restriction. However, the full credit allowed under this section for wind energy systems may be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the 1985 income year if (i) a written binding contract to purchase the primary components of a system is entered into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. With regard to wind energy systems installed on or after January 1, 1986, no more than one-third of the allowable credit under this section shall be applied against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1986, 1987, and 1988 income years. Any credit remaining after the 1988 income year may be carried forward and applied against the taxpayer's tax imposed by this part (except the minimum franchise tax and the tax on preference income) without restriction.

- (d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. These guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.
- (e) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase or lease and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) and subparagraph (A) of paragraph (6) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (c). For any solar energy system installed on or after August 1, 1983, and before August 1, 1985, the percentage specified by this subdivision shall be 50 percent. This subdivision shall not apply to solar energy systems installed on or after August 1, 1985, except those multifamily installations described in paragraph (2) of subdivision (a).
  - (f) The following definitions govern construction of this section:

- (1) "Installed" means placed in position in a functionally operative state.
- (2) "Cost" includes equipment and installation charges, but shall exclude interest charges. In the case of a system which is leased, "cost" means the principal recovery portion of lease payments which is the cost incurred by the taxpayer in acquiring the solar energy system, but excluding interest charges and maintenance expenses.
- (3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.
- (4) "Premises" means the principal stationary location in California where the system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.
- (5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes each of the following:
- (A) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.
- (B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings, including buildings and any other common areas of a condominium maintained by a homeowners' association.
- (6) (A) "Solar energy system" means the use of solar devices for the individual function of:
  - (i) Domestic or service water heating.
  - (ii) Space conditioning.
  - (iii) Production of electricity.
  - (iv) Process heat.
  - (v) Solar mechanical energy.
- (vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

- (B) Eligible solar energy systems shall have a useful life of not less than three years.
- (7) "Solar device" means the equipment associated with the collection, conversion, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.
  - (8) "Passive thermal system" means a system which utilizes the

structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

- (9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living or commercial space to provide for collection, storage, or distribution of solar energy for heating or cooling.
- (10) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.
- (11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses, or which issues permits to companies engaged in the leasing of this equipment.
- (g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take a depreciation pursuant to Section 24349. Also, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.
- (h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.
- (i) This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.
- (j) (1) Notwithstanding the provisions of subdivision (i), a taxpayer or any other party who has undertaken significant construction or expenditures associated with the acquisition or installation of a solar energy system on or before October 31, 1986, shall be eligible for the tax credit authorized by this section in the income year in which the system is installed if the installation is completed on or before June 30, 1987.
- (2) Notwithstanding paragraph (1) or the provisions of subdivision (i), a taxpayer or any other party who has undertaken significant construction or expenditures associated with the acquisition or installation of a solar energy system which is capable of providing 500 kilowatts of capacity or more, other than a system described in clause (vi) of paragraph (6) of subdivision (f) and a wind-driven system, on or before October 31, 1986, shall be eligible for the tax credit authorized by this section in the income year in which the system is installed if the installation is completed on or before December 31, 1987.

- (3) For purposes of this subdivision, "significant construction or expenditures associated with the acquisition or installation of a solar energy system" requires the completion of at least two of the following:
- (A) The placement of at least 50 percent of the funds necessary for project completion in an escrow account. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other debt arrangement.
- (B) The payment of all necessary earnest money required to maintain interconnection priority with a purchasing utility and the receipt of all required building permits or zoning approval, such as a conditional use permit.
- (C) The signing of a binding agreement (such as a lease, easement, or purchase agreement) for the land necessary for the solar energy system and the signing of a binding agreement for major energy production equipment purchases necessary for the solar energy system.
- SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

# CHAPTER 1201

An act to add Chapter 2.3 (commencing with Section 2780) to Part 5 of Division 1 of, and to add and repeal Section 7061 of, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Chapter 2.3 (commencing with Section 2780) is added to Part 5 of Division 1 of the Revenue and Taxation Code, to read:

# CHAPTER 2.3. RETURN OF REPLICATED PROPERTY TAX PAYMENTS

2780. The Legislature finds and declares that the retention by counties of replicated property tax payments and the failure to return any replicated payment to the tendering party for a period of time greater than two months works a hardship on taxpayers and businesses engaged in processing real estate transfers.

2781. If a taxpayer or agent for the taxpayer submits a payment indicated for application to a specific tax or tax installment and that tax or tax installment already has been paid, the county shall return

the replicated payment to the tendering party within 60 days. However, when a replicated payment is made of any tax or tax installment paid by a certificate of eligibility pursuant to Section 2514, the amount of the replicated payment shall be paid to the person shown on the certificate.

2782. If a replicated tax payment is not returned to the tendering party within 60 days as provided in this chapter, the county shall, in addition to returning the replicated payment as soon as practicable, pay the tendering party interest on the amount of replicated payment at the rate provided in Section 5151. The interest shall be computed for the period beginning 60 days after the county receives the replicated payment to the date the replicated payment is returned to the tendering party.

2783. The provisions of this chapter shall not be construed as prohibiting a tax collector's exercise of reasonable judgment in applying a payment for which the wrong payment stub has been returned by the payor or in any case in which no indication of

intended application has been made.

- SEC. 2. Section 7061 is added to the Revenue and Taxation Code, to read:
- 7061. (a) The board shall conduct a study regarding the practices of collection and assessment of sales and use tax on the sale of a new or used mobilehome.
- (b) The study required by subdivision (a) shall include, but not be limited to, the following:
- (1) Whether the measure of the sales and use tax on the sale of a mobilehome includes amounts which are not directly related to the value of the mobilehome as tangible personal property.
- (2) Whether it is fair and equitable to define "actual sales price" under Sections 6012.2 and 6276.1 as the total contract price, including "in place location" when that location is not owned by the purchaser.
- (c) The board shall report to the Legislature before January 1, 1988, on the results of the study conducted pursuant to this section and its recommendations for corrective action or legislation, if necessary.
- (d) The sum of sixty-four thousand dollars (\$64,000) is hereby appropriated from the Mobilehome-Manufactured Home Revolving Fund described in Section 18016.5 of the Health and Safety Code to the board to conduct the study required by this section.
- (e) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.
- SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

120770

SEC. 4. This act is an urgency statute necessary for the

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both of the following conditions exist:

(1) The individual has not been absent from work without the approval of the regular employer.

(2) The individual accepted all work the regular employer made available to the individual during hours scheduled off due to the

work-sharing plan.

- (h) Except as otherwise provided by or inconsistent with this section, all provisions of this division and authorized regulations apply to benefits under this section. Authorized regulations may, to the extent permitted by federal law, make such distinctions and requirements as may be necessary in the procedures and provisions applicable to unemployed individuals to carry out the purposes of this section, including regulations defining normal hours, days, workweek, and wages.
- (i) Employees shall not be eligible to receive any benefits under this section unless their employer agrees, in writing, and their bargaining agent pursuant to any applicable collective bargaining agreement agrees, in writing, to voluntarily participate in the shared work unemployment insurance benefit program created by this section.
- (j) Notwithstanding Section 1327, the department shall not be required to notify an employer of additional claims which result from an approved plan submitted by the employer under which benefits are not paid in each week.
- (k) The director may terminate a shared work plan for good cause if the plan is not being carried out according to its terms and intent.

# CHAPTER 1203

An act to amend Sections 54991 and 65958 of, and to add Section 65959 to, the Government Code, relating to local agencies.

[Approved by Góvernor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 54991 of the Government Code is amended to read:

54991. (a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or charge imposed 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.

her normal weekly hours of work for the individual's regular employer, and the director finds that the regular employer has reduced or restricted the individual's normal hours of work, or has rehired an individual previously laid off and reduced that individual's normal hours of work from those previously worked, as the result of a plan by the regular employer to, in lieu of layoff, reduce employment and stabilize the work force by a program of sharing the work remaining after a reduction in total hours of work and a corresponding reduction in wages of at least 10 percent. The application for approval of a plan shall require the employer to briefly describe the circumstances requiring the use of work sharing to avoid a layoff. Normal weekly hours of work means the number of hours in a week that the employee normally would work for the regular employer or 40 hours, whichever is less. The plan must involve the participation of at least two employees and include not less than 10 percent of the employer's regular permanent work force involved in the affected work unit or units in each week, or in at least one week of a two-consecutive-week period. A plan approved by the director shall expire six months after the effective date of the plan.

- (b) Except as otherwise provided in this section, each individual eligible under this chapter who is "unemployed" in any week shall be paid with respect to that week a weekly shared work unemployment compensation benefit amount equal to the percentage of reduction of the individual's wages resulting from an approved plan, rounded to the nearest 5 percent, multiplied by the individual's weekly benefit amount.
- (c) No individual who receives any benefits under this section during any benefit year shall receive any benefits pursuant to Section 1252 or 1252.2 as a partially unemployed individual with respect to any week during such benefit year while in employment status with the regular employer who initiated the program of sharing work under this section. No benefits under this section shall be payable on any type of extended claim.
- (d) Any amount payable under this section shall be reduced by the amount of any and all compensation payable for personal services whether performed as an employee or an independent contractor or as a juror or as a witness, except compensation payable by the regular employer under a shared work plan.

For the purposes of this subdivision, "regular employer" may include, pursuant to an approved plan, a labor organization which periodically employs individuals in accordance with a collective bargaining agreement.

- (e) The benefit payment under this section, if not a multiple of one dollar (\$1), shall be increased to the next higher multiple of one dollar (\$1).
- (f) Section 1279 shall not apply to any individual eligible for any payment under this section.
- (g) For the purposes of this section, an individual shall not be disqualified under subdivision (c) of Section 1253 for any week if

both of the following conditions exist:

(1) The individual has not been absent from work without the approval of the regular employer.

(2) The individual accepted all work the regular employer made available to the individual during hours scheduled off due to the

work-sharing plan.

- (h) Except as otherwise provided by or inconsistent with this section, all provisions of this division and authorized regulations apply to benefits under this section. Authorized regulations may, to the extent permitted by federal law, make such distinctions and requirements as may be necessary in the procedures and provisions applicable to unemployed individuals to carry out the purposes of this section, including regulations defining normal hours, days, workweek, and wages.
- (i) Employees shall not be eligible to receive any benefits under this section unless their employer agrees, in writing, and their bargaining agent pursuant to any applicable collective bargaining agreement agrees, in writing, to voluntarily participate in the shared work unemployment insurance benefit program created by this section.
- (j) Notwithstanding Section 1327, the department shall not be required to notify an employer of additional claims which result from an approved plan submitted by the employer under which benefits are not paid in each week.
- (k) The director may terminate a shared work plan for good cause if the plan is not being carried out according to its terms and intent.

#### CHAPTER 1203

An act to amend Sections 54991 and 65958 of, and to add Section 65959 to, the Government Code, relating to local agencies.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 54991 of the Government Code is amended to read:

54991. (a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or charge imposed 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.

- (b) As used in this section, the following terms mean:
- (1) "Sewer connection" means the connection of a building to a public sewer system.
- (2) "Water connection" means the connection of a building to a public water system, as defined in subdivision (e) of Section 4010.1 of the Health and Safety Code.
- (3) "Capacity charges" means charges for facilities in existence at the time the charge is imposed or charges for new facilities to be constructed in the future which are of benefit to the person or property being charged.
- SEC. 2. Section 65958 of the Government Code is amended to read:
- 65958. Any party on whom a fee, tax, assessment, dedication, reservation, or other exaction has been directly imposed, as a condition of approval of a development, as defined by Section 65927, or development project, as defined by Section 65928, may protest, as provided in Sections 65913.5 and 66475.4, the establishment or imposition of the fee, tax, assessment, dedication, reservation, or other exaction. If a party files a protest under both Sections 65913.5 and 66475.4, Section 66475.4 shall prevail over Section 65913.5 to the extent of any conflict between those two sections.
- SEC. 3. Section 65959 is added to the Government Code, to read: 65959. (a) When a local agency imposes any fee or exaction as a condition of approval of a proposed development, as defined by Section 65927, or development project, as defined by Section 65928, those fees or exactions shall not exceed the estimated reasonable cost of providing the service or facility for which the fee or exaction is imposed.
- (b) As used in this section, "local agency" means a city, county, city and county, district, or other political subdivision of the state.
- (c) This section does not apply to fees or monetary exactions expressly authorized to be imposed under Sections 66475.1 and 66477.
- (d) It is the intent of the Legislature in adding this section to codify existing constitutional and decisional law with respect to the imposition of development fees and monetary exactions on developments by local agencies. This section is declaratory of existing law and shall not be construed or interpreted as creating new law or as modifying or changing existing law.

# CHAPTER 1204

An act to amend Section 728.1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

- SECTION 1. Section 728.1 of the Public Utilities Code is amended to read:
- 728.1. (a) For purposes of this section, "plant held for future use account" means account number 105 of the Uniform System of Accounts Prescribed for Public Utilities and Licensees, as adopted by the commission.
- (b) The commission shall review the status of all property owned by a gas or electrical corporation and held within the plant held for future use account at least once every three years or during a proceeding conducted pursuant to Section 728, for the purpose of determining and fixing the rates of that gas or electrical corporation, as determined by the commission.
- (c) If a gas or electrical corporation sells property which was carried within the plant held for future use account and which was included in determining the rates of the corporation, the commission shall determine what portion of any gains from the sale shall be allocated to the customers of the corporation in a manner consistent with the procedures specified in account number 105 of the Uniform System of Accounts Prescribed for Public Utilities and Licensees. The portion of the gains allocated to customers shall not be less than the amount the corporation has recovered through rates for the carrying costs and other expenses of the property during the period it was carried in the plant held for future use, and shall not exceed the gain on the sale, net of any tax, resulting from the sale.

#### CHAPTER 1205

An act to amend Section 7099.6 of, and to add Section 483 to, the Business and Professions Code, relating to business and professions.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 483 is added to the Business and Professions Code, to read:

483. If a person, not a regular employee of a board under the

provisions of this code, including the Board of Chiropractic Examiners and the Board of Osteopathic Examiners, is hired or under contract to provide expertise to the board in the evaluation of an applicant or the conduct of a licensee, and that person is named as a defendant in a civil action arising out of the evaluation or any opinions rendered, statements made, or testimony given to the board or its representatives, the board shall provide for representation required to defend the defendant in such a civil action. The board shall not be liable for any judgment rendered against the person. The Attorney General shall be utilized in the action and his or her services shall be a charge against the board.

- SEC. 2. Section 7099.6 of the Business and Professions Code is amended to read:
- 7099.6. (a) The failure of a licensee to comply with a citation after it is final is a ground for suspension or revocation of license.
- (b) The failure of an applicant for licensure to comply with a citation after it is final is a ground for denial of license.

#### CHAPTER 1206

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

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

- SECTION 1. Notwithstanding Section 1611 of the Unemployment Insurance Code, the sum of twenty million dollars (\$20,000,000) is hereby appropriated from the Employment Training Fund to the Unemployment Fund.
- SEC. 2. The amount appropriated in Section 1 of this act shall be credited to each positive reserve employer account as provided in Section 1026 of the Unemployment Insurance Code as of the computation date of June 30, 1986, in proportion to the amount each positive reserve employer's taxable wages bears to the total of all positive reserve employers' taxable wages.
  - SEC. 3. This act shall become operative on June 30, 1986.
- 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 unexpended employment training funds are reserved for the compensation of unemployed workers and not allocated for purposes other than ameliorating the hardships of unemployed workers, it is necessary for this act to take effect immediately.

# CHAPTER 1207

An act to add Section 68513 to the Government Code, relating to courts.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 68513 is added to the Government Code, to read:

- 68513. The Judicial Council shall provide for the uniform entry, storage, and retrieval of court data relating to civil cases in superior court by means provided for in this section, in addition to any other data relating to court administration, including all of the following:
  - (a) The time from filing of the action to settlement.
- (b) The type of settlement procedure, if any, which contributed to the settlement disposition.
- (c) The character and amount of any settlement made as to each party litigant, but preserving the confidentiality of such information if the settlement is not otherwise public.
- (d) The character and amount of any judgments rendered by court and jury trials for comparison with settled cases.
- (e) The extent to which damages prayed for compare to settlement or judgment in character and amount.
- (f) The extent to which collateral sources have contributed, or will contribute, financially to satisfaction of the judgment or settlement.
- (g) The category of civil case, such as contract or personal injury-death-property damage by motor vehicle.

Provision for the uniform entry, storage, and retrieval of court data may be by use of litigant statements or forms, if available, or by collection and analysis of statistically reliable samples.

# CHAPTER 1208

An act to amend Sections 8660.1, 8660.2, 8666, 8668, 8669, 8670, 8674, 8711, 8740, 8741, 8770, 8771, 9160.7, 9160.8, 9160.9, 9165, 9166, 9170, 9210, 9240.5, 9241, 9242, and 9270 of, to repeal Sections 8712, 8743, 9211, and 9242.5 of, and to repeal and add Section 8000 of, the Elections Code, relating to elections.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 8000 of the Elections Code is repealed. SEC. 2. Section 8000 is added to the Elections Code, to read:

8000. The Secretary of State shall file and keep lists of members of state and county central committees. A copy of each list shall be made available for public inspection.

The state chairperson of each qualified political party shall send to the Secretary of State a list of its party's officers and the address and phone number of its party headquarters.

The state chairpersons of the Democratic and Republican state central committees shall send to the Secretary of State, within thirty days of their organizational meetings, lists of members in two sequences. The first list shall be alphabetical by member's last name. The second list shall be alphabetical by appointor and shall set forth each appointor's appointments immediately following the appointor's name. Each list shall show the member's name and address including mail, city and zip code, telephone number if given, and the district numbers of the congressional, senatorial, and assembly districts in which the member resides. Within seven days of any change to the membership list, the state chairperson shall send the Secretary of State notice of the change in the same format as the original membership list.

Within thirty days of the election or appointment of any member of a county central committee of a qualified political party, the county elections official shall send the Secretary of State a list of the members of the county central committee.

- SEC. 3. Section 8660.1 of the Elections Code is amended to read: 8660.1. Within 30 days after the direct primary election, the state central committee shall send a notice by mail to each person who, as of the following year, will be a member of the state central committee according to subdivision (a) of Section 8660. The notice shall inform each such person that:
- (a) The person shall appoint members of the state central committee and the number of appointments to which he or she is entitled or will be entitled, depending on the outcome of the general election.
  - (b) The appointment of members of the state central committee

shall be made in writing in the form prescribed in Section 8660.2 signed by the person and filed in accordance with Section 8666.

(c) A form of proxy is enclosed which the person may use.

SEC. 4. Section 8660.2 of the Elections Code is amended to read: 8660.2. The state central committee shall enclose with the notice required by Section 8660.1 one copy of the following statement for appointment of members of the state central committee, which shall be in substantially the following form:

# APPOINTMENT OF MEMBERS OF THE STATE CENTRAL COMMITTEE OF THE DEMOCRATIC PARTY MEETING AT \_\_\_\_\_\_, IN THE YEAR 19\_\_

committee of the Devirtue of my (apportunity) (nomination) (electinapplicable) on the Democratic ticket, described in the Democratic ticke	emocratic Party at bintment by the cion to the office of ne day of _	ber of the state central in the year 19 by central committee) (strike out parts 19 upon the collowing voters, who shall ee:
Name	Senatorial,	Post office
	Congressional,	address
	Assembly district	
Name	Senatorial,	Post office
	Congressional,	address
	Assembly district	
Name	Senatorial.	Post office

SEC. 5. Section 8666 of the Elections Code is amended to read: 8666. Appointments of members of this committee shall be made in writing signed by the member and delivered to the chair of this committee. The deliveries shall be made not later than 5 o'clock p.m. of the first Monday following the regular statewide general election.

Congressional.

Assembly district

address

- SEC. 6. Section 8668 of the Elections Code is amended to read: 8668. By no later than January 1 of an odd-numbered year, the county chair shall notify the chair of the state central committee in writing signed by him or her of the names and addresses of those persons elected pursuant to Section 8667.
- SEC. 7. Section 8669 of the Elections Code is amended to read: 8669. Within 35 days following the regular statewide general election, a caucus as provided in this section shall be convened in each Assembly district in the state by the Democratic nominee for the Assembly at the general election or by the nominee's designee.

However, if the Assembly district is the residence of the Democratic State Senate nominee, or if none, of the holdover Democratic Senate nominee, the caucus shall be called by that person or his or her designee. If the Assembly district is the residence of more than one such person, in addition to the Assembly nominee, the caucus shall be called by the person whose senatorial district includes the greatest proportion of the registered voters of the Assembly district, or that person's designee. In the event of the failure of the appropriate person to call the caucus, the chair of the state central committee shall call the caucus.

The person calling the caucus shall be assisted by an Assembly district executive committee in setting the time and place of the caucus and the procedure to be followed at the caucus. The executive committee shall consist of all members of the state central committee who attained such membership by operation of law or by appointment after the preceding direct primary election and county central committee members elected in the preceding direct primary election residing in the district.

The person calling the caucus or the person's designee shall preside over the caucus as temporary chair until such time as a permanent chair is elected by the caucus.

Every registered Democrat as of the close of registration and residing in the district shall be entitled to attend and vote at the caucus. The executive committee and the person calling the caucus shall make every reasonable effort to make known to all registered Democrats in the district the time, place, and purpose of the caucus and their right to participate.

Each caucus shall elect five members to the state central committee. In addition, each caucus shall elect five alternates who shall serve as members in the event of vacancies. Alternates shall fill vacancies in the order based upon the number of votes received in the caucus. To the extent possible, persons elected shall be equally divided between men and women.

Any person seeking election to the state central committee shall, at least five days prior to the Assembly district caucus, deliver to the temporary chair a nomination paper subscribed to by the number of signers set forth in subdivision (c) of Section 6495. The nomination paper shall be in a form substantially similar to that which is set forth in Section 6494, except that the paper shall not be examined and certified by the county clerk. The county clerk shall not be required to prepare or distribute nomination papers to persons seeking election pursuant to this section.

The number of nomination papers which a person may sign shall not exceed the number of members that the caucus is entitled to elect to the state central committee.

The temporary chair or his or her designee shall be responsible for the examination and verification of all nomination papers.

Within five days following the Assembly district caucus, the person calling the caucus shall notify the chair of the state central committee

in writing signed by him or her of the names and addresses of the persons elected to membership on the state central committee and their alternates pursuant to this section.

- SEC. 8. Section 8670 of the Elections Code is amended to read: 8670. The chair of this committee shall notify each person appointed or elected as a member of this committee:
  - (a) That he or she is a member of the committee.
  - (b) Of the date, time, and place of the meeting of the committee.
- (c) That the meeting may be attended either in person or by proxy.
- (d) That every proxy shall be filed in the office of the state central committee not later than 5 o'clock of the afternoon of the day preceding the meeting of the committee.
- (e) That the proxy shall be in writing signed by the member under penalty of perjury.

The chair shall enclose with each notice one copy of the form of proxy.

- SEC. 9. Section 8674 of the Elections Code is amended to read: 8674. Vacancies shall be filled as follows:
- (a) Members appointed pursuant to Section 8663 or 8664.

Should a member appointed to membership pursuant to Section 8663 or 8664 cease to be a member for any of the reasons specified in Section 8673, the vacancy shall be filled by the person who made the appointment, unless that person is himself or herself no longer a member of this committee or indicates that he or she does not wish to fill the vacancy, in which instances the committee shall do so.

Notice shall be given by the committee to a person entitled to fill a vacancy under this section as soon as possible after the occurrence of the vacancy and vacancies shall be filled not less than three days preceding the first meeting of the committee. The committee shall notify in writing the state chair of all appointments made pursuant to this subdivision.

(b) Members elected by county central committees.

Should a member elected to membership by a county central committee pursuant to Section 8667 cease to be a member for any of the reasons specified in Section 8673, notice shall be given to the county central committee by the state central committee as soon as possible after the occurrence of the vacancy, and the county central committee shall fill the vacancy at its next meeting following the notification and notify in writing the state chair of the election held pursuant to this subdivision.

(c) Members elected by Assembly district caucuses.

Should a member elected to membership by an Assembly district caucus pursuant to Section 8669 cease to be a member for any of the reasons specified in Section 8673, the resulting vacancy shall be filled by the alternate who was elected for that purpose pursuant to Section 8669.

In the event a vacancy develops for which there is no alternate, either because insufficient alternates were elected or because a

vacancy or vacancies have developed among the alternates, at the earliest opportunity the Assembly nominee, the Senate nominee, or the holdover Senate nominee or the appropriate nominee's designee shall call a meeting of the Assembly district executive committee which shall fill the vacancy. Such person shall notify in writing the state chair of the selection made pursuant to this subdivision.

SEC. 10. Section 8711 of the Elections Code is amended to read: 8711. The committee shall meet at a suitable location which shall be designated by the executive committee of the state central committee, or, if the executive committee does not meet, by the chairperson of the committee.

SEC. 11. Section 8712 of the Elections Code is repealed.

SEC. 12. Section 8740 of the Elections Code is amended to read: 8740. The state central committee shall enclose with the notice required by Section 8660.1 copies of the following form of proxy for attendance at the meeting of the state central committee:

### PROXY FOR ATTENDANCE AT THE STATE CENTRAL COMMITTEE OF THE DEMOCRATIC PARTY MEETING AT \_\_\_\_\_, IN THE YEAR 19\_

I,, duly qualified to sit as a member of the state central
committee of the Democratic Party meeting at in the year
19_ do hereby designate (name); (post office
address); as my proxy with full power to act for me in every respect
as a duly qualified member of the state central committee meeting
at on the day of, 19
I declare under penalty of perjury that the foregoing is true and
correct to the best of my knowledge and belief.
Date Place of execution
, Member

SEC. 13. Section 8741 of the Elections Code is amended to read: 8741. Proxies to be recognized by the committee on proxies and credentials shall be signed by the member under penalty of perjury and shall be in the form prescribed in Section 8740.

SEC. 14. Section 8743 of the Elections Code is repealed.

SEC. 15. Section 8770 of the Elections Code is amended to read: 8770. The chair of this committee shall call the committee to order no later than 10 a.m. of the morning of the first day of the meeting and as soon as practicable thereafter shall cause the roll to be called from the list of members and proxies. The next business in order shall be the election of a temporary chair, which may be by acclamation, unless there is a contest, in which event the roll shall be called.

SEC. 16. Section 8771 of the Elections Code is amended to read: 8771. The temporary chair, upon election, shall appoint at once a committee on proxies and credentials in accordance with party bylaws from among the members of the state central committee.

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- SEC. 17. Section 9160.7 of the Elections Code is amended to read: 9160.7. At least 30 days before the first meeting of the state central committee, the state central committee shall send a notice by mail to each person who is a holdover or nominee member which shall inform the member that:
- (a) The member shall appoint voters as members of the state central committee and the number of appointments to which he or she is entitled.
- (b) The appointment of members of the state central committee shall be made in writing in the form prescribed in Section 9160.9, signed by the delegate under penalty of perjury and shall be filed in the office of the state central committee not later than 5 o'clock of the afternoon of the 10th day immediately preceding the Sunday on which the committee is to meet.
- (c) Forms of proxy are enclosed, one of which he or she may use himself or herself, and the others he or she shall send with the notices of appointment to the state central committee.
- SEC. 18. Section 9160.8 of the Elections Code is amended to read: 9160.8. At least 30 days before the first meeting of the state central committee, the state central committee shall send a notice by mail to each county central committee of the Republican Party:
- (a) Informing it that the chairperson of the county central committee, who is elected immediately prior to the meeting of the state central committee for which the notice is sent, shall appoint members of the state central committee and the number of appointments to which he or she is entitled; and
- (b) Giving such other information as is required of a notice sent pursuant to Section 9160.7.
- SEC. 19. Section 9160.9 of the Elections Code is amended to read: 9160.9. The state central committee shall enclose with the notice required by Section 9160.7 one copy of the following statement for appointment of members of the state central committee, which shall be in substantially the following form:

# APPOINTMENT OF MEMBERS OF THE STATE CENTRAL COMMITTEE OF THE REPUBLICAN PARTY MEETING AT SACRAMENTO, IN THE YEAR 19\_

I,, duly qualified as a member of the state central
committee of the Republican Party at Sacramento in the year 19
by virtue of my (appointment by the central committee)
(nomination) (election to the office of) (strike out parts
inapplicable) on the day of 19_ upon the
Republican ticket, do hereby appoint the following voters, who shall
be members of the state central committee:

Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date \_\_\_\_\_ Place of execution \_\_\_\_\_\_

(Delegate)

SEC. 20. Section 9165 of the Elections Code is amended to read: 9165. Appointments of members to this committee shall be made in writing signed by the member under penalty of perjury and delivered to the state central committee not later than 5 o'clock of the afternoon of the 10th day immediately preceding the Sunday in which the first meeting of this committee is to be held.

- SEC. 21. Section 9166 of the Elections Code is amended to read: 9166. Each holdover, nominee, or appointive member shall send a notice by mail to each person whom he or she has appointed as a member of this committee which will inform him or her that:
  - (a) He or she is a member of the committee.
- (b) The committee will meet in Sacramento and the date of the meeting.
  - (c) The meeting may be attended either in person or by proxy.
- (d) Every proxy shall be filed in the office of the state central committee not later than 5 o'clock of the afternoon of the day preceding the meeting of the committee.
- (e) The proxy shall be in writing signed by the member under penalty of perjury.

Each appointing member shall enclose with each notice one copy of the form of proxy sent to that delegate by the state central committee.

SEC. 22. Section 9170 of the Elections Code is amended to read: 9170. Should a member appointed to membership pursuant to Section 9161, 9162, or 9163, cease to be a member for any of the reasons specified in Section 9169, the vacancy shall be filled by the person who appointed him or her, unless that person is himself or herself no longer a member of this committee or indicates that he or she does not wish to fill the vacancy, in which instances the committee shall do so.

Notice shall be given by the committee to a person entitled to fill a vacancy under this section as soon as possible after the occurrence of the vacancy and vacancies shall be filled not less than three days preceding the first meeting of the committee. The committee shall notify in writing the state chair of all appointments made pursuant to this section.

SEC. 23. Section 9210 of the Elections Code is amended to read: 9210. The first meeting of this committee shall convene at a suitable location in the City of Sacramento at 10 o'clock a.m. on a date designated by the chairperson of the committee, but not less than 15 days nor more than 60 days after the organizational meetings of the county central committees. The location shall be designated by the executive committee of the state central committee, or, if the executive committee does not meet, by the chairperson of the committee.

SEC. 24. Section 9211 of the Elections Code is repealed.

SEC. 25. Section 9240.5 of the Elections Code is amended to read: 9240.5. The state central committee shall enclose with the notice required by Section 9160.7 copies of the following form of proxy for attendance at the meeting of the state central committee:

## PROXY FOR ATTENDANCE AT THE STATE CENTRAL COMMITTEE OF THE REPUBLICAN PARTY MEETING AT SACRAMENTO, IN THE YEAR 19...

I,, duly qualified to sit as a member of the state cer	ntral
committee of the Republican Party meeting at Sacramento in	the
year 19 do hereby designate (name); (	post
office address); as my proxy with full power to act for me in e	very
respect as a duly qualified member of the state central commi	ittee
meeting at Sacramento on the day of, 19	
I declare under penalty of perjury that the foregoing is true	and
correct to the best of my knowledge and belief.	
Date Place of execution	
Men	ober

- SEC. 26. Section 9241 of the Elections Code is amended to read: 9241. Proxies to be recognized by the committee on proxies and credentials shall be signed by the member under penalty of perjury and shall be in the form prescribed in Section 9240.5.
- SEC. 27. Section 9242 of the Elections Code is amended to read: 9242. No proxy shall be recognized unless filed in the office of the state central committee not later than 5 o'clock of the afternoon of the day preceding the state committee meeting.

SEC. 28. Section 9242.5 of the Elections Code is repealed.

SEC. 29. Section 9270 of the Elections Code is amended to read: 9270. The chairperson of this committee shall call the committee to order at 10 o'clock of the morning of the first meeting and as soon as practicable thereafter shall cause the roll to be called from the list of members and proxies. The next business in order shall be the election of a temporary chairperson, which may be by acclamation or, if there is a contest, by rollcall or such other method as may be prescribed by this committee.

#### CHAPTER 1209

An act to amend Section 1985.3 of the Code of Civil Procedure, relating to subpoenas.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 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, 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.

- (2) "Consumer" means any individual, partnership of five or fewer persons, association, or trust which has transacted business with, or has used the services of, the witness or for whom the witness has acted as agent or fiduciary.
- (3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to the provisions of Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.
- (b) The date specified in a subpoena duces tecum for the production of personal records shall not be less than 15 days from the date the subpoena is issued. Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, and of the notice described in subdivision (e). This service shall be made both:
- (1) To the consumer personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record.
- (2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.
- (c) Prior to the production of the records, the subpoenaing party shall do either of the following:
- (1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).
- (2) Furnish the witness a written authorization to release the records signed by the consumer or by his or her attorney of record. The witness may presume that any attorney purporting to sign the authorization on behalf of the consumer acted with the consent of the consumer.
  - (d) A subpoena duces tecum for the production of personal

records shall be served in sufficient time to allow the witness a reasonable time to locate and produce the records or copies thereof.

Except as to records subpoenaed for a criminal proceeding or records subpoenaed during trial, a subpoena duces tecum served upon a witness with records in more than one location shall be served no less than 10 days prior to the date specified for production, unless good cause is shown pursuant to subdivision (g).

- (e) Every copy of the subpoena duces tecum and affidavit served on a consumer or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) records about the consumer are being sought from the witness named on the subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court prior to the date specified for production on the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.
- (f) Any consumer whose personal records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness prior to production. No witness shall be required to produce personal records after receipt of notice that such a motion has been brought, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.
- (g) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.
- (h) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which requires a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.
- (i) The provisions of this section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.
- (j) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the personal records sought by a subpoena duces tecum.
  - SEC. 2. 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) "Subpoening 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 2 of this bill incorporates amendments to Section 1985.3 of the Code of Civil Procedure proposed by both this bill and AB 3924. 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 AB 3924, in which case Section 1 of this bill shall not become operative.

#### CHAPTER 1210

An act to amend Section 277 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 277 of the Penal Code is amended to read: 277. In the absence of a court order determining rights of custody or visitation to a minor child, every person having a right of custody of the child who maliciously takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of one thousand dollars (\$1,000), or both, or by imprisonment in the state prison for a period of one year and one day, a fine of five thousand dollars (\$5,000), or both.

A subsequently obtained court order for custody or visitation shall not affect the application of this section.

For the purposes of this section, "a person having a right of custody" means the legal guardian of the child or a person who has a parent and child relationship with the child pursuant to Section 197 of the Civil Code.

As used in this section, "good cause" means a good faith belief that the taking, detaining, concealing, or enticing away of the child is necessary to protect the child from immediate bodily injury or emotional harm.

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

In order to clarify the meaning of the term "good cause" as used in Section 277 of the Penal Code so as to avoid any constitutional questions as to that section's meaning and application, it is essential that this act take effect immediately.

#### CHAPTER 1211

An act to amend Section 1128 of, and to add Section 218.5 to, the Labor Code, relating to attorney's fees.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 218.5 is added to the Labor Code, to read: 218.5. In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action. This section shall not apply to an action brought by the Labor Commissioner. This section shall not apply to a surety issuing a bond pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code or to an action to enforce a mechanics lien brought under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code.

- SEC. 2. Section 1128 of the Labor Code is amended to read:
- 1128. (a) Where a party to a collective bargaining agreement prevails in a court action to compel arbitration of disputes concerning the collective bargaining agreement, the court shall award attorney's fees to the prevailing party unless the other party has raised substantial and credible issues involving complex or significant questions of law or fact regarding whether or not the dispute is arbitrable under the agreement.

If the dispute is later found to be not arbitrable under the collective bargaining agreement, any award made pursuant to this subdivision shall be vacated and those sums paid to satisfy the award shall be reimbursed to the payor.

(b) Where a party to a collective bargaining agreement appeals the decision of an arbitrator regarding disputes concerning the collective bargaining agreement, the court shall award attorney's fees to the prevailing appellee unless the appellant has raised substantial issues involving complex or significant questions of law.

- (c) Where a party to a collective bargaining agreement prevails in a court action to compel compliance with the decision or award of an arbitrator or a grievance panel regarding disputes concerning the collective bargaining agreement, the court shall award attorney's fees to the prevailing party unless the other party has raised substantial issues involving complex or significant questions of law.
  - (d) This section shall not apply to public employment.

#### CHAPTER 1212

An act to amend Sections 6701, 9911, and 9950 of, and to add Sections 9803 and 9804 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 6701 of the Vehicle Code is amended to read:

- 6701. (a) Any nonresident owner of a vehicle registered in a foreign state who is a member of the armed forces of the United States on active duty within this state, and any resident owner of a vehicle registered in a foreign state who is a member of the armed forces of the United States returning from active duty in a foreign state, may operate the vehicle in this state without securing California registration after satisfying all of the following requirements:
- (1) The license plates displayed on the vehicle are valid plates issued by a foreign jurisdiction.
- (2) The vehicle registration and license plates are issued to the military person.
- (3) The vehicle registration and license plates were issued by the foreign jurisdiction where the military person was last regularly assigned and stationed for duty by military orders or a jurisdiction claimed by the nonresident military person as the permanent state of residence.
- (4) If the vehicle is a motor vehicle, the owner or driver has in force one of the forms of financial responsibility specified in Section 16021.
- (b) For purposes of paragraph (3) of subdivision (a), military orders do not include military orders for leave, for temporary duty, or for any other assignment of any nature requiring the military person's presence outside the foreign jurisdiction where the owner was regularly assigned and stationed for duty.
- (c) This section applies to all vehicles owned by the military person except any commercial vehicle used in any business manner

wherein the military person receives compensation.

- SEC. 2. Section 9803 is added to the Vehicle Code, to read:
- 9803. Nothing in this code prevents a review or other action as may be permitted by the Constitution and laws of this state by a court of competent jurisdiction of any order of the department to seize and sell a vehicle.
  - SEC. 3. Section 9804 is added to the Vehicle Code, to read:
- 9804. (a) Any action brought in a court of competent jurisdiction to review any order of the department to seize and sell a vehicle shall be commenced within 90 days from the date notice is given of the order.
- (b) Upon final completion of all administrative appeals, the department shall give written notice to the owner of a vehicle ordered for seizure and sale of his or her right to a review of the order by a court pursuant to subdivision (a).
  - SEC. 4. Section 9911 of the Vehicle Code is amended to read:
- 9911. Whenever the owner of an undocumented vessel numbered under this code sells or transfers his or her title or interest in, or any part thereof, and delivers the possession of, the vessel 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 such description of the vessel as may be required in the appropriate form provided for the purpose by the department.
  - SEC. 5. Section 9950 of the Vehicle Code is amended to read:
- 9950. Any advertisement, brochure, owner's manual, or sales manual relating to any gasoline-powered motor vehicle of a type subject to registration with a manufacturer's gross vehicle weight rating of under 6,000 pounds of 1972 or later year model which contains any reference to the horsepower of the engine of the vehicle shall state only the Society of Automotive Engineers horsepower rating of such engine, as installed (net), as determined by S.A.E. Standard 11349.
- 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 1213

An act to amend Sections 10153.4 and 10170.5 of the Business and Professions Code, relating to real estate licensees.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 10153.4 of the Business and Professions Code is amended to read:

- 10153.4. (a) Every person who is required to comply with Section 10153.3 to obtain an original real estate salesperson license shall, prior to the issuance of the license, or within 18 months after issuance, submit evidence, satisfactory to the commissioner, of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal.
- (b) A salesperson who qualifies for a license pursuant to this section shall not be required for the first license renewal thereafter to complete the continuing education pursuant to Article 2.5 (commencing with Section 10170), except for the courses specified in subdivisions (a) and (b) of Section 10170.5.
- (c) The salesperson license issued to an applicant who has satisfied only the requirements of Section 10153.3 at the time of issuance shall be automatically suspended effective 18 months after issuance if the licensee has failed to satisfy subdivision (a). The suspension shall not be lifted until the suspended licensee has submitted the required evidence of course completion and the commissioner has given written notice to the licensee of the lifting of the suspension.
- (d) The original license issued to a salesperson shall clearly set forth the conditions of the license and shall be accompanied by a notice of the provisions of this section and of any regulations adopted by the commissioner to implement this section.
- (e) The commissioner shall waive the requirements of this section for any person who presents evidence of admission to the State Bar of California, and the commissioner shall waive the requirement for any course for which an applicant has completed an equivalent course of study as determined under Section 10153.5.
- SEC. 2. Section 10170.5 of the Business and Professions Code is amended to read:
- 10170.5. Except as otherwise provided in Sections 10153.4 and 10170.8, no real estate license shall be renewed unless the commissioner finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including all of the following:

- (a) A three-hour course in ethics, professional conduct, and legal aspects of real estate, which shall include, but not be limited to, relevant legislation, regulations, articles, reports, studies, court decisions, treatises, and information of current interest.
- (b) A three-hour course in agency relationships and duties in a real estate brokerage practice, including instruction in the disclosures to be made and the confidences to be kept in the various agency relationships between licensees and the parties to real estate transactions.
- (c) Not less than 18 clock hours of courses or programs related to consumer protection, and designated by the commissioner as satisfying this purpose in his or her approval of the offering of these courses or programs, which shall include, but not be limited to, forms of real estate financing relevant to serving consumers in the marketplace; land use regulation and control; pertinent consumer disclosures; agency relationships; capital formation for real estate development; fair practices in real estate; appraisal and valuation techniques; landlord-tenant relationships; energy conservation; environmental regulation and consideration; taxation as it relates to consumer decisions in real estate transactions; probate and similar disposition of real property; governmental programs such as revenue bond activities, redevelopment, and related programs; business opportunities; and mineral, oil, and gas conveyancing.
- (d) Other courses and programs which will enable a licensee to achieve a high level of competence in serving the objectives of consumers who may engage the services of licensees to secure the transfer, financing, or similar objectives with respect to real property, including organizational and management techniques which will significantly contribute to this goal.

Any denial of a license pursuant to this section shall be subject to Section 10100.

SEC. 3. This act shall become operative on July 1, 1987.

#### CHAPTER 1214

An act to amend Section 10851 of, and to add Section 42002.5 to, the Vehicle Code, relating to crimes.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 10851 of the Vehicle Code is amended to read:

10851. (a) Any person who drives or takes a vehicle not his or her own, without the consent of the owner thereof, and with intent either to permanently or temporarily to deprive the owner thereof

of his or her title to or possession of the vehicle, whether with or without intent to steal the vehicle, or any person who is a party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a public offense and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than one year or in the state prison or by a fine of not more than five thousand dollars (\$5,000), or by both the fine and imprisonment.

- (b) If the vehicle is (1) an ambulance, as defined in subdivision (a) of Section 165, (2) a distinctively marked vehicle of a law enforcement agency or fire department, taken while the ambulance or vehicle is on an emergency call and this fact is known to the person driving or taking, or any person who is party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, or (3) a vehicle which has been modified for the use of a disabled veteranor any other disabled person and which displays a distinguishing license plate or placard issued pursuant to Section 22511.5 or 22511.9 and this fact is known or should reasonably have been known to the person driving or taking, or any person who is party or an accessory in the driving or unauthorized taking or stealing, the offense is a felony punishable by imprisonment in the state prison for two, three, or four years or by a fine of not more than ten thousand dollars (\$10,000), or by both the fine and imprisonment.
- (c) In any prosecution for a violation of subdivision (a) or (b), the consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of the owner's consent on a previous occasion to the taking or driving of the vehicle by the same or a different person.
- (d) The existence of any fact which makes subdivision (b) applicable shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.
  - SEC. 2. Section 42002.5 is added to the Vehicle Code, to read:
- 42002.5. Notwithstanding Section 42002, every person convicted of a violation of Section 10852 or 10853 involving a vehicle which has been modified for the use of a disabled veteran or any other disabled person and which displays a distinguishing license plate or placard issued pursuant to Section 22511.5 or 22511.9 and this fact is known or should reasonably have been known to the person shall be punished by a fine of not more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.
- 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 1215

An act to add Chapter 4.9 (commencing with Section 9400) to Division 8.5 of the Welfare and Institutions Code, relating to aging.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Chapter 4.9 (commencing with Section 9400) is added to Division 8.5 of the Welfare and Institutions Code, to read:

#### Chapter 4.9. California Senior Honors Program

9400. Each year, the Governor shall present one award in each of the three categories of community service, education, and the arts to three outstanding California seniors in recognition of their individual contributions to either community service, education, or the arts. The awards shall be presented to three seniors selected from a list of 33 candidates compiled annually by the California Commission on Aging, which shall solicit candidates from a broad variety of senior organizations and senior service providers in each of the state's 33 planning and service areas.

#### CHAPTER 1216

An act to amend Section 199.33 of, and to add Chapter 1.13 (commencing with Section 199.45) to Part 1 of Division 1 of, the Health and Safety Code, relating to confidentiality of acquired immune deficiency syndrome records.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 199.33 of the Health and Safety Code is amended to read:

199.33. Notwithstanding Section 199.31, whether or not the research subject, with respect to whom any confidential research record is maintained, gives prior written consent, the content of the confidential research record may be disclosed in any of the following situations:

(a) To medical personnel to the extent it is necessary to meet a

bona fide medical emergency of a research subject.

- (b) To the state department to the extent necessary for the conduct of a special investigation pursuant to Section 211, in which case the confidentiality provisions of Chapter 1.13 (commencing with Section 199.45) shall apply.
- SEC. 2. Chapter 1.13 (commencing with Section 199.45) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

### CHAPTER 1.13. ACQUIRED IMMUNE DEFICIENCY SYNDROME PUBLIC HEALTH RECORDS CONFIDENTIALITY ACT

- 199.45. (a) Public health records relating to acquired immune deficiency syndrome (AIDS), containing personally identifying information, which were developed or acquired by state or local public health agencies shall be confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.
- (b) State or local public health agencies may disclose personally identifying information in public health records, as described in subdivision (a), to other local, state, or federal public health agencies or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the state or local public health agency.
- (c) Any disclosure authorized by subdivision (a) or (b) shall include only the information necessary for the purpose of that disclosure and shall be made only upon agreement that the information will be kept confidential and will not be further disclosed without written authorization, as described in subdivision (a).
- (d) No confidential public health record, as described in subdivision (a), shall be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.
- (e) Any person who willfully or maliciously discloses the content of any confidential public health record, as described in subdivision (a), to any third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose record was disclosed.
- (f) In the event that a public health record, as described in subdivision (a), is disclosed, the information shall not be used to determine employability, or insurability of any person.
- 199.46. (a) To the extent Chapter 1.11 (commencing with Section 199.20) and Chapter 1.12 (commencing with Section 199.30) apply to records or information which would be covered by this chapter, Chapters 1.11 and 1.12 shall supersede this chapter.

(b) This chapter supersedes Section 211.5 to the extent it applies to records or information covered by Section 211 or 211.5.

199.47. For purposes of this chapter:

- (a) "Disclosed" or "disclosure" or "discloses" has the same meaning as set forth in subdivision (b) of Section 199.40.
- (b) "State or local public health agencies" are the State Department of Health Services, and any local entity that a health officer, as defined in Section 3000, serves.
- 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 1217**

An act to add Section 4358.5 to the Civil Code, relating to family law.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 4358.5 is added to the Civil Code, to read: 4358.5. In any proceeding under this part, where there is an order requiring either party to provide coverage under a health plan to a dependent, the court shall order the party covered by a health plan to assign to the other party the rights the covered party has to reimbursement, except that the rights assigned shall not include any rights the covered party has to reimbursement for any payments actually made by the covered party. The rights assigned shall be only for reimbursement for those payments made by the noncovered party seeking the reimbursement, and a reimbursement shall be only for covered health care services received in the manner required by the plan or policy and provided to a dependent.

The court shall also order the party covered by a health plan to provide the appropriate information and forms to enable the party incurring the health care services costs for a dependent to seek reimbursement. Further, the court shall notify the health plan of the order made pursuant to this section and shall instruct the health plan to assist the party seeking reimbursement by providing information and forms necessary to receive reimbursement.

For the purposes of this section, a health plan includes, but is not limited to, a disability insurance plan, a nonprofit hospital service plan, a self-insured employee welfare benefit plan, and a health care

service plan.

#### CHAPTER 1218

An act to amend Sections 1575.7, 1588, and 1588.5 of the Health and Safety Code, and to amend Sections 14575 and 14577 of the Welfare and Institutions Code, relating to aging, and making an appropriation therefor.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 1575.7 of the Health and Safety Code is amended to read:

1575.7. The State Department of Health Services, prior to issuing a new license, shall secure from an appropriate law enforcement agency records of any criminal activity, other than minor traffic violations, of the administrator, program director, and fiscal officer of the proposed adult day health care center. The state department shall obtain the records each time these positions are to be filled. A past conviction of any crime, especially any crime involving misuse of funds or involving physical abuse shall, in the discretion of the State Department of Health Services, be grounds for denial of the license.

Suspension of the applicant from the Medi-Cal program or prior violations of statutory provisions or regulations relating to licensure of a health facility, community care facility, or clinic shall also be grounds for a denial of licensure, where determined by the state department to indicate a substantial probability that the applicant will not comply with this chapter and regulations adopted hereunder.

No applicant which is licensed as a health facility, community care facility, or clinic may be issued a license for an adult day health care center while there exists a subsisting, uncorrected violation of the statutes or regulations relating to such licensure.

- SEC. 2. Section 1588 of the Health and Safety Code is amended to read:
- 1588. (a) The state department shall, subject to the availability of funds appropriated therefor, conduct a grants-in-aid program for the following purposes:
- (1) To assist in the establishment of new adult day health care centers.
- (2) To assist in stabilizing the health care operations of adult day health care centers which have been licensed for a period of two years or less.
  - (3) To assist in stabilizing the health care operations of adult day

health care centers which have been licensed for a period of four years or less when identified expansion meets criteria outlined in the specific guidelines established for the grant-supported activities. Expansion under this paragraph shall be based on documented unmet need.

- (b) The grants authorized pursuant to this article shall be limited in purpose to defraying operating expenses of the center, including staffing costs, required renovation costs, and facility rental costs.
- SEC. 3. Section 1588.5 of the Health and Safety Code is amended to read:
- 1588.5. In developing policies and priorities pertaining to the allocation of grant funds, the state department shall give primary consideration to the following factors:
  - (a) The applicant's immediate need for funds.
  - (b) The demonstrated community support for the project.
  - (c) The applicant's long-term prospects for financial stability.
  - (d) The applicant's demonstrated marketing strategies.
- (e) The applicant's ability to provide innovative services and to coordinate with other services in the continuum of care.
- (f) Special consideration shall be given to any applicant who is in any one of the following categories:
  - (1) Applicants in rural areas.
  - (2) Applicants in counties where there are no other centers.
- (3) Applicants who deliver services in an area with a high elderly ethnic minority population.
- (4) Applicants who are located in a service area with a high percentage of elderly Medi-Cal beneficiaries when compared to the total elderly population of the service area.
- SEC. 4. Section 14575 of the Welfare and Institutions Code is amended to read:

14575. Each adult day health care provider shall maintain a uniform accounting and reporting system as developed by the department, in consultation with the provider. The department shall implement a uniform cost accounting system and train providers in this system by July 1, 1987. The Department of Aging, in coordination with the department may approve an alternative cost accounting system where the provider demonstrates the ability to report comparable and reliable data. The provider shall submit annual cost reports to the department no later than three months after the close of the facility's fiscal year. The report shall be submitted in the format prescribed by the state. Each facility shall maintain, for a period of three years following the submission of annual cost reports, financial and statistical records of the period covered by the cost reports which are accurate and in sufficient detail to substantiate the cost data reported. These records shall be made available to state or federal representatives upon request. The department may request a financial review performed by an independent certified public accountant as part of the provider's annual report. All certified financial statements shall be filed with the department within a

period no later than three months after the department's request. The department may require a limited or complete certified public accountant audit when the monitoring activities carried out pursuant to Section 14573 reveal significant financial management deficiencies.

SEC. 5. Section 14577 of the Welfare and Institutions Code is amended to read:

14577. All subcontracts for services reimbursable under this chapter shall be entered into pursuant to regulations of the department. All subcontracts shall be in writing, and a copy shall be transmitted to the department for approval prior to taking effect. Each subcontract submitted by the department for approval shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the adult day health care provider. However, this section shall not apply to employment contracts of salaried employees of an adult day health care licensee.

All subcontracts to provide health care benefits, including emergency services, shall include a specification that services will be provided to participants to meet the needs of the participants based upon the plans of care. All subcontracts to provide any of the basic services specified in Section 14550 through subcontractors, shall meet all of the qualifications required by, or pursuant to, this chapter as appropriate for the services which the subcontractors are required to perform.

Each subcontract shall require that the subcontractor make all of its books and records pertaining to the goods or services furnished under the terms of the subcontract available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in the state as the department shall designate. Subcontracts between an adult day health care provider and a subcontractor shall be public records and shall be kept on file with the department. The names of the officers and stockholders of the subcontractor shall also be kept on file as public records by the department.

SEC. 6. The sum of eight hundred thousand dollars (\$800,000) is hereby appropriated from the General Fund to the Department of Aging for the purposes prescribed by Section 1589.5 of the Health and Safety Code.

#### CHAPTER 1219

An act to amend Sections 1176.2, 1177, and 1177.17 of the Health and Safety Code, and to amend Section 14499.5 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 1176.2 of the Health and Safety Code is amended to read:

- 1176.2. The board shall establish rules for its proceedings. There shall be at least four meetings per year. Board members shall be entitled to one hundred dollars (\$100) remuneration from authority funds, for each board meeting attended and the authority may pay remuneration to board members attending meetings of committees of the board except that remuneration for attending board meetings and board committee meetings shall not exceed the sum of two hundred dollars (\$200) per month, plus actual expenses incurred in attending such meetings at such rates as are payable to county officers and employees. The per diem rate of one hundred dollars (\$100) may be increased by the board subject to approval by the board of supervisors.
- SEC. 2. Section 1177 of the Health and Safety Code is amended to read:
- 1177. The authority is hereby declared to be a body corporate and politic and as such shall have power:
  - (a) To have perpetual succession.
- (b) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.
  - (c) To adopt a seal and alter it at pleasure.
- (d) To take by grant, purchase, gift, devise, or lease, to hold, use and enjoy, and to lease, convey or dispose of, real and personal property of every kind, within or without the boundaries of the authority, necessary or convenient to the full exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property within or without the boundaries of the authority necessary to the full or convenient exercise of its powers.
- (e) To make and enter into contracts with any public agency or person for the purposes of this part. Members of the board shall be disqualified from voting on contracts in which they have a financial interest. Notwithstanding any other provision of law, such members shall not be disqualified from continuing to serve as a member of the board and such contract may not be avoided solely because of such member's financial interest.
- (f) To appoint and employ an executive director and such other employees as may be necessary, including legal counsel, fix their

compensation and define their powers and duties. The board shall prescribe the amounts and forms of fidelity bond of its officers and employees. The cost of these bonds shall be borne by the authority. The authority may also contract for the services of an independent contractor.

- (g) To incur indebtedness not exceeding revenue in any year.
- (h) To purchase supplies, equipment, materials, property, or services.
  - (i) To establish policies relating to its purposes.
- (j) To acquire or contract to acquire, rights-of-way, easements, privileges, or property of every kind within or without the boundaries of the authority, and construct, equip, maintain, and operate any and all works or improvements within or without the boundaries of the authority necessary, convenient, or proper to carry out any of the provisions, objects or purposes of this part, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.
- (k) To make contracts and enter into stipulations of any nature whatsoever upon such terms and conditions as the board finds is for the best interest of the authority for the full exercise of the powers granted in this division.
- (1) To accept gifts, contributions, grants or loans from any public agency or person for the purposes of this division. The authority may do any and all things necessary in order to avail itself of the gifts, contributions, grants or loans, and cooperate under any federal or state legislation on the effective date of this part or enacted after that date.
- (m) To manage its moneys and to provide depository and auditing services pursuant to either of the methods applicable to special districts as set forth in the Government Code.
- (n) To negotiate with service providers rates, charges, fees and rents, and to establish classifications of health care systems operated by the authority. Members of the board who are county officers and employees may vote to approve arrangements and agreements between the authority and the county as a service provider and such directors shall not thus be disqualified solely for the reason that they are employed by the county.
- (o) To develop and implement health care delivery systems to promote quality care and cost efficiency and to provide appeal and grievance procedures available to both providers and consumers.
- (p). To provide health care delivery systems for any or all of the following:
- (1) For all persons who are eligible to receive medical benefits under the Medi-Cal Act, as set forth in Sections 14000 and following, of the Welfare and Institutions Code in the county through waiver, pilot project, or otherwise.
- (2) For all persons in the county who are eligible to receive medical benefits under both Titles XVIII and XIX of the federal Social Security Act.

- (3) For all persons in the county who are eligible to receive medical benefits under Title XVIII of the federal Social Security Act.
- (q) To insure against any accident or destruction of its health care system or any part thereof. It may insure against loss of revenues from any cause whatsoever. The district may also provide insurance as provided in Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.
- (r) To exercise powers which are expressly granted and powers which are reasonably implied from such express powers and necessary to carry out the purposes of this division.
- (s) To do any and all things necessary to carry out the purposes of this division.
- SEC. 3. Section 1177.17 of the Health and Safety Code is amended to read:
- 1177.17. Any licensed provider eligible to receive Medi-Cal reimbursement under law and who enters into a written contract with the authority under terms and conditions approved by the State Department of Health Services shall be able to participate in this program as a provider. Such a written agreement shall not be required if any of the following circumstances apply:
- (a) The provider renders any medically necessary emergency health care on a nonroutine basis.
- (b) The provider renders services which are duly authorized by the authority, if the services are either seldom used or are rendered outside of the county.
- SEC. 4. Section 14499.5 of the Welfare and Institutions Code is amended to read:
- 14499.5. (a) In carrying out the intent of this article, the director shall contract for the operation of one local pilot program. Special consideration shall be given to approving a program contracted through county government in Santa Barbara County.
- (b) The establishment of a pilot program pursuant to this section shall be contingent upon the availability of state and federal funding. The program shall include the following components:
- (1) Local authority for administration, fiscal management, and delivery of services, but not including eligibility determination.
  - (2) Physician case management.
- (3) Cost containment through provider incentives and other means.
- (c) The program for the pilot project shall include a plan and budget for delivery of services, administration, and evaluation. During the first year of the pilot program, the amount of the state contract shall equal 95 percent of total projected Medi-Cal expenditures for delivery of services and for administration based on fee-for-service conditions in the program county. During the remaining years of the pilot project, Medi-Cal expenditures in the program county shall be no more than 100 percent of total projected expenditures for delivery of services and for administration based on any one or a combination of the following:

- (1) Relevant prior fee-for-service Medi-Cal experience in the program county.
- (2) The fee-for-service Medi-Cal experience in comparable counties or groups of counties. The projected total expenditure shall be determined annually according to an acceptable actuarial process. The data elements used by the department shall be shared with the proposed contractor.
- (d) The director shall accept or reject the proposal within 30 days after the date of receipt. If a decision is made to reject the proposal, the director shall set forth the reasons for this decision in writing. Upon approval of the proposal, a contract shall be written within 60 days. After signature by the local contractor, the State Department of Health Services, the Department of General Services, and the Department of Finance shall execute the contract within 60 days.
- (e) The director shall seek the necessary state and federal waivers to enable operation of the program. If the federal waivers for delivery of services under this plan are not granted, the department is under no obligation to contract for implementation of the program.
- (f) For purposes of Section 1343 of the Health and Safety Code, the Santa Barbara County Special Health Care Authority shall be considered to be a county-operated pilot program contracting with the State Department of Health Services pursuant to this article, and notwithstanding any other provision of law, during the period that this contract is in effect, the contractor shall be exempt from the provisions of the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, relative to the services provided to Medi-Cal beneficiaries under the terms and provisions of the pilot program.
- (g) Nothing in this section shall be construed to include dental services within the services provided in this pilot program.
- (h) Any federal demonstration funding for this pilot program shall be made available to the county within 60 days upon notification of the award without the state retaining any portion not previously specified in the grant application as submitted.
- (i) An independent evaluation of the program shall be conducted and a report submitted to the Legislature and the director by January 1, 1988. The independent evaluation of the program commissioned by the federal Health Care Financing Administration may fulfill the purposes of this part. This evaluation and report shall include, but is not limited to, the following:
- (1) An assessment of the cost of medical services as compared to the cost of the existing Medi-Cal fee-for-service delivery mode.
- (2) An assessment of utilization levels of specialist and emergency services.
  - (3) An assessment of the quality of care.
  - (4) Recommendations for future policy on delivery of services.
  - (j) This section shall remain in effect only until June 30, 1990, and

as of that date is repealed, unless a later enacted statute which is chaptered before June 30, 1990, deletes or extends that date.

#### CHAPTER 1220

An act to amend Section 715.010 of, and to add Section 1174.3 to, the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 715.010 of the Code of Civil Procedure is amended to read:

715.010. (a) A judgment for possession of real property may be enforced by a writ of possession of real property issued pursuant to Section 712.010.

- (b) In addition to the information required by Section 712.020, the writ of possession of real property shall contain the following:
- (1) A description of the real property, possession of which is to be delivered to the judgment creditor in satisfaction of the judgment.
- (2) A statement that if the real property is not vacated within five days from the date of service of a copy of the writ on the occupant or, if the copy of the writ is posted, within five days from the date a copy of the writ is served on the judgment debtor, the levying officer will remove the occupants from the real property and place the judgment creditor in possession.
- (3) A statement that any personal property remaining on the real property after the judgment creditor has been placed in possession will be sold or otherwise disposed of in accordance with Section 1174 of the Code of Civil Procedure unless the judgment debtor or other owner pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the real property.
- (4) The date the complaint was filed in the action which resulted in the judgment of possession.
- (5) The date or dates on which the court will hear objections to enforcement of a judgment of possession that are filed pursuant to Section 1174.3.
- (c) At the time the writ of possession is served or posted, the levying officer shall also serve or post a copy of the form for a claim of right to possession.
- SEC. 2. Section 1174.3 is added to the Code of Civil Procedure, to read:
- 1174.3. (a) Any person not named in the judgment for possession who resided at the premises on the date of the filing of the action may object to enforcement of the judgment against that person by filing

a claim of right to possession in the form prescribed in this section. A claim of right to possession may be filed at any time after service or posting of the writ of possession pursuant to subdivision (a) or (b) of Section 715.020, up to and including the time at which the levying officer returns to effect the eviction of those named in the judgment of possession. Filing the claim of right to possession shall constitute a general appearance for which a fee shall be collected as provided in Section 72056 of the Government Code. Section 68511.3 of the Government Code applies to the claim of right to possession.

(b) The court issuing the writ of possession of real property shall set a date or dates when the court will hold a hearing to determine the validity of objections to enforcement of the judgment specified in subdivision (a). An occupant of the real property for which the writ is issued may make an objection to eviction either at the office of the levying officer or at the premises at the time of the eviction.

After a claim of right to possession is completed and presented, the sheriff, marshal, or other levying officer shall forthwith (1) stop the eviction of residents at the premises and (2) return a copy of the completed claim of right to possession to the court issuing the writ of possession of real property.

- (c) The filing of the claim of right to possession is effected by presenting to the sheriff, marshal, or other levving officer a completed form, as prescribed in this section, and transmitting or mailing directly to the court by first-class mail, with proper postage prepaid, and postmarked within 48 hours after its presentation, the appropriate fee or forms for proceeding in forma pauperis. Upon receipt of a claim of right to possession, the sheriff, marshal, or other levying officer shall indicate thereon the date and time of its receipt and forthwith deliver the document to the issuing court and notify the plaintiff of that fact. The court shall lodge the claim of right to possession for a period not to exceed seven days after the time of receipt noted by the sheriff, marshal, or other levying officer, at which time the claim shall be denied unless the appropriate fee or the forms for proceeding in forma pauperis have been paid or presented. Immediately upon receipt of the appropriate fee or forms for proceeding in forma pauperis, the court shall file the claim of right to possession and serve an endorsed copy thereof on the plaintiff and the claimant by first-class mail, postage prepaid.
- (d) Upon filing of the claim of right to possession, the court issuing the writ of possession shall set and hold a hearing on the claim not less than five nor more than 15 days after the filing of the claim. At the hearing, the court shall only determine whether there is a valid claim of possession by the person who filed the claim, and the court shall consider all evidence produced at the hearing, including, but not limited to, the information set forth in the claim.
- (e) If, upon hearing, the court determines that the claim is valid, then the court shall deem the unlawful detainer Summons and Complaint to be amended on their faces to include the claimant as defendant, service of the Summons and Complaint, as thus amended,

shall be deemed made at the hearing, and the claimant thus named and served as a defendant in the action shall answer or otherwise respond within five days thereafter. Further proceedings on the merits of the claimant's continued right to possession shall be conducted pursuant to this chapter, except that the requirements of Sections 1161 and 1161a respecting notices and the requirements of Section 1162 respecting the giving thereof shall not be applicable to these further proceedings.

- (f) If the claim of right to possession is denied pursuant to subdivision (c) or, upon hearing, if the court determines that there are no valid claims, the court shall order the levying officer to proceed with enforcement of the writ of possession of real property, which shall be effected within a reasonable time not to exceed five days. Upon receipt of the court's order, the levying officer may enforce the writ of possession of real property as against any occupant or occupants.
- (g) The claim of right to possession shall be made on the following form:

CLAIMANT OR CLAIMAN' (Name and Address):	T'S ATTORNEY	TELEPI	HONE NO:	FOR COURT USE ONLY
ATTORNEY FOR (Name	e):			
NAME OF COURT STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:				
PLAINTIFF: DEFENDANT:				•
CLAIM OF F				
HEARING DATE:	TIME:	DEPT.:	ROOM:	CASE NUMBER:

Complete this form only if ALL of these statements are true:

- 1. You are NOT named in the accompanying form called Writ of Possession.
- 2. You resided here on or before the date the unlawful detainer (eviction) action was filed.

  (The date is in the accompanying Writ of Possession.)
- 3. You still reside here.

### I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

- 1. My name is (specify):
- 2. I reside at (address):

This address is called "the premises" in this claim form.

- 3. On (insert date): \_\_\_\_\_\_, the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is on the accompanying Writ of Possession.)
- 4. I was residing at the premises on the date the complaint was filed (the date in item 3). I have continued to reside there ever since.
- I was at least 18 years of age on the date the complaint was filed (the date in item 3).
- I claim a right to possession of the premises because I resided there on the date the complaint was filed (the date in item 3).

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	
<ul> <li>7. I was not named in the Writ of Possession.</li> <li>8. I have been informed that if I make this clai will be held to decide whether my claim will</li> <li>9. If I submit this claim form, a COURT HEA</li> </ul>	be granted.
(To be completed by the levying officer.)  Date of Hearing: Time:	Dept.: Room:
Address of court:	
NOTICE: If you fail to appear at this hearing	g you are likely to be evicted.
10. Rental agreement. I have (check all that appl a.  an oral rental agreement with the la b.  a written rental agreement with the c.  an oral rental agreement with a personal d.  a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with the law are content of a written rental agreement with the law are content of a written rental agreement with the law are content of a written rental agreement with the law are content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a personal content of a written rental agreement with a	ndlord. landlord. son other than the landlord. erson other than the landlord.
WARNING: Perjury is a felony punish in the state prison	
Date:	
(TYPE OR PRINT NAME)	(SIGNATURE OF CLAIMANT)
NOTICE: If your claim to possession is foun detainer action against you will be determined found liable for rent, costs, and, in some cases, trees, and the some cases are costs.	nd to be valid, the unlawful at trial. At trial, you may be eble damages.
<ul> <li>Give this form to the sheriff or marshal or other le "Notice to Occupants."</li> <li>To obtain a court hearing, you must pay a filing fee or file the appropriate form for proceeding in forms which must be delivered or mailed directly to the country postage prepaid, and postmarked within 48 hours aft to possession to the levying officer.</li> </ul>	of: \$ a pauperis if you cannot pay the fee ourt by first-class mail, with proper

#### NOTICE TO OCCUPANTS

If you are not named in the attached writ and if you claim a right to possession of the premises described in the writ based upon the fact that you were in possession on or before the date of filing of the unlawful detainer action, you must act at once.

> CLAIM OF RIGHT TO POSSESSION AND NOTICE OF HEARING

SEC. 3. It is the intent of the Legislature that the court may adjust the fees to be charged for the writ of possession and the claim of right to possession to defray increases in costs as a result of this act.

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 1221

An act to amend Section 1305 of the Penal Code, relating to bail.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 1305 of the Penal Code is amended to read: 1305. (a) If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his or her presence in court is lawfully required, unless no complaint is filed or the charges are to be dismissed, or to surrender himself or herself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the undertaking of bail, or the money deposited instead of bail, as the case may be, must thereupon be declared forfeited, and, if the amount of the forfeiture exceeds one hundred dollars (\$100), the clerk of the court shall, promptly upon entering the fact of such failure to appear in the minutes, mail notice of the forfeiture to the surety on the bond or depositor of money instead of bond, and shall execute a certificate of such mailing and place it in the court's file in the case. If the surety is an authorized corporate surety insurer, and if the bond has plainly printed or stamped thereon the address of its principal office, such notice shall be mailed to such surety at such address, and mailing to the bail agent or solicitor who posted the bond shall not constitute compliance with this section; the clerk shall at the same time send a copy of such notice to the bail agent or solicitor who posted the bond. If the clerk fails to mail such notice within 30 days after such entry, the surety or depositor shall be released from all obligations under the bond.

But if at any time within 180 days after such entry in the minutes or, if mailing of notice of forfeiture is required, within 180 days after mailing such notice of forfeiture, the defendant appears, and satisfactorily excuse the defendant's neglect or show to the satisfaction of the court that the absence of the defendant was not with the connivance of the bail, the court shall, under terms as may be just and that are equal with respect to all forms of pretrial release, direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately. The court may order the bail reinstated and the defendant released again on the same bond after notice to the bail, provided that the bail has not surrendered the defendant. If at any time within 180 days after such entry in the minutes or mailing as the case may be, the bail should surrender the defendant to the court or to custody, the court shall under terms as may be just direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately.

If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is dead or is otherwise permanently unable to appear in court due to illness, insanity, or detention by civil or military authorities, and that the absence of the defendant was not with the connivance of the bail, the court shall, under terms as may be just and that are equal with respect to all forms of pretrial release, direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately. If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is temporarily disabled by reason of illness, insanity, or detention by civil or military authorities and is therefore unable to appear in court at any time during the remainder of such 180 days, and that the absence of the defendant has not been with the connivance of the bail, then the period of time during which the disability continues shall not be deemed part of such 180 days. Upon a finding by the court that a reasonable period of time is necessary in order to return the defendant to court upon the termination of the disability, then such period of time, as fixed by the court, shall not be deemed part of such 180 days.

Unless waived by the district attorney or other prosecuting attorney, no order discharging the forfeiture of the undertaking or deposit shall be made without notice by the bail to the district attorney or prosecuting attorney, who may request a hearing within 10 days after receipt of the notice. The court shall then set the date, time, and place of hearing and give notice to the district attorney or prosecuting attorney and to the bail.

(b) If, without sufficient excuse, the defendant neglects to appear for arraignment, trial, judgment, or upon any other occasion when his or her presence in court is lawfully required, or to surrender himself or herself in execution of the judgment, but the court has reason to believe that sufficient excuse may exist for the defendant's neglect to appear or surrender himself, the court may continue the case for such period as it deems reasonable to enable the defendant to appear without ordering a forfeiture of bail or issuing a bench warrant.

An act to amend Section 1193 of the Penal Code, relating to judgment.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 1193 of the Penal Code is amended to read: 1193. Judgment upon persons convicted of commission of crime shall be pronounced as follows:

(a) If the conviction is for a felony, the defendant shall be personally present when judgment is pronounced against him or her. unless the defendant, in open court and on the record, or in a notarized writing, requests that judgment be pronounced against him or her in his or her absence, and that he or she be represented by an attorney when judgment is pronounced, and the court approves his or her absence during the pronouncement of judgment, or unless, after the exercise of reasonable diligence to procure the presence of the defendant, the court shall find that it will be in the interest of justice that judgment be pronounced in his or her absence; provided, that when any judgment imposing the death penalty has been affirmed by the appellate court, sentence may be reimposed upon the defendant in his or her absence by the court from which the appeal was taken, and in the following manner: upon receipt by the superior court from which the appeal is taken of the certificate of the appellate court affirming the judgment, the judge of the superior court shall forthwith make and cause to be entered an order pronouncing sentence against the defendant, and a warrant signed by the judge, and attested by the clerk under the seal of the court, shall be drawn, and it shall state the conviction and judgment and appoint a day upon which the judgment shall be executed, which shall not be less than 60 days nor more than 90 days from the time of making the order; and that, within five days thereafter, a certified copy of the order, attested by the clerk under the seal of the court, and attached to the warrant, shall, for the purpose of execution, be transmitted by registered mail to the warden of the state prison having the custody of the defendant and certified copies thereof shall be transmitted by registered mail to the Governor; and provided further, that when any judgment imposing the death penalty has been affirmed and sentence has been reimposed as above provided there shall be no appeal from the order fixing the time for and directing the execution of the judgment as herein provided. If a pro se defendant requests that judgment in a noncapital case be pronounced against him or her in his or her absence, the court shall appoint an attorney to represent the defendant in the in absentia sentencing.

(b) If the conviction be of a misdemeanor, judgment may be pronounced against the defendant in his absence.

## CHAPTER 1223

An act relating to railroad passenger service.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. If railroad passenger service is restored between San Francisco and Monterey, the Department of Transportation shall name one of the Monterey-San Francisco passenger trains "The Alquist."

- SEC. 2. (a) The Legislature finds and declares that due to problems between local agencies and the Department of Transportation in coming to an agreement on the proposed development of a portion of the abandoned railroad right-of-way in the Cities of Monterey and Seaside, it may not be possible for the parties involved to meet the deadline to agree on this development that is imposed in the contract between the parties. Therefore, the Legislature is enacting this section to assist in preserving and developing the subject right-of-way in order to make it available for the benefit of all the residents involved.
- (b) The department shall extend to June 29, 1989, the deadline for agreement between the Cities of Monterey and Seaside and the department on development of the Monterey Branch Line from milepost 123.30 to milepost 125.81, that was purchased pursuant to the Agreement to Provide Funds for Acquisition of Abandoned Railroad Right-of-Way, dated November 19, 1980. This extension shall be a part of negotiations between the department and the cities involved to consider modifications of the agreement on possible alternative uses of the abandoned right-of-way that are related to transportation and recreational uses in addition to busway or exclusive public mass transit guideway projects.
- (c) Notwithstanding Section 99317.2 of the Public Utilities Code, that portion of the Monterey Branch Line from milepost 123.30 to milepost 125.81 that was purchased by the cities of Monterey and Seaside pursuant to the Agreement to Provide Funds for Acquisition of Abandoned Railroad Right-of-Way, dated November 19, 1980, between the state and the cities involved, may be developed by those cities for transportation and recreational purposes generally, including use as a bicycle or hiking trail, instead of being developed exclusively as a busway or exclusive public mass transit guideway project, as long as that development does not preclude the future joint use of the right-of-way for the purposes specified in Section

99317.2 of the Public Utilities Code and the additional purposes authorized by this section.

#### CHAPTER 1224

An act to add Part 40.5 (commencing with Section 67175) to the Education Code, and to add Sections 15820.12, 15820.19, 15820.41, and 15849.5 to, and to add Chapter 3.8 (commencing with Section 15820.50) to Part 10b of Division 3 of Title 2 of, the Government Code, and to repeal Section 2 of Chapter 1268 of the Statutes of 1983, relating to public works.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Part 40.5 (commencing with Section 67175) is added to the Education Code, to read:

# PART 40.5. CAPTIAL OUTLAY REQUIREMENTS

- 67175. The California State University, any community college district, the California Maritime Academy, and the University of California may be reimbursed by the state for expenditures made for preliminary plans and working drawings for a capital outlay project, if all of the following conditions are met:
- (a) The project was authorized in a budget act or other statute before the preliminary plans and working drawings were prepared.
- (b) Funds for the reimbursement are appropriated by the Legislature.
- (c) All other applicable procedures were followed by the California State University, the community college district, the California Maritime Academy, or the University of California in expending the funds. The advance of funds by the California State University, a community college district, the California Maritime Academy, or the University of California, for preliminary plans and working drawings, shall be made to promote early completion of a capital outlay project authorized by the Legislature.
- SEC. 2. Section 15820.12 is added to the Government Code, to read:
- 15820.12. The board may contract for a project authorized by the Legislature before issuing certificates, revenue bonds, notes, or bond anticipation notes pursuant to Section 15820.10 if any segment of higher education provides from any lawful source temporary construction financing to meet contract payments for the project or if the board obtains a loan from the General Fund. Any loan from the General Fund shall be specifically authorized by the Legislature and

shall not exceed the amount authorized by the Legislature. The loan amount shall be repaid by the board to the General Fund together with interest in the amount that those moneys would have earned in the Pooled Money Investment Account.

It is the intent of this section to reduce the cost of the projects and time between the authorization of capital outlay projects by the Legislature and the availability of those projects for student and faculty use.

SEC. 3. Section 15820.19 is added to the Government Code, to read:

15820.19. The board may contract for a project authorized by the Legislature before issuing certificates, revenue bonds, notes, or bond anticipation notes pursuant to Section 15820.18 if any segment of higher education provides from any lawful source temporary construction financing to meet contract payments for the project or if the board obtains a loan from the General Fund. Any loan from the General Fund shall be specifically authorized by the Legislature and shall not exceed the amount authorized by the Legislature. The loan amount shall be repaid by the board to the General Fund together with interest in the amount that those moneys would have earned in the Pooled Money Investment Account.

It is the intent of this section to reduce the cost of the projects and time between the authorization of capital outlay projects by the Legislature and the availability of those projects for student and faculty use.

SEC. 4. Section 15820.41 is added to the Government Code, to read:

15820.41. The board may contract for a project authorized by the Legislature before issuing certificates, revenue bonds, notes, or bond anticipation notes pursuant to Section 15820.40 if any segment of higher education provides from any lawful source temporary construction financing to meet contract payments for the project or if the board obtains a loan from the General Fund. Any loan from the General Fund shall be specifically authorized by the Legislature and shall not exceed the amount authorized by the Legislature. The loan amount shall be repaid by the board to the General Fund together with interest in the amount that those moneys would have earned in the Pooled Money Investment Account.

It is the intent of this section to reduce the cost of the projects and time between the authorization of capital outlay projects by the Legislature and the availability of those projects for student and faculty use.

SEC. 5. Chapter 3.8 (commencing with Section 15820.50) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

# CHAPTER 3.8. INSTRUCTIONAL FACILITIES FOR HIGHER EDUCATION

#### Article 1. General Provisions

15820.50. The Legislature finds and declares that California's public colleges and universities, which are recognized as being among the world's finest, require assistance to meet the demands of increased enrollment. To this end, the Legislature finds that it is in the public interest to construct, renovate, and equip instructional facilities and related instructional laboratory and support office space that may be leased or leased-purchased by the University of California, the California State University, the California Maritime Academy, and the California community college districts.

It is the intent of the Legislature that the cost of any project authorized by statute pursuant to this chapter shall be considered an expenditure of state funds in the fiscal year in which payments are made to the State Public Works Board under the terms of the lease or lease-purchase agreement.

15820.51. This article shall not be construed to supersede or otherwise affect Chapter 3.5 (commencing with Section 15820), Chapter 3.6 (commencing with Section 15820.15), or Chapter 3.7 (commencing with Section 15820.30).

## Article 2. Instructional Facilities

15820.55. (a) The State Public Works Board is authorized to finance the construction, renovation, and equipping of instructional facilities and related instructional laboratory and support space on a site or sites within the University of California, the California State University, the California Maritime Academy, or the California community college districts.

(b) The board shall lease-purchase to the Regents of the University of California and lease or lease-purchase to the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and to the California community college districts pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code, any public building or facility constructed or renovated and equipped pursuant to this chapter, the term and the amount to be determined by mutual agreement of the parties. The lease-purchase agreement or the lease shall provide that the public building or facility shall be utilized only for instructional and related laboratory and support space, as set forth in this chapter. The board shall contract with the lessee for all activities required to plan, construct, renovate, and equip these facilities.

# Article 3. Construction Financing

- 15820.60. (a) The board may issue certificates pursuant to Chapter 4 (commencing with Section 15821) or revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of construction or renovation and the equipping of the public buildings or facilities authorized by this chapter.
- (b) The revenues, rentals, or receipts from the public buildings or facilities and equipment authorized by this chapter shall be pledged to the payment of the principal of, and the interest on, the certificates, revenue bonds, notes, or anticipation notes issued to finance the construction or renovation and the equipping of those public buildings or facilities.
- (c) No certificates, revenue bonds, notes, or anticipation notes shall be issued, and no construction or renovation and the equipping for any public building or facility authorized by this chapter shall be commenced or purchased, unless the Legislature, by statute, authorizes the total amount of certificates, revenue bonds, notes, or anticipation notes that may be used to finance the construction of that public building or facility.
- (d) In addition to revenues calculated for apportionment to community college districts pursuant to Section 84700 of the Education Code, when a community college capital outlay project has been approved pursuant to Section 81830 of the Education Code, the Chancellor of the California Community Colleges shall apportion state aid equal to the amount necessary for each district to meet its lease or lease-purchase obligation determined pursuant to subdivision (b) of Section 15820.55, less an amount determined to be the district's proportional share of the lease or lease-purchase obligation based on the calculation of the district's share of capital outlay costs as determined by the chancellor pursuant to Section 81838 of the Education Code. It is the intent that these funds be appropriated annually as a part of the state's general apportionment funds for the community colleges.
- (e) When a community college district enters into a lease or lease-purchase agreement with the State Public Works Board pursuant to subdivision (b) of Section 15820.55, the district shall, as a part of that lease or lease-purchase agreement, authorize the chancellor and Controller to withhold from its annual apportionment the amount of funds necessary to satisfy its annual lease obligation to the Public Works Board. The agreement shall include authorization to withhold the additional apportionment amount and the amount determined to be the district's proportional share of the lease or lease-purchase obligation as determined pursuant to subdivision (d). The authorization shall have precedence over other expenditure obligations of the district. The chancellor shall certify the amounts, by district, to the Controller. The Controller shall withhold the amount so reported for each

district and shall, acting on behalf of each district, transfer the appropriate amount from Section B of the State School Fund to the Public Works Board for the purpose of payment of the debt service obligation for the bonds sold to finance the projects.

15820.61. The board may contract for a project authorized by the Legislature before issuing certificates, revenue bonds, notes, or bond anticipation notes pursuant to Section 15820.60 if any segment of higher education provides from any lawful source temporary construction financing to meet contract payments for the project or if the board obtains a loan from the General Fund. Any loan from the General Fund shall be specifically authorized by the Legislature and shall not exceed the amount authorized by the Legislature.

It is the intent of this section to reduce the cost of the projects and time between the authorization of capital outlay projects by the Legislature and the availability of those projects for student and faculty use.

15820.62. New projects may be authorized pursuant to this chapter only through June 30, 1989.

SEC. 6. Section 15849.5 is added to the Government Code, to read:

- 15849.5. The California State University, any community college district, the California Maritime Academy, and the University of California may be reimbursed for expenditures for preliminary plans and working drawings for a project if all of the following conditions are met:
- (a) The project was authorized in a budget act or other statute before the preliminary plans and working drawings were prepared.
- (b) Funds for the reimbursement are appropriated by the Legislature.
- (c) All other applicable procedures were followed by the California State University, the community college district, the California Maritime Academy, or the University of California in expending the funds.

The advance of funds by the California State University, a community college district, the California Maritime Academy, or the University of California for preliminary plans and working drawings shall be made to promote early completion of a project authorized by the Legislature.

SEC. 7. Section 2 of Chapter 1268 of the Statutes of 1983 is repealed.

An act to amend Sections 44031, 45249, and 88069 of the Education Code, relating to personnel commissions.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 44031 of the Education Code is amended to read:

- 44031. (a) Materials in personnel files of employees that may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.
- (b) Except as otherwise provided in subdivision (e), this material is not to include ratings, reports, or records that (1) were obtained prior to the employment of the person involved, (2) were prepared by identifiable examination committee members, or (3) were obtained in connection with a promotional examination.
- (c) Every employee shall have the right to inspect these materials upon request, provided that the request is made at a time when the person is not actually required to render services to the employing district.
- (d) Information of a derogatory nature, except material mentioned in subdivision (b), shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right to enter, and have attached to any derogatory statement, his own comments thereon. The review shall take place during normal business hours, and the employee shall be released from duty for this purpose without salary reduction.
- (e) Notwithstanding subdivision (b), every noncredentialed employee shall have access to his or her numerical scores obtained as a result of a written examination.
- SEC. 2. Section 45249 of the Education Code is amended to read: 45249. In a school district that has already adopted the provisions of this article on September 17, 1965, members of the personnel commission shall continue to be appointed alternately by the Superintendent of Public Instruction and by the Executive Officer of the State Personnel Board, each of whom shall consider the recommendation of the governing board and other interested parties. If the governing board and the personnel commission of a school district elect to increase the personnel commission from three to five members, the Superintendent of Public Instruction and the Executive Officer of the State Personnel Board shall make one of the additional appointments. Subsequent appointments shall be made in accordance with the provisions of this section.

No later than 90 days prior to making the appointment, the

appointing authority, either the Superintendent of Public Instruction or the Executive Officer of the State Personnel Board, shall notify the classified employees and the governing board, in writing, of the vacancy on the personnel commission and provide them with guidelines and procedures for making a recommendation and challenging a nomination. If a vacancy occurs during the term of a member of the personnel commission, the appointing authority may appoint a new member after providing the foregoing notice no later than 30 days prior to making the appointment.

As used in this section, "classified employees" means an organization of classified employees that represents the greatest number of classified employees of the district as determined by the board. If no such organization exists within the district, the governing board, by written rule, shall prescribe the method by which the recommendation is to be made by its classified employees.

SEC. 3. Section 88069 of the Education Code is amended to read: 88069. In a community college district that has already adopted the provisions of this article on September 17, 1965, members of the personnel commission shall continue to be appointed alternately by the Chancellor of the California Community Colleges and by the Executive Officer of the State Personnel Board, each of whom shall consider the recommendation of the governing board and other interested parties.

If the governing board and the personnel commission of a community college district elect to increase the personnel commission from three to five members, the Chancellor of the California Community Colleges and the Executive Officer of the State Personnel Board shall make one of the additional appointments. Subsequent appointments shall be made in accordance with the provisions of this section.

No later than 90 days prior to making the appointment, the appointing authority, either the Chancellor of the California Community Colleges or the Executive Officer of the State Personnel Board, shall notify the classified employees and the governing board in writing of the vacancy on the personnel commission and provide them with guidelines and procedures for making a recommendation and challenging a nomination. If a vacancy occurs during the term of a member of the personnel commission, the appointing authority may appoint a new member after providing the foregoing notice no later than 30 days prior to making the appointment.

As used in this section, "classified employees" means an organization of classified employees that represents the greatest number of classified employees of the district as determined by the board. If no such organization exists within the district, the governing board, by written rule, shall prescribe the method by which the recommendation is to be made by its classified employees.

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 1226

An act to amend Sections 5008, 5017, 5021, 5022, 5081.3, 5084, and 5090 of, and to add Section 5060 to, the Business and Professions Code, relating to accountancy.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 5008 of the Business and Professions Code is amended to read:

5008. The board shall, from time to time, but not less than twice each year, prepare and distribute to all licensees, a report of the activities of the board, including amendments to this chapter and regulations adopted by the board, and may likewise distribute reports of other matters of interest to the public and to practitioners.

SEC. 2. Section 5017 of the Business and Professions Code is amended to read:

5017. All meetings of the board shall be open and public, except that the board may hold executive sessions to deliberate on the decision to be reached upon the evidence introduced in a proceeding conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code.

The members of the board may hold executive sessions to prepare, approve, grade, or administer examinations and shall have jurisdiction or vote over these functions of preparing, approving, grading, or administering examinations in executive session as provided for in Section 11126 of the Government Code.

SEC. 3. Section 5021 of the Business and Professions Code is amended to read:

5021. The members of committees shall hold office for one year.

SEC. 4. Section 5022 of the Business and Professions Code is amended to read:

5022. Each committee shall make recommendations and forward its report to the board for action on any matter on which it is authorized to act. Any applicant for registration as a certified public accountant who is aggrieved by any action taken by a committee with respect to his or her qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on such appeal may give an oral or written examination as an

aid in determining whether the applicant is qualified under the terms of this chapter.

SEC. 5. Section 5060 is added to the Business and Professions Code, to read:

5060. The name or names under which a firm may render professional services shall contain, and may be restricted to, the name or last name of one or more of the present or former licensees who were associated with a predecessor person, partnership, or other organization, and whose name or names appear in that predecessor organization.

Nothing in this chapter shall prohibit the right to the continuous use of a firm name registered with the board on or before December 31, 1986.

- SEC. 6. Section 5081.3 of the Business and Professions Code is amended to read:
- 5081.3. The members of the board may require an applicant for a certified public accountant certificate to appear in person to determine if his or her qualifications are as prescribed in this chapter and the rules of the board as adopted hereunder.
- SEC. 7. Section 5084 of the Business and Professions Code is amended to read:
- 5084. The board shall grant one year's credit toward fulfillment of its public accounting experience requirement to a graduate of a college who has completed a four-year course with 30 or more semester hours or the equivalent thereof in the study of accounting, commercial law, economics and finance, of which at least 20 semester hours or the equivalent thereof shall be in the study of accounting.

The members of the board shall prescribe rules establishing the character and variety of experience necessary to fulfill the experience requirements set forth in this section.

SEC. 8. Section 5090 of the Business and Professions Code is amended to read:

5090. A candidate who fails an examination provided for herein shall have the right to any number of reexaminations at subsequent examinations held by the board. A candidate, except one who qualifies for admission to the examination under subdivision (d) of Section 5081.1, who passes an examination in two or more subjects or in the subject of accounting practice alone shall have the right to be reexamined in the remaining subject or subjects only, at subsequent examinations held by the board, and if he or she passes in the remaining subject or subjects within a period of time specified in the rules of the board, he or she shall be considered to have passed the examination. A candidate who qualifies for admission to the examination under subdivision (d) of Section 5081.1 and who passes an examination in one or more subjects shall have the right to be reexamined in the remaining subject or subjects only, at subsequent examinations held by the board, and if he or she passes in the remaining subject or subjects within a period of five years, he or she shall be considered to have passed the examination.

The board may give credit to a candidate who has passed all or part of the examination in another state or territory, if the members of the board determine that the standards under which the examination was held are as high as the standards established for the examination in this chapter.

#### CHAPTER 1227

An act to add Section 2886 to the Public Utilities Code, relating to telephone corporations.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 2886 is added to the Public Utilities Code, to read:

- 2886. (a) The commission shall require every telephone corporation furnishing cellular radio telephone service to establish a pricing system made available to subscribers that shall distinguish on the billing invoice charges to a subscriber for calls not completed from any other service charge on the billing invoice.
- (b) The commission shall require that those calls which are not completed shall not be charged more than 50 percent of the charge established for completed subscriber initiated calls.
- (c) For purposes of this section, a call is not completed when it originates from the cellular radio telephone unit and any of the following occurs:
- (1) The terminating line is busy and the originator receives a busy signal.
- (2) The terminating line does not answer and the originator receives an audible ring.
- (3) No radios are available and the originator receives a reorder signal.
- (4) The mobile telephone switching office cannot connect the call to the public network and the originator receives a reorder signal.
- (5) The public network cannot complete the call to the terminating number and the originator receives a reorder signal.
- 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.

An act to add Section 72062 to the Government Code, and to amend Section 1205 of the Penal Code, relating to courts.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 72062 is added to the Government Code, to read:

- 72062. The Legislature hereby authorizes the establishment of the following program, to be implemented in Alameda County upon the adoption of a resolution by the board of supervisors authorizing it. For each of the municipal court districts in Alameda County, the board of supervisors may establish administrative assessments, not to exceed ten dollars (\$10), for clerical and administrative costs incurred for the following activities:
- (a) An assessment for the cost of recording and maintaining a record of the defendant's prior convictions for violations of the Vehicle Code. The assessment shall be payable at the time of payment of a fine or when bail is forfeited for any subsequent violations of the Vehicle Code other than parking, pedestrian, or bicycle violations.
- (b) An assessment for all defendants whose drivers license or automobile registration is attached or restricted pursuant to Section 40509 or 40509.5 of the Vehicle Code, to cover the cost of notifying the Department of Motor Vehicles of the attachment or restriction.

SEC. 2. Section 1205 of the Penal Code is amended to read:

(a) A judgment that the defendant pay a fine, with or without other punishment, may also direct that he or she be imprisoned until the fine is satisfied and may further direct that the imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which he or she may theretofore have been sentenced. Each of these judgments shall specify the extent of the imprisonment for nonpayment of the fine, which shall not be more than one day for each thirty dollars (\$30) of the fine, nor exceed in any case the term for which the defendant might be sentenced to imprisonment for the offense of which he or she has been convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he or she is so held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a judgment that the defendant pay a fine may also direct that he or she pay the fine within a limited time or in installments on specified dates and that in default of payment as therein stipulated he or she be imprisoned in the discretion of the court either until the defaulted installment is

satisfied or until the fine is satisfied in full; but unless the direction is given in the judgment, the fine shall be payable forthwith.

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

Nothing in this section shall be construed to prohibit the clerk of the court, or the judge thereof if there is no clerk, from turning these accounts over to another county department or a collecting agency for processing and collection.

(c) The defendant shall pay to the clerk of the court or the collecting agency a fee for the processing of installment accounts. This fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty dollars (\$30). The Legislature hereby authorizes the establishment of the following program described in this section, to be implemented in the County of San Diego or the County of Alameda, or both, upon the adoption of a resolution by the board of supervisors authorizing it. The Board of Supervisors of the County of San Diego, and the Board of Supervisors of the County of Alameda, may establish a fee for the processing of accounts receivable that are not to be paid in installments. The defendant shall pay to the clerk of the court or the collecting agency the fee established for the processing of such accounts. The fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty dollars (\$30).

An act to amend Section 9891.2 of the Business and Professions Code, to amend Section 1689.5 of the Civil Code, to amend Sections 18455, 22465.5, 24050, 24465.5, 24476, and 26050 of the Financial Code, and to amend Section 770.1 of the Insurance Code, relating to commercial transactions.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 9891.2 of the Business and Professions Code is amended to read:

- 9891.2. The following persons are exempt from the requirements of this chapter:
- (a) Any person regulated by the State Board of Accountancy and his or her employees while functioning within the scope of their employment.
- (b) Any person who is a member of the State Bar of California and his or her employees while functioning within the scope of their employment.
- (c) Employees of any trust company or trust business as defined in Chapter 1 (commencing with Section 99) of Division 1 of the Financial Code while functioning within the scope of their employment.
- (d) Financial institutions regulated by the state or federal government, and employees thereof, insofar as the activities of the employees are related to their employment and the activities of the financial institution with respect to tax preparation are subject to federal or state examination or oversight.
- (e) Any person who is enrolled or authorized to practice before the Internal Revenue Service pursuant to Subpart A (commencing with Section 10.1) of Part 10 of Title 31 of the Code of Federal Regulations, and his or her employees while functioning within the scope of their employment.
- (f) Any person authorized to make loans pursuant to Division 7 (commencing with Section 18000), Division 9 (commencing with Section 22000), Division 10 (commencing with Section 24000), or Division 11 (commencing with Section 26000) of the Financial Code, or its wholly owned subsidiary, and his or her employees while functioning within the scope of their employment.
  - SEC. 2. Section 1689.5 of the Civil Code is amended to read: 1689.5. As used in Sections 1689.6 to 1689.11, inclusive:
- (a) "Home solicitation contract or offer" means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars

- (\$25) or more including any interest or service charges. "Home solicitation contract" does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto.
- (b) "Appropriate trade premises," means premises at which either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises.
- (c) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of such real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with such a vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with such a mobilehome if either are sold under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code.
- (d) "Services" means work, labor and services, including, but not limited to, services furnished in connection with the repair, alteration, or improvement of residential premises, or services furnished in connection with the sale or repair of goods as defined in Section 1802.1, and courses of instruction, regardless of the purpose for which they are taken, but does not include the services of attorneys, real estate brokers and salesmen, securities dealers or investment counselors, physicians, optometrists, or dentists, nor financial services offered by banks, savings institutions, credit unions, industrial loan companies, personal property brokers, consumer finance lenders, or commercial finance lenders, organized pursuant to state or federal law, which are not connected with the sale of goods or services, as defined herein, nor the sale of insurance which is not connected with the sale of goods or services as defined herein, nor services in connection with the sale or installation of mobilehomes or of goods sold with a mobilehome if either are sold or installed under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code, nor services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with and approved by the federal government or any official, department, division, commission, or agency of the United States or of the State of California.
- (e) "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.
  - SEC. 3. Section 18455 of the Financial Code is amended to read: 18455. An industrial loan company shall not, directly or

indirectly, make any loan to, or purchase a contract or chose in action from, hold a lease obligation of, or purchase a lease contract from:

(a) A person who is an officer or director of the industrial loan

company or of its holding or affiliated company.

- (b) A person who is a holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company which is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section 25101 of the Corporations Code.
- (c) A person in which an officer or director of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly.
- (d) A person in which the holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company which is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section 25101 of the Corporations Code.
- (e) A person who acquired such contracts directly or indirectly or through intervening assignments from a person described in subdivision (a), (b), (c), or (d).

Any officer, director or shareholder of an industrial loan company who directly or indirectly makes or procures or participates in making or procuring a loan or contract in violation of this section or knowingly approves the same is personally liable for any loss resulting to an industrial loan company from such loan or contract, in addition to any other penalties provided by law.

The prohibition contained in this section shall not apply to the purchase by an industrial loan company of a contract or chose in action from a personal property broker, a consumer finance lender, or a commercial finance lender, provided written authorization for the purchase is obtained from the commissioner.

- SEC. 4. Section 22465.5 of the Financial Code is amended to read: 22465.5. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.
- (b) In the absence of default in the performance of any of the borrower's obligations under the loan, the licensee may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.
- (c) If, after default by the borrower, the licensee repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the loan shall have a right to reinstate the loan and the licensee

shall not accelerate the maturity of any part or all of the loan prior to the expiration of the right to reinstate, unless the licensee reasonably and in good faith determines that:

- (1) The borrower or any other person liable on the loan by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.
- (2) The borrower or any other person liable on the loan in order to avoid repossession has concealed the motor vehicle or removed it from the state.
- (3) The borrower or any other person liable on the loan has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.
- (d) Exercise of the right to reinstate the loan shall be limited to once in any 12-month period and twice during the term of the loan.
- (e) The provisions of this subdivision shall govern the method by which a loan shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.
- (1) Where the default is the result of the borrower's failure to make any payment due under the loan, the borrower or any other person liable on the loan shall make the defaulted payments and pay any applicable delinquency charges.
- (2) Where the default is the result of the borrower's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the borrower or any other person liable on the loan shall either satisfy all the encumbrances and liens or, in the event the licensee satisfies the encumbrances and liens, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.
- (3) Where the default is the result of the borrower's failure to keep and maintain insurance on the motor vehicle, the borrower or any other person liable on the loan shall either obtain the insurance or, in the event the licensee has obtained the insurance, the borrower or any other person liable on the loan shall reimburse the licensee for premiums paid and all reasonable costs and expenses incurred therefor.
- (4) Where the default is the result of the borrower's failure to perform any other obligation under the loan, unless the licensee has made a good faith determination that the default is so substantial as to be incurable, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.
- (5) Additionally, the borrower or any other person liable on the loan shall reimburse the licensee for actual fees not exceeding one hundred fifty dollars (\$150) paid in connection with the repossession of a motor vehicle to a repossession agency licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.

- (f) If the licensee denies the right to reinstatement under subdivision (c) or paragraph (4) of subdivision (e), the licensee shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the licensee fails to sustain the burden of proof, the licensee shall not be entitled to a deficiency.
- SEC. 5. Section 24050 of the Financial Code is amended to read: 24050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.
- (b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.
- SEC. 6. Section 24465.5 of the Financial Code is amended to read: 24465.5. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.
- (b) In the absence of default in the performance of any of the borrower's obligations under the loan, the licensee may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.
- (c) If, after default by the borrower, the licensee repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the loan shall have a right to reinstate the loan and the licensee shall not accelerate the maturity of any part or all of the loan prior to the expiration of the right to reinstate, unless the licensee reasonably and in good faith determines that:
- (1) The borrower or any other person liable on the loan by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.
- (2) The borrower or any other person liable on the loan in order to avoid repossession has concealed the motor vehicle or removed it from the state.
- (3) The borrower or any other person liable on the loan has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.
- (d) Exercise of the right to reinstate the loan shall be limited to once in any 12-month period and twice during the term of the loan.
- (e) The provisions of this subdivision shall govern the method by which a loan shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.
- (1) Where the default is the result of the borrower's failure to make any payment due under the loan, the borrower or any other person liable on the loan shall make the defaulted payments and pay any applicable delinquency charges.

- (2) Where the default is the result of the borrower's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the borrower or any other person liable on the loan shall either satisfy all the encumbrances and liens or, in the event the licensee satisfies the encumbrances and liens, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.
- (3) Where the default is the result of the borrower's failure to keep and maintain insurance on the motor vehicle, the borrower or any other person liable on the loan shall either obtain the insurance or, in the event the licensee has obtained the insurance, the borrower or any other person liable on the loan shall reimburse the licensee for premiums paid and all reasonable costs and expenses incurred therefor.
- (4) Where the default is the result of the borrower's failure to perform any other obligation under the loan, unless the licensee has made a good faith determination that the default is so substantial as to be incurable, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.
- (5) Additionally, the borrower or any other person liable on the loan shall reimburse the licensee for actual fees not exceeding one hundred fifty dollars (\$150) paid in connection with the repossession of a motor vehicle to a repossession agency licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.
- (f) If the licensee denies the right to reinstatement under subdivision (c) or paragraph (4) of subdivision (e), the licensee shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the licensee fails to sustain the burden of proof, the licensee shall not be entitled to a deficiency.
- SEC. 7. Section 24476 of the Financial Code is amended to read: 24476. (a) A licensee may sell promissory notes evidencing the obligation to repay loans made by the licensee pursuant to this division to institutional investors and may make agreements with institutional investors for the collection of payments or the performance of services with respect to those notes.
- (b) For the purposes of this section, "institutional investor" means the following:
- (1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or corporate or other instrumentality of any one or more of the foregoing.
- (2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial bank or industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurance company doing business under the

- authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.
- (3) Trustees of pension, profit sharing, or welfare funds, if the pension, profit sharing, or welfare fund has a net worth of not less than fifteen million dollars (\$15,000,000), except pension, profit sharing, or welfare funds of a licensee or its affiliate, self-employed individual retirement plans, or individual retirement accounts.
- (4) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation; provided, however, that the 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 promissory note.
- (5) Any syndication or other combination of any of the foregoing which is organized to purchase the promissory note.
- SEC. 8. Section 26050 of the Financial Code is amended to read: 26050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trusts companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.
- (b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.
- SEC. 9. Section 770.1 of the Insurance Code is amended to read: 770.1. No person making a loan of money on the security of real property shall use or make available to any person information contained in a policy of fire or casualty insurance for the purpose of soliciting either type of insurance coverage if the borrower has filed with the lender a statement signed by the borrower that the policy information shall not be so used or made available. The statement may be included by the borrower in his or her letter of authorization designating an insurance agent or broker to the lender. The statement or letter of authorization shall be effective until superseded or revoked by the borrower. This section shall not apply to any person authorized or licensed to make loans pursuant to Division 7 (commencing with Section 18000), Division (commencing with Section 22000), Division 10 (commencing with Section 24000), or Division 11 (commencing with Section 26000) of the Financial Code.
- SEC. 10. (a) Nothing in Section 7 of this act shall be construed to enhance or be in derogation of any rule or regulation adopted by the Commissioner of Corporations pursuant to the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000), Title 4, Corporations Code) and in effect on January 1, 1986.
- (b) Nothing in Section 7 of this act shall be construed to enhance or be in derogation of the Real Estate Law (Part 1 (commencing

with Section 10000), Division 4, Business and Professions Code) or of any regulations of the Real Estate Commissioner adopted pursuant thereto.

#### CHAPTER 1230

An act to amend Section 7040 of the Business and Professions Code, and to add Chapter 6 (commencing with Section 6100) to Part 1 of Division 2 of the Public Contract Code, relating to contracting.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 7040 of the Business and Professions Code is amended to read:

- 7040. (a) This chapter does not apply to an authorized representative of the United States government, the State of California, or any incorporated town, city, county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this state.
- (b) Nothing in this section authorizes the state or an authorized representative thereof either to enter into or authorize a contract with an unlicensed contractor for work which is required by this chapter to be performed by a licensed contractor.
- SEC. 2. Chapter 6 (commencing with Section 6100) is added to Part 1 of Division 2 of the Public Contract Code, to read:

# CHAPTER 6. AWARDING OF CONTRACTS

- 6100. (a) Any state agency or department, as defined in Section 10357, which is subject to this code, shall, prior to awarding a contract for work to be performed by a contractor, as defined by Section 7026 of the Business and Professions Code, verify with the Contractors' State License Board that the person seeking the contract is licensed in a classification appropriate to the work to be undertaken. Verification as required by this section need only be made once every two years with respect to the same contractor.
- (b) In lieu of the verification, the state entity may require the person seeking the contract to present his or her pocket license or certificate of licensure and provide a signed statement which swears, under penalty of perjury, that the pocket license or certificate of licensure presented is his or hers, is current and valid, and is in a classification appropriate to the work to be undertaken.

An act to amend Section 411.35 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 411.35 of the Code of Civil Procedure is amended to read:

- 411.35. (a) In every action including a cross-complaint for damages or indemnity arising out of the professional negligence of a person holding a valid architect's certificate issued pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or of a person holding a valid registration as a professional engineer issued pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or a person holding a valid land surveyor's license issued pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified by subdivision (b).
- (b) A certificate shall be executed by the attorney for the plaintiff or cross-complainant declaring one of the following:
- (1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one architect, professional engineer, or land surveyor who is licensed to practice and practices in this state or any other state, or who teaches at an accredited college or university and is licensed to practice in this state or any other state, in the same discipline as the defendant or cross-defendant and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action. The person consulted may not be a party to the litigation.
- (2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after filing the complaint.
- (3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate architects, professional engineers, or land surveyors to obtain such consultation

and none of those contacted would agree to such a consultation.

- (c) Where a certificate is required pursuant to this section, only one certificate shall be filed, notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.
- (d) Where the attorney intends to rely solely on the doctrine of "res ipsa loquitur," as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a procedure or both, and for that reason is not filing a certificate required by this section.
- (e) For purposes of this section, and subject to Section 912 of the Evidence Code, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the architect, professional engineer, or land surveyor consulted and the contents of the consultation. The privilege shall also be held by the architect, professional engineer, or land surveyor so consulted. If, however, the attorney makes a claim under paragraph (3) of subdivision (b) that he or she was unable to obtain the required consultation with the architect, professional engineer, or land surveyor, the court may require the attorney to divulge the names of architects, professional engineers, or land surveyors refusing the consultation.
- (f) A violation of this section may constitute unprofessional conduct and be grounds for discipline against the attorney, except that the failure to file the certificate required by paragraph (1) of subdivision (b), within 60 days after filing the complaint and certificate provided for by paragraph (2) of subdivision (b), shall not be grounds for discipline against the attorney.
- (g) The failure to file a certificate in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.
- (h) This section shall remain in effect only until January 1, 1989, and as of that date is repealed.

An act to add Section 602.7 to the Penal Code, relating to crimes.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 602.7 is added to the Penal Code, to read: 602.7. Every person who enters or remains on any property, facility, or vehicle owned by the San Francisco Bay Area Rapid Transit District or the Southern California Rapid Transit District, and sells or peddles any goods, merchandise, property, or services of any kind whatsoever on the property, facilities, or vehicles, without the express written consent of the governing board of the San Francisco Bay Area Rapid Transit District or the governing board of the Southern California Rapid Transit District, or its duly authorized representatives, is guilty of an infraction.

Nothing in this section affects the power of a county, city, transit district, or city and county to regulate the sale or peddling of goods, merchandise, property, or services.

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 1233

An act to amend Section 4548 of the Business and Professions Code, relating to psychiatric technicians, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 4548 of the Business and Professions Code is amended to read:

4548. The amounts of the fees payable pursuant to this chapter shall be fixed by the board according to the following schedule:

- (a) The application fee shall not exceed twenty-five dollars (\$25).
- (b) The fee for any subsequent examination after the first shall not exceed thirty-five dollars (\$35).
  - (c) The renewal fee shall not exceed forty-five dollars (\$45). If the

board establishes a biennial renewal fee pursuant to Section 4544.5, that fee shall not exceed ninety dollars (\$90).

- (d) The delinquency fee for failure to pay the renewal fee within the prescribed time shall be no more than 50 percent of the regular renewal fee.
- (e) The initial license fee shall be an amount equal to the renewal fee in effect on the date the application for the license is filed.

# CHAPTER 1234

An act to amend Section 12825 of, and to add Section 12825.5 to, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 12825 of the Food and Agricultural Code is amended to read:

12825. Pursuant to Section 12824, the director may, after hearing, cancel the registration of, or refuse to register, any economic poison:

- (a) Which has demonstrated serious uncontrollable adverse effects either within or outside the agricultural environment.
- (b) The use of which is of less public value or greater detriment to the environment than the benefit received by its use.
- (c) For which there is a reasonable effective and practicable alternate material or procedure which is demonstrably less destructive to the environment.
- (d) Which, when properly used, is detrimental to vegetation, except weeds, to domestic animals, or to the public health and safety.
- (e) Which is of little or no value for the purpose for which it is intended.
- (f) Concerning which any false or misleading statement is made or implied by the registrant or his or her agent, either verbally or in writing, or in the form of any advertising literature.
- (g) For which the director determines the registrant has failed to report an adverse effect or risk as required by Section 12825.5.

In making a determination pursuant to this section, the director may require those practical demonstrations as are necessary to determine the facts.

- SEC. 2. Section 12825.5 is added to the Food and Agricultural Code, to read:
- 12825.5. (a) If, during the registration process or at any time after the registration of an economic poison, the registrant has factual or scientific evidence of any adverse effect or risk of the economic poison to human health, livestock, crops, or the environment which has not been previously submitted to the

department, the registrant shall submit the evidence to the director in a timely manner. All such information, including, but not limited to, that information required under Section 6 (a) (2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136d (a) (2)), shall be submitted to the director.

(b) The director may adopt regulations which are reasonably necessary to carry out this section.

# **CHAPTER 1235**

An act to amend Section 19827 of the Government Code, relating to the California Highway Patrol.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 19827 of the Government Code is amended to read:

- 19827. (a) Notwithstanding any other provision of law to the contrary, the department shall base recommendations for the salaries of highway patrolmen on the estimated average salaries as of July 1 of the year in which the recommendations are made for each corresponding rank for the Los Angeles Police Department, the Los Angeles Sheriff's office, the San Diego Police Department, the Oakland Police Department, and the San Francisco Police Department.
- (b) The department shall survey the agencies specified in subdivision (a) to determine their practices relative to incentive compensation for educational attainment and training. The department shall report its findings to the Governor by March 15, 1987, and annually thereafter.
- (c) 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.

An act to amend Section 2983.3 of the Civil Code, and to amend Section 22651 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

- SECTION 1. Section 2983.3 of the Civil Code is amended to read: 2983.3. (a) In the absence of default in the performance of any of the buyer's obligations under the contract, the seller or holder may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.
- (b) If after default by the buyer, the seller or holder repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the contract shall have a right to reinstate the contract and the seller or holder shall not accelerate the maturity of any part or all of the contract prior to expiration of the right to reinstate, unless the seller or holder reasonably and in good faith determines that any of the following has occurred:
- (1) The buyer or any other person liable on the contract by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.
- (2) The buyer, any other person liable on the contract, or any permissive user in possession of the motor vehicle, in order to avoid repossession has concealed the motor vehicle or removed it from the state.
- (3) The buyer, any other person liable on the contract, or any permissive user in possession of the motor vehicle, has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has become substantially impaired in value, or the buyer, any other person liable on the contract, or any nonoccasional permissive user in possession of the motor vehicle has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle may become substantially impaired in value.
- (4) The buyer or any other person liable on the contract has committed, attempted to commit, or threatened to commit criminal acts of violence or bodily harm against an agent, employee, or officer of the seller or holder in connection with the seller's or holder's repossession of or attempt to repossess the motor vehicle.
- (5) The buyer has knowingly used the motor vehicle, or has knowingly permitted it to be used, in connection with the commission of a criminal offense, other than an infraction, as a consequence of which the motor vehicle has been seized by a federal, state, or local agency or authority pursuant to federal, state, or local law.

- (6) The motor vehicle has been seized by a federal, state, or local public agency or authority pursuant to (A) Section 1324 of Title 8 of the United States Code or Part 274 of Title 8 of the Code of Federal Regulations, (B) Section 881 of Title 21 of the United States Code or Part 9 of Title 28 of the Code of Federal Regulations, or (C) other federal, state, or local law, including regulations, and, pursuant to that other law, the seizing authority, as a precondition to the return of the motor vehicle to the seller or holder, prohibits the return of the motor vehicle to the buyer or other person liable on the contract or any third person claiming the motor vehicle by or through them or otherwise effects or requires the termination of the property rights in the motor vehicle of the buyer or other person liable on the contract or claimants by or through them.
- (c) Exercise of the right to reinstate the contract shall be limited to once in any 12-month period and twice during the term of the contract.
- (d) The provisions of this subdivision shall govern the method by which a contract shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.
- (1) Where the default is the result of the buyer's failure to make any payment due under the contract, the buyer or any other person liable on the contract shall make the defaulted payments and pay any applicable delinquency charges.
- (2) Where the default is the result of the buyer's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the buyer or any other person liable on the contract shall either satisfy all encumbrances and liens or, in the event the seller or holder satisfies the encumbrances and liens, the buyer or any other person liable on the contract shall reimburse the seller or holder for all reasonable costs and expenses incurred therefor.
- (3) Where the default is the result of the buyer's failure to keep and maintain insurance on the motor vehicle, the buyer or any other person liable on the contract shall either obtain the insurance or, in the event the seller or holder has obtained the insurance, the buyer or any other person liable on the contract shall reimburse the seller or holder for premiums paid and all reasonable costs and expenses incurred therefor.
- (4) Where the default is the result of the buyer's failure to perform any other obligation under the contract, unless the seller or holder has made a good faith determination that the default is so substantial as to be incurable, the buyer or any other person liable on the contract shall either cure the default or, if the seller or holder has performed the obligation, reimburse the seller or holder for all reasonable costs and expenses incurred in connection therewith.
- (5) Additionally, the buyer or any other person liable on the contract shall, in all cases, reimburse the seller or holder for all reasonable and necessary collection and repossession costs and fees incurred, including attorney's fees and legal expenses expended in

retaking and holding the vehicle.

- (e) If the seller or holder denies the right to reinstatement under subdivision (b) or paragraph (4) of subdivision (d), the seller or holder shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the seller or holder fails to sustain the burden of proof, the seller or holder shall not be entitled to a deficiency, but it shall not be presumed that the buyer is entitled to damages by reason of the failure of the seller or holder to sustain the burden of proof.
- (f) This section shall not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.
- SEC. 2. Section 22651 of the Vehicle Code is amended to read: 22651. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located may remove a vehicle from a highway located within the territorial limits in which the officer or employee may act under any of the following circumstances:
- (a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.
- (b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.
- (c) When any vehicle is found upon a highway and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.
- (d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.
- (e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.
- (f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.
- (g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to an extent so as to be unable to provide for its custody or removal.
- (h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person

arrested before a magistrate without unnecessary delay.

(i) When any vehicle is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the registered owner or person in control of the vehicle has not responded, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to the vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

A vehicle shall be released to the legal owner if the legal owner pays the cost of towing and storing the vehicle, submits evidence of payment of fees as provided in Section 9561, and completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the deposit of bail for all notices of parking violations issued for the vehicle. The legal owner shall promptly remit to, and deposit with, the impounding agency from that surplus, on receipt thereof, bail for all notices of parking violations issued for the vehicle.

- (j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.
- (k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.
  - (l) When any vehicle is illegally parked on a highway in violation

- of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.
- (m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance
- (n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.
- (o) When any vehicle is found upon a highway with a registration expiration date in excess of one year before the date it is found on the highway. Only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from a highway pursuant to this subdivision. For purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration. In lieu of obtaining proof of current registration, the storing agency may, in its discretion, issue a notice to appear for the registration violation.
- (p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, or 14601.2 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway shall not be released to the registered owner or his or her agent except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle or upon order of a court.

An act to amend Sections 2085, 2101, 2102, and 2184 of the Business and Professions Code, relating to physicians and surgeons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 2085 of the Business and Professions Code is amended to read:

- 2085. (a) Notwithstanding Section 2084, a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program which does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content may be approved by the division if the division determines that the applicant has otherwise received adequate instruction in the subjects listed in subdivision (b) of Section 2089. The division may require an applicant under this section to undertake additional education to bring up to standard, instruction in the subjects listed in subdivision (b) of Section 2089 as a condition of issuing a physician's and surgeon's certificate. In approving an applicant under this section, the division may take into account the applicant's total relevant academic experience, including performance on standardized national examinations.
- (b) (1) Notwithstanding subdivision (a) or Sections 2084 and 2089, an applicant who is a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program that does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content shall be presumed to meet the requirements of Sections 2084 and 2089 if the special medical school program has been reviewed and approved by a national accrediting agency approved by the division and recognized by the United States Department of Education.
- (2) This presumption may be overcome upon a finding by the division that the medical education received by the applicant is not the educational equivalent of the medical education received by graduates of medical schools approved pursuant to subdivision (a) or Section 2084. In making its finding, the division shall consider, at a minimum, the applicant's total academic and medical training experience prior to, and following, as well as during, medical school, the applicant's performance on standardized national examinations, including the National Board Examinations, the applicant's achievements as a house staff officer, and the number of years of postgraduate medical training completed by the applicant.
  - (3) An applicant under this subdivision who (A) has satisfactorily

completed at least two years of postgraduate clinical training approved by the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association and whose postgraduate training has included at least one year of clinical contact with patients and (B) has achieved a passing score in each subject area of the written examination required for licensure, satisfies the requirements of Sections 2084 and 2089.

- (4) An applicant who has not achieved a passing score in one or more subject areas of the written examination required for licensure may otherwise demonstrate to the satisfaction of the division that he or she possesses adequate skills, knowledge, and ability in the particular subject area or areas of the examination not passed.
- (5) An applicant who has not achieved a passing score in one or more subject areas of the required examination may, at the discretion of the division, be allowed to remedy that deficiency by achieving a passing score in the pertinent subject area or areas through a reexamination administered under the auspices of the division, at the applicant's expense.
- (6) Applicants under this subdivision who apply after satisfactorily completing one year of approved postgraduate training shall have their applications reviewed by the division and shall be informed by the division either that satisfactory completion of a second year of approved postgraduate training will result in their being deemed to meet the requirements of Sections 2084 and 2089, or informed of any deficiencies in their qualifications or documentation and the specific remediation, if any, required by the division to meet the requirements of Sections 2084 and 2089. Upon satisfactory completion of the specified remediation, the division shall promptly issue a license to the applicant.
- SEC. 2. Section 2101 of the Business and Professions Code is amended to read:
- 2101. Any applicant who is not a citizen of the United States or otherwise does not qualify for licensure as a physician and surgeon under Section 2102 whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:
- (a) Completion in a medical school or schools a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the division which shows final and successful completion of the course.
- (b) Admission or licensure to practice medicine and surgery in a country or other state of the United States wherein licensure requirements are satisfactory to the division.
- (c) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the

provisions of this section and who have not taken and passed the written examination specified in subdivision (e) prior to June 1, 1986.

- (d) Completion of one year of postgraduate training in a postgraduate training program approved by the division in the United States or Canada.
- (e) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in subdivision (c) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed the portion of the written examination specified in this subdivision relating to basic and clinical science (Part I) prior to commencing any clinical service in a hospital in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

- SEC. 3. Section 2102 of the Business and Professions Code is amended to read:
- 2102. Any applicant who either (1) is a United States citizen or (2) has filed a declaration of intention to become a United States citizen, a petition for naturalization, or a comparable document, whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:
- (a) Completion in a medical school or schools of a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the division which shows final and successful completion of the course.
- (b) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the provisions of this section and who have not taken and passed the written examination specified in subdivision (d) prior to June 1, 1986.
- (c) Completion of one year of postgraduate training in a postgraduate training program approved by the division in the United States or Canada.
- (d) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in subdivision (b) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed the portion of the written examination specified in this subdivision relating to basic and clinical science (Part I) prior to commencing any clinical service in a

hospital in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

- SEC. 4. Section 2184 of the Business and Professions Code is amended to read:
- 2184. (a) There shall be at least 10 questions on each subject included in the examination. Each applicant shall obtain at least a score of 75 percent.
- (b) Passing scores on the written examination shall be valid for purposes of qualification for participation in postgraduate training or licensure for a period of four years from the date of examination, except that the period may be extended on a year-for-year basis for each full year the applicant successfully participates in an approved postgraduate training program.
- 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 assure as soon as possible that the public receives the best possible medical care, it is necessary for this act to go into immediate effect.

#### CHAPTER 1238

An act to add Section 6103.5 to the Business and Professions Code, and to amend Section 822 of the Evidence Code, relating to civil actions.

[Approved by Covernor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 6103.5 is added to the Business and Professions Code, to read:

- 6103.5. (a) A member of the State Bar shall promptly communicate to the member's client all amounts, terms, and conditions of any written offer of settlement made by or on behalf of an opposing party. As used in this section, "client" includes any person employing the member of the State Bar who posseses the authority to accept an offer of settlement, or in a class action, who is a representative of the class.
- (b) Any written offer of settlement or any required communication of a settlement offer, as described in subdivision (a),

shall be discoverable by either party.

- SEC. 2. Section 822 of the Evidence Code is amended to read: 822. (a) In an eminent domain or inverse condemnation proceeding, notwithstanding the provisions of Sections 814 to 821, inclusive, the following matter is inadmissible as evidence and shall not be taken into account as a basis for an opinion as to the value of property:
- (1) The price or other terms and circumstances of an acquisition of property not appropriated to a public use or a property interest not so appropriated if the acquisition was for a public use for which the property could have been taken by eminent domain.
- (2) The price at which an offer or option to purchase or lease the property or property interest being valued or any other property was made, or the price at which such property or interest was optioned, offered, or listed for sale or lease, except that an option, offer, or listing may be introduced by a party as an admission of another party to the proceeding; but nothing in this subdivision permits an admission to be used as direct evidence upon any matter that may be shown only by opinion evidence under Section 813.
- (3) The value of any property or property interest as assessed for taxation purposes or the amount of taxes which may be due on the property, but nothing in this subdivision prohibits the consideration of actual or estimated taxes for the purpose of determining the reasonable net rental value attributable to the property or property interest being valued.
- (4) An opinion as to the value of any property or property interest other than that being valued.
- (5) The influence upon the value of the property or property interest being valued of any noncompensable items of value, damage, or injury.
- (6) The capitalized value of the income or rental from any property or property interest other than that being valued.
- (b) In an action other than an eminent domain or inverse condemnation proceeding, the matters listed in subdivision (a) are not admissible as evidence, and may not be taken into account as a basis for an opinion as to the value of property, except to the extent permitted under the rules of law otherwise applicable.

## CHAPTER 1239

An act to amend Sections 16028 and 16028.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 16028 of the Vehicle Code is amended to read:

16028. (a) Every person who drives a motor vehicle required to be registered in this state upon a highway, or who drives a moped upon the highway, shall, when requested by a peace officer pursuant to subdivision (c) or (d), provide evidence of financial responsibility for the vehicle.

Except as otherwise provided in this subdivision and subdivisions (e) and (f), any person who violates this subdivision is guilty of an infraction and shall be punished for each offense by a fine of seventy-five dollars (\$75) and an additional penalty assessment of twenty-five dollars (\$25). If (1) the citation is issued pursuant to subdivision (c) on a notice to appear for violation of Section 23152, and (2) the driver is convicted of violating Section 23152, then the penalty upon conviction for violation of subdivision (a) is a fine of one hundred eighty dollars (\$180) and an additional penalty assessment of sixty dollars (\$60). Each defendant shall be fined and assessed a penalty assessment in the amount specified in this section, upon conviction, unless the court determines that in the interests of justice the fine and the penalty assessment should be reduced. Any reduction of the fine and penalty assessment shall be in the same proportion and the court shall state the reasons for reducing the fine and assessment on the record.

In lieu of the fine and penalty assessment otherwise assessable under this subdivision, the court may permit the defendant to perform community service designated by the court.

- (b) (1) For purposes of this section, "evidence of financial responsibility" shall be in writing and means any of the following:
- (A) The name of the insurance or surety company which issued the automobile liability policy, motor vehicle liability policy, or bond meeting the requirements of Section 16056, in effect for the vehicle, and the number of the insurance policy or surety bond.
- (B) If the owner is a self-insurer as provided in Section 16052 or a depositor as provided in Section 16054.2, the certificate or deposit number issued by the department.
- (C) An insurance covering note, as specified in Section 382 of the Insurance Code.
- (D) A showing that the vehicle is owned or leased by, or under the direction of, the United States or any public entity, as defined in

Section 811.2 of the Government Code.

- (2) For purposes of this section, "evidence of financial responsibility" also includes the identifying symbol issued to a highway carrier by the Public Utilities Commission pursuant to Section 3543 of the Public Utilities Code and displayed on the motor vehicle.
- (3) For purposes of this section, "evidence of financial responsibility in writing" may be satisfied by writing the name of the insurance company or surety company and the policy number or surety bond number on the motor vehicle registration card issued by the Department of Motor Vehicles.
- (c) Whenever a notice to appear is issued for any alleged violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant thereto, the cited driver shall furnish written evidence of financial responsibility, as defined by subdivision (b), upon request of the peace officer issuing the citation. The peace officer shall request and write the driver's evidence of financial responsibility on the notice to appear, except where the peace officer is unable to write the driver's evidence of financial responsibility on the notice to appear due to an emergency that requires his or her presence elsewhere. If the cited driver fails to provide evidence of financial responsibility at the time the notice to appear is issued, the peace officer may issue the driver a notice to appear for violation of subdivision (a). The notice to appear for violation of subdivision (a) shall be written on the same citation form as the original violation.
- (d) Whenever a peace officer is summoned to the scene of an accident, the driver of any motor vehicle which is in any manner involved in the accident, shall furnish written evidence of financial responsibility as defined by subdivision (b), upon the request of the peace officer making the report. If the driver fails to provide evidence of financial responsibility when requested, the peace officer may issue the driver a notice to appear for violation of subdivision (a).
- (e) A person cited in a notice to appear for violation of subdivision (a) may personally appear before the clerk of the court, as designated in the notice to appear, and provide written evidence of financial responsibility that is acceptable to the clerk of the court showing that the driver was in compliance with Section 16020 at the time the notice to appear for violating subdivision (a) was issued. In lieu of a personal appearance, the person may submit written evidence of financial responsibility by mail to the court. Upon receipt by the clerk of written evidence of financial responsibility that is acceptable to the court, further proceedings on the notice to appear for the violation of subdivision (a) of Section 16028 shall be dismissed, subject to Section 16031.
- (f) If a driver cited for a violation of subdivision (a) is, at the time of issuance of the notice to appear, driving a motor vehicle owned, operated, or leased by the employer of the driver and driven with

the permission of the employer, this section and Sections 16031 and 16032 apply to the employer rather than the driver. In that case, the notice to appear shall be issued to the employer, rather than the driver, and the driver may sign the notice to appear on behalf of the employer and shall notify the employer of the citation within five days after the issuance thereof.

- (g) Penalty assessments collected pursuant to subdivision (a) shall be deposited in the county's Courthouse Temporary Construction Fund established pursuant to Section 76001, 76002, 76003, 76004, 76005, or 76006 of the Government Code.
- (h) Any penalty assessment imposed pursuant to any other provision of law shall not be imposed on the additional penalty assessment provided in subdivision (a).
- (i) 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. 2. Section 16028.4 of the Vehicle Code is amended to read: 16028.4. With respect to persons asserting financial responsibility under subdivision (b) of Section 16021, "written evidence," for purposes of subdivision (e) of Section 16028, means a copy of the insurance policy or bond or an identification card with the insurance policy number, the name of the insurer, the effective date of coverage, and the date of expiration, a copy of an insurance covering note, as specified in Section 382 of the Insurance Code, or written confirmation from the insurer that the person was insured at the time of the citation.
- 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 1240

An act to amend Section 1566.7 of the Health and Safety Code, relating to foster child care.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 1566.7 of the Health and Safety Code is amended to read:

1566.7. The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Health and Safety Code,

whenever the department substantiates that a violation has occurred which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint. At any time during which a facility is found to have one or more of the following serious deficiencies, the director shall provide an immediate notice of not to exceed five working days to the placement agency:

- (a) Discovery that an employee of the facility has a criminal record which would affect the facility's compliance with Section 1522.
- (b) Discovery that a serious incident which resulted in physical or emotional trauma of a resident has occurred in a facility.
- 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 1241

An act to add Sections 10008, 10009, and 10010 to the Water Code, relating to water resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 10008 is added to the Water Code, to read: 10008. The Legislature hereby finds and declares that agreements which provide for the transfer of water from the federal Central Valley Project to public entities supplying water for domestic or irrigation use offer potential benefits to California's hard-pressed farmers and to California's water-dependent urban areas.

It is the intent of the Legislature that these contracts be entered into for the purposes of strengthening California's economy, serving the public, and protecting the environment.

The director shall continue to pursue negotiations with the United States Bureau of Reclamation to contract for the interim rights to stored water from the federal Central Valley Project for use in the State Water Resources Development System by state water supply contractors.

SEC. 2. Section 10009 is added to the Water Code, to read:

10009. The director shall pursue discussions with the United States Bureau of Reclamation to permit persons and public entities which have entitlements to water from the federal Central Valley Project, to enter into legally binding contracts with any public entity which supplies water for domestic use, irrigation use, or environmental protection in this state for the transfer of federal water entitlements during times of shortage.

SEC. 3. Section 10010 is added to the Water Code, to read:

10010. The director shall report to the Legislature during the department's annual budget hearings on the status of the discussions specified in Sections 10008 and 10009. The director shall recommend legislation to facilitate the execution of mutually acceptable contracts which will not degrade the environment.

If the department is unable to secure the consent of the United States Bureau of Reclamation for the transfer of federal water entitlements as specified in Sections 10008 and 10009 by 1992, the director shall make a final report to the Legislature during the department's 1993 annual budget hearings. The report shall include the reasons the discussions were unsuccessful and recommended legislative actions.

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 negotiations with the United States Bureau of Reclamation to permit more efficient use of federal water entitlements to meet the pressing water needs of California's citizens may be pursued at the earliest possible time, it is necessary that this act take effect immediately.

# **CHAPTER 1242**

An act to amend Sections 56383, 56654, and 56655 of, and to add Sections 56842.5 and 57104 to, the Government Code, to amend Section 11005 of, and to add and repeal Section 11005.3 of, the Revenue and Taxation Code, and to amend Section 2107 of the Streets and Highways Code, relating to cities.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 56383 of the Government Code is amended to read:

56383. The commission may, after giving public notice and holding a hearing, establish a schedule of fees for filing and processing applications filed with the commission pursuant to Section 56828. Those fees shall not exceed those charged pursuant to Sections 56654 and 56655. When a district files an application for extension of its powers, a commission may establish a schedule of fees for costs incurred pursuant to that application. Those fees shall not exceed the estimated reasonable cost of providing the service and shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2.

SEC. 2. Section 56654 of the Government Code is amended to read:

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

SEC. 3. Section 56655 of the Government Code is amended to read:

56655. A commission may, after giving public notice and holding a hearing, establish a schedule of filing fees for checking the sufficiency of any petition filed with the executive officer. Those fees shall not exceed the estimated reasonable cost of providing that service and shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2. Any fees so established

shall be paid to the executive officer at the time of filing a petition. No petition shall be deemed filed until those fees have been paid.

- SEC. 4. Section 56842.5 is added to the Government Code, to read:
- 56842.5. If a proposal includes the incorporation of a city, or the formation of a district, the commission shall determine the amount of appropriations subject to limitation for the city or district in accordance with Article XIII B of the California Constitution.
- SEC. 5. Section 57104 is added to the Government Code, to read: 57104. In addition to any other requirements, any resolution of the conducting authority ordering an incorporation or a formation subject to an election shall provide for the establishment of the appropriations limit determined pursuant to Section 56842.5.
- SEC. 6. Section 11005 of the Revenue and Taxation Code is amended to read:
- 11005. (a) After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving the amount determined necessary by the Pooled Money Investment Board to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, 81.25 percent of the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the manner provided by subdivisions (c) and (d).
- (b) Eighteen and three-quarters percent of the balance shall be allocated as follows:
- (1) In July of each fiscal year, the Controller shall allocate to each city that existed but did not levy a property tax in the 1977–78 fiscal year, other than for voter-approved indebtedness, an amount equal to the total amount which each of those cities would have received in that fiscal year pursuant to Section 25761 of the Business and Professions Code, Section 4306 of the Public Utilities Code, and Section 26483 of the Revenue and Taxation Code, as if those sections were operative in that fiscal year in the form in which they existed on June 1, 1981. For the 1985–86 fiscal year and each fiscal year thereafter, the Controller shall increase the amount for each city computed pursuant to this paragraph by the percent by which the revenue to the Motor Vehicle License Fee Account increased over the revenue for the previous fiscal year.
- (2) Each month the Controller shall allocate the remainder of the amount determined pursuant to this subdivision to counties and cities and counties, as follows: an amount for each county and city and county equal to the revenue received in the 1982–83 fiscal year pursuant to former Section 16111, subdivision (c) of former Section 16113, and former Section 16113.7 of the Government Code. These amounts shall be determined by the Controller with the concurrence

- of the Director of Finance. The Controller shall allocate any remaining amount determined pursuant to this subdivision to counties and cities and counties in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined pursuant to subdivision (d).
- (c) Fifty percent of the payments required by subdivision (a) shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the city. In the case of unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit.
- (d) Fifty percent of the payments required by subdivision (a) shall be paid to the counties and cities and counties of the state in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit. For the purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit, or as determined by Section 11005.6.
- (e) Money disbursed by the Controller to cities and counties pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.
- (f) Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made

and shall become effective on the first day of the month following receipt of the certification.

- SEC. 7. Section 11005.3 is added to the Revenue and Taxation Code, to read:
- 11005.3. (a) Notwithstanding subdivision (c) of Section 11005, in the case of a city which incorporated subsequent to the 1980 federal census, the Controller shall determine the population of the city by multiplying the number of registered voters in the city by three. On and after July 1, 1990, the Controller shall determine the population of the city pursuant to subdivision (c) of Section 11005.
- (b) This section shall become inoperative on June 30, 1990, and as of that date is repealed.
- SEC. 8. Section 11005.3 is added to the Revenue and Taxation Code, to read:
- 11005.3. (a) Notwithstanding subdivision (c) of Section 11005, in the case of a city which incorporated on or after January 1, 1987, the Controller shall determine the population of the city for its first three full fiscal years, and any portion of the first year in which the incorporation is effective if less than a full fiscal year, by multiplying the number of registered voters in the city by three. Thereafter, the Controller shall determine the population of the city pursuant to subdivision (c) of Section 11005.
  - (b) This section shall become operative July 1, 1990.
- SEC. 9. Section 11005.3 is added to the Revenue and Taxation Code, to read:
- 11005.3. (a) Notwithstanding subdivision (c) of Section 11005, in the case of a city which incorporated on or after January 1, 1987, the Controller shall determine the population of the city for its first eight full fiscal years, and any portion of the first year in which the incorporation is effective if less than a full fiscal year, by multiplying the number of registered voters in the city by three. Thereafter, the Controller shall determine the population of the city pursuant to subdivision (c) of Section 11005.
  - (b) This section shall become operative July 1, 1990.
- SEC. 10. 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 in the manner specified in Sections 11005 and 11005.3 of the Revenue and Taxation Code.

- SEC. 11. Section 9 of this act shall become operative only if Assembly Bill 3913 of the 1985–86 Regular Session of the Legislature becomes effective and operative on or before January 1, 1987, in which event Section 8 of this act shall not become operative.
- SEC. 12. 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 1243

An act to add and repeal Section 2423 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. (a) The Legislature hereby finds and declares as follows:

- (1) The current increase in truck accident rates has created great concern from the public, governmental agencies, the Legislature, and other entities interested in traffic safety.
- (2) There is continued disregard for safe, legal operation by some drivers of heavy commercial vehicles.
- (3) These drivers are able to use various methods of communication to provide a network affording evasion from apprehension for unsafe, illegal driving practices.
- (4) The Department of the California Highway Patrol, other than a limited air patrol operation, has no equal ability to combat professional evaders with respect to illegal driving of heavy commercial vehicles.
- (5) When a heavy commercial vehicle is involved in an accident with other vehicles, the potential for fatalities is increased dramatically.
- (6) This increased potential for fatalities in heavy commercial vehicle accidents needs special action to reduce the accident rate

and control illegal, unsafe driving practices.

- (b) It is, therefore, the intent of the Legislature in enacting this act to create a pilot program authorizing the use of special patrol vehicles by Highway Patrol officers in enforcing heavy commercial vehicle highway safety and in apprehending violators who drive those heavy commercial vehicles.
  - SEC. 2. Section 2423 is added to the Vehicle Code, to read:
- (a) The department shall conduct a pilot program involving its use of vehicles not readily identifiable as regular patrol vehicles, but which meet the identification requirements of Section 1141 of Title 13 of the California Administrative Code and exhibit the official insignia of the department, for the primary purpose of enforcement of highway safety violations by drivers, of vehicles described in subdivisions (a), (b), and (f) of Section 34500 and drivers of vehicles of more than 6,000 pounds unladen weight described in subdivision (g) of Section 34500 and the apprehension of those violators. For this purpose, the department may employ any existing unmarked vehicle which is determined to afford the highest likelihood of continued nonrecognition, and may periodically repaint or remark any vehicle so used for this purpose if the vehicle continues to meet the identification requirements of Section 1141 of Title 13 of the California Administrative Code and exhibits the insignia of the department. Vehicles authorized by this section shall be used primarily for purposes of this section.
- (b) The pilot program shall be limited to four of the eight department geographical divisions with not more than 15 vehicles assigned to the program, and shall utilize personnel already assigned for commercial vehicle enforcement purposes. Enforcement personnel participating in the pilot program shall wear the official uniform of the department.
- (c) The department shall prepare and submit to the Legislature on or before March 15, 1988, a report of its findings, conclusions, and recommendations concerning the pilot program.
  - (d) The report shall include, but not be limited to, the following:
- (1) The cost effectiveness of special commercial vehicle enforcement.
- (2) The impact on the commercial vehicle accident rate in the pilot program areas.
- (3) A comparison of program area citation and conviction activity with regular road enforcement citation and conviction activity.
- (4) The extent to which vehicles are used for purposes other than the primary purpose set forth in subdivision (a).
  - (5) Public acceptance.
- (6) Problems resulting from the use of specifically marked patrol vehicles.
- (e) This section shall remain in effect only until January 1, 1988, and as of that date is repealed unless a later enacted statute which is enacted before January 1, 1988, deletes or extends that date.

#### CHAPTER 1244

An act to amend Sections 309, 1174, 3246, 3291, 4043, 6656, 7706, 7855, 8254.7, 8306.7, and 15905 of the Fish and Game Code, relating to the Fish and Game Commission.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 309 of the Fish and Game Code is amended to read:

- 309. The commission or any person appointed by it to conduct a hearing may, in any investigation or hearing, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for deposition in civil actions in the superior courts of this state, and may compel the attendance of witnesses and the production of documents and papers. The commission shall adopt regulations which afford procedural and substantive due process to any person whose license or permit is subject to revocation or suspension. Except upon conviction of a violation of this code or a regulation adopted pursuant to this code relating to the licensed or permitted activity and notwithstanding any other provision of this code, the commission shall not revoke or suspend any license or permit until the regulations required by this section have been adopted and approved by the Office of Administrative Law pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- SEC. 2. Section 1174 of the Fish and Game Code is amended to read:
- 1174. Any permit granted by the commission pursuant to this article shall contain all of the following conditions:
- (a) If after a hearing the commission finds that the operation described in the permit and conducted pursuant to this article is not in the best public interest, the commission may alter the conditions of the permit to mitigate the adverse effects, or may cause an orderly termination of the operation under the permit. An orderly termination shall not exceed a three-year period and shall culminate in the revocation of the permit in its entirety.
- (b) If the commission finds that the operation has caused deterioration of the natural run of anadromous fish in the waters covered by the permit, it may require the permittee to return the fishery to the same condition as was prior to issuance of the permit. If the permittee fails to take appropriate action, the commission may direct the department to take the action, and the permittee shall bear any cost incurred by the department.
  - (c) Prior to release into state waters and at any other time

deemed necessary by the department, the fish may be examined by the department to determine that they are not diseased or infected with any disease which, in the opinion of the department, may be detrimental to the state fishery resources.

- SEC. 3. Section 3246 of the Fish and Game Code is amended to read:
- 3246. Any license issued under this article may be revoked by the commission at one of the commission's regularly scheduled meetings, or by a court of competent jurisdiction, upon the licensee's conviction of a violation of this code, and no new license may be issued to the licensee during the same license year.
- SEC. 4. Section 3291 of the Fish and Game Code is amended to read:
- 3291. If after a hearing the commission finds that there has been any fraud, misrepresentation, or lack of good faith in connection with a license issued pursuant to this article or any operations under it, the commission may revoke the license.
- SEC. 5. Section 4043 of the Fish and Game Code is amended to read:
- 4043. Any license issued under this chapter may be revoked by the commission at one of the commission's regularly scheduled meetings, upon the licensee's conviction of a violation of this article.

SEC. 6. Section 6656 of the Fish and Game Code is amended to read:

- 6656. The commission may revoke and prohibit reissuance for a period of not more than one year, the license of:
- (a) Any person who harvests any kelp from a bed which is closed, between the time of service of notice upon him or her of the closing of the bed and the decision of the commission upon a hearing as to the necessity for the closing.
- (b) Any person who violates any law or regulation of the commission relating to kelp.

The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

- SEC. 7. Section 7706 of the Fish and Game Code is amended to read:
- 7706. A written complaint may be made to the commission against any person who violates Section 7700 to 7705, inclusive, 7707, 7708, 8075 to 8080, inclusive, or 8153, or any regulation adopted thereunder, by any person having information or knowledge of the violation. If the person charged is found guilty of the offense charged, the commission may suspend, for a period not to exceed 90 days, any license issued by any state board or officer to that person to take, buy, sell, can, or preserve fish or fishery products. No other license shall be issued to that person during the period of suspension. The proceedings shall be conducted at one of the commission's regularly scheduled meetings.
- SEC. 8. Section 7855 of the Fish and Game Code is amended to read:

7855. The proceedings to revoke or suspend a commercial fishing license shall be conducted at one of the commission's regularly scheduled meetings.

SEC. 9. Section 8254.7 of the Fish and Game Code is amended to read:

8254.7. When a complaint has been filed in a court of competent jurisdiction charging a holder of a commercial lobster permit with a violation of Section 8251 or 8252, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the commercial lobster permit of the person. The permitholder whose permit was suspended under this section may, within 10 days after the receipt of the suspension notice from the department, request a hearing, and, within 20 days after the request has been made, a hearing shall be held by the commission. A decision shall be made within a reasonable time on whether the suspension of the permit shall be terminated or continued until the disposition of the complaint by the court. In determining whether to terminate or continue the suspension of the permit, the commission shall consider whether or not the violation could have a detrimental effect on the resources and whether or not a continued suspension of the permit is in the best public interest, and shall find whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred or a finding that there is insufficient evidence shall terminate the suspension of the permit under this section. If the permitholder is acquitted of the charges or the charges against him or her have been dismissed, any suspension of the permit is thereby terminated. No complaint shall be filed in a court charging a commercial lobster permitholder with a violation of Section 8251 or 8252 unless evidence supporting the charge has been reviewed by the appropriate county or city prosecuting agency and a criminal complaint has been issued by that agency.

SEC. 10. Section 8306.7 of the Fish and Game Code is amended to read:

8306.7. When a complaint has been filed in a court of competent jurisdiction charging a holder of a commercial abalone permit with a violation of Section 8300, 8301, or 8304, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the commercial abalone permit of that person. The permitholder whose permit was suspended under this section may, within 10 days after the receipt of the suspension notice from the department, request a hearing, and, within 20 days after that request has been made, a hearing shall be held by the commission. A decision shall be made within a reasonable time on whether the suspension of the permit shall be terminated or continued until the disposition of the complaint by the court. In determining whether to terminate or continue the suspension of the permit, the commission shall consider whether or not the violation could have a detrimental effect on the resources and whether or not

a continued suspension of the permit is in the best public interest, and shall find whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred or a finding there is insufficient evidence shall terminate the suspension of the permit under this section. If the permitholder is acquitted of the charges or the charges against him or her have been dismissed, any suspension of the permit is thereby terminated. No complaint shall be filed in a court charging a commercial abalone permitholder with a violation of Section 8300, 8301 or 8304, unless evidence supporting the charge has been reviewed by the appropriate county or city prosecuting agency and a criminal complaint has been issued by that agency.

SEC. 11. Section 15905 of the Fish and Game Code is amended to read:

15905. Any permit granted by the commission pursuant to this chapter shall contain all of the following conditions:

- (a) The department shall determine under what conditions and the number of fish to be permitted access to the stream above the hatchery site.
- (b) If, after a hearing, the commission finds that the operation described in the permit and conducted pursuant to this chapter is not in the best public interest, the commission may alter the conditions of the permit to mitigate the adverse effects, or may cause an orderly termination of the operation under the permit. Proceedings to cause the alteration or termination shall be conducted at one of the commission's regularly scheduled meetings. An orderly termination shall not exceed a three-year period and shall culminate in the revocation of the permit in its entirety. During this period, the permittee may continue to examine and take specified anadromous fish reared according to the provisions of the permit, but may not release additional fish.
- (c) If the commission finds that the operation has caused deterioration of the natural run of anadromous fish in the waters covered by the permit, it may require the permittee to return the fishery to the same condition as it was prior to issuance of the permit. If the permittee fails to take appropriate action, the commission may direct the department to take the action, and the permittee shall bear any cost incurred by the department.
- (d) Prior to release into state waters, the fish may be examined by the department to determine that they are not diseased or infected with any disease which, in the opinion of the department, may be detrimental to the state fishery resources.
- (e) The permittee has the right to divert all fish returning to the stream to an inspection area as authorized by the commission, and may examine all fish for the purpose of identifying those fish reared and released by the permittee.
- (f) No unmarked fish may be transported from the trapping facility other than to be returned to state waters.

## CHAPTER 1245

An act to amend Section 8610 of, and to add Section 7712 to, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 7712 is added to the Fish and Game Code, to read:

Where a fishery is closed or restricted due to the need to 7712. protect a fishery resource, marine mammals, or sea birds, or due to a conflict with other fisheries or uses of the marine environment, it shall be the policy of the department and the commission, consistent with budgetary and personnel considerations, to assist and foster the development of alternative fisheries or alternative fishing gear for those commercial fishermen affected by the restrictions, closures, or resource losses, including, but not limited to, the issuing of experimental gear permits pursuant to Section 8606 for alternative fishing methods or fishing gear within state waters and for fisheries for those species which are currently underutilized or for fisheries where there is a determination that a commercial harvest is biologically acceptable, and to give preference to commercial shellfish fishermen affected by resource losses to restore and rebuild shellfish resources. The department and commission shall make every effort, consistent with the department's existing budget and personnel resources, to provide observer coverage for alternative or experimental gear permits as required by the commission to provide a representative sample of the impacts that gear may have and its efficacy for use in California fisheries. Administrative procedures shall be expedited for the hiring or contracting for necessary observer personnel to carry out this policy. The commission shall not require complete, 100 percent, observer coverage by the department of the use of alternative fishing methods or fishing gear under an experimental gear permit issued pursuant to Section 8606 for the purpose of carrying out this section unless the reasons for the necessity for complete observer coverage are expressly found by the commission.

- SEC. 2. Section 8610 of the Fish and Game Code, as amended by Assembly Bill 3147 of the 1985–86 Regular Session, 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) which was not revoked or suspended, or for which a revocation or suspension was set aside, pursuant to subdivision (j).
- (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 ex vessel 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 subdivisions (g) or (l) unless the total number of special permits issued under subdivisions (g) and (l) is less than 135. The number of special permits issued under this subdivision and subdivision (l) 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 subdivisions (g) and (l) 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) (1) 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.
- (2) An order of revocation or suspension may be appealed by the permittee to the commission within 15 days of the department's order of suspension or revocation. The commission may set aside an order of revocation or suspension for a violation which is not the fault of the permittee for good cause shown. Upon request of the permittee, the commission may waive the landing requirements for renewal of the permit pursuant to subdivision (g) if it finds in the appeal proceeding that failure to meet the landing requirements was caused by the order of revocation or suspension set aside under this paragraph.
- (k) Any person denied a special permit pursuant to this section may appeal to the commission where evidence can be presented that illness or loss of vessel resulted in the person not meeting the qualifications for the special permit.
- (l) (1) Any prior special permittee, who is denied a special permit may appeal the denial to the commission, submitting evidence of the circumstances surrounding the cause or causes for the denial.
- (2) The appeal shall be filed with the commission within 15 days of a denial which occurs on or after February 1, 1987. An appeal of a denial which occurred before February 1, 1987, shall be filed with the commission on or before February 15, 1987. Any appeal filed before January 1, 1987, shall be deemed filed on January 1, 1987, in the order of their receipt.
- (3) For purposes of this subdivision, "prior special permittee" means a person who possessed a valid special permit to use set gill and trammel nets in District 10 or 17 or in that portion of District 18 north of a line extending due west magnetic from Pfeiffer Point in Monterey County, which permit was not revoked or suspended pursuant to subdivision (j).
- (4) If the commission determines that a special permit is to be issued to a prior special permittee under this subdivision and that determination is made on or before the fifth working day of May, a special permit shall be made available for issue to that prior special permittee upon payment of the fees therefore before any special permit is made available for issue pursuant to subdivision (h).
- (5) If the total number of special permits previously issued pursuant to subdivision (g) and this subdivision in the current permit year is 135 or more, no special permits shall thereafter be issued to

a prior special permittee under this subdivision until the total number of special permits previously issued under subdivision (g) and this section is less than 135.

(m) 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. 3. Section 2 of this act shall become operative only if Assembly Bill 3147 of the 1985–86 Regular Session is enacted and amends Section 8610 of the Fish and Game Code.

## CHAPTER 1246

An act to amend Section 1226 of the Health and Safety Code, relating to health.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Section 1226 of the Health and Safety Code is amended to read:

1226. The regulations shall prescribe the kinds of services which may be provided by clinics in each category of licensure and shall prescribe minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards for staffing with duly qualified personnel, and minimum standards for providing the services offered. These minimum standards shall be based on the type of facility, the needs of the patients served, and the types and levels of services provided.

The Office of Statewide Health Planning and Development, in consultation with the Community Clinics Advisory Committee, shall prescribe minimum construction standards of adequacy and safety for the physical plant of clinics and submit these standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and for publication in the State Building Standards Code.

The office of the State Fire Marshal shall prescribe minimum safety standards for fire and life safety in surgical clinics. The office of the State Fire Marshal, shall, by regulation, review and adopt minimum safety standards, consistent with the 1981 Life Safety Code or any subsequent issue of that code (National Fire Protection Association, Code 101), which shall be met as a condition of licensure for private facilities built after January 1, 1982, which are not licensed as surgical clinics on January 1, 1987, if licensure as a surgical clinic is sought on or after January 1, 1987. In addition, all surgical clinics shall meet minimum construction and exiting requirements as

adopted by regulation of the State Fire Marshal, unless exempted by the State Fire Marshal upon determination that a reasonable degree of fire and life safety is provided.

However, regulations adopted pursuant to this chapter establishing standards for laboratory services shall not be applicable to any clinic which operates a clinical laboratory licensed pursuant to Section 1265 of the Business and Professions Code.

SEC. 2. 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 1247

An act to add Chapter 8.5 (commencing with Section 4057) to Division 5 of the Health and Safety Code, relating to water treatment devices, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Chapter 8.5 (commencing with Section 4057) is added to Division 5 of the Health and Safety Code, to read:

#### CHAPTER 8.5. WATER TREATMENT DEVICES

- 4057. Unless the context otherwise requires, the following definitions shall govern construction of this chapter:
- (a) "Water treatment device" means any point of use or point of entry instrument or contrivance sold or offered for rental or lease for residential, commercial, or institutional use, and designed to be added to the plumbing system, or used without being connected to the plumbing of a water supply intended for human consumption in order to improve the water supply by any means, including, but not limited to, filtration, distillation, adsorption, ion exchange, reverse osmosis, or other treatment. "Water treatment device" does not include any device that is regulated pursuant to Chapter 7.5 (commencing with Section 4040).
- (b) "Department" means the State Department of Health Services.
- (c) "Person" means any individual, firm, corporation, or association, or any employee or agent thereof.
- 4057.1. (a) The department shall adopt regulations setting forth the criteria and procedures for certification of water treatment

devices that are claimed to affect the health or safety of drinking water. The regulations shall include appropriate testing protocols and procedures to determine the performance of water treatment devices in reducing specific contaminants from public or private domestic water supplies. The regulations may adopt, by reference, the testing procedures and standards of one or more independent testing organizations if the department determines that the procedures and standards are adequate to meet the requirements of this section. The regulations may specify any testing organization which the department has designated to conduct the testing of water treatment devices.

- (b) The regulations required by subdivision (a) shall include minimum standards for the following:
  - (1) Performance requirements.
  - (2) Types of tests to be performed.
  - (3) Types of allowable materials.
  - (4) Design and construction.
- (5) Instruction and information requirements, including operational, maintenance, replacement, and estimated cost of these items.
- (6) Any additional requirements, not inconsistent with this chapter, as may be necessary to carry out this chapter.
- (c) The department or any testing organization designated by the department pursuant to this section may agree to evaluate test data on a water treatment device offered by the manufacturer of the water treatment device, in lieu of the requirements of this section, if the department or the testing organization determines that the testing procedures and standards used to develop the data are adequate to meet the requirements of this section.
- 4057.2. (a) No water treatment device which makes product performance claims or product benefit claims that the device affects health or the safety of drinking water, shall be sold or otherwise distributed which has not been certified by the department or by another entity in accordance with subdivision (b). Water treatment devices not offered for sale or distribution based on claims of improvement in the healthfulness of drinking water need not be certified pursuant to this section.
- (b) The department may accept a water treatment device certification issued by an agency of another state, by an independent testing organization, or by the federal government in lieu of its own, if the department determines that certification program meets the requirements of this chapter.
- (c) A water treatment device initially installed prior to the operative date of this section shall not require certification pursuant to Section 4057.1.
- (d) Subdivisions (a), (b), and (c) shall become operative one year after the effective date of the regulations adopted pursuant to Section 4057.1. Regulations adopted pursuant to that section shall be transmitted to the Legislature upon adoption.

- 4057.3. (a) The department, or any local health officer with the concurrence of the department, shall enforce this chapter.
- (b) The department may suspend, revoke, or deny a certificate upon its determination of either of the following:
- (1) That the water treatment device does not perform in accordance with the claims made under the standard.
- (2) That the manufacturer, or any employee or agent thereof, has violated this chapter, any regulation adopted pursuant to this chapter, or Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.
- (c) Any person, corporation, firm, partnership, joint stock company, or any other association or organization that violates any provision of this chapter shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of the conduct is a separate and distinct violation. The civil penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.
- (d) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalties collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.
- (e) Unless otherwise provided, the remedies or penalties provided by this chapter are cumulative to each other and to remedies or penalties available under all other laws of this state.
- 4057.4. The department shall publish a list of water treatment devices certified under this chapter, including the specific standard under which the device is certified.
- 4057.5. The department shall charge and collect a fee for each certificate applied for which shall be an amount reasonably necessary to produce sufficient revenue to effectively implement this chapter.
- 4057.6. In developing regulations pursuant to this chapter, the department shall seek the consultation of representatives from the industry regulated under the chapter, from drinking water purveyors, and from persons with expertise and experience in promoting public health.
- 4057.7. There is in the State Treasury the Water Device Certification Special Account. Fees collected pursuant to Section 4057.5 shall be deposited in the account created by this section.
- 4057.8. The Director of Finance may authorize the department to borrow up to two hundred thousand dollars (\$200,000) for the purpose of implementing this chapter from any fund or account deemed appropriate by the Director of Finance. The department

shall repay the loan with interest to be determined in accordance with Section 16314 of the Government Code.

## CHAPTER 1248

An act to add Sections 8103 and 8692 to the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986]

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

SECTION 1. Section 8103 is added to the Fish and Game Code, to read:

8103. (a) The Legislature finds and declares as follows:

(1) The accidental death of a limited entry permittee results in great hardships on the permittee's family.

- (2) Under the law as it existed immediately prior to January 1, 1987, if a member of the permittee's family has not been actively working in the fishery, the limited entry permit could not be transferred to a member of the family, an action which deprives the family of the opportunity to continue to derive a livelihood from the fishery and which imposes greater hardships.
- (3) When there is an accidental death of a limited entry permittee, a transition period is necessary to allow a family member to join the fishery and to become acclimated, knowledgeable, and experienced in the fishery.
- (b) Notwithstanding Section 8102, the department shall transfer a permit for a limited entry fishery, upon application, to a parent, spouse, child, or sibling of a permittee whose death was the result of an accident which occurred after January 1, 1986.
- (c) Application for the transfer of a permit pursuant to subdivision (b) shall be made on or before January 1, 1987, or not more than one year after the death of the permittee, whichever is later.
- (d) The director may authorize another person, when requested by the new permittee, to serve in the place of the new permittee and to engage in fishing activities under the authority of the limited entry permit for not more than two years from the date of the permit transfer.
- SEC. 2. Section 8692 is added to the Fish and Game Code, to read: 8692. Notwithstanding Section 8693, it is unlawful to use gill nets to take rockfish or lingcod in the following waters:
- (a) Between a line running 240° magnetic from Santa Cruz Point and a line running 240° magnetic from Point Sur lighthouse in Monterey County in waters 100 fathoms or less in depth.
  - (b) Between a line running 240° magnetic from Point Sur

lighthouse and a line running 240° magnetic from Pfeiffer Point in Monterey County in waters 75 fathoms or less in depth.

- SEC. 3. The Department of Fish and Game shall report to the Legislature on the effect of the gill net closures on or before January 1, 1988, and annually thereafter, with a final report on or before January 1, 1992.
- 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 1249**

An act to add Section 50062.5 to, and to add Article 5.7 (commencing with Section 51215) to Chapter 5 of Part 3 of Division 31 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. The Legislature finds and declares that housing which is affordable, decent, safe, and sanitary is not available in adequate supply for elderly citizens. The elderly population in California has experienced dramatic growth during the past 15 years, and is projected to increase by 38 percent by the year 2000. The "old-old" or 85 plus segment of the elderly population has grown especially rapidly, increasing by 53 percent from 1970 to 1980.

The Legislature finds and declares that large numbers of elderly households have low incomes as evidenced by the fact that the median income of elderly households is 53 percent of the median income of all households in the state. Many elderly renters also pay excessive amounts of their income for housing. Over one-quarter of California's elderly households pay more than 50 percent of their income for housing.

The Legislature further finds and declares that there has been an escalating use of nursing homes to institutionalize elderly persons who need some level of supportive services to function independently. This is both extremely expensive and counterproductive to the enhancement of an elderly person's sense of self-worth and dignity.

The Legislature finds and declares that congregate housing which combines adequate shelter with appropriate social support services, can provide a cost-effective alternative to elderly persons who might otherwise be institutionalized or forced to live alone in an isolated environment. There is an inability of the private market to provide congregate housing which is affordable to the elderly population with low incomes and public programs to assist in the development of this kind of housing are almost nonexistent. Therefore, the Legislature finds and declares that it is to the economic benefit of the state and the well-being of the state's elderly citizens to encourage and facilitate the development of congregate housing for these persons.

SEC. 2. Section 50062.5 is added to the Health and Safety Code, to read:

50062.5. "Congregate housing for the elderly" means a housing development, as defined by Section 50073.5, which is planned, designed, and managed to include facilities and common space that allow for direct services and support services that maximize the residents' potential for independent living and which is occupied by elderly or handicapped persons or households, as defined in Sections 50067 and 50072. Direct services and support services which are provided or made available shall relate to the nutritional, social, recreational, housekeeping, and personal needs of the residents and shall be provided or made available at a level necessary to assist the residents to function independently.

"Direct services," as used in this section, means meals, housekeeping services, transportation services, and planned recreational and social activities which shall be provided to the residents directly by the management of the congregate housing.

"Support services," as used in this section, means social services, day-care services, and in-home services which the management of the congregate housing shall assist the residents in obtaining, at the request of the residents.

SEC. 3. Article 5.7 (commencing with Section 51215) is added to Chapter 5 of Part 3 of Division 31 of the Health and Safety Code, to read:

# Article 5.7. Elderly Congregate Housing

51215. The agency shall make loans to finance the construction or rehabilitation of congregate housing for the elderly in an aggregate amount of fifty million dollars (\$50,000,000). The loans shall be made from the proceeds of bonds authorized pursuant to subdivision (h) of Section 51350.

51216. An application by a housing sponsor for financing under this article shall include a plan for the provision of direct services, as defined by Section 50062.5, and for support services, as defined by Section 50062.5. The plan shall be reviewed by the local Adult Day Health Care Planning Council and the council shall provide written comments on the plan. Those comments shall, among other things, address the cost effectiveness and efficiency of the proposed development in utilizing community resources and shall be included

as part of the application for financing.

The agency shall review the applications, including the comments on the plan provided by the council, and shall grant priority for financing to those applications which demonstrate maximum cost effectiveness and efficiency in utilizing community resources, as determined by the agency.

51217. The management of congregate housing for the elderly shall, at the request of a majority of the residents, assist the residents in establishing and maintaining a resident-oriented council. The council shall be composed of residents of the congregate housing. The council may, among other things, make recommendations to the management of the congregate housing regarding services the residents receive for the purpose of improving the quality of daily living in the congregate housing.

51218. At the close of each fiscal year, commencing with the fiscal year ending June 30, 1988, the agency shall, as part of its annual report required to be prepared pursuant to Section 51005, report on its progress in implementing this article. The report shall contain a discussion of the affirmative steps the agency has taken to ensure that congregate housing for the elderly is developed. The report also shall contain recommendations for legislation or other actions which would assist the agency in implementing this article.

#### CHAPTER 1250

An act to amend Section 3704 of, to add and repeal Chapter 21.6 (commencing with Section 3770) of, and to add and repeal Chapter 10.1 (commencing with Section 10010) of, the Financial Code, relating to financial institutions, and making an appropriation therefor.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986.]

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

SECTION 1. 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 21.6 (commencing with Section 3770) is added to Division 1 of the Financial Code, to read:

## CHAPTER 21.6. FOREIGN REGIONAL BANK HOLDING COMPANIES

- 3770. This chapter shall be known and may be cited as the California Interstate (Regional) Banking Act of 1986.
- 3771. 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 Bank Holding Company Act of 1956, as amended (12 U.S.C. Sec. 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.
  - 3772. 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 3771.
- (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.
- 3773. On and after July 1, 1987, a foreign bank holding company whose operations are principally conducted in any of the states of Alaska, Arizona, Colorado, Hawaii, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, or Washington, and that is not controlled by any parent foreign bank holding company whose operations are not principally conducted in one of these states, may, with the prior approval of the superintendent and pursuant to 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 3774.
- (c) Merge or consolidate with any California bank or California bank holding company.

3774. 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.

3775. 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.

- 3776. (a) An application for approval of a transaction described in Section 3773 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 3773 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.

- 3777. 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 3773, 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.
- 3778. 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).
- 3779. (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 3773 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.
- 3780. 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.
- 3781. This chapter shall remain in effect until January 1, 1991, and as of that date is repealed.
- SEC. 3. Chapter 10.1 (commencing with Section 10010) is added to Division 2 of the Financial Code, to read:

# CHAPTER 10.1. FOREIGN (REGIONAL) SAVINGS COMPANIES

10010. 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.
- 10011. Subject to Section 10012, on and after July 1, 1987, a foreign savings company the home office of which is in any of the states of Alaska, Arizona, Colorado, Hawaii, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, or Washington, and which is not directly or indirectly controlled by a foreign holding company with its principal place of deposits located in a state outside one of those states, 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.
- 10012. 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.
- 10013. This chapter shall remain in effect until January 1, 1991, and as of that date is repealed.
- SEC. 4. Sections 1, 2, and 3, of this act shall become operative only if Assembly Bill 1492 of the 1985–86 Regular Session is enacted.

### CHAPTER 1251

An act to add Section 8574.6 to the Government Code, relating to oil, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986 ]

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

- SECTION 1. Section 8574.6 is added to the Government Code, to read:

- 8574.6. (a) The state agencies designated to implement the contingency plan specified in Section 8574.1, which form the State Interagency Oil Spill Committee, after consultation with federal and agencies responsible for offshore oil transport development, with local government officials in the Counties of San Diego, Orange, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, San Mateo, Marin, Sonoma, Mendocino, Humboldt, and Del Norte and the City and County of San Francisco, with the owners and operators of vessels transporting bulk petroleum or bulk petroleum products in state waters, with the owners and operators of offshore oil production facilities who transport oil in state waters through pipelines or vessels, with cooperatives and contractors involved in hazardous material spill containment and cleanup, and with oil rig and marine salvage and firefighting contractors, shall jointly report to the Legislature, on or before March 31, 1987. This report shall include consideration of all the California coastline, including bays and estuaries. The report shall consider all of the following:
- (1) The adequacy of marine salvage, towing, and firefighting capability needed for ships and barges carrying bulk petroleum products and bulk hazardous materials, pipelines, offshore oil exploration and production platforms, refineries, marine terminals handling bulk petroleum or bulk hazardous materials, and tank forms
- (2) The adequacy of pollution containment and cleanup capability, including, but not limited to, dispersant application, oil skimming, storage of skimmed oil, and deployment of surface drifter buoys to identify oil spill trajectory.
- (3) Actions recommended by the state agencies to remedy any deficiency in capability identified in paragraphs (1) and (2).
- (4) An evaluation, and recommendations, on the best way to conduct initial and ongoing contingency planning and emergency response training for state and local agencies for vessel and pipeline oil spills and offshore or onshore facilities explosions and fires.
- (b) The Chairperson of the State Interagency Oil Spill Committee shall enter into a contract with one or more individuals or firms, for a fee which shall not exceed one hundred fifty thousand dollars

- (\$150,000), for preparation of the report specified in subdivision (a). The contractor shall prepare the report in consultation with a task force with representatives from, but not limited to, those entities specified in subdivision (a) and appropriate federal agencies and shall use relevant studies conducted under the auspices of the National Academy of Sciences and the National Science Foundation, and other federal agencies, and shall examine all other relevant literature. The contractor shall have the following qualifications:
- (1) At least 30 years' experience in large pollution incidents involving liquids, pressurized gas, and other petroleum products and bulk hazardous materials onshore and in sea conditions comparable to those found off the central and northern California coasts.
- (2) Be a salvage expert who has a minimum of 10 years' experience in the salvage of commercial vessels and oil rigs and who is acceptable to the London salvage underwriters, as determined by the state agencies specified in this subdivision.
- (3) At least 30 years of experience in extinguishing oil well fires and blowouts, storage tank fires of 140 feet diameter or greater, and barge and commercial shipboard fires.
- (c) Following issuance of the report specified in subdivision (a), and in accordance with guidelines jointly issued by the state agencies designated to implement the contingency plan specified in Section 8574.1, and in cooperation with the Office of Emergency Services, all owners and operators of vessels transporting bulk petroleum or bulk petroleum products in state waters, all owners and operators of vessels carrying bulk hazardous materials, owners and operators of oil refineries, marine terminals handling bulk petroleum or bulk hazardous materials, and tank farms, and all owners and operators of offshore oil production facilities who transport oil in state waters through pipelines or vessels, shall individually, or jointly, prepare contingency plans and shall provide emergency response training for their personnel, regarding vessel and pipeline oil spills and offshore or onshore facilities explosions and fires which may cause oil or hazardous materials to enter into coastal waters, bays, estuaries, coastal lagoons, or territorial marine waters.
- (d) All owners and operators of vessels transporting bulk petroleum or bulk petroleum products and those owners and operators of vessels carrying bulk hazardous materials, owners and operators of oil refineries, marine terminals handling bulk petroleum or bulk hazardous materials, and tank farms, and all owners and operators of offshore oil production facilities who transport oil in state waters through pipelines or vessels, individually or jointly, shall contribute matching funds not to exceed seventy-five thousand dollars (\$75,000) to provide 50 percent funding for the report specified in subdivision (a). If the owners and operators specified in this subdivision do not voluntarily contribute the matching funds to pay for the cost of the report, the Chairperson of the State Interagency Oil Spill Committee shall impose a fee related to the quantity of these commodities transported in state waters on these

owners and operators and any other equitable factor determined by the state agencies which form the State Interagency Oil Spill Committee. This fee shall be imposed solely for the purpose of funding the report specified in subdivision (a) and shall be discontinued upon satisfaction of the contribution limit.

- SEC. 2. (a) The sum of seventy-five thousand dollars (\$75,000) is hereby appropriated from the California Environmental License Plate Fund to the Controller for allocation to state agencies to prepare the report required by subdivision (a) of Section 8574.6 of the Government Code.
- (b) Any funds which are voluntarily contributed by private persons, as matching funds, to pay for the cost of preparing the report specified in subdivision (a) of Section 8574.6 of the Government Code shall be deposited in a separate account in the Fish and Game Preservation Fund and are hereby appropriated for purposes of paying the cost of preparing that report.
- (c) The Department of Fish and Game shall establish one new position to implement Section 8574.6 of the Government Code and to oversee the contracts entered into pursuant to Section 7 of Chapter 1429 of the Statutes of 1985. The department shall finance the position required by this subdivision from the appropriation made to the department by paragraph (2) of subdivision (a) of Section 7 of Chapter 1429 of the Statutes of 1985.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the completion of the report required by Section 8574.6 of the Government Code by March 31, 1987, it is necessary that this act take effect immediately.

## CHAPTER 1252

An act to amend Section 1568.12 of the Health and Safety Code, relating to aging.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. Section 1568.12 of the Health and Safety Code is amended to read:

1568.12. The following powers and duties are hereby vested in the department:

(a) The department shall supervise three-year pilot projects, commencing with the 1985–86 fiscal year, in specialized day care resource centers for participants developed pursuant to this chapter.

- (b) (1) The state department shall conduct a grants-in-aid program, subject to the funds appropriated, for that purpose.
- (2) The maximum award by the state department to any grantee shall be sixty thousand dollars (\$60,000) per year, and a grantee shall be required to match not less than 25 percent of the amount granted. The use of the grants shall be limited to the expenses of administration, staffing, operating expenses, such as rent and utilities, equipment, and required renovation expenses.
- (3) The matching contribution of the grantee may include cash or in-kind contributions, and the in-kind contribution may include the value of staffing or volunteer services, or both.
- (4) Grants shall be awarded in different geographical areas of the state. Grantees shall include at least one urban and one rural center, with representation from the north, south, and central regions of the state.
- (c) The department shall adopt policies, priorities, and guidelines to carry out the purposes of this chapter, and the adoption thereof shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (d) The department shall establish an advisory committee to make recommendations in the selection of grantees. The committee membership shall include, but not be limited to, all of the following:
  - (1) A representative from the California Commission on Aging.
- (2) A representative from the State Department of Mental Health.
- (3) A representative from the State Department of Social Services.
  - (4) A representative from the department.
- (5) One or more professional persons in the field of community-based health care for the elderly.
- (6) One or more family members of participants or persons eligible to be participants.
- (7) Representatives of appropriate units of the State Department of Health Services.
- (e) If a program contract review committee is established under Section 9314 of the Welfare and Institutions Code, pursuant to the enactment of AB 2226 during the 1983–84 Regular Session, the program contract review committee established pursuant to Section 9314 of the Welfare and Institutions Code shall satisfy the requirements of a committee to review grantees under subdivision (d), with the addition of family members of participants or eligible participants and representatives from nonprofit organizations and professionals with expertise in Alzheimer's and related diseases, as designated by the director of the department.

Subject to funds appropriated for that purpose, the department shall allocate the funds necessary to continue operation of the Alzheimer's day care resource centers, administered pursuant to this part, during the 1987–88 fiscal year.

## CHAPTER 1253

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

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. The sum of seven hundred thousand dollars (\$700,000) is hereby appropriated from the State Highway Account in the State Transportation Fund to the Department of Transportation for expenditure during the 1986–87 fiscal year for purposes of highway maintenance.

The moneys appropriated by this act shall be deposited in a contingency account to be used by the department for snow removal after other funds available for that purpose have been expended. If any part of the funds appropriated by this act have not been expended for snow removal purposes by May 1, 1987, it shall revert to the State Highway Account.

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 there will be adequate personnel for snow removal operations on state highways in mountain areas during the 1986–87 winter season and to keep those highways open and safe, it is necessary that this act take effect immediately.

#### CHAPTER 1254

An act to add Chapter 5 (commencing with Section 16640) to Part 2 of Division 4 of Title 2 of the Government Code, relating to investments.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 26, 1986 ]

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

SECTION 1. The Legislature hereby finds and declares that:

(a) The Country of South Africa is the only political system on this planet which constitutionally enshrines a political system whereby a small minority of the population has the power and authority to separate, discriminate against, and deny fundamental political, social, and economic rights to, 83 percent of its population solely on

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the basis of race.

- (b) The policy of apartheid restricts the freedom of speech and the freedom of movement of black and colored persons in South Africa, and relegates 83 percent of that nation's population to 13 percent of that nation's land area.
- (c) This system of apartheid is contrary to the basic religious and political assumptions underlying our nation which hold that all people are created equal with the inalienable right to life, liberty, and the pursuit of happiness. The present struggle by blacks and other members of the majority population echoes the call of our Declaration of Independence which recognized the right of an oppressed people to alter or abolish any form of government which becomes destructive to securing these rights.
- (d) The United States of America has rejected the separate and unequal treatment of its citizens on the basis of race as ethically immoral and politically indefensible.
- (e) Californians of all races, creeds, and religions regard the policies and practices of apartheid in South Africa, as they do repressive policies and practices in other countries, as repugnant to the principles of individual liberty, social justice, and political and social enfranchisement, which are fundamental to free societies everywhere. The opposition of Californians to apartheid reflects the deep and long-standing opposition of the American people to inequality and injustice wherever it may be found.
- (f) There has been continued unrest and mounting protests against the policy of apartheid in South Africa, which the South African government has responded to with force.
- (g) The rapidly deteriorating political climate in South Africa has and will continue to have an adverse impact on South Africa's economic climate, and on American corporations doing business in South Africa or with the government of South Africa. Investment and trade restrictions imposed by national governments, as well as divestment actions of state and local governmental entities and private investment managers are likely to exercise negative effects on the value of corporate holdings in South Africa, and on the overall value of securities issued by corporations and financial institutions doing business in South Africa or with the government of South Africa.
- (h) The investment of California trust funds and state moneys in business firms and financial institutions with close ties to South Africa is both fiscally imprudent, given the political and economic instability of South Africa, and inconsistent with the moral and political values of the people of California.
- (i) Restrictions on the investment of California trust funds in business firms and financial institutions with operations in South Africa will help to minimize the risk of loss created by the political instability of South Africa. Alternative investments with comparable rates of return are available, and divestment of existing stock and bond holdings can be accomplished in a reasonable and prudent

manner, consistent with Section 17 of Article XVI of the California Constitution.

- (j) The Legislature does not intend to affect existing bank loans to the government of South Africa or its instrumentalities.
- SEC. 2. Chapter 5 (commencing with Section 16640) is added to Part 2 of Division 4 of Title 2 of the Government Code, to read:

#### CHAPTER 5. PROHIBITED INVESTMENTS

- 16640. The definitions in this section shall govern the construction and interpretation of this chapter.
- (a) "Investment" or "invest" means the commitment of funds or other assets to a business firm, including a loan or other extension of credit made to that firm, or security given for the other assets to that business enterprise, or the beneficial ownership or control of a share or interest in that business firm, or of a bond or other debt instrument issued by that business firm.
- (b) "Business firm" means any organization, association, corporation, partnership, venture, or other entity, its subsidiary, or affiliate which exists for profitmaking purposes or to otherwise secure economic advantage.
- (c) "Financial institution" means any bank holding company, savings and loan association, or credit union licensed by this state or any agency of the United States government, or any insurance company, brokerage firm, securities firm, investment company, mortgage banking company, finance company, personal property broker, mortgage loan broker, or consumer credit company licensed to do business in this state, or any affiliate or subsidiary thereof.
- (d) "Business operations" means the maintenance of equipment, facilities, personnel, or any other apparatus of business or commerce, including the ownership or possession of real or personal property located in South Africa.
- (e) "Business arrangements" means projects, ventures, undertakings, contractual relations, or other efforts requiring ongoing or periodic performance by either or both parties.
- (f) "South Africa" means the Republic of South Africa, any territory under the administration, legal or illegal, of South Africa; and the "bantustans" or "homelands".
- (g) "Government of South Africa" means the government of the Republic of South Africa or its instrumentalities.
- (h) "South African corporation" means any South African business firm that is headquartered in the Republic of South Africa, or, whose operations are principally conducted in, or that is ultimately controlled by a business entity organized under the laws of, the Republic of South Africa.
- (i) "State trust moneys" means funds administered by the Public Employees' Retirement Fund, the Legislators' Retirement Fund, the State Teachers' Retirement Fund, the Judges' Retirement Fund, the Volunteer Firefighter Fund, the General Fund portion of the

University of California Retirement Fund, and any funds invested pursuant to this part.

- (j) "State trust fund" means the Public Employees' Retirement Fund, the Legislators' Retirement Fund, the State Teachers' Retirement Fund, the Judges' Retirement Fund, the Volunteer Firefighter Fund, and any investment fund created by this part.
- (k) "State moneys" means all money, bonds, and securities in possession of or collected by any state agency.
- 16641. On or after January 1, 1987, state trust moneys shall not be used to make additional or new investments or to renew existing investments in business firms that have business operations in South Africa, or business arrangements with the government of South Africa.
- 16641.5. Section 16641 shall not apply to any business firm which, by resolution of its governing body, adopts a policy not to expand existing, or establish new business operations in South Africa, or to renew existing business arrangements, or make additional or new business arrangements with the government of South Africa.
- 16642. On or after January 1, 1987, state trust moneys shall not be used to make additional or new investments in financial institutions that make loans to any South African corporation, or with the government of South Africa.
- 16642.5. Section 16642 shall not apply to any financial institution which, by resolution of its governing body, adopts a policy not to renew existing loans, if any, and not to make any additional or new loans to any South African corporation or to the government of South Africa.
- 16642.7. Section 16642 shall not apply to any financial institution which renews existing loans or makes additional or new loans to any South African corporation or to the government of South Africa only to the extent necessary or appropriate to facilitate repayment of loans or other credits committed or provided before January 1, 1987.
- 16643. (a) A copy of a resolution, as described in Section 16641.5 and 16642.5, shall be submitted to the Treasurer and to the chief administrative officer of each state trust fund. Information shall also be submitted by business firms which provides a description of the business agreements and arrangements in existence in South Africa or with the government of South Africa as of the date of the resolution.
- (b) The copy of a resolution shall be accompanied by a certification, under penalty of perjury, that the adopted policy is being complied with. Annually thereafter a certification, under penalty of perjury, that the adopted policy is being complied with shall be submitted to the Treasurer.
- (c) The resolution and the information submitted to the Treasurer shall be deemed public documents and shall be open to public inspection.
- 16644. Beginning January 1, 1988, and continuing thereafter until January 1, 1991, state trust funds shall annually reduce by one-third

the value of their respective investments in business firms with business operations in South Africa or business arrangements with the government of South Africa, and in financial institutions making or increasing loans or other extensions of credit to the government of South Africa or any South African corporation.

16645. Effective January 1, 1991, state trust funds shall not make or hold any investment in any business firm with business operations in South Africa or business arrangements with the government of South Africa, or in any financial institution making or increasing loans or other extensions of credit to the government of South Africa or any South African corporation.

16646. State moneys shall not be deposited with financial institutions that, following January 1, 1987, make or increase loans or other extensions of credit, or provide funds for the purpose of making or increasing loans or other extensions of credit, to the government of South Africa.

16647. The prohibitions contained in Sections 16642, 16644, 16645, and 16646, shall not apply to any loan or extension of credit for which an agreement is entered into before the date of enactment of this chapter.

16648. As long as a state trust fund continues to hold investments in a business firm or financial institution of the type described in Section 16644, the governing board or state agency administering the state trust fund shall file a report with the Governor and the Legislature by January 31 of each year. The report shall describe all of the following:

- (a) The issuer, by name, of the stock, bonds, securities, and other evidence of indebtedness.
  - (b) The book value of the investment.
  - (c) The amount, yield, and maturity date of any investment.
- (d) The business operations of the firm in South Africa and any business arrangements made by the firm in South Africa, or with the government of South Africa.

16649. Present, future, and former members of the governing board of any trust fund, jointly and individually, state officers and employees, and investment managers under contract with the state shall be indemnified from the General Fund by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict; reduce, or eliminate investments in business firms with business operations in South Africa or business arrangements with the government of South Africa or investments in financial institutions extending credit to the government of South Africa or South African corporations.

16650. Present, future, and former Regents of the University of

California, jointly and individually, officers and employees of the University of California, and investment managers under contract with the University of California shall be indemnified from the General Fund by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney's fees and against all liability, losses, and damages of any nature whatsoever that these present, future, or former regents, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate university investments in business firms with business operations in South Africa or business arrangements with the government of South Africa or investments in financial institutions extending credit to the government of South Africa or South African corporations.

SEC. 3. 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 1255**

An act to add Article 4 (commencing with Section 8276) to Chapter 7 of Division 4 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 26, 1986.]

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

SECTION 1. Article 4 (commencing with Section 8276) is added to Chapter 7 of Division 4 of the Public Utilities Code, to read:

#### Article 4. Retirement Fund Investment Losses

8276. The commission shall prohibit any public utility that has any retirement funds invested in the government of South Africa, Libya, or Namibia, or in any corporation based in those countries, from including in its plant operating budget any losses incurred as a result of those investments.

8277. The commission shall require every public utility to provide the commission with a list of its retirement fund investments in the government of South Africa, Libya, or Namibia, or in any corporation based in those countries.

8278. The commission shall verify the accuracy of the information provided pursuant to Section 8277, and shall disallow any losses incurred as a result of investments in the government of South

Africa, Libya, or Namibia, or in any corporation based in those countries, in establishing rates for the public utility.

8279. This article does not prevent the commission from applying this article to public utility retirement fund investments in other countries such as, but not limited to, South Africa, Libya, and Namibia, if comparable conditions warrant that application.

#### CHAPTER 1256

An act to add Chapter 9.7 (commencing with Section 8790) of Division 1 of Title 2 of the Government Code, relating to the California Collider Commission.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Chapter 9.7 (commencing with Section 8790) is added to Division 1 of Title 2 of the Government Code, to read:

#### CHAPTER 9.7. CALIFORNIA COLLIDER COMMISSION

8790. The Legislature finds and declares that it is to the advantage of the people of the State of California that the particle accelerator known as the Superconducting Super Collider, which the United States Department of Energy is planning to build, be built in California.

It is the intent of the Legislature to create a commission to represent the state before the Department of Energy and to take any action needed to support a proposal to build the Superconducting Super Collider in the state.

- 8790.1. (a) There is created in the state government the California Collider Commission.
- (b) The commission shall consist of the following six members: the Governor, the Lieutenant Governor, the Treasurer, the President of the University of California, who shall serve as chairperson of the commission, the Director of Finance, and the Secretary of the Business, Transportation and Housing Agency. A designee of a commission member may serve on behalf of the member he or she represents at commission meetings.

The services of the President of the University of California as a member and chairperson of the commission shall be subject to approval by the Regents of the University of California.

8790.2. The California Collider Commission is created for the following purposes:

(a) To act as an agent of the State of California in presenting a site proposal for the Superconducting Super Collider to the federal Department of Energy.

- (b) To represent the state in matters concerning the Superconducting Super Collider before the legislative and executive branches of the federal government, and the public.
- (c) To represent the state in negotiations with the United States Department of Energy regarding the Superconducting Super Collider.
  - (d) To develop and implement both of the following:
- (1) Plans for financing state participation in the Superconducting Super Collider project.
- (2) Proposals for financing alternatives that are advantageous to the federal government.
- (e) To select a construction consultant to prepare construction schedules and cost estimates for the conventional facilities of the Superconducting Super Collider.
- 8790.3. The California Collider Commission is authorized to do all of the following:
  - (a) Hold public meetings.
- (b) Contract through the University of California for research and services.
- (c) Accept funds or assistance from public agencies, private foundations, or individuals.
- (d) Form committees or working groups, as appropriate for the performance of its responsibilities.
- 8790.4. Subject to approval by the Regents of the University of California, the University of California, from the funds appropriated to it specifically for the purpose of supporting the effort to locate the Superconducting Super Collider in California, shall provide staffing and other services for the commission, as required.
- 8790.5. The Executive Steering Committee on the Superconducting Super Collider, established pursuant to ACR 89, shall serve as an advisory body to the California Collider Commission and shall advise the commission of both of the following:
- (a) All efforts necessary to attract the Superconducting Super Collider to California, including, but not limited to, research, preparation and submission of reports, and education of the public.
- (b) The site or sites in California which should be proposed to the United States Department of Energy for locating the Superconducting Super Collider in California.
- SEC. 2. Section 8790.5 of the Education Code, as added by this bill, shall become operative only if this bill and ACR 89 are both chaptered and become operative on or before January 1, 1987.

# CHAPTER 1257

An act relating to educational facilities, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. The Lodi Unified School District may lease residential houses constructed after January 1, 1978, to house elementary school pupils, until June 30, 1989, if the facilities meet all applicable provisions of state and local building standards for residential houses existing at the time of construction of the houses. Residential houses meeting these requirements shall be exempt from Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code, notwithstanding Article 7 (commencing with Section 39240) of Chapter 2 of Part 23 of the Education Code, that temporary use buildings that are leased for a total time in excess of three years are subject to Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code. This section shall remain in effect only until July 1, 1989, and is repealed on January 1, 1990, unless a later enacted statute chaptered prior to July 1, 1989, deletes or extends that date.

- SEC. 2. Due to the unique circumstances concerning the school facilities in the Lodi Unified School District and the Douglas City School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.
- SEC. 3. (a) The Legislature finds and declares that the former Douglas City Elementary School is the original elementary school located on the same campus as the existing Douglas City Elementary School consisting of one room built in 1940 and that the former Douglas City Elementary School has been used for storage since new school facilities were acquired in 1976.

The Legislature further finds and declares that the Board of Trustees of the Douglas City School District has made application to the state and received Phase I approval for the construction of building facilities, including two classrooms and related facilities, under the Leroy Greene Lease-Purchase Act of 1976. Because of the continued student population growth in the Douglas City School District, it has become necessary to utilize the former Douglas City Elementary School as a teaching station while the new facilities are being constructed.

(b) Notwithstanding Section 39227 of the Education Code, the governing board of the Douglas City School District may use facilities

known as the former Douglas City Elementary School. During the period of use authorized by this section, the building and related facilities shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

The liability of the Douglas City School District and the members of its governing board for a dangerous condition in the former Douglas City Elementary School during the period of use authorized by this section shall be determined by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

This section shall remain in effect only until June 30, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1988, deletes or extends that date.

SEC. 4. Notwithstanding any law or regulation to the contrary, the Palo Verde Community College District may lease a portion of the Palo Verde Community College designated for a new child care development center, so long as the district can demonstrate it is paying the fair market rental rate for the rented property.

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 Lodi Unified School District receive immediate authorization to continue using residential facilities to house elementary school pupils, in order that the Douglas City School District house pupils while new facilities are being constructed, and in order that the Palo Verde Community College District may receive immediate authorization to lease a portion of the Palo Verde Community College designated for a new child care development center, it is necessary that this act take effect immediately.

#### CHAPTER 1258

An act to amend Section 39619.3 of the Education Code, relating to school districts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 39619.3 of the Education Code is amended to read:

39619.3. Notwithstanding any limitations imposed as a result of actions taken by the State Allocation Board pursuant to Section 39363, a school district shall be eligible to receive an apportionment pursuant to subdivision (b) of Section 39619, if it meets all of the

following criteria:

- (a) There are excess revenues that resulted from the sale of surplus sites upon which there was no encumbrance to the board.
- (b) The Superintendent of Public Instruction has verified all of the following:
- (1) The district had a fiscal emergency in fiscal year 1984-85 or 1985-86 fiscal year.
- (2) The fiscal emergency was caused primarily by required expenditures.
- (3) The district has taken reasonable steps to address the fiscal emergency.
- SEC. 2. The State Allocation Board shall waive the deferred maintenance requirement of Section 39363 of the Education Code for the Berkeley Unified School District if the district sells surplus property as part of the district's plan to repay an emergency apportionment pursuant to Sections 39619.3 and 41320. This waiver provision shall remain in effect until July 1, 1989. The State Allocation Board shall not grant a waiver until the board receives a statement from the Superintendent of Public Instruction and the trustee appointed pursuant to Section 4 of this act, that the Berkeley Unified School District complied with Sections 39295 to 39299, inclusive, of the Education Code regarding the declaration and sale of surplus properties.
- SEC. 3. (a) The sum of three million dollars (\$3,000,000) is hereby appropriated from the General Fund to Section A of the State School Fund for emergency apportionment to the Berkeley Unified School District, pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of the Education Code, for its expenditure obligations for the 1985–86 fiscal year. These funds shall not be apportioned unless and until the Superintendent of Public Instruction approves the district's repayment plan.
- (b) Repayment of this apportionment pursuant to Section 41323 of the Education Code shall commence as soon as possible after the Superintendent of Public Instruction approves the repayment plan, but no later than July 1, 1987.
- SEC. 4. As a condition on the receipt by the Berkeley Unified School District of any emergency apportionment funds pursuant to Section 3, in addition to complying with Article 2 (commencing with Section 41320) of Chapter 3 of the Education Code, all of the following conditions shall apply:
- (a) The Superintendent of Public Instruction shall appoint a trustee having recognized expertise in education, management, and finance, and who shall be bonded. The costs of the trustee and of the bonding shall be borne by the district. The Superintendent of Public Instruction shall establish the terms and conditions of employment, and the remuneration of, the trustee, who shall serve at the pleasure of, and report directly to, the superintendent. The trustee shall be discharged at the time the total apportionment made under Section 3 of this act is repaid, including interest.

- (b) The trustee shall monitor and review the operation of the district. During the period of his or her service, the trustee may stay or rescind any action of the school district governing board that, in the judgment of the trustee, may affect the financial condition of the district. The trustee shall approve or reject all reports and other materials required from the district pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of the Education Code. The Superintendent of Public Instruction, upon the recommendation of the trustee, may reduce any apportionment to the district in an amount of up to one thousand dollars (\$1,000) per day for each late or unacceptable report or other material required under Part 24 (commencing with Section 41000) of the Education Code, and shall report to the Legislature any failure of the district to comply with the requirements of this section.
- (c) For the 1986-87 fiscal year and each fiscal year thereafter, the Controller shall conduct an audit of the books and accounts of the district, as provided by Section 41020 of the Education Code. Any audit conducted under this subdivision for the preceding fiscal year shall be deemed by the Superintendent of Public Instruction to fulfill the requirement for an audit for that fiscal year described in Section 41020 of the Education Code. The costs of these services shall be borne by the district, in an amount not to exceed the salary expense of two temporary full-time employees assigned to this purpose. The Department of Finance shall approve the addition of two temporary full-time positions funded through reimbursement by the local school district for the purpose of completing these audits. These audits shall be required until the Controller determines, in consultation with the Superintendent of Public Instruction, that the district has not deviated from the financial plan approved under Section 41320 of the Education Code and that the district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made under Section 3 is repaid, including interest.
- (d) The county superintendent of schools in which the district is situated shall provide any information and other assistance that the Superintendent of Public Instruction may require in this respect until the apportionment made under Section 3 is repaid, including interest.
- (e) The district shall develop and the State Superintendent of Public Instruction shall approve an educational plan, which includes, but is not necessarily limited to, details on how educational programs, personnel, facilities, and other programs will be affected by each fiscal plan.
- SEC. 5. Due to the unique circumstances concerning the Berkeley Unified School District, including the difficulties resulting from past fiscal management practices and the critical need to ensure the financial recovery of the district, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

- SEC. 6. 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 the Berkeley Unified School District which is faced with a verified fiscal emergency with operating funds at the earliest possible date, thus avoiding potential school closures, it is necessary that this act take effect immediately.

#### CHAPTER 1259

An act to add Article 5 (commencing with Section 8281) to Chapter 7 of Division 4 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. Article 5 (commencing with Section 8281) is added to Chapter 7 of Division 4 of the Public Utilities Code, to read:

# Article 5. Women and Minority Business Enterprises

8281: (a) The Legislature hereby finds and declares that the essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, reasonable and just prices, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of that competition is basic to the economic well-being of this state and that well-being cannot be realized unless the actual and potential capacity of women and minority business enterprises is encouraged and developed. Therefore, it is the declared policy of the state to aid the interests of women and minority business enterprises in order to preserve reasonable and just prices and a free competitive enterprise; to ensure that a fair proportion of the total purchases and contracts or subcontracts for commodities, supplies, technology, property, and services for regulated utilities are awarded to women and minority business enterprises, and to maintain and strengthen

the overall economy of the state.

- (b) (1) The Legislature finds all of the following:
- (A) The opportunity for full participation in our free enterprise system by women and minority business enterprises is essential if this state is to attain social and economic equality for those businesses and improve the functioning of the state economy.
- (B) Public agencies which have established short- and long-range women and minority business enterprise goals are awarding 30 percent or more of their contracts to these business enterprises.
- (C) Women and minority business enterprises have traditionally received less than a proportionate share of regulated public utility procurement contracts.
- (D) It is in the state's interest to expeditiously improve the economically disadvantaged position of women and minority business enterprises.
- (E) The position of these businesses can be improved by providing long-range substantial goals for procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construction work from women and minority businesses.
- (F) That procurement also benefits the public utilities and consumers of the state by encouraging the expansion of the number of suppliers for procurements, thereby encouraging competition among the suppliers and promoting economic efficiency in the process.
  - (2) It is the purpose of this article to do all of the following:
- (A) Encourage greater economic opportunity for women and minority business enterprises.
- (B) Promote competition among regulated public utility suppliers in order to enhance economic efficiency in the procurement of electric, gas, and telephone corporation contracts and contracts of their commission-regulated subsidiaries and affiliates.
- (C) Clarify and expand the program for the procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construction work from women and minority business enterprises.
- 8282. For the purposes of this article, the following definitions apply:
- (a) "Women-owned business" means a business enterprise that is at least 51 percent owned by a woman or women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more of those individuals.
- (b) "Minority-owned business" means a business enterprise that is at least 51 percent owned by a minority group or groups; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority groups, and whose

management and daily business operations are controlled by one or more of those individuals. The contracting utility shall presume that minority includes Black Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans.

- (c) "Control" means exercising the power to make policy decisions.
- (d) "Operate" means being actively involved in the day-to-day management and not merely officers or directors.
- 8283. (a) The commission shall require each electric, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars (\$25,000,000) and their commission-regulated subsidiaries and affiliates, to submit annually, a detailed and verifiable plan for increasing women and minority business enterprise procurement in all categories.
- (b) These annual plans shall include short- and long-term goals and timetables, but not quotas, and shall include methods for encouraging both prime contractors and grantees to engage women and minority business enterprises in subcontracts in all categories which provide subcontracting opportunities.
- (c) The commission shall establish guidelines for all electric, gas, and telephone corporations with gross annual revenues exceeding twenty-five million dollars (\$25,000,000) and their commission-regulated subsidiaries and affiliates, to be utilized in establishing programs pursuant to this article.
- (d) Every electric, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars (\$25,000,000) shall furnish an annual report to the commission regarding the implementation of programs established pursuant to this article in such form as the commission shall require, and at such time as the commission shall annually designate.
- (e) The commission shall provide an annual report to the Legislature beginning in January 1988, on the progress of activities undertaken by each electric, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars (\$25,000,000) pursuant to this article in the implementation of women and minority business enterprise development programs. The commission shall recommend a program for carrying out the policy declared in this article, together with such recommendations for legislation as it deems necessary or desirable to further that policy.
- 8284. (a) The commission shall develop and publish regulations setting forth criteria for verifying and determining the eligibility of women and minority business enterprises for procurement contracts.
- (b) The commission shall develop, and require every electric, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars (\$25,000,000) and their commission-regulated subsidiaries and affiliates to implement, an outreach program to inform and recruit women and minority

business enterprises to apply for procurement contracts under this article.

- 8285. Any person or corporation, through its directors, officers, or agent, which falsely represents the business as a women or minority business enterprise in the procurement or attempt to procure contracts from electric, gas, and telephone corporations with gross annual revenues exceeding twenty-five million dollars (\$25,000,000) and their commission-regulated subsidiaries and affiliates pursuant to this article, shall be punished by a fine of not more than five thousand dollars (\$5,000), or by imprisonment in the county jail for not to exceed one year or in the state prison for not to exceed five years of its directors, officers, or agents responsible for the false statements, 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 1260**

An act to add and repeal Section 25505.4 of, to add Section 25509.3 to, and to add Article 2 (commencing with Section 25531) to Chapter 6.95 of Division 20 of, the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 25505.4 is added to the Health and Safety Code, to read:

- 25505.4. (a) Notwithstanding any other provision of this chapter, any administering agency which, on May 31, 1986, had in effect a local ordinance containing business inventory reporting requirements substantially similar to this chapter may extend the date for submission of a business plan by a handler pursuant to this chapter to a date not later than January 1, 1988.
- (b) Any administering agency which extends the date for submission of a business plan shall submit to the office a schedule for the submission of the business plan and a copy of the local ordinance.
- (c) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.
- SEC. 2. Section 25509.3 is added to the Health and Safety Code, to read:

- 25509.3. The annual inventory required by Section 25509 shall also include the total estimated amounts of each hazardous waste handled by the business throughout the course of the year.
- SEC. 3. Article 2 (commencing with Section 25531) is added to Chapter 6.95 of Division 20 of the Health and Safety Code, to read:

# Article 2. Hazardous Materials Management

25531. The Legislature finds and declares that a significant number of chemical manufacturing and processing facilities generate, store, treat, handle, refine, process, and transport hazardous materials. The Legislature further finds and declares that, because of the nature and volume of chemicals handled at these facilities, some of those operations may represent a threat to public health and safety if chemicals are accidentally released.

The Legislature recognizes that the potential for explosions, fires, or releases of toxic chemicals into the environment exists. The protection of the public from uncontrolled releases or explosions of hazardous materials is of statewide concern.

There is an increasing capacity to both minimize and respond to releases of toxic air contaminants and hazardous materials once they occur, and to formulate efficient plans to evacuate citizens if these discharges or releases cannot be contained. However, programs designed to prevent these accidents are the most effective way to protect the community health and safety and the environment. These programs should anticipate the circumtances that could result in their occurrence and require the taking of necessary precautionary and preemptive actions, consistent with the nature of the hazardous materials handled by the facility and the surrounding environment.

25532. Unless the context indicates otherwise, the following definitions govern the construction of this article:

- (a) "Acutely hazardous material" means any chemical on the list prepared by the Environmental Protection Agency and classified as an acutely toxic material according to the criteria set forth in the Chemical Emergency Preparedness Program Interim Guidance document on November 1, 1985, and any supplemental amendments to the document.
- (b) "Acutely hazardous materials accident risk" means a potential for the release of an acutely hazardous material into the environment which could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.
- (c) "Administering agency" means the department, office, or other agency of a county or city which is designated pursuant to Section 25502 to implement this chapter.
- (d) "Handler" means any business which handles an acutely hazardous material, except where all of the acutely hazardous materials present at the business are handled in accordance with a

- removal or remedial action taken pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300)).
- (e) "Modified facility" means an addition or change to a facility or business which results in either a substantial increase in the amount of acutely hazardous materials handled by the facility or business, or a significantly increased risk in handling an acutely hazardous material, as determined by the administering agency. "Modified facility" does not include an increase in production up to the facility's existing operating capacity or an increase in production levels up to the production levels authorized in a permit granted pursuant to Section 42300.
- (f) "Registered Professional" means a professional engineer, registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code), or other professional specialist who is qualified to perform and implement the RMPP for acutely hazardous materials.
- (g) "Risk management and prevention program" or "RMPP" means all of the administrative and operational programs which are designed to prevent acutely hazardous materials accident risks, including, but not limited to, programs which include design safety of new and existing equipment, standard operating procedures, preventive maintenance programs, operator training and accident investigation procedures, risk assessment for unit operations, or operating alternatives, emergency response planning, and internal or external audit procedures to ensure that these programs are being executed as planned.
- 25533. (a) On or before July 1, 1987, the Office of Emergency Services shall develop an acutely hazardous materials registration form to be completed by the owner or operator of each business in the state which, at any time, handles any acutely hazardous material. Except as provided in Section 25536, on or before September 1, 1987, any business which handles acutely hazardous materials in the amounts specified in subdivision (a) of Section 25536 shall file the registration form with the administering agency.
- (b) The acutely hazardous materials registration form shall include, but is not limited to, all of the following information:
- (1) The information included in the business plan prepared pursuant to Section 25504.
- (2) A general description of the processes and principal equipment involved in the handling of the acutely hazardous materials.
- (c) Within 30 days of any one of the following events, any business subject to this section shall submit to the administering agency an amendment to the registration form:
- (1) Any handling of an acutely hazardous material which was not mentioned on the registration form.
- (2) Any material or substantial alterations or additions to the business or activity which require changes in the risk management

program that are different from, or absent in, the present program.

- (3) Change of business address.
- (4) Change of business ownership.
- (5) Change of business name.
- (d) Any business which submits a certified risk management and prevention program pursuant to subdivision (h) of Section 25534 shall implement the approved risk management and prevention program.
- 25534. (a) Within 90 days after receiving an acutely hazardous material registration form filed pursuant to Section 25533, the administering agency may require the submission of an RMPP if the administering agency determines that the handler's operation may present an acutely hazardous materials accident risk. The handler shall prepare the RMPP in accordance with subdivision (c). The RMPP shall be prepared within 12 months following the request made by the administering agency pursuant to this section.
- (b) In addition to any requirements imposed pursuant to subdivision (a), an owner or operator of a new or modified facility which will be used for the handling of acutely hazardous materials and which will commence operations on or after January 1, 1988, in the case of a new facility or commence the operations which will be modified on or after January 1, 1988, in the case of an existing facility, shall prepare a risk management and prevention program. The RMPP shall be approved by the administering agency pursuant to subdivision (e) of Section 25535.
  - (c) The RMPP shall include all of the following elements:
- (1) A description of each accident involving acutely hazardous materials which has occurred at the business or facility within three years from the date of the request made pursuant to subdivision (a), together with a description of the underlying causes of the accident and the measures taken, if any, to avoid a recurrence of a similar accident.
- (2) A report specifying the nature, age, and condition of the equipment used to handle acutely hazardous materials at the business or facility and any schedules for testing and maintenance. hazardous materials accident risk.
- (3) Design, operating, and maintenance controls which minimize the risk of an accident involving acutely hazardous materials.
- (4) Detection, monitoring, or automatic control systems to minimize potential acutely hazardous materials accident risks.
- (5) A schedule for implementing additional steps to be taken by the business, in response to the findings of the assessment performed pursuant to subdivision (d), to reduce the risk of an accident involving acutely hazardous materials. These actions may include any of the following:
- (A) Installation of alarm, detection, monitoring, or automatic control devices.
  - (B) Equipment modifications, repairs, or additions.
  - (C) Changes in the operations, procedures, maintenance

schedules, or facility design.

- (6) Auditing and inspection programs designed to allow the handler to confirm that the risk management and prevention program is effectively carried out.
- (7) Recordkeeping procedures for the risk management and prevention program.
- (d) The RMPP shall be based upon an assessment of the processes, operations, and procedures of the business, and shall consider all of the following:
- (1) An offsite consequence analysis which, at a minimum, assumes a complete release of all acutely hazardous materials, pessimistic air dispersion parameters, and other adverse environmental conditions, to determine any potential acutely hazardous materials accident risk.
- (2) The results of a probabilistic risk assessment, which quantifies the likelihood and consequences of an event involving a release of the acutely hazardous materials, and the uncertainties of the computed values of the event's likelihood and consequences, for any acutely hazardous material which has been determined, pursuant to the offsite consequence analysis, to present a possible acutely hazardous materials accident risk.
- (e) The business shall submit to the administering agency any additional supporting technical information deemed necessary by the administering agency to clarify information submitted pursuant to subdivision (c).
- (f) A handler shall maintain all records concerning a risk management and prevention program for a period of at least five years.
- (g) The risk management and prevention program shall identify, by title, all personnel at the business who are responsible for carrying out the specific elements of the RMPP, and their respective responsibilities, and the RMPP shall include a detailed training program to ensure that those persons are able to implement the RMPP.
- (h) The handler shall review the risk management and prevention program, and shall make necessary revisions to the RMPP at least every three years, but, in any event, within 60 days following a modification which would materially affect the handling of an acutely hazardous material.
- (i) Any person who handles acutely hazardous materials and who owns or operates two or more business facilities which are substantially identical may prepare a single generic risk management and prevention program applicable to all those facilities if the handling of the acutely hazardous materials is substantially similar at all of those facilities.
- (j) The risk management and prevention program, and any revisions required by subdivision (h), shall be certified as complete by a registered professional and the facility operator.
- (k) Except as specified in subdivision (e) of Section 25535, the handler shall implement all activities and programs specified in the

risk management and prevention program within one year following the certification made pursuant to subdivision (j). Implementation of the risk management and prevention program shall include carrying out all operating, maintenance, monitoring, inventory control, equipment inspection, auditing, recordkeeping, and training programs as required by the RMPP. The administering agency may grant an extension of this deadline upon a showing of good cause.

- 25535. (a) Except as specified in subdivision (e), upon certification of a risk management and prevention program pursuant to subdivision (j) of Section 25534, the handler shall notify the administering agency in writing that the RMPP has been prepared and certified.
- (b) Upon implementation of a risk management and prevention program pursuant to subdivision (k) of Section 25534, the handler shall notify the administering agency that the RMPP has been implemented and shall summarize the steps taken in preparation and implementation of the RMPP.
- (c) The handler shall continue to carry out the program and activities specified in the risk management and prevention program at the business after the administering agency has been notified pursuant to subdivision (b). A copy of the plan shall be made available by the handler to the administering agency upon its written request.
- (d) A representative of the administering agency may enter the facility of a handler which has submitted an RMPP to review the risk management and prevention programs for adequacy and to verify that all elements of the RMPP have been implemented.
- (e) An owner or operator of a new or modified facility submitting an RMPP pursuant to subdivision (b) of Section 25534 shall submit the RMPP to the administering agency after the RMPP is certified as complete by a registered professional and the facility operator. The administering agency shall approve, disapprove, or suggest modifications to the RMPP within 90 days after the owner or operator submits the RMPP. The administering agency may authorize the air pollution control district or air quality management district in which the facility is located to conduct a technical review of the RMPP. The owner or operator shall implement all programs and activities in the RMPP before operations commence, in the case of a new facility, or before any new activities involving acutely hazardous materials are taken, in the case of a modified facility.
- 25536. (a) Any business, except as provided in subdivisions (b) and (c), which handles an acutely hazardous material or a mixture containing an acutely hazardous material which has a quantity at any one time 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 submit a registration form pursuant to Section 25533.
  - (b) The administering agency, upon application by an owner or

- operator of a business, may exempt any business from any requirement of this article, upon a written finding that the exemption would not present an acutely hazardous materials accident risk. The administering agency shall specify in writing the basis for any exemption issued pursuant to this subdivision.
- (c) Before placing additional requirements upon a business, the administering agency shall determine that the existing law or regulatory programs fail to substantially address and mitigate the purposes of this article.
- (d) If the administering agency finds, and provides notice to, a business handling an acutely hazardous material in quantities less than those specified in subdivision (a), that the quantity limits specified in subdivision (a) should be decreased for that specific acutely hazardous material because of public health, safety, or environmental concerns, the administering agency may require the business to submit a registration form pursuant to Section 25533.
- 25537. The administering agency shall inspect every business required to be registered pursuant to Section 25534 at least once every three years to determine whether the business is in compliance with this article.
- 25538. (a) If a business believes that any information required to be reported by this article, involves the release of a trade secret, the business shall provide the information to the administering agency and shall notify the administering agency in writing of that belief. As used in this section, "trade secret" has the same meaning as found in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.
- (b) Except as otherwise specified in this section, the administering agency shall not disclose any trade secret which is so designated by the owner or operator of a business.
- (c) The administering agency may disclose trade secrets received by the administering agency pursuant to this article to authorized officers or employees of other governmental agencies only in connection with the official duties of that officer or employee pursuant to any law for the protection of health and safety.
- (d) Any officer or employee or former officer or employee of the administering agency or any other government agency who, because of that employment or official position, has possession of, or has access to, information designated as a trade secret pursuant to this section, shall not knowingly and willfully disclose the information in any manner to any person not authorized to receive the information pursuant to this section. Notwithstanding Section 25515, any person who violates this subdivision, and who knows that disclosure of this information to the general public is prohibited by the section, shall, upon conviction, be punished by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars (\$1,000), or by both fine and imprisonment.
- (e) Any information prohibited from disclosure pursuant to any federal statute or regulation shall not be disclosed.

- (f) This section does not authorize any business to refuse to disclose to the administering agency any information required pursuant to this chapter.
- 25539. The administering agency shall, in implementing this article, involve and cooperate with any local and state government officials, emergency planning councils, and professional associations concerning any actions regulating a local business.
- 25540. (a) Any business that violates this article shall be civilly liable to the administering agency in an amount of not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.
- (b) Any business that knowingly violates this article after reasonable notice of the violation shall be civilly liable to the administering agency in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs.
- 25541. Any person or business who knowingly makes any false statement or representation in any record, report, or other document filed, maintained, or used for the purpose of compliance with this article, or destroys, alters, or conceals any such record, report, or other document filed, maintained, or used for the purpose of compliance with this article, shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and the imprisonment.

If the conviction is for a violation committed after a first conviction under this section, the person shall be punished by a fine of not less than two thousand dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per day of violation, or by imprisonment in the state prison for 16, 20, or 24 months or in the county jail for not more than one year, or both the fine and imprisonment.

Furthermore, if the violation results in, or significantly contributes to, an emergency, including a fire, to which the county or city is required to respond, the person shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the acutely hazardous materials.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

#### CHAPTER 1261

An act relating to historic monuments, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. The Legislature finds and declares that the Statue of Liberty has greeted generations of immigrants to the United States from its island pedestal in New York Harbor and has instilled in them a feeling of new hope as they begin their lives in America.

The Legislature finds and declares that many of these immigrants have settled in California and become civic leaders, businessmen, and other productive citizens who have helped to make California the great state it is today and who will continue to shape its destiny.

The Legislature further finds and declares that the Statue of Liberty is a national monument in which all Americans should take great pride and feel a responsibility for maintaining.

The Legislature also finds and declares that the Statue of Liberty is currently being restored to its original beauty so that it may continue to shine as a symbol of freedom for many future generations.

Finally, the Legislature finds and declares that it is fitting and a valid public purpose for the State of California to participate in this restoration, which preserves a valuable portion of the national heritage of the citizens of this state.

SEC. 2. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the Controller, to be allocated to the Statue of Liberty-Ellis Island Foundation, Inc., for the purpose of paying a portion of the expenses necessary to complete the restoration of the Statue of Liberty.

#### CHAPTER 1262

An act to amend Sections 22651 and 22658 of, and to add Section 22658.2 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as defined in Chapter 4.5 (commencing

with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located may remove a vehicle from a highway located within the territorial limits in which the officer or employee may act under any of the following circumstances:

- (a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.
- (b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.
- (c) When any vehicle is found upon a highway and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.
- (d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.
- (e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.
- (f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.
- (g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to an extent so as to be unable to provide for its custody or removal.
- (h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.
- (i) When any vehicle registered in a foreign jurisdiction or without a current California registration is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued to the vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the

impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

- (j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.
- (k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.
- (1) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.
- (m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.
- (n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.
- (o) When any vehicle is found upon a highway with a registration expiration date in excess of one year before the date it is found on the highway. However, if the vehicle is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle. For purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of

current registration. In lieu of obtaining proof of current registration, the storing agency may, in its discretion, issue a notice to appear for the registration violation.

- (p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, or 14601.2 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway shall not be released to the registered owner or his or her agent except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle or upon order of a court.
- (q) Whenever any vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.
- SEC. 2. Section 22658 of the Vehicle Code is amended to read: 22658. (a) Except as provided in Section 22658.2, the owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage, if (1) there is displayed, in plain view at all entrances to the property, a sign not less than 17 by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency, and the sign may also indicate that a citation may also be issued for the violation, or (2) the lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.
- (b) The person causing removal of the vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner thereof, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the person causing removal of the vehicle shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to

an officer removing a vehicle from private property.

- (c) This section does not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.
- (d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.
- (e) Any owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to post a sign as required by subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).
- (f) Any owner or person in lawful possession of any private property, or an "association" pursuant to Section 22658.2, causing the removal of a vehicle parked on that property shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. Any towing company that removes a vehicle from private property with the authorization of the property owner or the property owner's agent shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes the vehicle under this section shall be responsible for (1) any damage to the vehicle in the transit and subsequent storage of the vehicle pursuant to subdivision (d) and, (2) the removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.
- (g) Possession of any vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.
- (h) A towing company may impose a charge of not more than twenty dollars (\$20) for the towing of a vehicle at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the vehicle or the owner's agent returns to the vehicle before it is removed from the private property.
- (i) A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge is greater than the charge which would have been made for towing or storage, or both, made at the request of a law enforcement agency under an agreement between the law enforcement agency and a towing company.
- (j) Any person who charges a vehicle owner a towing or service charge at an excessive rate, as described in subdivision (i), is liable to the vehicle owner for four times the amount charged.
- (k) Persons operating or in charge of any storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing and storage by a registered owner or the owner's agent claiming the vehicle. In addition, persons operating or in charge of the storage facility shall have sufficient

moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.

- SEC. 3. Section 22658.2 is added to the Vehicle Code, to read: 22658.2. (a) Except as provided in subdivision (b), an "association", as defined in subdivision (a) of Section 1351 of the Civil Code, of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, may cause the removal of a vehicle parked on that property to the nearest public garage if all of the following requirements are satisfied:
- (1) A sign not less than 17 by 22 inches in size with lettering not less than one inch in height appears at each entrance to the common interest development and contains both of the following:
- (A) A statement that public parking is prohibited and all vehicles not authorized to park on the common interest development will be removed at the owner's expense.
- (B) The telephone number of the local traffic law enforcement agency.

The sign may also indicate that a citation may be issued for the violation.

- (2) If the identity of the registered owner of the vehicle is known or readily ascertainable, the president of the association or his or her designee shall, within a reasonable time, notify the owner of the removal by first-class mail. If the identity of the owner of the vehicle is not known or ascertainable, the president of the association or his or her designee shall comply with subdivision (c) of Section 22853.
- (3) The president of the association or his or her designee, gives or causes to be given, notice of the removal to the local traffic law enforcement agency immediately after the vehicle has been removed. The notice shall include a description of the vehicle, the license plate number, and the address from where the vehicle was removed.
- (b) The association may cause the removal without notice of any vehicle parked in a marked fire lane, within 15 feet of a fire hydrant, in a parking space designated for handicapped without proper authority, or in a manner which interferes with any entrance to, or exit from, the common interest development or any separate interest contained therein.
- (c) Notwithstanding Section 1708 of the Civil Code, the association shall not be liable for any damages incurred by the vehicle owner because of the removal of a vehicle in compliance with this section or for any damage to the vehicle caused by the removal. However, the owner of a vehicle removed pursuant to this section may recover for any damage to the vehicle which results from any intentional or negligent act of the association or any person causing the removal of, or removing, the vehicle.
- (d) Notwithstanding any other provision of law, subdivisions (f) to (k), inclusive, of Section 22658 apply to the removal of vehicles pursuant to this section.
  - 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 1263

An act to add Sections 639.5 and 640.1 to the Code of Civil Procedure, and to amend Section 11475.1 of the Welfare and Institutions Code, relating to civil actions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 639.5 is added to the Code of Civil Procedure, to read:

639.5. Notwithstanding any other provision of law, when hearing child support matters, a commissioner or referee may enter default orders if the defendant does not respond to notice or other process within the time prescribed to respond to that notice.

SEC. 2. Section 640.1 is added to the Code of Civil Procedure, to read:

640.1. (a) To the extent required by federal law, all applications filed by the district attorney for an order to establish or enforce child support, except paternity cases or those cases involving complex issues, as defined in subdivision (a) of Section 11475.1 of the Welfare and Institutions Code, shall be referred for hearing to a commissioner or a referee, unless the district attorney of that particular county has applied for, and received, an exemption from this requirement from the State Department of Social Services.

Paternity cases and cases involving complex issues, as defined in subdivision (a) of Section 11475.1 of the Welfare and Institutions Code, may be referred to and heard by a commissioner or a referee, if deemed appropriate by the commissioner or referee. If the case is heard by a commissioner or referee, the time limits specified in subdivision (a) of Section 11475.1 of the Welfare and Institutions Code do not apply.

All applications to be heard by a commissioner or referee shall be made returnable on an order to show cause within 30 days after service thereof or heard on a noticed motion within 30 days after service of notice. The matter shall not be heard earlier than 10 days after service of the order to show cause or notice of motion and supporting papers. The hearing shall not be continued to a date more than 10 days after the date originally set for hearing.

Nothing in this section prohibits persons other than the district attorney from bringing an action under this section, if permitted by that particular county. However, actions brought by the district attorney shall have priority over actions brought by other persons.

- (b) At the hearing, the commissioner or referee shall, where appropriate, do all of the following:
  - (1) Take testimony.
- (2) Establish a record, evaluate evidence, and make recommendations or decisions.
- (3) Accept voluntary acknowledgments of support liability and parentage and stipulated agreements respecting the amount of child support to be paid.
- (4) Enter default orders where authorized pursuant to Section 639.5.
- (c) Except where a default or stipulated order has been entered by a commissioner or a referee, a recommended order shall be filed by the commissioner or referee within seven court days after the hearing concludes. The clerk shall mail an endorsed copy first class. postage prepaid, to all parties by the close of the business day on which the order is filed, together with a notice of a review hearing before a judge of the superior court, stating the date any party may appear and object to the recommended order. As an alternative to mailing the copy of the order and the notice to the parties, the clerk may personally serve the copy of the order and the notice at the time of the hearing. The clerk shall also provide a written notice of that hearing to all persons appearing at the hearing before the commissioner or referee. The hearing in superior court shall take place no less than 15 days nor later than 20 days following the mailing of the recommended order to all parties. The hearing before the superior court shall not be continued to a date more than 10 days after the date originally set for hearing. Section 1013 does not apply to these time limits.
- (d) Except as provided in subdivision (e), on the appointed hearing date, the superior court shall independently review the record of the original hearing, any supplemental papers filed, hear any oral objections and responses thereto, and either adopt the recommended order or modify it on such terms as the interests of justice require.
- (e) Notwithstanding subdivision (d), on its own motion, the superior court may rehear the matter. Any rehearing determined necessary by the court shall be heard within 10 days of the date of the hearing required by subdivision (d). At the conclusion of the hearing, the superior court shall either adopt the recommended order or modify it on such terms as the interests of justice require.
- (f) If no objection to the recommended order is presented to the court on the date specified in subdivision (c), the court shall adopt the recommended order, unless it modifies it on its own motion, consistent with the interests of justice, as described in subdivision (e).

SEC. 3. Section 11475.1 of the Welfare and Institutions Code is amended to read:

(a) Each county shall maintain a single organizational 11475.1. unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. To the extent required by federal law, actions brought by the district attorney to establish or enforce support obligations in all cases, other than paternity cases or those cases involving complex issues, shall be completed within the following time limits: (1) 90 percent of the actions shall be completed within three months from the date of service; (2) 98 percent of the actions shall be completed within six months from the date of service; and (3) 100 percent of the actions shall be completed within 12 months from the date of service. As used in this section, "service" means the service of process required by law for the particular proceeding. The district attorney's responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

In any action for child support brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

The district attorney shall file a motion for an order for temporary support within the following time limits:

(1) If the defendant is the mother, a presumed father under

subdivision (a) of Section 7004 of the Civil Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

As used in this subdivision, "complex issues" means issues arising in the following types of cases: (1) any case which could directly result in a person's incarceration; (2) any case involving the right to jury trial; and (3) any case so deemed by a commissioner, a referee, or a superior court judge.

- (b) As used in this article, "enforcing obligations" includes, but is not limited to, (1) the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations and (2) the obtaining by the district attorney of an initial order for child support, by civil or criminal process, without regard to whether the child is receiving public assistance.
- (c) As used in this section, "out-of-wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.
- (d) The district attorney is the public agency responsible for administering wage withholding for the purposes of Title IV-D of the Social Security Act.
- SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

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 conform California's child support enforcement program to recently enacted federal regulations in a timely manner, to ensure that those in need of child support services receive the benefit of expedited processing, and to increase support collections through the reduction of the backlog of cases, it is necessary that this act go into effect immediately.

## CHAPTER 1264

An act to amend Sections 437.07 and 1266 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 437.07 of the Health and Safety Code is amended to read:

- 437.07. (a) In order to effectively implement the provisions of this part, the Legislature finds that it is indispensable that providers of health care be free to engage in voluntary, cooperative efforts with consumers, government, or other providers of health care to fulfill the purposes of the health planning laws.
- (b) Approved plans and projects undertaken in compliance with those plans, as provided in Sections 437.20, 437.21, 437.22, and 437.23, are exempt from the provisions of Chapter 1 (commencing with Section 16600), Chapter 2 (commencing with Section 16700), Chapter 3 (commencing with Section 16900), and Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code.
- (c) In the case of a project which, on or before January 1, 1987, is included in the Tulare County countywide long-range capital investment plan, which is contained in the "April 1983 Multi-Hospital Capital & Investment Plan," as amended by the April 1986 update, the exemptions set forth in subdivision (b) shall apply even though the project is not undertaken until after January 1, 1987.
- SEC. 2. Section 1266 of the Health and Safety Code is amended to read:
- 1266. (a) Each new and renewal application for a license for the health facilities listed below shall be accompanied by an annual fee as set forth below.

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

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

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

1–59 beds	\$2,068 plus \$26 per bed
60–99 beds	\$2,543 plus \$26 per bed
100 or more beds	\$3,183 plus \$26 per bed

The fees provided in this subdivision shall be adjusted, commencing July 1, 1983, as proposed in the state department's 1983–84 fiscal year Health Facility License Fee Report to the Legislature. Commencing July 1, 1984, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(b) The state department shall submit to the Legislature, on or before January 17 of each year, a report describing program costs within the Licensing and Certification Division, and a methodology for calculating fee levels in an amount sufficient to provide revenues equal to (1) the General Fund expenditures for the fiscal year ending on June 30 of that year, as specified in the proposed Governor's Annual Budget, less license fees which shall be collected in that fiscal year by the Licensing and Certification Program pursuant to sections other than this section, plus (2) the amount of federal funds budgeted for the fiscal year ending June 30 of that year for the Licensing and Certification Program, less federal funds received or credited, or anticipated to be received or credited, during that fiscal year for that purpose. The methodology for calculating the fee levels shall include an adjustment which takes into consideration the actual amount of license fee revenue collected in the prior fiscal year pursuant to this section, as compared to the amount of license fee revenue estimated to be collected pursuant to this section for that prior fiscal year.

The report shall specifically identify federal funds received, but not previously budgeted, for the Licensing and Certification Program which are used to offset the amount of General Fund dollars to be recovered through license fees. The report shall also identify the purpose of federal funds received for any additional activities under the Licensing and Certification Program which are not used to offset the amount of General Fund dollars.

(c) The annual fees determined pursuant to this section shall be waived for any health facility conducted, maintained, or operated by this state or any state department, authority, bureau, commission, or officer, or by the Regents of the University of California, or by a local

hospital district, city, county, or city and county.

- (d) The department shall, by July 30 of each year, publish a list of actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (e) Prior to the establishment of the annual fee, the state department shall prepare a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

The analysis under this subdivision shall include all of the following:

- (1) The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities.
- (2) The percentage of time devoted to licensing and certification activities for the various types of health facilities.
- (3) The number of facilities receiving full surveys and the frequency and number of followup visits.
  - (4) The number and timeliness of complaint investigations.
- (5) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.
  - (6) Training courses provided for surveyors.
- (7) Other applicable activities of the licensing and certification division.

The analysis shall also include recommendations for administrative changes to streamline and prioritize the survey process, complaint investigations, management information systems, word processing capabilities and effectiveness, consumer information system, and surveyor training.

The annual staffing and systems analysis shall be presented to the Health Care Advisory Committee and the Legislature prior to the establishment and adoption of the annual fee.

# **CHAPTER 1265**

An act to amend Section 15939 of the Government Code, relating to transportation.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 15939 of the Government Code is amended to read:

15939. This part shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

# CHAPTER 1266

An act to amend Sections 8503.5, 8505.5, 8505.17, 8525, 8616, 8616.5, 8616.6, 8616.7, 8617, 8620, 8624, 8660, 8662, and 8674 of the Business and Professions Code, and to amend Sections 14005 and 14006.6 of, to amend and renumber Section 12845 of, and to repeal Section 15207 of, the Food and Agricultural Code, relating to structural pest control.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 8503.5 of the Business and Professions Code is amended to read:

8503.5. "Committee" means the Disciplinary Review Committee established pursuant to Section 8660.

SEC. 2. Section 8505.5 of the Business and Professions Code is amended to read:

8505.5. If requested, notice of the date and place of fumigation shall be given to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins.

If requested by the county agricultural commissioner, notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or given by telephone, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. No fee shall be assessed for processing the notice which may be requested by the commissioner.

- SEC. 3. Section 8505.17 of the Business and Professions Code is amended to read:
- 8505.17. (a) There is hereby created in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Food and Agriculture for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 of this code and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.
- (b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.
- (c) Structural pest control operators shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Food and Agriculture and shall contain the name and registration number of each pesticide, the amount used, and the number of applications made. The report shall be submitted to the commissioner by the 10th day of the month following the month of application. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall have affixed thereto a pesticide use stamp issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and for the refund of moneys paid for stamps which are returned to it unused. When a structural pest control operator performs no pest control during a month in a county in which he or she has given notice pursuant to Section 15204 of the Food and Agricultural Code, the operator shall submit a use report stating this fact to the commissioner. No pesticide use stamp is required on negative use reports.
- (d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.
  - SEC. 4. Section 8525 of the Business and Professions Code is

amended to read:

8525. The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

The board shall also consult with the Director of Food and Agriculture when developing or adopting regulations that may affect the Department of Food and Agriculture or the county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

SEC. 5. Section 8616 of the Business and Professions Code is amended to read:

8616. The Director of Food and Agriculture shall be designated by the board as its agent for the purposes of carrying out Section 8616.4. The board and the Department of Food and Agriculture shall jointly develop a training program specifically relating to the various aspects of structural pest control and train all county agricultural commissioners and other personnel involved in structural pest control investigations and enforcement. No disciplinary action pursuant to Section 8617 may be taken by a county agricultural commissioner until training has been completed.

SEC. 6. Section 8616.5 of the Business and Professions Code is amended to read:

8616.5. (a) The county agricultural commissioner shall be the lead agency for inspections and routine investigations of pesticide use by the board licensees and registered companies. When a matter is referred to the board for action, the board shall be the lead agency and may require that the commissioner assist in any investigation.

- (b) The board and the Director of Food and Agriculture shall jointly develop the list of the types of investigations to be conducted by the commissioner that may result in the suspension of a license or company registration, or the imposition of a fine, pursuant to Section 8617 and the list of the types of violations that the commissioner shall refer to the board for disciplinary action.
- (c) As used in subdivision (a), the term "routine investigations" means all investigations of pesticide misuse by a board licensee or registered company except (1) investigation of misuse incidents which are referred to the board for disciplinary action or which are the basis for county actions to suspend or fine structural pest control licensees or registered companies in accordance with the lists promulgated pursuant to subdivision (b), or (2) any investigation performed by the county agricultural commissioner which has been requested by the board and involves exclusively a violation of this code.
- SEC. 7. Section 8616.6 of the Business and Professions Code is amended to read:
  - 8616.6. The Director of Food and Agriculture shall be notified by

the board when it determines that persons acting pursuant to Sections 8616 and 8616.4 have not fulfilled their responsibilities under this chapter in a specific county or counties. The notice to the Director of Food and Agriculture, which shall be dealt with in a timely manner, shall specifically list the actions which caused the filing of the notice. If the notice is not dealt with in a manner satisfactory to the board, the board may then suspend the activities of its agent pursuant to Section 8616.5, who is subject to the notice in the specific county or counties for which the notice was filed for a period not to exceed 60 days.

- SEC. 8. Section 8616.7 of the Business and Professions Code is amended to read:
- 8616.7. When a county agricultural commissioner is acting, pursuant to Section 8616.4, only the commissioner may conduct inspections and routine investigations pursuant to Section 8616.5 and take disciplinary action pursuant to Section 8617. Except as otherwise provided, nothing in this section shall be construed as limiting or excluding the assistance provided to the board by the Division of Investigation under Sections 155 and 159.5 other than by board personnel.
- SEC. 9. Section 8617 of the Business and Professions Code is amended to read:
- 8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or may levy a fine up to five hundred dollars (\$500) for each violation of this chapter, or any regulations adopted pursuant to this chapter, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to economic poisons. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.
- (b) Before a suspension action is taken or a fine levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including, the right to review the commissioner's evidence and a right to present evidence on his or her own behalf.
- (c) The licensee or registered company may appeal a fine or suspension to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.
- (d) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the decision if no appeal is filed. If an appeal

pursuant to Section 8662 is filed, the order shall be stayed until 20 days after the committee has ruled on the appeal.

- (e) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.
- SEC. 10. Section 8620 of the Business and Professions Code is amended to read:
- 8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any individual acting as, or making application for a license as, an operator or field representative.

After a hearing, the board may temporarily suspend or permanently revoke a license issued under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board may assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In such a case, the board may impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any such expression of preference.

If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing, the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

If a proposed stipulation is rejected by the board, it is null and void and does not constitute an admission of any violation charged.

- (b) The civil penalty shall not be more than two thousand dollars (\$2,000) for an actual suspension of one to 19 days.
- (c) The civil penalty shall not be more than five thousand dollars (\$5,000) for an actual suspension of 20 to 45 days.
- (d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.
- (e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section 8617, 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.

In any order of suspension or revocation, the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

SEC. 11. Section 8624 of the Business and Professions Code is amended to read:

8624. If the board suspends or revokes an operator's license and one or more branch office is registered under the name of the operator, the suspension or revocation may be applied to each branch office.

If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.

The performance by any partnership, corporation, firm, association, or registered company of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who, at the time the act or omission occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm, association, or registered company whether or not he or she had knowledge of, or participated in, prohibited act or omission.

SEC. 11.5. Section 8660 of the Business and Professions Code is amended to read:

8660. A disciplinary review committee consisting of three members shall be established for the purposes of reviewing appeals of orders issued pursuant to Section 8617. The committee shall be made up of one member representing the Director of Food and Agriculture and one member representing the board. The third member shall be a licensed pest control operator actively involved in the business of pest control and shall be selected by agreement of the other members.

SEC. 12. Section 8662 of the Business and Professions Code is amended to read:

8662. (a) Whenever the right of a structural pest control licensee or registered company to make pesticide applications has been suspended or the licensee or registered company has been fined pursuant to Section 8617, the party suspended or fined may appeal to the Disciplinary Review Committee within 10 days of receipt of the fine or suspension order.

(b) The following procedures shall apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her or its authorized agent, and shall

state the grounds for the appeal.

- (2) Any party may, at the time of filing the appeal or within 10 days thereafter, present written evidence to the committee. Thereafter, 10 days shall be given the parties to rebut the written evidence and make written application to the committee to present oral or written arguments.
- (3) An application to present written arguments shall be granted, but the committee shall have discretion to grant oral arguments or to grant both oral and written arguments. Further written argument shall be submitted to the committee within 10 days of the submission of the application.
- (4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given each party at least 10 days before the date set therefor. The times may be altered by mutual agreement of the parties. If a written argument is submitted, all parties shall be notified thereof and shall be given the opportunity to simultaneously file briefs within the time specified by the committee.
- (5) At any time written evidence, including evidence in rebuttal, is submitted to the committee, a copy shall be immediately provided to the other party.
- (6) The committee shall decide the appeal on any oral or written argument, briefs, and evidence that the committee may have received.
- (7) The committee shall render its written decision within 45 days of the date of appeal or within 15 days from the date of oral arguments or the filing of briefs pursuant to paragraph (4). If the committee does not reach a decision in the time required in this subdivision, the order issued pursuant to Section 8617 shall be null and void.
- (8) On an appeal pursuant to this section, the committee may sustain, modify by reducing the time of suspension or the amount of the fine levied, or reverse the decision. A copy of the committee's decision shall be delivered or mailed to each party.
- (9) Review of the decision of the committee may be sought by the licensee or registered company pursuant to Section 1094.5 of the Code of Civil Procedure.
- SEC. 13. Section 8674 of the Business and Professions Code is amended to read:
- 8674. The amount of the fees prescribed by this chapter is that fixed by the following schedules.
  - (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than twenty-five dollars (\$25).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
  - (e) An operator's license renewal fee of not more than one

hundred fifty dollars (\$150).

- (f) A company registration fee of not more than one hundred twenty dollars (\$120). Fees for company registrations shall be prorated for companies which held principal office registrations as of January 1, 1987.
- (g) A branch office registration fee of not more than sixty dollars (\$60).
- (h) A field representative examination fee of not more than fifteen dollars (\$15).
- (i) A field representative license fee of not more than forty-five dollars (\$45).
- (j) A field representative license renewal fee of not more than forty-five dollars (\$45).
- (k) An applicator examination fee of not more than fifteen dollars (\$15).
- (l) An inspection report filing fee of not more than three dollars (\$3).
- (m) A fee for certifying a copy of an inspection report of not more than three dollars (\$3).
- (n) A fee for filing a notice of work completed of not more than two dollars (\$2).
- (o) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.
- (p) A fee for approval of continuing education providers of not more than fifty dollars (\$50).
- (q) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a structural pest control operator's total county pesticide use for the month.
- (r) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).
- SEC. 14. Section 12845 of the Food and Agricultural Code, as added by Chapter 766 of the Statutes of 1984, is amended and renumbered to read:
- 12844.5. Notwithstanding Section 12784, the funds paid to the counties under Section 12844 shall also be considered as reimbursement for costs incurred by the counties in the administration and enforcement of Chapter 7 (commencing with Section 15201).
- SEC. 15. Section 14005 of the Food and Agricultural Code is amended to read:
- 14005. Except as provided in subdivision (d) of Section 14006.6, the director shall adopt regulations which govern the possession and use of any restricted material which he or she finds and determines is injurious to the environment or to any person, animal, crop, or other property.
  - SEC. 16. Section 14006.6 of the Food and Agricultural Code is

amended to read:

- 14006.6. (a) A permit shall not be required for the agricultural use of any pesticide not designated as a restricted material unless the commissioner determines that its use will present an undue hazard when used under local conditions.
- (b) Permits for the use of pesticides shall not be required of persons found to be qualified by the director who are engaged in experimentation or research on the use of pesticides, where no charge is made to the person in charge of the property treated.
- (c) A permit shall not be required for the possession of pesticides by a registrant, as defined in Section 12755, or by a licensed pesticide dealer when operating pursuant to the registration or the license; by commercial warehouses storing pesticides; or for the possession and use of these materials when specifically exempted by regulation of the director in cases in which the mitigation measures provided by the permit system are not necessary to avoid injury to the environment or to any person, animal, crop, or property.
- (d) Permits for the use of pesticides shall not be required of persons operating pursuant to a license issued under Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code.
- SEC. 17. Section 15207 of the Food and Agricultural Code is repealed.
- 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 1267

An act to add Section 975.5 to the Military and Veterans Code, and to amend Section 10206 of the Unemployment Insurance Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 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 Veterans Appreciation Act of 1986.
- SEC. 2. (a) (1) The Legislature finds and declares that veterans' organizations, such as the Veterans of Foreign Wars, the American Legion, Disabled American Veterans, and AmVets, make valuable contributions to local veteran service organizations; that these organizations contribute to the well-being and morale of veterans

undergoing treatment at Veterans' Administration hospitals by providing them with the use and enjoyment of television sets, books and magazines, and other amenities which as patients they might not otherwise have; and that the funds for providing these contributions are derived from the proceeds of fundraising activities, such as bingo games.

- (2) It is, therefore, the intent of the Legislature in enacting Sections 215.3 and 23710.1 of the Revenue and Taxation Code to provide assistance and support for these activities.
- (b) (1) The Legislature finds and declares that large numbers of Vietnam veterans and increasing numbers of veterans of earlier conflicts suffer from posttraumatic stress disorders, with many also having histories of alcohol and drug abuse; that many of these veterans are unaware of the availability of readjustment counseling services, alcohol abuse treatment, and drug abuse programs offered by community-based organizations and by city, county, state, and federal agencies; that county veteran service officers serve as outreach organizations for the county's veteran population and, in addition, organizations such as the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Occupational Training Services, the Vietnam Veterans Leadership Program, and Veterans Assistance Center, have established links with the veteran community.
- (2) It is, therefore, the intent of the Legislature in enacting Section 975.5 of the Military and Veterans Code to strengthen the outreach services available to veterans suffering posttraumatic stress disorders.
- (c) The Legislature finds and declares that Vietnam veterans have suffered higher rates of unemployment than other persons of the same age group who did not serve in the armed forces during the Vietnam era; that Vietnam veterans have historically received lower wages than their nonveteran peers; and that returning Vietnam veterans entered the work force at a time when the United States economy was going through severe fluctuations, making it more difficult for those persons to find stable employment.
- SEC. 3. Section 975.5 is added to the Military and Veterans Code, to read:
- 975.5. (a) The Department of Veterans Affairs shall provide for one paid veterans assistant position within the office of the county veteran service officer for the County of Los Angeles. The department shall establish one similar position for the County of San Diego and one similar position for the City and County of San Francisco. The department shall provide for filling these positions by contract with one or more private, nonprofit community-based organizations which have a successful history of providing alcohol abuse, drug abuse, or readjustment counseling to veterans suffering from alcohol abuse, drug abuse, or posttraumatic stress disorders.
- (b) The veterans assistants employed under subdivision (a) shall conduct outreach programs in order to make veterans aware of

readjustment counseling services and alcohol and drug abuse programs offered by community-based organizations and city, county, and federal agencies. The veterans assistants shall advise and counsel veterans concerning readjustment counseling programs and refer veterans to appropriate community-based or city, county, or federal counseling programs.

- (c) The department shall prepare and submit to the Legislature an annual report on the operation and effects of this section on or before January 1 of each year.
- SEC. 4. Section 10206 of the Unemployment Insurance Code is amended to read:
- 10206. The panel may allocate money in the fund for any of the following purposes:
- (a) Reimbursement of actual training costs incurred by employers and training agencies and for reasonable administrative costs. In this connection, the panel shall give special consideration for funding to those projects that provide special opportunities to veterans and shall provide technical assistance to encourage the development of those projects.
- (b) Costs of program administration incurred under this chapter. These costs shall be reviewed annually by the Department of Finance and the Legislature and determined through the normal budgetary process.

The panel's administrative costs exclusive of the cost of administering Section 976.6 shall not exceed more than 15 percent of the amount collected pursuant to Section 976.6. Expenditures for marketing and research provided under contract to the panel under subdivision (a) which otherwise would have been provided directly by the panel shall be included in this limitation.

- (c) Costs of the Legislative Analyst's program evaluation conducted pursuant to Section 10216.
- SEC. 5. The sum of one hundred sixteen thousand dollars (\$116,000) is hereby appropriated from the General Fund to the Department of Veterans Affairs for the purposes of Section 975.5 of the Military and Veterans Code, for expenditure as follows:
- (a) Eighty-two thousand five hundred dollars (\$82,500) for compensation and benefits for veterans assistants.
- (b) Thirty-three thousand five hundred dollars (\$33,500) for administrative expenses.

## CHAPTER 1268

An act to amend Section 77001 of the Government Code, relating to courts.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. Section 77001 of the Government Code is amended to read:

77001. The following definitions govern the construction of this chapter:

- (a) "Block grant" means the amount of state funds to be provided to a participating county for the support of the operation of the trial courts, as determined by the product of the rate of reimbursement under Section 77200 multiplied by the number of reimbursable positions.
  - (b) "Board" means the board of supervisors of a county.
- (c) "Court operations" means the county share of superior and municipal court judges' salaries, benefits, and public agency retirement contributions, and the salary, benefits, and public agency retirement contributions for justice court judges, subordinate judicial officers, other court staff including all municipal court staff positions specifically prescribed by statute, those deputy marshals and sheriffs as the court deems necessary for court operations and materials and supplies relating to court operations, and actual indirect costs, not to exceed 18 percent of the block grant, for county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; or district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(d) "Filing fees" means any and all fees and charges, liberally construed, collected or collectible for filing, processing, including service of process, copying, endorsing, or for any other service related to court operations as defined in subdivision (c).

- (e) "Fine" means any monetary penalty collected for a violation of law, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, including any penalty assessments or surcharges, whether collected by a court or agency of a county or city or city and county and regardless of the stage of the process after citation at which it is collected, except law library trust fund fees, criminal justice facility construction fees, courthouse construction fees, and money collected under any state law relating to the protection or propagation of fish and game.
- (f) "Forfeiture" means all money forfeited by a person charged or cited for a violation of law, to the extent it would otherwise accrue

to the benefit of a city, county, or city and county, except any money collected under any state law relating to the protection or propagation of fish and game, including bail, any penalty assessments or surcharges, whether collected by a court or agency of a county or city or city and county and regardless of the stage of the process after citation at which it is collected.

- (g) "Option county" means a county or city and county which has adopted the provisions of this chapter for the current fiscal year.
- (h) "Penalty assessment" means any amount charged as a proportion of any fine or forfeiture and collected in addition thereto, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, except any money collected under any state law relating to the protection or propagation of fish and game.
- (i) "State-mandated local program" means any and all reimbursements owed or owing by operation of either Section 6 of Article XIII B of the California Constitution, or Section 2231 of the Revenue and Taxation Code, or both.
- (j) "Subordinate judicial officer" means a court commissioner or referee authorized by statute.
- (k) "Trial court" means a superior court, municipal court, or justice court.

## CHAPTER 1269

An act to amend Section 77001 of the Government Code, relating to courts.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 77001 of the Government Code is amended to read:

77001. The following definitions govern the construction of this chapter:

- (a) "Block grant" means the amount of state funds to be provided to a participating county for the support of the operation of the trial courts, as determined by the product of the rate of reimbursement under Section 77200 multiplied by the number of reimbursable positions.
  - (b) "Board" means the board of supervisors of a county.
- (c) "Court operations" means the county share of superior and municipal court judges' salaries, benefits, and public agency retirement contributions, and the salary, benefits, and public agency retirement contributions for justice court judges, subordinate judicial officers, other court staff including all municipal court staff positions specifically prescribed by statute, those deputy marshals

and sheriffs as the court deems necessary for court operations, and materials and supplies relating to court operations, and actual indirect costs, not to exceed 18 percent of the block grant, for county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; or district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

- (d) "Filing fees" means any and all fees and charges, liberally construed, collected or collectible for filing, processing, including service of process, copying, endorsing, or for any other service related to court operations as defined in subdivision (c).
- (e) "Fine" means any monetary penalty collected for a violation of law, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, including any penalty assessments or surcharges, whether collected by a court or agency of a county or city or city and county and regardless of the stage of the process after citation at which it is collected, except law library trust fund fees, criminal justice facility construction fees, courthouse construction fees, and money collected under any state law relating to the protection or propagation of fish and game. Nothing in this subdivision shall be construed to characterize civil penalties awarded or received in environmental, antitrust, or consumer protection actions brought by the people as a fine.
- (f) "Forfeiture" means all money forfeited by a person charged or cited for a violation of law, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, except any money collected under any state law relating to the protection or propagation of fish and game, including bail, any penalty assessments or surcharges, whether collected by a court or agency of a county or city or city and county and regardless of the stage of the process after citation at which it is collected.
- (g) "Option county" means a county or city and county which has adopted the provisions of this chapter for the current fiscal year.
- (h) "Penalty assessment" means any amount charged as a proportion of any fine or forfeiture and collected in addition thereto, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, except any money collected under any state law relating to the protection or propagation of fish and game.
- (i) "State-mandated local program" means any and all reimbursements owed or owing by operation of either Section 6 of Article XIII B of the California Constitution, or Section 2231 of the Revenue and Taxation Code, or both.
- (j) "Subordinate judicial officer" means a court commissioner or referee authorized by statute.
- (k) "Trial court" means a superior court, municipal court, or justice court.
- SEC. 2. Section 1 of this act shall become operative upon the effective date of a statute appropriating funds for purposes of the

Trial Court Funding Act of 1985.

#### CHAPTER 1270

An act to add Section 6366.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 6366.4 is added to the Revenue and Taxation Code, to read:

- 6366.4. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption in this state of tangible personal property purchased by a nonprofit museum regularly open to the public which is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided the property is purchased and used exclusively for display purposes within the museum.
- (b) The exemption provided by this section extends only to items which have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum.
- (c) For purposes of this section, a "museum" shall only include any of the following:
- (1) A museum which has a significant portion of its space open to the public without charge.
- (2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public.
- (3) A museum which is open to a segment of the student or adult population without charge.
- (d) This section shall apply only to the San Diego Aero-Space Museum.
- (e) This section shall apply to sales and transactions occurring on or after November 24, 1985.
- SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.
- SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

#### CHAPTER 1271

An act to amend Sections 206, 207, 209, and 707.1 of, and to add Sections 207.1 and 210.2 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 206 of the Welfare and Institutions Code is amended to read:

206. Persons taken into custody and persons alleged to be within the description of Section 300, or persons adjudged to be such and made dependent children of the court pursuant to this chapter solely upon that ground, shall be provided by the board of supervisors with separate facilities segregated from persons either alleged or adjudged to come within the description of Section 601 or 602 except as provided in Section 16514. Separate segregated facilities may be provided in the juvenile hall or elsewhere.

The facilities required by this section shall, with regard to minors alleged or adjudged to come within subdivision (a), (b), or (d) of Section 300, be nonsecure. The facilities provided to minors alleged or adjudged to come within subdivision (c) of Section 300 shall be secure.

For the purposes of this section, the term "secure facility" means a facility which is designed and operated so as to insure that all entrances to, and exits from, the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences, or physical restraints in order to control behavior of its residents. The term "nonsecure facility" means a facility that is not characterized by the use of physically restricting construction, hardware, and procedures and which provides its residents access to the surrounding community with minimal supervision. A facility shall not be deemed secure due solely to any of the following conditions: (1) the existence within the facility of a small room for the protection of individual residents from themselves or others; (2) the adoption of regulations establishing reasonable hours for residents to come and go from the facility based upon a sensible and fair balance between allowing residents free access to the community and providing the staff with sufficient authority to maintain order, limit unreasonable actions by residents, and to insure that minors placed in their care do not come and go at all hours of the day and night or absent themselves at will for days at a time; and (3) staff control over ingress and egress no greater than that exercised by a prudent parent. The State Department of Social Services may adopt regulations governing the use of small rooms pursuant to this section.

No minor described in this section may be held in temporary custody in any building that contains a jail or lockup for the confinement of adults, unless, while in the building, the minor is under continuous supervision and is not permitted to come into or remain in contact with adults in custody in the building.

No record of the detention of such a person shall be made or kept by any law enforcement agency or the Department of Justice as a record of arrest.

- SEC. 2. Section 207 of the Welfare and Institutions Code is amended to read:
- 207. (a) No minor shall be detained in any jail, lockup, juvenile hall, or other secure facility who is taken into custody solely upon the ground that he or she is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground, except as provided in subdivision (b). If any such minor, other than a minor described in subdivision (b), is detained, he or she shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.
- (b) A minor taken into custody upon the ground that he or she is a person described in Section 601, or adjudged to be a ward of the juvenile court solely upon that ground, may be held in a secure facility, other than a facility in which adults are held in secure custody, in any of the following circumstances:
- (1) For up to 12 hours after having been taken into custody for the purpose of determining if there are any outstanding wants, warrants, or holds against the minor in cases where the arresting officer or probation officer has cause to believe that the wants, warrants, or holds exist.
- (2) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his or her parent or guardian.
- (3) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his or her parent or guardian, whose parent or guardian is a resident outside of the state wherein the minor was taken into custody, except that the period may be extended to no more than 72 hours when the return of the minor cannot reasonably be accomplished within 24 hours due to the distance of the parents or guardian from the county of custody, difficulty in locating the parents or guardian, or difficulty in locating resources necessary to provide for the return of the minor.
- (c) Any minor detained in juvenile hall pursuant to subdivision (b) may not be permitted to come or remain in contact with any person detained on the basis that he or she has been taken into custody upon the ground that he or she is a person described in Section 602 or adjudged to be such or made a ward of the juvenile court upon that ground.

- (d) Minors detained in juvenile hall pursuant to Sections 601 and 602 may be held in the same facility provided they are not permitted to come or remain in contact within that facility.
- (e) Every county shall keep a record of each minor detained under subdivision (b), the place and length of time of the detention, and the reasons why the detention was necessary. Every county shall report this information to the Department of the Youth Authority on a monthly basis, on forms to be provided by that agency.

The Youth Authority shall not disclose the name of the detainee, or any personally identifying information contained in reports sent to the Youth Authority under this subdivision.

- SEC. 3. Section 207.1 is added to the Welfare and Institutions Code, to read:
- 207.1. (a) On or after January 1, 1987, no court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).
- (b) On or after January 1, 1987, a minor alleged to have committed an offense described in subdivision (b) of Section 707 whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, may be detained in a jail or other secure facility for the confinement of adults, if all of the following conditions are met:
- (1) The juvenile court judge makes a finding at the conclusion of the fitness hearing that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.
- (2) Contact between the minor and adults in the facility is restricted in accordance with Section 208.
  - (3) The minor is adequately supervised.
- (4) The adult facility has been approved by the Youth Authority as an appropriate place for the detention of minors so transferred.
- (c) A minor found not a fit and proper subject to be dealt with under the juvenile court law shall, upon the conclusion of the fitness hearing, be entitled to release on bail or on his or her own recognizance upon the same circumstances, terms, and conditions as an adult alleged to have committed the same offense.
- (d) A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults if all of the following conditions are met:
- (1) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.
  - (2) The minor is detained in the law enforcement facility for a

period that does not exceed six hours.

- (3) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour time the secure detention is authorized to last.
- (4) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.
  - (5) The minor is adequately supervised.
- (6) A log or other written record is maintained by the law enforcement agency showing the offense which is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

Any other minor taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602 may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. However, while in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within such a facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

As used in this subdivision, "law enforcement facility" includes a police station or a sheriff's station but does not include a jail, as defined in subdivision (h).

- (e) The Youth Authority shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:
- (1) The Youth Authority shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.
- (2) The Youth Authority shall inquire of the official in charge of each jail or lockup that reported the confinement of a minor in calendar year 1984 or 1985 as to whether the jail or lockup may be used for the future confinement of any minor pursuant to subdivision (b), and if the Youth Authority is informed that the jail or lockup may be so used, it shall inspect the jail or lockup and determine whether it is an appropriate place for the secure detention of minors in conformity with the requirements of law.
- (3) The Youth Authority shall make available and shall, upon request, provide technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance

is to develop alternatives to the use of jails or lockups for the confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup; improved transportation or access to juvenile halls or other juvenile facilities; and other programmatic alternatives recommended by the Youth Authority. The technical assistance shall take such form as the Youth Authority deems appropriate for effective compliance with this section.

- (f) The Youth Authority may exempt a county that does not have a juvenile hall, or may exempt an offshore law enforcement facility, from compliance with this section for a reasonable period of time, until July 1, 1988, for the purpose of allowing the county or the facility to develop alternatives to the use of jails and lockups for the confinement of minors, if all of the following conditions are met:
- (1) The county or the facility submits a written request to the Youth Authority for an extension of time to comply with this section.
- (2) The Youth Authority agrees to make available, and the county or the facility agrees to accept, technical assistance to develop alternatives to the use of jails and lockups for the confinement of minors during the period of the extension.
- (3) The county or the facility requesting the extension submits to the Youth Authority a written plan for full compliance with this section by September 1, 1987.

As used in this subdivison and in subdivision (g), "offshore law enforcement facility" and "facility" means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

- (g) The Youth Authority may exempt a county or a facility described in subdivision (f) from compliance with this section for an additional period of time, but not beyond July 1, 1989, for the purpose of allowing the county or the facility to develop alternatives to the use of jails and lockups for the confinement of minors, if all of the following conditions are met:
- (1) Prior to the expiration of the exemption granted by the Youth Authority pursuant to subdivision (f), the county or the facility submits a written application to the Youth Authority for an additional exemption of one year or less, on the basis that the county or the facility has been unable to develop sufficient alternatives to the use of jails and lockups for the confinement of minors. In its application, the county or the facility shall summarize the efforts made to date to develop those alternatives and the reasons why an additional extension of time is sought.
- (2) The Youth Authority, upon examination of all the relevant circumstances, determines and certifies that the county or the facility has made a significant effort to develop alternatives to the use of jails or lockups for the confinement of minors but has not succeeded in developing these alternatives to a sufficient extent.
- (3) The Youth Authority agrees to make available and the county or the facility agrees to accept continuing technical assistance to

develop sufficient alternatives to the use of jails and lockups for the confinement of minors during the additional period of exemption.

- (h) (1) As used in this chapter, "jail" means any building which contains a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults charged with violations of criminal law pending trial or to hold convicted adult criminal offenders sentenced for less than one year.
- (2) As used in this chapter, "lockup" means any locked room or secure enclosure under the control of a sheriff or other peace officer which is primarily for the temporary confinement of adults upon arrest.
- SEC. 4. Section 209 of the Welfare and Institutions Code is amended to read:
- 209. (a) The judge of the juvenile court of a county, or, if there is more than one such judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or lockup which, in the preceding calendar year was used for confinement, for more than 24 hours, of any minor. The judge shall note in the minutes of the court whether the jail, juvenile hall, or lockup is a suitable place for confinement of minors.

The Department of the Youth Authority shall likewise conduct an annual inspection of each jail, juvenile hall, or lockup situated in this state which, during the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

If either a judge of the juvenile court or the department, after inspection of a jail, juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the department shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the jail, juvenile hall, or lockup shall not be used for confinement of minors until such time as the judge or department, as the case may be, finds, after reinspection of the jail, juvenile hall, or lockup that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

The custodian of each jail, juvenile hall, and lockup shall make such reports as may be required by the department or the juvenile court to effectuate the purposes of this section.

(b) The Department of the Youth Authority may inspect any law enforcement facility which contains a lockup for adults and which it has reason to believe may not be in compliance with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility which contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

If either the judge or the department finds after inspection that

the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the department shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until such time as the judge or the department, as the case may be, finds, after reinspection, that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

The custodian of each law enforcement facility which contains a lockup for adults shall make any report as may be required by the department or by the juvenile court to effectuate the purposes of this subdivision.

- (c) The department shall collect annual data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (h) of Section 207.1, and shall annually publish this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.
- SEC. 5. Section 210.2 is added to the Welfare and Institutions Code, to read:
- 210.2. (a) The Department of the Youth Authority shall adopt regulations establishing standards for law enforcement facilities which contain lockups for adults and which are used for the temporary, secure detention of minors upon arrest under subdivision (d) of Section 207.1. The standards shall identify appropriate conditions of confinement for minors in law enforcement facilities, including standards for places within a police station or sheriff's station where minors may be securely detained; standards regulating contact between minors and adults in custody in lockup, booking, or common areas; standards for the supervision of minors securely detained in these facilities; and any other related standard as the department deems appropriate to effectuate compliance with subdivision (d) of Section 207.1.
- (b) Every person in charge of a law enforcement facility which contains a lockup for adults and which is used in any calendar year for the secure detention of any minor shall certify annually that the facility is in conformity with the regulations adopted by the department under subdivision (a). The certification shall be endorsed by the sheriff or chief of police of the jurisdiction in which the facility is located and shall be forwarded to and maintained by the department. The department may provide forms and instructions to local jurisdictions to facilitate compliance with this requirement.
- SEC. 6. Section 707.1 of the Welfare and Institutions Code is amended to read:
  - 707.1. (a) If the minor is declared not a fit and proper subject to

be dealt with under the juvenile court law, the district attorney, or other appropriate prosecuting officer may file an accusatory pleading against the minor in a court of criminal jurisdiction. The case shall proceed from that point according to the laws applicable to a criminal case. If a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are being held, it shall be ordered that the proceedings upon that prosecution shall resume.

- (b) (1) The juvenile court may order that a minor alleged to have committed an offense described in subdivision (b) of Section 707 and who has been declared not a fit and proper subject to be dealt with under the juvenile court law be delivered to the custody of the sheriff upon a finding that the presence of the minor in the juvenile hall would endanger the safety of the public or be detrimental to the other inmates detained in the juvenile hall. Other minors declared not fit and proper subjects to be dealt with under the juvenile court law, if detained, shall remain in the juvenile hall pending final disposition by the criminal court or until they attain the age of 18, whichever occurs first.
- (2) Upon attainment of the age of 18 such a person who is detained in juvenile hall shall be delivered to the custody of the sheriff unless the court finds that it is in the best interests of the person and the public that he or she be retained in juvenile hall. If a hearing is requested by the person, the transfer shall not take place until after the court has made its findings.
- (3) When a person under 18 years of age is detained pursuant to this section in a facility in which adults are confined the detention shall be in accordance with the conditions specified in subdivision (b) of Section 207.1.
- (4) A minor found not a fit and proper subject to be dealt with under the juvenile court law shall, upon the conclusion of the fitness hearing, be entitled to release on bail or on his or her own recognizance on the same circumstances, terms, and conditions as an adult alleged to have committed the same offense.
- SEC. 7. This bill shall not become operative unless Senate Bill No. 2543 of the 1985–86 Regular Session of the Legislature is enacted and becomes operative.
- SEC. 8. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

## CHAPTER 1272

An act relating to mental health.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. The Legislature finds and declares that the Lanterman-Petris-Short Act provisions addressing involuntary commitment standards for mentally ill persons have not been modified significantly since the inception of the act in 1967. Since that time, the Legislature has expressed interest in examining whether or not the statutory commitment criteria should be expanded in order to result in the treatment of greater number of persons with mental illness.

The Legislature declares that, due to the complexity of the issues and due to the necessity to balance the rights of persons with mental illness to treatment, as well as the rights of persons with mental illness to all due process protections of constitutionally-guaranteed civil liberties, any proposed change in the involuntary civil commitment system must be evaluated for its potential effects on the entire mental health system, prior to enactment of such a substantive change.

Therefore, it is the intent of the Legislature to require a review of a proposed change in commitment standard that would result in the expansion of the definition of "grave disability" as defined in subdivision (h) of Section 5008 of the Welfare and Institutions Code. Acknowledging that it may not be possible to perform a purely scientific study on the effects of such a proposed change, the Legislature nonetheless acknowledges that county and private providers involved in the delivery of services to mentally ill persons through county-authorized mental health programs can provide an excellent and high-quality, first-step review and assessment of the impact of expanding the definition of "grave disability."

- (a) The Conference of Local Mental Health Directors shall submit an assessment report to the Legislature on or before July 1, 1988, containing an assessment of the following:
- (1) The impact on the cost, assessment, treatment, and service, and patients' rights of expanding the definition of "grave disability" under paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code to include a condition in which a person, as a result of a severe and treatable mental disorder, is either of the following:
- (A) Unable to provide for his or her own basic personal needs for food, clothing, or shelter and is unable to make an informed treatment decision.
  - (B) Based upon the historical course of the person's mental

disorder, as determined by available information, likely to deteriorate without treatment until he or she is unable to provide for his or her own basic personal needs for food, clothing, or shelter, and is unable to make an informed treatment decision.

- (2) The impact on the cost, assessment, treatment and service, and patients' rights of establishing outpatient treatment programs for involuntary evaluation and treatment and for conservatorships.
- (b) For the purposes of this section the following definitions apply:
- (1) "Severe mental disorder" means an illness, disease, organic brain disorder, or other condition that does either of the following:
- (A) Substantially impairs the person's thought, perception of reality, emotional process, or judgment.
- (B) Substantially impairs behavior, as manifested by recent disturbed behavior.

Mental retardation, epilepsy, or other developmental disabilities, alcoholism, or other drug abuse, or repeated antisocial behavior do not, in themselves, constitute a severe mental disorder.

- (2) "Treatable mental disorder" means that the mental, emotional, or behavioral disturbance is expected to recover, improve, or stabilize in response to medical or psychosocial intervention.
- (3) "Inability to make an informed treatment decision" means that the person, by reason of his or her mental disorder or condition, is unable, despite conscientious efforts at explanations, to express an understanding of the basic nature and effects of hospitalization or treatment, as evidenced by inability to weigh the possible risks and benefits.
- (c) The State Department of Mental Health shall select an independent contractor through a competitive bid process to perform all of the following activities concerning the completion of the assessment report:
- (1) Review reports literature and information assessing the experience of other states that have expanded the definition of "grave disability" in a similar manner.
- (2) Design criteria for counties to use in obtaining data and methodology for the assessment report, consistent with resources of the counties who have volunteered to participate in the assessment, after consultation with the Conference of Local Mental Health Directors, and with organizations and individuals that the independent contractor has identified as being a component of the mental health delivery, advocacy, and monitoring system.
- (3) Evaluate the information that has been collected by the participating counties over the course of the study, after it has been submitted to the contractor by the counties.
- (d) The Conference of Local Mental Health Directors shall select no less than three counties from those that volunteer to participate in the assessment. If possible, the conference shall attempt to select counties that represent a range of population sizes and mental health

treatment modalities. The participating counties shall assess the implications of the changes in subdivision (a), if these changes were to be applied to those mental health clients assessed, evaluated, served, or treated by those county mental health programs.

- (e) The State Department of Mental Health shall provide technical assistance and the data or information that it has already collected, that is requested by the Conference of Mental Health Directors and by the independent contractor that is relevant to the production of the assessment report.
- (f) Funding for the services of the independent contractor shall be allocated from existing resources within the budget of the State Department of Mental Health or from funds which would otherwise be available for retention by counties pursuant to Section 5714.2 of

the Welfare and Institutions Code, as determined by the director.

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 1273**

An act to add Section 1102.6 to the Penal Code, relating to criminal procedure.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986]

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

- SECTION 1. (a) The Legislature hereby finds and declares that it is essential to the fair and impartial administration of justice that a victim of a criminal offense be afforded a reasonable opportunity to attend any criminal trial for that offense.
- (b) Further, the Legislature hereby finds and declares that it is essential to the fair and impartial administration of justice that a victim of a criminal offense not be excluded from any trial or any portion thereof conducted by any court that in any way pertains to the offense, merely because the victim has been or may be subpoenaed to testify at the trial, or because of any arbitrary or invidious reason.
- (c) This act shall be construed so as to accomplish and promote these purposes which are hereby declared to be the public policy of this state.
- (d) This act shall be known and may be cited as the California Crime Victims Trial Attendance Act.

- SEC. 2. Section 1102.6 is added to the Penal Code, to read:
- 1102.6. (a) The victim shall be entitled to be present and seated at the trial. If the court finds that the presence of the victim would pose a substantial risk of influencing or affecting the content of any testimony, the court shall exclude the victim from the trial entirely or in part so as to effect the purposes of this section.
- (b) Upon the court's granting of the victim's request, the defendant may object to the order of the victim's testimony, in which case the victim shall testify first, subject to exclusion if the foundation or corpus delicti is not later established by the testimony of other prosecuting witnesses.
- (c) Upon the request of either party or upon the court's own motion, the victim shall be excluded from any hearing on a motion pursuant to this section.
- (d) The court, on its own motion or on the motion of either party, may remove a victim from the trial or any portion of it for the same causes and in the same manner as is provided for the exclusion or removal of the defendant, pursuant to paragraph (1) of subdivision (b) of Section 1043 and paragraph (1) of subdivision (b) of Section 1043.5. The prosecution may request the removal of the victim at any time and, upon that request, the court shall require the removal of the victim.
- (e) As used in this section, "victim" means (1) the alleged victim of the offense and one member of the victim's immediate family and (2) in the event that the victim is unable to attend the trial, up to two members of the victim's immediate family who are actual or potential witnesses.
- (f) The failure of a victim to exercise any right granted under this section is not a cause or ground for an appeal by the defendant of a conviction or for any court to set aside, reverse, or remand the criminal conviction.

## **CHAPTER 1274**

An act to amend Sections 805 and 2435 of, and to add Section 805.1 to, the Business and Professions Code, and to amend Sections 43.95 and 43.97 of the Civil Code, relating to the healing arts, and making an appropriation therefor.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 805 of the Business and Professions Code is amended to read:

805. The chief executive officer and the chief of the medical staff, where one exists, of any health facility licensed pursuant to Division

2 (commencing with Section 1200) of the Health and Safety Code. or any medical, psychological, dental, or podiatric professional society, or medical specialty society described in Section 43.7 of the Civil Code, or any health care service plan or medical care foundation shall report to the agency which issued the license, certificate, or similar authority when any licensed physician and surgeon, clinical psychologist, podiatrist, or dentist is denied staff privileges, removed from the medical staff of the institution, or if his or her staff or membership privileges are restricted for a cumulative total of 45 days in any calendar year for any medical disciplinary cause or reason. The reports shall be made within 20 working days following the removal or restriction, shall be certified as true and correct by the chief executive officer and the chief of the medical staff, where one exists, and shall contain a statement detailing the nature of the action, its date, and all of the reasons for, and circumstances surrounding, the action. If the removal or restriction is by resignation or other voluntary action that was requested or bargained for in lieu of medical disciplinary action, the report shall

The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976. The Board of Medical Quality Assurance, the Board of Osteopathic Examiners, and the Board of Dental Examiners shall disclose reports as required by Section 805.5. A file containing reports received pursuant to this section shall be maintained by the agency receiving the reports for a minimum of five years after receipt.

No person shall incur any civil or criminal liability as the result of making any report required by this section.

Failure to make a report pursuant to this section shall be a misdemeanor punishable by a fine of not less than two hundred dollars (\$200) nor more than one thousand two hundred dollars (\$1,200).

- SEC. 2. Section 805.1 is added to the Business and Professions Code, to read:
- 805.1. (a) The Board of Medical Quality Assurance, the Board of Osteopathic Examiners, and the Board of Dental Examiners shall be entitled to inspect and copy the following documents in the record of any disciplinary proceeding resulting in action which is required to be reported pursuant to Section 805:
  - (1) Any statement of charges.
  - (2) Any document, medical chart, or exhibits in evidence.
  - (3) Any opinion, findings, or conclusions.
- (b) The information so disclosed shall be kept confidential and not subject to discovery, in accordance with Section 800, except that it

may be reviewed, as provided in subdivision (c) of Section 800, and may be disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

- SEC. 3. Section 2435 of the Business and Professions Code is amended to read:
- 2435. The following fees apply to physician's and surgeon's certificates, certificates of drugless practitioners, and certificates to practice midwifery:
- (a) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.
- (b) Between January 1, 1987, and December 31, 1989, the application and processing fee, for the first year, shall be two hundred seventy-five dollars (\$275), and, for each subsequent year, shall be equal to the prior year's fee plus a sum fixed by the Division of Licensing equal to not more than 10 percent of the prior year's fee, up to a maximum of three hundred fifty dollars (\$350). On and after January 1, 1990, the application and processing fee shall be fixed by the Division of Licensing by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.
- (c) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an examination fee fixed by the board, which shall equal the actual cost to the board of the purchase of the written examination furnished by the organization pursuant to Section 2176, plus the actual cost to the board of administering the written examination. Such actual cost to the board of administering the written examination that shall be charged to the applicant shall not exceed one hundred dollars (\$100). The board may charge the examination fee provided for in this section for any subsequent reexamination of the applicant.
- (d) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any. On and after July 1, 1987, the initial license fee shall be fixed by the board at an amount not less than two hundred dollars (\$200), and not to exceed three hundred twenty-five dollars (\$325), in accordance with paragraph (3) of subdivision (e). Until July 1, 1987, that fee shall be fixed as provided by paragraph (2) of subdivision (e). Any applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.
- (e) (1) On and after July 1, 1987, the biennial renewal fee shall be fixed by the board at an amount not less than two hundred dollars (\$200), and not to exceed three hundred twenty-five dollars (\$325),

in accordance with paragraph (3).

- (2) Until July 1, 1987, the biennial fee and the initial license fee shall each be two hundred fifty-five dollars (\$255), except that the board may fix the biennial renewal fee at an amount determined by the board between two hundred forty dollars (\$240) and two hundred fifty-five dollars (\$255), inclusive.
- (3) On and after July 1, 1987, the board shall fix the biennial renewal fee and the initial license fee so that, together with the amounts from other revenues, the reserve balance in the board's contingent fund shall be equal to approximately four months of annual authorized expenditures. Any increase in the renewal and initial license fees made after July 1, 1987, shall be effective upon a determination by the board, by regulation adopted pursuant to Section 2436, that additional amounts are necessary to maintain a reserve balance in the board's contingent fund equal to four months of annual authorized expenditures in the state fiscal year in which the expenditures are to occur.
- (f) Notwithstanding Section 163.5, the delinquency fee is 10 percent of the biennial renewal fee.
- (g) The duplicate certificate and endorsement fees shall each be fifty dollars (\$50), and the certification and letter of good standing fees shall each be ten dollars (\$10).
- (h) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Board of Medical Quality Assurance equal to approximately four months' operating expenditures.
  - SEC. 4. Section 43.95 of the Civil Code is amended to read:
- (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, 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. 4.2. 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. podiatric, pharmaceutic, chiropractic. 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. 4.4. Section 43.95 of the Civil Code is amended to read:
- (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, 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. 4.6. 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. 5. Section 43.97 of the Civil Code is amended to read:
- 43.97. (a) There shall be no monetary liability on the part of, and no cause of action for damages, other than economic or pecuniary damages, shall arise against a hospital for any action taken upon the recommendation of its medical staff, or against any other person or organization for any action taken, or restriction imposed, which is required to be reported pursuant to Section 805 of the Business and Professions Code, provided that the action or restriction is reported in accordance with Section 805 of the Business and Professions Code. This section shall not apply to an action knowingly and intentionally taken for the purpose of injuring a person affected by the action, or infringing upon a person's rights.
- SEC. 6. (a) Section 4.2 of this bill incorporates amendments to Section 43.95 of the Civil Code proposed by both this bill and AB 2858. 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) AB 3032 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2858, in which case Sections 4, 4.4, and 4.6 of this bill shall not become operative.
- (b) Section 4.4 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, (3) AB 2858 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3032 in which case Sections 4, 4.2, and 4.6 of this bill shall not become operative.
- (c) Section 4.6 of this bill incorporates amendments to Section 43.95 of the Civil Code proposed by this bill, AB 2858, and AB 3032. 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, (3) this bill is enacted after AB 2858 and AB 3032, in which case Sections 4, 4.2, and 4.4 of this bill shall not become operative.
- SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

# CHAPTER 1275

An act to amend Section 1810 of the Welfare and Institutions Code, relating to grants and subventions.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 1810 of the Welfare and Institutions Code is amended to read:

1810. (a) If during any fiscal year in which a county receives funds under this article, the county reduces the capacity of its juvenile homes, ranches, camps, or forestry camps below the capacity for those facilities during fiscal year 1982-83, and if during the 12-month period subsequent to the month of the reduction, or any subsequent 12-month period, there is an increase of commitments from the county's juvenile court to the Department of the Youth Authority above the number of the commitments during the 1982-83 fiscal year, the county's entitlement to funding under this article shall be reduced by an amount equivalent to the actual cost, as determined by the Department of the Youth Authority, of increasing capacity to the fiscal year 1982-83 level or by an amount equal to the increase in commitments from the juvenile court to the Department of the Youth Authority, whichever is less. However, if within 90 days of receiving notice from the department of the extent of the increase in commitments, the county increases its juvenile home, ranch, camp or forestry camp capacity for the rest of the current fiscal year in an amount equal to the reduction of that capacity, or in an amount equal to the increase in commitments from the juvenile court to the Department of the Youth Authority, whichever is less (except that the increases in capacity shall be in increments of 10 beds to the extent required to meet or surpass the required increase, but not in excess of the amount of the reduction of capacity), the funding shall not be reduced.

Any reduction shall be applied to the next payment or payments to which the county is otherwise entitled.

- (b) Any commitment of funds or reduction in entitlement required under subdivision (a) shall not reduce the county's entitlement below the level of funding required to maintain the programs or services mandated by Chapter 1071 of the Statutes of 1976, as approved by the Board of Control for fiscal year 1977–78 and as increased by inflationary factors determined by the Department of Finance.
- (c) A county that provides juvenile home, ranch, or camp space to another county pursuant to contract shall not have its entitlement reduced pursuant to this section if it reduces its capacity based on a reduction in the amount of space provided pursuant to contract.

- (d) The provisions of this section shall not be applicable to a reduction in capacity occurring as a result of an act of God. In addition, this section does not apply to the County of Santa Barbara because of an involuntary loss of the lease of a juvenile camp, ranch, or school facility. However, the County of Santa Barbara shall have until June 1, 1990, to develop a comparable facility, facilities, or programs. In addition, prior to June 1, 1990, funding pursuant to Section 1805 originally intended for the facility of the County of Santa Barbara which is to be closed because of the involuntary loss of the lease, shall be used to expand existing juvenile programs in the county.
- (e) As used in this section, "juvenile home, ranch, camp, or forestry camp" means those facilities as are established pursuant to Article 24 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2.

This section shall remain in effect only until June 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before June 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after June 1, 1990, pursuant to Section 9611 of the Government Code, this section, as added by Section 5 of Chapter 288 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

### CHAPTER 1276

An act to amend Section 647 of the Penal Code, relating to crimes.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

- SECTION 1. Section 647 of the Penal Code is amended to read: 647. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:
- (a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.
- (b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, beside the agreement, be done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this

subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

- (c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.
- (d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.
- (e) Who loiters or wanders upon the streets or from place to place without apparent reason or business and who refuses to identify himself or herself and to account for his or her presence when requested by any peace officer so to do, if the surrounding circumstances are such as to indicate to a reasonable person that the public safety demands such identification.
- (f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of any intoxicating liquor, drug, controlled substance, toluene, or any such poison, in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of any intoxicating liquor, drug, toluene, or any such poison, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.
- (ff) When a person has violated subdivision (f) of this section, a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. Such person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to such placement. This subdivision shall not apply to the following persons:
- (1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.
- (2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f) of this section.
- (3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.
- (g) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the

owner or occupant thereof. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

- (h) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof.
- (i) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control thereof.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading; and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on parole, or on any other basis until he or she has served a period of not less than 45 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been previously convicted two or more times of a violation of that subdivision, each such previous conviction shall be charged in the accusatory pleading; and, if two or more of such previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on parole, or on any other basis until he or she has served a period of not less than 90 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

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.

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### CHAPTER 1277

An act to amend Sections 6553, 9955, 15025, 17169, 17190, 22900, 23302.5, and 23512.6 of, to add Section 5151.5 to, to repeal Sections 610 and 6460 of, and to repeal and add Sections 607, 3507, and 3508 to, the Elections Code, relating to elections.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 607 of the Elections Code is repealed. SEC. 2. Section 607 is added to the Elections Code, to read:

- (a) Each county clerk shall send to the Secretary of State a summary statement of the number of voters in the county. The statement shall show the total number of voters in the county, the number registered as affiliated with each qualified political party, the number registered in nonqualified parties, and the number who declined to state any party affiliation. The statement shall also show the number of voters, by political affiliations, in each city, supervisorial district, Assembly District, Senate District, and congressional district, located in whole or in part within the county.
- (b) The Secretary of State, on the basis of the statements sent by the county clerks and within 30 days after receiving those statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, supervisorial district, Assembly District, Senate District, and congressional district, in the state. A copy of this list shall be made available, upon request, to any elector in this state.
- (c) Each county clerk who uses data processing equipment to store the information set forth in the affidavit of registration shall send to the Secretary of State one copy of the magnetic tape file with the information. Each county clerk who does not use data processing storage shall send to the Secretary of State one copy of the index setting forth such information.
- (d) The summary statements and the magnetic tape file copy or the index shall be sent at the following times:
- (1) On the 135th day before each presidential primary and before each direct primary, with respect to voters registered on the 154th day before the primary election.
- (2) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election.
- (3) Not less than ten days prior to the primary election, with respect to voters registered before the 28th day prior to the primary election.
- (4) Not less than 50 days prior to the general election, with respect to voters registered on the 60th day before the general election.

- (5) Not less than ten days prior to the general election, with respect to voters registered before the 28th day prior to the general election.
- (6) On or before March 1 of each odd-numbered year, with respect to voters registered as of February 10.
- (7) On or before October 1 of each odd-numbered year, with respect to voters registered as of September 12.
- (e) The Secretary of State may adopt regulations prescribing the format of the magnetic tape file or index containing the registered voter information from the affidavits of registration.
- (f) The Secretary of State may adopt regulations prescribing additional regular reporting times, except that the total number of reporting times in any one calendar year shall not exceed twelve.
- (g) The Secretary of State shall make the information from the magnetic tape files or the printed indexes available, under conditions prescribed by the Secretary of State, to any candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election or governmental purposes as determined by the Secretary of State.
  - SEC. 3. Section 610 of the Elections Code is repealed.
  - SEC. 4. Section 3507 of the Elections Code is repealed.
  - SEC. 5. Section 3507 is added to the Elections Code, to read:
- 3507. Every proposed initiative measure, prior to circulation, shall have placed across the top of the petition in 12-point or larger roman boldface type, all of the following:
- (a) The summary prepared by the Attorney General upon each page of the petition on which signatures are to appear.
- (b) The summary prepared by the Attorney General upon each section of the petition preceding the text of the measure.
- (c) The summary prepared by the Attorney General as required by subdivision (b) shall be preceded by the following statement: "Initiative measure to be submitted directly to the voters."
  - SEC. 6. Section 3508 of the Elections Code is repealed.
  - SEC. 7. Section 3508 is added to the Elections Code, to read:
- 3508. A space at least one inch wide shall be left blank across the top of each page of every initiative petition and after the name of each voter who has signed the petition for the use of the clerk in verifying the petition.
- SEC. 8. Section 5151.5 is added to the Elections Code, to read: 5151.5. For the purposes of initiative and referendum under this chapter, "clerk of the district" includes the county clerk or other officer or board charged with performing the duties required of the clerk of the district by this chapter.
  - SEC. 9. Section 6460 of the Elections Code is repealed.
- SEC. 10. Section 6553 of the Elections Code is amended to read: 6553. The filing fee to be paid to the county clerk for filing a declaration of candidacy for an office to be voted for wholly within

one county other than a legislative or congressional office shall be as follows:

- (a) No filing fee is required from any candidate for an office for which no fixed compensation is payable, or for which the annual salary is two thousand five hundred dollars (\$2,500) or less.
- (b) A filing fee of 1 percent of the annual salary of the office shall be paid to the county clerk by each candidate for a judicial office or for a county office. This subdivision shall not apply to any candidate for any office for which the annual salary is two thousand five hundred dollars (\$2,500) or less.

The filing fee shall be calculated on the basis of the annual salary for the office on the first day to circulate petitions to gather signatures in lieu of filing fees.

SEC. 11. Section 9955 of the Elections Code is amended to read: 9955. Until otherwise provided for by statute, a political party newly qualified pursuant to Section 6430 shall carry on its activities in accordance with procedures applicable to such other political party which has detailed statutory provisions applicable to its operation as shall be designated by the newly qualified party. The temporary officers of the newly qualified political party elected pursuant to Section 9951 shall file notice of its selection with the Secretary of State not later than 30 days after the political party qualifies.

SEC. 12. Section 15025 of the Elections Code is amended to read: 15025. In the case of electrical failure or other emergency, the official conducting the election may direct that ballots may be marked by pencil or ink. In such an event, the elections official may duplicate the voted ballot cards as provided in Section 15270 and count the duplicate ballots by automatic tabulating device, or may count the voted ballots pursuant to Chapter 1 (commencing with Section 17000) of Division 12.

SEC. 13. Section 17169 of the Elections Code is amended to read: 17169. All ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests.

No examination of any ballot shall include touching or handling the ballot without the express consent of the clerk or the election officer supervising the special recount board. No ballot may be touched or handled during the examination unless the clerk or the election officer supervising the special recount is present to observe the examination.

Except as provided in this section no ballot shall be touched or handled by any person during the recount unless that person is the clerk, a person acting at the direction of the clerk, a member of the special recount board, or by order of the superior court.

SEC. 14. Section 17190 of the Elections Code is amended to read: 17190. Within 15 days after every election in which a voting system, as defined in Section 15009, is used the official conducting the election shall conduct a public manual recount of the ballots

tabulated by such devices cast in 1 percent of the precincts chosen at random by the clerk. If 1 percent of the precincts should be less than one whole precinct, the recount shall be conducted in one precinct chosen at random by the clerk.

In addition to the 1 percent count, the clerk shall, for each race not included in the initial group of precincts, count one additional precinct. The manual recount shall apply only to the race not previously counted.

Additional precincts for the manual recount may be selected at the clerk's discretion.

SEC. 15. Section 22900 of the Elections Code is amended to read: 22900. The city clerk shall have the necessary ballots printed and shall procure and furnish to the election officers the necessary supplies and equipment as specified in Sections 14005, 14005.3, and 14007. The clerk shall see that they are properly distributed to each precinct prior to the opening of the polls on the day of election.

SEC. 16. Section 23302.5 of the Elections Code is amended to read:

23302.5. Notwithstanding any other provision of the law, whenever other elections are consolidated with a regularly scheduled election, the period for the filing of nomination documents by candidates in elections consolidated with the regularly scheduled election shall commence on the 113th day prior to the election. The nomination documents shall be filed not later than 5 p.m. on the 88th day prior to the regularly scheduled election in the office of the appropriate officer during regular office hours.

SEC. 17. Section 23512.6 of the Elections Code is amended to read:

23512.6. Each nominee shall set forth in full the oath or affirmation set forth in Section 3 of Article XX of the California Constitution which shall be filed with the Affidavit of Nominee and which shall satisfy the provisions of Section 3 of Article XX of the California Constitution with respect to any district office. The county clerk or district secretary, or a person designated by the county clerk or district secretary, shall administer the oath.

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.

# CHAPTER 1278

An act to add Article 6 (commencing with Section 17577) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to advertising.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Article 6 (commencing with Section 17577) is added to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, to read:

### Article 6. Water Treatment Devices

17577. For the purposes of this article, the following terms have the following meanings:

- (a) "Advertisement" includes all representations of fact or opinion disseminated to the public in any manner or by any means that are designed to induce, directly or indirectly, any person to enter into any obligation to acquire any title or interest in, or to utilize, any water treatment device.
- (b) "Water treatment device" means any point of use or point of entry instrument or contrivance sold, or offered for rental or lease, for residential, commercial, or institutional use and designed to be added to the plumbing system, or used without being connected to the plumbing, of a water supply intended for human consumption in order to improve the water supply by any means, including, but not limited to, filtration, distillation, adsorption, ion exchange, reverse osmosis, or other treatment. "Water treatment device" does not include any device that is regulated pursuant to Chapter 7.5 (commencing with Section 4040) of Part 1 of Division 5 of the Health and Safety Code.
- (c) "Person" means any individual, firm, corporation, or association, or any employee or agent thereof.
- 17577.1. (a) An advertisement of a water treatment device is false if it is false or misleading in any particular regarding the water treatment device.
- (b) It is unlawful for any person to disseminate a false advertisement of a water treatment device by any means for the purposes of inducing, directly or indirectly, the purchase, rental, or lease of water treatment devices.
- 17577.2. It is unlawful for any person soliciting a sale, rental, lease, or order for water treatment devices to do any of the following:
- (a) Make false claims or statements that are not entirely true, or statements that are misleading, about contamination problems in tap water.

- (b) Make statements which are not true or applicable in all situations which they purport to cover. This prohibition includes, but is not limited to, the following:
- (1) Claims that state or imply scientific certainty regarding the relationship between acute or chronic illnesses and water quality, unless the claims are true and accurate.
- (2) Statements which overstate the kind and degree of problems caused by water treated by public water systems, if the statements are not true or applicable.
- (3) Statements stating or implying that the water flowing from a water treatment device is "pure," "safe," or the use of other words or terms which state or imply that the treatment device improves the quality of tap water, if the statements are not true or applicable.
- (c) Make product performance claims or product benefit claims unless they are based on factual data of a type and quantity reasonably appropriate for the claims being made, which data is in existence at the time the claims are made.
- (d) Make statements about the performance attributes or benefits claimed for a product unless they are adequately described or qualified in complete, comprehensive, and detailed terms and are based on proven facts.
- (e) Make claims which describe a problem and offer a solution unless the circumstances under which the problem is likely to arise are clearly and accurately identified.
- (f) Use pictures, exhibits, graphs, charts, or other graphic portrayals unless they are clearly and unambiguously truthful.
- (g) Omit material facts from advertising material or statements if the effect would be to mislead or to misrepresent.
- (h) Use endorsements or testimonials unless they contain no misleading implications and they reflect the most current opinion and qualifications of the person giving it.
- 17577.3. Any advertisement soliciting a sale, rental, lease, or order for water treatment devices shall include at least the following statement:

"Operational, maintenance, and replacement requirements are essential for the product to perform as advertised."

The disclosure statement required by this section shall be printed in a clearly legible and conspicuous manner, or shall be clearly audible if the advertisement is broadcast.

- 17577.4. Any violation of this article 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.
- 17577.5. In addition to any other penalities or remedies applicable to violations of this article, the intentional violation of this article shall entitle purchasers, renters, or lessors of water treatment devices, when there was a sales, rental, or lease solicitation or advertisement, or both, in which the intentional violation of this article took place, to damages of two times the amount of the sale

price or up to two hundred fifty dollars (\$250), whichever is greater, but in no case shall the damages be less than fifty dollars (\$50). However, as a condition precedent to instituting an action hereunder against the person represented by the person making the solicitation, the aggrieved party shall, in writing, demand that the person represented by the solicitor reacquire the water treatment device and return any and all payments, including installation expenses, made, and that the person represented by the solicitor shall have refused or failed to respond, within a 30-day period from the date of demand, to the demand for return of payments or expenses. This section does not apply to a cause of action commenced under any other provision of law.

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- SEC. 1.5. Section 17577.2 is added to the Business and Professions Code, to read:
- 17577.2. It is unlawful for any person soliciting a sale, rental, lease, or order for water treatment devices to do any of the following:
- (a) Make false claims or statements that are not entirely true, or statements that are misleading, about contamination problems in tap water.
- (b) Make statements which are not true or applicable in all situations which they purport to cover. This prohibition includes, but is not limited to, the following:
- (1) Claims that state or imply scientific certainty regarding the relationship between acute or chronic illnesses and water quality.
- (2) Statements which overstate the kind and degree of problems caused by water treated by public water systems.
- (3) Statements stating or implying that the water flowing from a water treatment device is "pure," "safe," or the use of other words or terms which state or imply that the treatment device improves the quality of tap water.
- (c) Make product performance claims or product benefit claims unless they are based on factual data of a type and quantity reasonably appropriate for the claims being made, which data is in existence at the time the claims are made.
- (d) Notwithstanding subdivision (c), make product performance claims or product benefit claims that the device affects health or the safety of drinking water, unless the device has been certified by the Department of Health Services pursuant to Chapter 8.5 (commencing with Section 4057) of Division 5 of the Health and Safety Code.
- (e) Make statements about the performance attributes or benefits claimed for a product unless they are adequately described or qualified in complete, comprehensive, and detailed terms and are based on proven facts.
- (f) Make claims which describe a problem and offer a solution unless the circumstances under which the problem is likely to arise are clearly and accurately identified.
- (g) Use pictures, exhibits, graphs, charts, or other graphic portrayals unless they are clearly and unambiguously truthful.

- (h) Omit material facts from advertising material or statements if the effect would be to mislead or to misrepresent.
- (i) Use endorsements or testimonials unless they contain no misleading implications and they reflect the most current opinion and qualifications of the person giving it.
- SEC. 2. Section 1.5 of this bill shall only become operative if (1) SB 2119 is enacted and becomes effective on or before January 1, 1987; and (2) SB 2119 adds Chapter 8.5 (commencing with Section 4057) to Division 5 of the Health and Safety Code, in which case Section 17577.2 of the Business and Professions Code, as added by Section 1 of this bill, shall not become operative.
- SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

# **CHAPTER 1279**

An act to add and repeal Section 44258.5 to the Education Code, relating to teacher assignments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 44258.5 is added to the Education Code, to read:

(a) Notwithstanding any other provision of law, the 44258.5. Commission on Teacher Credentialing shall complete a statewide study of the misassignment of credentialed personnel. The study shall incorporate a sample of the school assignments that are reflective of typical assignments. The commission shall report its findings in a report to the Legislature on or before February 1, 1987. The report shall contain all pertinent data regarding the existence of the misassignment of credentialed personnel and shall contain recommendations for its solution. If the report indicates that a solution is not possible without additional legislation, the commission shall develop proposed legislation to provide school districts with the means to properly assign credentialed personnel to all positions in their educational program. The report also shall recommend actions to be taken in the event that credentialed personnel are assigned to positions for which they are not properly credentialed.

By January 1, 1988, the commission shall adopt regulations necessary for the implementation of any legislation resulting from a

recommendation in its report. For any legislation resulting from a recommendation in its report and enacted after January 1, 1988, the commission shall adopt regulations necessary for the implementation thereof within 60 days after the effective date of that legislation.

- (b) During the period of the study, a school district and all school district personnel shall be exempt from any statutory sanction for the misassignment of credentialed personnel, so long as the district has made a good-faith effort to properly assign credentialed personnel.
- (c) The commission may issue a limited assignment authorization, for a fee of twelve dollars (\$12), to a permanent employee allowing the employee to be assigned, with his or her consent, to teach in any single subject class in which he or she has accomplished one or more of the following:
  - (1) Six semester units in the subject.
- (2) Achievement of at least a passing average on the appropriate national teachers examination used for credentialing in the subject by the commission.
  - (3) A major in a related subject field.
  - (4) Ninety hours of staff development in the subject.
- (d) The governing board of the school district which seeks to employ credentialed personnel under a limited assignment authorization by resolution shall provide specific authorization for any assignment made pursuant to subdivision (c). Any such assignment shall remain in effect until June 30 of that school year. The resolution shall include a statement of need for the holder of a limited assignment authorization which documents the efforts of the district to employ a fully credentialed person for that position. The resolution shall accompany the application for the limited assignment authorization.
- (e) Each school district governing board shall notify the commission on or before November 1986, the name of the certificated employee of the district who will be responsible for the implementation of workshops with district administrators regarding the proper assignment of teachers within their credential authorizations.
- (f) This section shall remain in effect only until June 30, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1988, deletes or extends that date.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the educational problems resulting from the misassignment of teachers to be resolved at the earliest opportunity, it is necessary that this act go into effect immediately.

# CHAPTER 1280

An act to add Section 7005 to the Education Code and to amend Section 22754 of, and to add Sections 22858 and 22859 to, the Government Code, relating to the Public Employees' Medical and Hospital Care Act.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. Section 7005 is added to the Education Code, to read:

7005. This article does not apply to persons receiving benefits pursuant to the Public Employees' Medical and Hospital Care Act (Chapter 1 (commencing with Section 22751) of Part 5 of Division 5 of Title 2 of the Government Code) and to the employers on which their benefits are based.

For purposes of this section, "employer" means a county superintendent of schools, a school district, or a community college district irrespective of whether employees may be represented by different bargaining groups. Notwithstanding any other provision of this part, this article does not apply to employers for those groups of employees for whom coverage under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code) is provided by contract.

SEC. 2. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

- (a) "Board" means the Board of Administration of the Public Employees' Retirement System.
- (b) "Employee" means any officer or employee of the State of of any agency, department, authority, instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, or who is an employee or annuitant of a county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3) which has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering

prepaid hospital and medical care are otherwise authorized by law.

- (c) "Carrier" means a private insurance company holding a valid certificate of authority from the outstanding Insurance Commissioner of the state, a medical society or other medical group. a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.
- (d) "Health benefits plan" means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.
  - (e) "Annuitant" means:

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- (1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.
- (2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 or similar provisions of any other state retirement system.
- (3) Any person who, at the time of separation from employment because of disability, was enrolled in a health benefits plan and who enters a rehabilitation program under Section 139.5 of the Labor Code and retires for disability within 120 days of termination of the rehabilitation program.
- (f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.
- (g) "Contracting agency" means any contracting agency as defined in Section 20010, any county subject to the County Employees' Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.
- (h) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.
  - SEC. 3. Section 22858 is added to the Government Code, to read: 22858. Former certificated employees of a county

superintendent of schools, a school district or a community college district which has elected to be subject to this part, and their spouses, and surviving spouses of those former certificated employees who retired from that employer under any public retirement system, who elect to receive benefits under this part, and the employers on which their benefits are based, are not subject to Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of Division 1 of the Education Code.

- SEC. 4. Section 22859 is added to the Government Code, to read: 22859. A contracting agency may elect by amendment to its contract with the board to participate in a Medicare reimbursement program for its employees or annuitants, or family members of employees or annuitants, who are enrolled in a health benefits plan under this part that provides supplemental benefits for persons enrolled under the health insurance provisions of Title XVIII of the federal Social Security Act. The program shall apply to reimbursement of the amount of Medicare's standard charge exclusive of surcharge for late enrollment for insurance described in Part B under the Social Security Act, as prescribed by board regulations. The requirements for participation shall be prescribed by board regulations.
- 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 1281

An act relating to crime, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. The Legislature makes the following findings and declarations:

- (a) The impact of economic crime on the citizens of California and the nation is pervasive. Losses run into the billions of dollars, life savings are plundered, and the stability of financial institutions is threatened.
- (b) Public confidence in government's ability to combat major white collar crime is low.
- (c) Investigation and prosecution of major white collar crimes is inherently complex. The offenders are sophisticated, and the

transactions are often voluminous, sometimes involving truckloads of documents, all of which must be sifted through, analyzed and then presented in a comprehensible fashion to a jury.

- (d) Though enforcement is primarily a local responsibility, as with major narcotic cases, many major fraud cases are multijurisdictional and due to their scope and complexity are beyond the resources of local prosecutors. Therefore, it is essential to have a substantial state prosecution effort to prosecute these cases and also to provide technical and coordinating assistance to local jurisdictions.
- (e) At the request of local and federal agencies, the Major Fraud Unit in the Department of Justice currently is involved in the largest and most complex white collar crime investigations and prosecutions conducted in California, on both the state and federal levels. Current staffing ratios limit the ability of the Major Fraud Unit to have a sufficiently effective statewide presence to create a substantial deterrent impact. There is, therefore, a need to augment the staffing of that unit in order to have an adequate and effective coordinated attack on white collar crime both at the local and state levels.
- SEC. 2. The sum of five hundred sixty-one thousand dollars (\$561,000) is hereby appropriated from the General Fund to the Department of Justice in order to augment the staffing of the Major Fraud Unit in the Department of Justice. The appropriation made by this section shall be available for encumbrance only during the 1986–87 fiscal year.

# **CHAPTER 1282**

An act to add and repeal Title 11 (commencing with Section 14150) of Part 4 of the Penal Code, relating to children, and making an appropriation therefor.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. Title 11 (commencing with Section 14150) is added to Part 4 of the Penal Code, to read:

# TITLE 11. CALIFORNIA CHILD VICTIM WITNESS PROTECTION ACT

### Article 1. General

14150. This title shall be known and may be cited as the California Child Victim Witness Protection Act.

14151. The Legislature finds and declares that there is an urgent need for a comprehensive examination of the role of child victims

and witnesses in investigative and judicial proceedings. The Legislature further finds and declares the following:

- (a) Investigative and judicial proceedings were not designed for children. Recent experience demonstrates the necessity of providing child victims and witnesses with additional consideration and treatment differing from that which is afforded to adults; failure to address the special problems of child victims and witnesses may result in trauma to these children and a breakdown of the truth-finding process.
- (b) A comprehensive approach to the sensible, sensitive, and successful management of child victims and witnesses in our investigative and judicial systems should be adopted. While there have been recent legislative reforms in this area, there is a need for a complete review of investigative and judicial practices and procedures involving child victims and witnesses and, in particular, judicial proceedings involving child victims of physical and sexual abuse and neglect.
- (c) The purpose of this title is to improve investigative and judicial processes involving child victims and witnesses to ensure that these children are treated fairly and sensitively, and to ensure that they are not needlessly traumatized or further victimized by unnecessary repetitive interviews and court appearances and by uncoordinated investigative and judicial proceedings. It is the intention of the Legislature to accomplish this purpose by presently establishing a Child Victim Witness Judicial Advisory Committee to make recommendations for improving investigative and judicial processes involving child victims and witnesses, including recommendations as to the design of a Child Victim Witness Court Pilot Project to determine the most effective methods for implementing these recommendations.

# Article 2. Child Victim Witness Judicial Advisory Committee

14152. There is in state government a Child Victim Witness Judicial Advisory Committee. The purpose of the advisory committee is to study investigative and judicial practices and procedures as they pertain to child victims and witnesses, with particular attention to be given to the special problems of victims of intrafamilial child abuse and the coordination of related criminal and civil proceedings. The advisory committee shall be composed of 20 persons, appointed as follows:

- (a) The Attorney General or his or her representative, who shall be the chair of the advisory committee.
  - (b) One person appointed by the Governor.
  - (c) One person appointed by the Speaker of the Assembly.
  - (d) One person appointed by the Senate Committee on Rules.
- (e) Four trial judges, one from the municipal court, one each from the criminal and juvenile departments of the superior court who have extensive experience presiding over child abuse cases, and one

judge who has extensive experience presiding over family law cases and actions under Section 232 of the Civil Code, appointed by the Iudicial Council.

- (f) One attorney, who is a certified family law specialist, appointed by the State Bar.
- (g) Two attorneys, one with extensive experience prosecuting criminal cases and one with extensive experience in juvenile dependency and ward cases, appointed by the California District Attorneys Association.
- (h) One attorney who has extensive experience in dependency cases and actions under Section 232 of the Civil Code, appointed by the California County Counsels Association.
- (i) Two attorneys, one with extensive criminal defense experience and one with extensive experience representing parents in juvenile dependency and actions under Section 232 of the Civil Code appointed by the California Public Defenders Association.
- (j) One attorney, who has extensive criminal defense experience in child abuse cases, appointed by California Attorneys for Criminal Justice.
- (k) One person, who has extensive experience in child abuse cases, appointed by the California Peace Officers' Association.
- (l) One person, who has extensive investigative experience in child abuse cases, appointed by the California State Juvenile Officers Association.
- (m) One person, who has extensive experience in child welfare services, appointed by the County Welfare Directors Association.
- (n) One person, who has extensive experience in juvenile probation, appointed by the Chief Probation Officers of California.
- (o) One developmental psychologist, who has extensive expertise concerning the developmental and cognitive capabilities and emotional needs of children relating to their role as victims and witnesses in civil and criminal investigations and judicial proceedings, appointed by the Attorney General.
- 14153. The advisory committee shall study all of the following subjects and report its findings and recommendations to the Judicial Council, the Legislature, the Governor, and the Attorney General no later than October 1, 1988:
- (a) Recommendations for minimizing or reducing unnecessary repetitive interviews and court appearances.
- (b) Recommendations for streamlining and improving investigative and judicial practices and procedures, including, but not limited to, the following:
- (1) The management of child victims and witnesses in all criminal and civil judicial proceedings.
- (2) Coordination of related criminal and civil proceedings, such as dependency, custody, termination of parental rights, guardianship, and adoption proceedings.
- (3) Coordination of judicial and investigative processes, including law enforcement and child welfare services investigations.

- (c) Recommendations for the design and operation of a Child Victim Witness Court Pilot Project to determine the most effective methods for implementing the advisory committee's findings, including all of the following:
- (1) Determination of which recommendations from subdivision (a) should be tested in the pilot project.
- (2) Design of the pilot project, which may include modification of existing judicial practices and procedures, establishment of a specialty court, or both.
- (3) Determination of the need for specific enabling legislation or rule changes.
- (4) Recommendation for the number of sites and term of the pilot project.
  - (5) Selection of the pilot project sites.
  - (6) Recommendation for resource and funding requirements.
- (7) A determination of the effect on children and the accused when charges are not substantiated.
- 14154. In making recommendations for improving judicial practices and procedures and for the design of the pilot project the advisory committee shall examine all of the following issues:
- (a) Consolidation and coordination of related investigative and judicial proceedings.
  - (b) Use of a vertical litigation organizational concept.
  - (c) Provision of child victim witness support systems.
  - (d) Appropriate modification of court facilities.
  - (e) Effective case management information systems.
- 14155. The advisory committee may conduct public hearings to facilitate its study.
- 14156. Staff assistance to the advisory committee shall be provided by the Department of Justice, with the assistance of the Judicial Council, as needed.
- 14157. The members of the advisory committee shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.
- 14158. 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 enacted before January 1, 1989, deletes or extends that date.
- SEC. 2. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the Department of Justice for use from January 1, 1987, to June 30, 1987, for staff assistance to, and operational expenses incurred in connection with, the Child Victim Witness Judicial Advisory Committee established by Title 11 (commencing with Section 14150) of Part 4 of the Penal Code.

### CHAPTER 1283

An act to amend Section 19596.5 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 19596.5 of the Business and Professions Code is amended to read:

- 19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility at its racetrack inclosure, except during the part of the day the association is conducting racing at its racetrack, if all of the following conditions are met:
- (1) The association operating the satellite wagering facility has executed an agreement approved by the board with the association conducting a racing meeting in the northern zone that authorizes parimutuel wagering at the satellite wagering facility. The agreement shall provide that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.
- (2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility.
- (3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.
- (4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.
- (b) The deductions from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted. Notwithstanding any other provision of law, 2 percent of the amount handled by the satellite wagering facility shall be retained as a commission and 1½ percent of the amount handled by the satellite wagering facility located at a fair enclosure, or an amount equal to actual expenses as determined by the board, whichever amount is less, shall be distributed to the entity or association that incurs operating expenses related to satellite wagering, including, but not limited to, transmission costs, totalizator charges, and mutuel department labor charges. The funds remaining after distribution of the 2 percent commission and the 1½ percent, or amount of actual expenses, operating expense deduction

shall be distributed in the same relative percentages (reduced pro rata for the 2 percent commission and the 1½ percent, or amount of actual expenses, operating expense deduction) as provided by Article 9.5 (commencing with Section 19610) for the association which conducts the racing meeting, except that commencing January 1, 1988, the funds available for distribution to the association which conducts the racing meeting and for distribution to the horsemen, in the form of purses, shall be accumulated and shall be distributed equally between (1) the association which conducts the racing meeting and (2) the horsemen, in the form of purses, who participate in the racing meeting of the association which conducts the racing meeting.

- (c) All revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated to the Department of Food and Agriculture, for allocation by the director in his or her discretion, for (1) repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service incurred, for the purpose of constructing improvements only at a fair's racetrack inclosure, (2) for repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities, (3) for health and safety repair projects at fairs, and (4) for support purposes of fairs generally.
- 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 urgently needed improvement projects at fairs at which satellite wagering facilities are located may be commenced at the earliest possible time and that changes in the distribution of license fees and purses may be made for 1986 racing meetings in the northern zone, it is necessary that this act take effect immediately.

### CHAPTER 1284

An act to amend Sections 19596.5, 19610.5, 19614, 19614.2, and 19618 of, and to add Sections 19596.7 and 19614.1 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 19596.5 of the Business and Professions Code, as amended by Chapter 24 of the Statutes of 1986, is amended to read:

- 19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility at its racetrack inclosure, except during the part of the day the association is conducting racing at its racetrack, if all of the following conditions are met:
- (1) The association operating the satellite wagering facility has executed an agreement approved by the board with the association conducting a racing meeting in the northern zone that authorizes parimutuel wagering at the satellite wagering facility. The agreement shall provide that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.
- (2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility.
- (3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.
- (4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.
- (b) (1) The deductions from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted. Notwithstanding any other provision of law, 2 percent of the amount handled by the satellite wagering facility shall be retained as a commission and 1½ percent of the amount handled by the satellite wagering facility located at a fair enclosure, or an amount equal to actual expenses as determined by the board, whichever amount is less, shall be distributed to the entity or association that incurs operating expenses related to satellite wagering, including, but not limited to, transmission costs, totalizator charges, and mutuel labor charges. The funds remaining after distribution of the 2 percent commission and the 11/2 percent, or amount of actual expenses, operating expense deduction shall be distributed (reduced pro rata for the 2 percent commission and the 11/2 percent, or amount of actual operating expenses, operating expense deduction) first, for applicable state license fees, and second, 50 percent to the association which conducts the racing meeting; 45 percent to the horsemen, in the form of purses, who participate in the racing meeting of the association which conducts the racing meeting; and, 5 percent to the horsemen, in the form of purses, who participate in racing fairs that operate satellite wagering facilities.
- (2) The 5 percent of these funds which go to horsemen who participate in racing fairs shall be deposited in a separate account in the fund. Upon appropriation to the board, the funds in the account shall be distributed to the horsemen, as purses, during the fair season

following the season in which it was deposited. These funds shall be distributed on an equal basis to each racing fair track that operates satellite wagering facilities for distribution in all nonstakes races and among all breeds.

- (c) Except as provided in subdivisions (d) and (e), all revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture, in his or her discretion, for (1) repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service incurred, for the purpose of constructing improvements only at a fair's racetrack inclosure, (2) for repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities, (3) for health and safety repair projects at fairs, and (4) for support purposes of fairs generally.
- (d) Seven and one-half percent of all revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in the General Fund.
- (e) Up to 10 percent of all revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in a special account in the General Fund and shall be available, when appropriated by the Legislature, for supplementing purses at fair meetings to achieve the purposes of subdivision (f). The department shall annually determine the percentage of revenues payable to the special account under this subdivision based on the amount necessary to achieve the purposes of subdivision (f).
- (f) It is the intent of the Legislature that funds allocated pursuant to subdivision (e) be used primarily at fair racing meetings in the northern zone with a daily average handle of more than three hundred thousand dollars (\$300,000). The Legislature further finds that its intent is that these allocations be used to bring the purses at these fairs, exclusive of purses for stakes races and special events, to a level of at least 80 percent of purses for similar classes of horses at private racing associations in the northern zone.
- SEC. 2. Section 19596.7 is added to the Business and Professions Code, to read:
- 19596.7. In addition to satellite wagering facilities authorized pursuant to Section 19596.5, the board, with the approval of the Department of Food and Agriculture, may authorize any county fair, district agricultural association fair, or citrus fruit fair in the northern zone or in the County of Kern, San Luis Obispo, or Santa Barbara eligible for an allocation of racing days pursuant to Section 19549, to operate a satellite wagering facility at its fairgrounds even though the fair is not licensed to conduct a racing meeting. Except as otherwise provided in this section, all the provisions of Section 19596.5 shall apply to satellite wagering facilities authorized under this section.

- SEC. 3. Section 19610.5 of the Business and Professions Code is amended to read:
- 19610.5. In addition to the amounts required to be paid as license fees under any other provision of this chapter, every association, except an association conducting a racing meeting pursuant to Section 19612.6 or 19614, shall pay 1 percent of its exotic parimutuel pools to the state as an additional license fee.
- SEC. 4. Section 19614 of the Business and Professions Code is amended to read:
- 19614. (a) Notwithstanding Sections 19611 and 19612, and except for an association that qualifies pursuant to Section 19612.6 or 19614.1, the California Exposition and State Fair or a district or county fair shall pay a daily license fee based on its conventional and exotic parimutuel handle at the following rates:

Daily Handle	License Fee
\$500,000 or less	2.5 percent of the handle.
\$500,000 to \$1,000,000	\$12,500 plus 3.5 percent of
	the handle in excess of \$500,000.
\$1,000,000 to \$1,500,000	\$30,000 plus 4 percent of
	the handle in excess of
	\$1,000,000.
\$1,500,000 or more	\$50,000 plus 6 percent of
	the handle in excess of
	\$1,500,000.

No fair racing association shall pay a license fee under this section in excess of 4.5 percent of its daily parimutuel handle.

(b) After distribution of the applicable license fees as set forth in subdivision (a), all funds remaining from the deductions provided in Section 19610 shall be distributed 48 percent as commissions and 52 percent as purses.

The amount to be distributed as purses for the current racing meeting shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

- (c) In addition to the amounts deducted pursuant to Section 19610, any fair racing association shall deduct 1 percent from the total amount handled in its daily conventional and exotic parimutuel pools. The additional 1 percent shall be deposited in the Fair and Exposition Fund and is hereby appropriated for the purposes specified in Section 19627.2.
- SEC. 5. Section 19614.1 is added to the Business and Professions Code, to read:
- 19614.1. Notwithstanding Sections 19612.6 and 19614, any county fair which conducts racing pursuant to Section 19549.3, shall pay a daily license fee equal to 5.5 percent of its daily conventional parimutuel handle and 6.0 percent of its daily exotic parimutuel handle. After distribution of the license fees, all funds remaining

from the deductions provided in Section 19610 shall be distributed equally between purses and commissions. Every association which conducts a racing meeting pursuant to Section 19549.3 shall deduct from its parimutuel pools the amount specified in subdivision (d) of Section 19614.

- SEC. 6. Section 19614.2 of the Business and Professions Code is amended to read:
- 19614.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California Exposition and State Fair, or a district or county fair, or an association conducting its meeting pursuant to Section 19549.1, may deduct from the total amount handled in daily double, quiniela, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the current year of the fair meet. Of the amount deducted, if any, 52 percent shall be distributed as additional purses and 48 percent shall be distributed as additional commissions. For racing meetings conducted pursuant to Section 19549.3, of the amounts deducted, if any, 50 percent shall be distributed as purses and 50 percent shall be distributed as commissions.
- (b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.
- (c) From the amount deducted for thoroughbred purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. The sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all the deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins, in accordance with the qualifying standards specified in subdivision (c) of Section 19617.
- (d) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning or placing at the meeting. The premiums shall be distributed within 30 days of the date on which the funds are received by the officially recognized organization designated to administer this subdivision on a prorated percentage basis of first and second place moneys earned to persons owning California-bred quarter horses at the time of their wins or places in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums.

The organization may, with the approval of the board, make a deduction for expenses not to exceed 10 percent of the total awards fund.

- (e) From the amount deducted for Appaloosa and Arabian horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owner's premiums for California-breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa and Arabian horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. The board shall designate the officially recognized organization representing Appaloosa and Arabian horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.
- SEC. 7. Section 19618 of the Business and Professions Code is amended to read:
- 19618. (a) Except as provided in Section 19596.5, no person licensed under this chapter to conduct a racing meeting shall pay or distribute directly or indirectly to or on behalf of any horse owner, or to any agent, or person or organization representing any horse owner or owners, as purses or similar payment to or for the benefit of horsemen, any consideration other than that expressly provided for in this chapter.
- (b) Except as provided in Section 19596.5, no horse owner, nor any agent or person or organization representing any horse owner or owners, shall receive, solicit or obtain from any person licensed under this chapter to conduct a race meeting as purses or similar payment to or for the benefit of horsemen, any consideration other than that expressly provided for in this chapter.
- (c) No plaque, cup, tray, ribbon, trophy, or similar award given in recognition of achievement or special event shall be deemed to be consideration for the purpose of this section.
- (d) This section shall not apply to any payment by an association in connection with any match race or special racing event.
- (e) This section shall not apply to any payment or distribution by a non-dividend-paying corporation in accordance with its articles and bylaws.

# CHAPTER 1285

An act to amend Sections 19491.5, 19531, 19532, 19596.5, and 19611 of, and to add Section 19596.10 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 19491.5 of the Business and Professions Code is amended to read:

19491.5. Notwithstanding the provisions of subdivision (a) of Section 19491, an association, including the California Exposition and State Fair or a county or district agricultural association fair, which conducts, or whose predecessor association has conducted, a horseracing meeting during the preceding year at which the total amount handled in the parimutuel pools operated by the association, or by such predecessor association, is not more than two hundred fifty million dollars (\$250,000,000), excluding wagering at a satellite wagering facility, shall be exempt from payment of that portion of the license fee provided in subdivision (a) of Section 19491 on the amount handled by it under one hundred twenty-five million dollars (\$125,000,000), excluding wagering at a satellite wagering facility. All the money accruing pursuant to this section shall be distributed as purses. In addition, an association which conducts, or whose predecessor association has conducted, a horseracing meeting during the preceding year at which the total amount handled in the parimutuel pools operated by the association or predecessor association is more than two hundred fifty million dollars (\$250,000,000), excluding wagering at a satellite wagering facility, shall be exempt from the payment of that portion of the license fee provided in subdivision (a) of Section 19491 on the amount handled in excess of twenty-four million dollars (\$24,000,000) but not in excess of fifty million dollars (\$50,000,000).

"Predecessor association," as used in this section, means a person who was previously licensed to conduct racing of the same kind and at the same racing facility as the presently existing association.

It is the intent of the Legislature that the amendment to this section at its 1970 Regular Session shall be deemed to be a clarification of the effect of this section, and that such amendment does not constitute a substantive change.

SEC. 2. Section 19531 of the Business and Professions Code is amended to read:

19531. The board shall make allocations of racing weeks, including simultaneous racing between zones, as it deems appropriate. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and

State Fair, or county or district agricultural association fairs, shall be

- (a) For thoroughbred racing: 44 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per vear in the southern zone.
- (b) For harness racing: 25 weeks per year in the northern zone and 25 weeks per year in the combined central and southern zones.
- (c) For quarter horse racing: 25 weeks per year in the northern zone; and 30 weeks per year in the combined central and southern
- (d) In its written application for a license, an applicant shall state the time of day (subject to Section 19571) during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change the first race starting time without securing prior approval of the board.
- (e) Notwithstanding this section or any other provision in this chapter, the board shall not allocate dates to a thoroughbred association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.
- SEC. 3. Section 19532 of the Business and Professions Code is amended to read:
- 19532. (a) Any association licensed to conduct thoroughbred racing in the northern zone may receive no more than 22 weeks of such racing.
- (b) Any association licensed to conduct thoroughbred racing in the central zone may receive no more than 17 weeks of such racing. except that any association conducting a split meeting may receive up to 20 weeks of such racing. No more than one such split meeting may be licensed in any one year.
- (c) Any association licensed to conduct quarter horse racing in the southern zone may receive no more than 15 weeks of such racing.
- (d) This section and Section 19531 shall not operate to deprive any association of any weeks of racing granted during 1980.
- (e) This section and Section 19531 shall not operate to deprive the California State Fair and Exposition of any weeks of racing granted during the previous calendar year, and the board may continue to allocate such weeks of racing to the California Exposition and State Fair or any lessee thereof.
- (f) Nothing in subdivision (e) shall be construed as a limitation on the board allocating racing weeks to any private racing association as a lessee of the California Exposition and State Fair racetrack facility pursuant to Sections 19531 and 19532.
- SEC. 4. Section 19596.5 of the Business and Professions Code, as amended by Chapter 24 of the Statutes of 1986, is amended to read:
- 19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing

meeting in the northern zone to operate a satellite wagering facility at its racetrack inclosure, except during the part of the day the association is conducting racing at its racetrack, if all of the following conditions are met:

- (1) The association operating the satellite wagering facility has executed an agreement approved by the board with the association conducting a racing meeting in the northern zone that authorizes parimutuel wagering at the satellite wagering facility. The agreement shall provide that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.
- (2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility.
- (3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.
- (4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.
- (b) (1) The deductions from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted. Notwithstanding any other provision of law, 2 percent of the amount handled by the satellite wagering facility shall be retained as a commission and 1½ percent of the amount handled by the satellite wagering facility located at a fair enclosure, or an amount equal to actual expenses as determined by the board, whichever amount is less, shall be distributed to the entity or association that incurs operating expenses related to satellite wagering, including, but not limited to, transmission costs, totalizator charges, and mutuel labor charges. The funds remaining after distribution of the 2-percent commission and the 11/2 percent, or amount of actual expenses, operating expense deduction shall be distributed (reduced pro rata for the 2-percent commission and the 1½ percent, or amount of actual operating expenses, operating expense deduction) first, for applicable state license fees, and second, 50 percent to the association which conducts the racing meeting; 45 percent to the horsemen, inthe form of purses, who participate in the racing meeting of the association which conducts the racing meeting; and, 5 percent to the horsemen, in the form of purses, who participate in racing fairs that operate satellite wagering facilities.
- (2) The 5 percent of these funds which go to horsemen who participate in racing fairs shall be deposited in a separate account in the fund. Upon appropriation to the board, the funds in the account shall be distributed to the horsemen, as purses, during the fair season following the season in which it was deposited. These funds shall be distributed on an equal basis to each racing fair track that operates

satellite wagering facilities for distribution in all nonstakes races and among all breeds.

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- (c) All revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated to the Department of Food and Agriculture, for allocation by the director in his or her discretion, for (1) repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service incurred, for the purpose of constructing improvements only at a fair's racetrack inclosure, (2) for repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities, (3) for health and safety repair projects at fairs, and (4) for support purposes of fairs generally.
- SEC. 4.5. Section 19596.5 of the Business and Professions Code, as amended by Chapter 24 of the Statutes of 1986, is amended to read:
- 19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility at its racetrack inclosure, except during the part of the day the association is conducting racing at its racetrack, if all of the following conditions are met:
- (1) The association operating the satellite wagering facility has executed an agreement approved by the board with the association conducting a racing meeting in the northern zone that authorizes parimutuel wagering at the satellite wagering facility. The agreement shall provide that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.
- (2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility.
- (3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.
- (4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.
- (b) (1) The deductions from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted. Notwithstanding any other provision of law, 2 percent of the amount handled by the satellite wagering facility shall be retained as a commission and 1½ percent of the amount handled by the satellite wagering facility located at a fair enclosure, or an amount equal to actual expenses as determined by the board, whichever amount is less, shall be distributed to the entity or association that incurs operating expenses related to satellite wagering, including, but not

limited to, transmission costs, totalizator charges, and mutuel labor charges. The funds remaining after distribution of the 2 percent commission and the 1½ percent, or amount of actual expenses, operating expense deduction shall be distributed (reduced pro rata for the 2 percent commission and the 1½ percent, or amount of actual operating expenses, operating expense deduction) first, for applicable state license fees, and second, 50 percent to the association which conducts the racing meeting; 45 percent to the horsemen, in the form of purses, who participate in the racing meeting of the association which conducts the racing meeting; and, 5 percent to the horsemen, in the form of purses, who participate in racing fairs that operate satellite wagering facilities.

- (2) The 5 percent of these funds which go to horsemen who participate in racing fairs shall be deposited in a separate account in the fund. Upon appropriation to the board, the funds in the account shall be distributed to the horsemen, as purses, during the fair season following the season in which it was deposited. These funds shall be distributed on an equal basis to each racing fair track that operates satellite wagering facilities for distribution in all nonstakes races and among all breeds.
- (c) Except as provided in subdivisions (d) and (e), all revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture in his or her discretion, for (1) repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service incurred, for the purpose of constructing improvements only at a fair's racetrack inclosure, (2) for repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities, (3) for health and safety repair projects at fairs, and (4) for support purposes of fairs generally.
- (d) Seven and one-half percent of all revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in the General Fund.
- (e) Up to 10 percent of all revenues payable to the state from satellite wagering facilities located at fairs shall be deposited in a special account in the General Fund and shall be available, when appropriated by the Legislature, for supplementing purses at fair meetings to achieve the purposes of subdivision (f). The department shall anually determine the percentage of revenues payable to the special account under this subdivision based on the amount necessary to achieve the purposes of subdivision (f).
- (f) It is the intent of the Legislature that funds allocated pursuant to subdivision (e) be used primarily at fair racing meetings in the northern zone with a daily average handle of more than three hundred thousand dollars (\$300,000). The Legislature further finds that its intent is that these allocations be used to bring the purses at

these fairs, exclusive of purses for stakes races and special events, to a level of at least 80 percent of purses for similar classes of horses at private racing associations in the northern zone.

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SEC. 5. Section 19596.10 is added to the Business and Professions Code, to read:

19596.10. Notwithstanding any other provision of law, if there is an overlap in the northern zone between a racing fair, other than the Fresno or Ferndale fairs, and any other association that races in the daytime, the racing fair has the exclusive right to send its signal to the satellite wagering facilities in the state if the board determines that it is operationally possible for the racing fair to send its signal. However, any association that is not a fair that races in the northern zone may send its signal to a satellite wagering facility located at another association that is not a fair in the northern zone.

- SEC. 6. Section 19611 of the Business and Professions Code is amended to read:
- 19611. (a) Every thoroughbred association conducting a meeting with a total parimutuel handle of two hundred fifty million dollars (\$250,000,000), excluding wagering at a satellite facility, or more shall pay a daily license fee equal to 5.7 percent of its daily conventional parimutuel handle and 6.45 percent of its daily exotic parimutuel handle.
- (b) Every thoroughbred association conducting a meeting with a total parimutuel handle of less than two hundred fifty million dollars (\$250,000,000), excluding wagering at a satellite facility, shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle:

Daily Handle	License Fee Rate
\$2,000,000 or less	. 4.8 percent of handle
\$2,000,001 and more	. \$96,000 plus 6 percent of the handle
	in excess of \$2,000,001

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 5.1 percent of the daily conventional parimutuel handle and 5.85 percent of the daily exotic parimutuel handle.

- (c) Notwithstanding subdivision (a), every thoroughbred racing association which conducts a split meeting shall pay a daily license fee at the rates specified in subdivision (b) for the short period of its meeting.
- (d) After distribution of the applicable license fees set forth in subdivision (a), (b), or (c), and the payments pursuant to Sections 19610.5, 19616 and 19617, all funds remaining from the deductions provided in Section 19610 shall be distributed 55 percent as commissions and 45 percent as purses.
  - SEC. 7. Section 4.5 of this bill incorporates amendments to

Section 19596.5 of the Business and Professions Code proposed by both this bill and SB 1499. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 19596.5 of the Business and Professions Code, and (3) this bill is enacted after SB 1499, in which case Section 4 of this bill shall not become operative.

### CHAPTER 1286

An act to add Chapter 12 (commencing with Section 74001) to Division 22 of the Food and Agricultural Code, relating to agricultural marketing, and making an appropriation therefor.

[Approved by Governor September 26, 1986 Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. Chapter 12 (commencing with Section 74001) is added to Division 22 of the Food and Agricultural Code, to read:

### CHAPTER 12. WINEGROWERS OF CALIFORNIA COMMISSION

### Article 1. Declaration and General Provisions

74001. The production and distribution of wine and winegrapes constitute an important industry of this state which provides substantial and necessary revenues for the state and employment for its citizens. It also furnishes an important food which benefits the public health and welfare.

74002. The maintenance and expansion of the wine and winegrape industry of California and of its local, national, and foreign markets is necessary to assure the consuming public of a continuous supply of these products and needed levels of income for those engaged in the wine and winegrape industry in this state.

74003. It is in the public interest that the public be made aware of accurate and scientific information relating to the beneficial qualities of wine, winegrapes, and winegrape products.

74004. The production and marketing of wine, winegrapes, and winegrape products produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

74005. No action taken by the commission nor by any individual in accordance with this chapter or with the rules and regulations adopted under the chapter is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Fair Trade Act

(Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade. Proof that any action complained of was done in compliance with this chapter shall be a complete defense to the action or proceeding.

74006. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

74007. It is hereby declared as a matter of legislative determination that members of the commission are intended to represent and further the interest of a particular agricultural industry, and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that with respect to persons who serve on the commission, the particular agricultural industry is tantamount to, and constitutes the public generally within the meaning of Section 87103 of the Government Code.

74008. A commission form of administration created by this chapter is designed to deal with the broad fields of market development, marketing research, and production and processing research.

74009. This chapter shall be known and may be cited as the Dills-Bronzan Winegrowers Joint Commission Act of 1986.

# Article 2. Definitions

74021. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

74022. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

74023. "Brandy" means an alcoholic distillate or a mixture of distillates obtained from the fermented juice, mash, or wine of whole, sound, ripe grapes or from the residue thereof, distilled at not over 170 degrees proof.

74024. "Commission" means the Winegrowers of California Commission.

74025. "Grape concentrate" or "concentrate" means unfermented grape juice from which the major portion of the original water content has been removed.

74026. "Grape juice" or "juice" means unfermented crushed grapes without solids containing the major portion of the original water content.

74027. "Producer" and "grower" are synonymous and mean any

person who produced winegrapes in a marketing season in a quantity of more than 25 tons. Unless otherwise exempted, producer also includes any person who receives winegrapes as payment for the use of his or her property in the production of winegrapes.

74028. "Producer districts" shall consist of the following:

- (a) District 1 consists of Lake, Solano, Mendocino, Sonoma, Marin, and Napa Counties.
- (b) District 2 consists of the City and County of San Francisco, Santa Barbara, San Luis Obispo, Ventura, Monterey, San Benito, Santa Clara, Santa Cruz, Alameda, San Mateo, and Contra Costa Counties.
- (c) District 3 consists of Butte, Colusa, Glenn, Sacramento, Shasta, Tehama, Yolo, Yuba, Trinity, Siskiyou, Modoc, Lassen, Plumas, Sierra, Sutter, Humboldt, and Del Norte Counties, and that portion of San Joaquin County north of State Highway 4.
- (d) District 4 consists of Merced, Stanislaus, Mariposa, Calaveras, Amador, El Dorado, Placer, Nevada, and Tuolomne Counties, and that portion of San Joaquin County south of State Highway 4.
- (e) District 5 consists of Fresno, Alpine, Mono, Inyo, and Madera Counties, and that portion of Kings and Tulare Counties north of Nevada Avenue (Avenue 192).
- (f) District 6 consists of Kern County and that portion of Kings and Tulare Counties south of Nevada Avenue (Avenue 192).
- (g) District 7 consists of Los Angeles, Orange, Riverside, San Bernardino, Imperial, and San Diego Counties.
- 74029. "Ex officio member" means a nonvoting member of the commission.
- 74030. "High proof" means an alcoholic distillate or a mixture of distillates obtained from the fermented juice, mash, or wine of fresh winegrapes or from the residue thereof.
- 74031. "Market" means to sell, barter, trade, purchase, acquire, or otherwise distribute wine, winegrapes, or winegrape products.
- 74032. "Market development" includes, but is not limited to, trade promotion, public information, dissemination of information on health and social issues and other matters, and activities for the prevention, modification, or removal of trade barriers which restrict the free flow of winegrape products to market and may include the presentation of facts to state, federal, or foreign governmental agencies on matters which affect this chapter.
- 74033. "Market research" means any investigation, development, analysis, or implementation of information relating to the marketing of wine, winegrapes, and winegrape products including, but not limited to, trade practices, consumer trends, promotion, sales, and advertising.
- 74034. "Marketing season" or "fiscal year" means the period beginning July 1 of any year and extending through June 30 of the following years.
- 74035. "Must" means a mixture of unfermented crushed grapes, solid grape particles, and grape juice.

74036. "Production research" means research relating to the production and processing of winegrapes, including, but not limited to, the development of new winegrape products and uses for these

products.

74037. "Vintner" and "processor" are synonymous and mean any person engaged in producing must, grape juice, grape concentrate, wine, or products thereof, including high proof and brandy, and includes a "winegrower" as that term is defined in Section 23103 of the Business and Professions Code, who produces wine from winegrapes. However, a producer does not become a vintner solely by the act of field crushing winegrapes before delivering the winegrapes as must to another person. A vintner who acquires and processes winegrapes in the preceding marketing season in a quantity of 100 tons or less is not subject to this chapter.

74038. "Wine" means the product obtained by the fermentation of winegrapes or juice therefrom, with or without addition or abstracting, and includes any product made from winegrapes which is defined as a wine and permitted under Part III (commencing with Section 5381) of Subchapter F of Chapter 51 of Title 26 of the United States Code, and in the statutes of this state and regulations issued

thereunder defining wine produced from grapes.

74039. "Winegrapes" means grapes produced in this state which are intended to be converted from their fresh form into grape juice, grape concentrate, wine, or products thereof, including, but not limited to, high proof and brandy produced from winegrapes.

74040. "Winegrape products" include, but are not limited to, must, grape juice, grape concentrate, wine, high proof, and brandy

produced from winegrapes.

# Article 3. Winegrowers of California Commission

74061. There is in state government, the Winegrowers of California Commission. The commission shall be composed of 18 producers, 18 vintners, and may include one public member.

- (a) Producers within District 7 shall elect one producer member; producers within Districts 2, 3, 4, and 6 shall each elect two producer members; producers within District 5 shall elect four producer members; and producers within District 1 shall elect five producer members to serve on the commission. Alternate producer members shall be elected in the same manner. Each producer member and alternate producer member shall be elected from the district in which he or she produces the greatest portion of his or her winegrape tonnage.
- (b) Vintner members shall be elected by the industry at large and serve on the commission without reference to any county, district, or area of the state.
- (c) The public member may be appointed to the commission by the director from nominees recommended by the commission.
  - (d) The director, and other appropriate individuals as

determined by the commission, shall be ex officio members of the commission.

- 74062. Periodically, the number of producer members and their respective alternate members serving on the commission from any district shall be reapportioned in a manner that assures representation in accordance with the value of winegrapes produced in each district. However, no district shall have less than one member nor more than five members on the commission.
- 74063. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.
- (b) If the commission refuses or fails to cease these activities or functions or to make these corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.
- (c) Actions of the commission in violation of the written notice are without legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.
- (d) Upon service of the written notice, the director shall notify the commission in writing of the specific acts which he or she determines are not in the public interest or are in violation of this chapter, the reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and may make recommendations that will make the activities or functions acceptable.
- 74064. The commission or the director may bring an action for judicial relief from the director's written notice or for noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction which may issue a temporary restraining order, permanent injunction, or other appropriate relief.
- 74065. When the director is required to concur in a decision of the commission, he or she shall indicate his or her response to the commission within 15 working days from notification of the decision. The response may be a request that additional information be provided.
- 74066. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities pursuant to this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.

74067. Each member of the commission, except the ex officio

members, shall have an alternate member to be elected in the same manner as the member. An alternate member shall, in the absence of the member of whom he or she is an alternate, serve in place of the member on the commission and have and be able to exercise all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or disqualification of a member, the alternate shall serve as a member on the commission until a successor is elected and has qualified.

74068. Any producer member and his or her alternate member shall be a person, or an employee representing a producer, who has a financial interest in producing, or causing to be produced, winegrapes for market. The qualifications of producer members and alternate members shall be maintained during the entire term of office. No more than one member and his or her alternate members shall be employed by or connected in a proprietary capacity with the same producer. However, producer membership in an agricultural nonprofit cooperative association or trade organization shall not be considered employment or being in a proprietary capacity.

74069. Any vintner member and his or her alternate member shall be a person, or an employee representing a vintner, who has a financial interest in processing winegrapes for market. The qualifications of vintner members and alternate members shall be maintained during the entire term of office. No more than one member and his or her alternate member shall be employed by or connected in a proprietary capacity with the same vintner. However, vintner membership in an agricultural nonprofit cooperative association or trade organization shall not be considered employment or being in a proprietary capacity.

74070. The public member and his or her alternate member shall have all the rights, privileges, and powers of any other member of the commission. The public member shall not have any financial interest in the wine or winegrape industry.

74071. The term of office of members and alternate members shall be for two years or until their successors have been elected and have qualified. However, of the first members of the commission, one-half of the vintner members and their alternate members shall serve for one year; one-half of the producer members and their alternate members and one-half of the vintner members and their alternate members shall serve for two years. The determination of the term of each member shall be made by lot. No member or alternate member shall serve more than four consecutive terms.

74072. No less than 10 producer members and 10 vintner members, including alternate members when acting in place of the members, shall constitute a quorum of the commission.

74073. The vote of a majority of the members, or alternate members when acting in the place of the members, present at the meeting at which there is a quorum shall constitute the act of the commission. However, for an affirmative vote to be valid, it shall include not less than five producer members and five vintner

members.

74074. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

74075. The director or his or her representatives shall be notified and may attend meetings of the commission and any committee meetings of the commission.

74076. No member of the commission or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each member of the commission, except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission, may receive an amount not to exceed one hundred dollars (\$100) per day, as established by the commission. This amount shall be paid for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission. Members shall also receive necessary traveling expenses and meal allowances, as approved by the commission.

74077. All funds received from the assessments levied pursuant to this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in an amount of not less than twenty-five thousand dollars (\$25,000).

74078. (a) The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission.

(b) No member, alternate member, or any employee or agent of the commission, is personally liable for the contracts of the commission or for errors in judgment, mistakes or other acts, either of commission or omission, except for their own individual acts of dishonesty or crime. Liability is several and not joint, and no member, alternate member, or any employee or agent of the commission is liable individually for the default, act, or omission of any other member, alternate member, or any employee or agent of the commission.

## Article 4. Powers and Duties of the Commission

74091. The powers and duties of the commission shall include, but are not limited to, all of those contained in this article.

74092. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, operating procedures, and orders for carrying out this chapter, including appeals from any bylaws, rules, regulations, operating procedures, or orders of the commission.

74093. The commission may administer and enforce this chapter and do and perform all actions and exercise all powers incidental to, in connection with, or deemed reasonably necessary for, proper or advisable effectuation of this chapter, including, but not limited to, entering into contracts for services with public and private agencies which are deemed necessary by the commission to carry out this chapter.

74094. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers it deems necessary. The officers shall have the powers and duties delegated to them by the commission. The office of chairperson shall alternate annually between the producer members and the vintner members.

74095. The commission may employ a person to serve at the pleasure of the commission as president, and other personnel, including legal counsel, necessary to carry out this chapter. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective action and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

74096. The commission may fix the compensation for all employees of the commission.

74097. The commission may appoint committees composed of both members and nonmembers of the commission.

74098. The commission may establish offices, incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary in the opinion of the commission for the proper administration and enforcement of this chapter and the performance of its duties.

74099. The commission shall keep accurate books, records, and accounts of all of its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. A summary of the audit shall be made a part of an annual report to all producers and vintners, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he or she determines necessary, conduct or cause to

be conducted a fiscal and compliance audit of the commission.

74100. The commission may engage in market development and market research through plans and programs to enhance the sale of California wine, winegrapes, and winegrape products for the purpose of maintaining existing markets and creating new and larger domestic and foreign markets, and to educate and instruct the public with respect to the uses and value of California wine, winegrapes, and winegrape products. However, any plans and programs so developed and conducted shall not be directed towards a particular private brand or trade name, although private brands and trade names may be used in wine tastings and other similar programs authorized by the commission. In addition, the plans and programs shall make no use of false or unwarranted claims on behalf of California winegrapes or winegrape products, nor disparage the quality, value, sale, or use of any commodity.

74101. The commission may accept contributions of private, state, or federal funds that may be available for these purposes, and may allocate funds by contract or agreement to other persons or to state or federal agencies conducting this research.

74102. The commission may undertake appropriate research relating to the production and processing of wine and winegrapes, including the development of new winegrape products and uses for these products.

74103. The commission may publish and distribute bulletins or other communications relating to the California wine and winegrape industries.

74104. The commission may establish an assessment rate to defray operating costs of the commission.

74105. The commission may establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to Section 74096.

74106. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

74107. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

74108. Any contract with an industry trade organization or an agent or employee thereof which involves the transfer or expenditure of commission funds shall be submitted to the director for concurrence prior to being entered into.

# Article 5. Implementation and Voting Procedures

74121. This chapter, except as necessary to conduct an implementation referendum, shall not become operative until the director finds, in a referendum conducted by him or her, or a person

designated by the director, that a favorable vote has been given pursuant to this article.

- 74122. The referendum shall provide for eligible producers and eligible vintners to approve this chapter jointly as applicable to both producers and vintners.
- 74123. (a) Not later than April 1, 1987, the director shall establish a list of producers and a list of vintners who are eligible to vote on implementation of this chapter. In establishing the lists, the director may require producers, vintners, county agricultural commissioners, and others to submit the names and mailing addresses of all producers and vintners. The director also may require that the information provided include the quantity of winegrapes sold to vintners and the quantity of winegrapes processed by vintners or, in the alternative, may establish procedures for receiving the information at the time of the referendum. The request for this information shall be in writing. The information required by the director shall be filed within 30 days following receipt of the written notice.
- (b) Any producer or vintner whose name does not appear on the director's lists may have his or her name included on the appropriate list by filing with the director a signed statement identifying himself or herself as a producer or vintner. Failure to be on the appropriate list does not exempt any producer or vintner from paying assessments under this chapter.
- 74124. In determining whether this chapter is approved by producers, the director must find that at least 40 percent of the total number of producers from the list established by the director participated in the referendum, and that either one of the following has occurred:
- (a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed a majority of the volume of winegrapes in the preceding marketing season, or in the current marketing season if the harvest is completed prior to the vote, by all the producers who voted in the referendum.
- (b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed 65 percent or more of the volume of winegrapes in the preceding marketing season, or in the current marketing season if the harvest is completed prior to the vote, by all the producers who voted in the referendum.
- 74125. In determining whether this chapter is approved by vintners, the director must find that at least 40 percent of the total number of vintners from the list established by the director participated in the referendum, and that either one of the following has occurred:
- (a) Sixty-five percent or more of the vintners who voted in the referendum voted in favor of this chapter, and the vintners so voting either acquired or processed their own production, or a combination

thereof, which represents a majority of the volume of winegrapes in the preceding marketing season, or in the current marketing season if the harvest is completed prior to the vote, by all the vintners who voted in the referendum.

- (b) A majority of the vintners who voted in the referendum voted in favor of this chapter, and the vintners so voting either acquired or processed their own production, or a combination thereof; which represents 65 percent or more of the volume of winegrapes in the preceding marketing season, or in the current marketing season if the harvest is completed prior to the vote, by all the vintners who voted in the referendum.
- 74126. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional procedures to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period. However, the total referendum period may not exceed 60 days.
- 74127. Nonreceipt of a ballot shall not invalidate a referendum. 74128. If the director finds that a favorable vote has not been given as provided in this chapter, he or she shall certify and declare this chapter inoperative. If the director finds that a favorable vote has been given as provided in this chapter, he or she shall certify and give notice of the favorable vote to all producers and vintners whose

names and addresses may be on file with the director.

- 74129. Upon certification of the commission, the producer and vintner members and their alternate members who are then serving on the California Wine and Winegrape Improvement Program made effective by the director on August 21, 1984, shall become the initial members and alternate members of the commission and shall serve in accordance with the requirements of Section 74071.
- 74130. Subsequent to the action taken pursuant to Section 74129, persons to be elected to the commission upon expiration of existing terms shall be selected pursuant to the nomination and election procedures established by the commission with the concurrence of the director.
- 74131. (a) Prior to the implementation referendum conducted by the director, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray the expenses in creating the commission, including, but not limited to, preparing the necessary producer and vintner lists and conducting the referendum.
- (b) Any funds remaining after paying expenses shall be returned to the proponents of the commission who deposited the funds with the director.
- (c) The commission may reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out this article and for any legal expenses and costs incurred in establishing the commission.

#### Article 6. Assessments and Records

- 74151. (a) Prior to the beginning of each marketing season or as soon thereafter as possible, the commission shall establish an assessment rate for the marketing season.
- (b) The assessment rate shall be the same for producers and vintners. The assessment rate for producers shall not exceed 1 percent of the gross dollar value of winegrapes marketed by producers to vintners. The assessment rate for vintners shall not exceed 1 percent of the gross dollar value of winegrapes acquired by vintners from producers. If a producer sells winegrapes for a specified sum in a bona fide sale, the gross dollar amount of this sum is the gross dollar value of the winegrapes.
- 74152. Any producer, or producer who is also a vintner, who contracts or otherwise arranges for the processing of his or her winegrapes and retains ownership of the processed product during the marketing season shall pay the producer assessment and the vintner assessment. The "weighted average producer returns per ton" by district as published in the most recent Final Grape Crush Report issued annually for the current marketing season by the department shall be used as the basis for determining product gross dollar value and the assessment.
- 74153. This chapter shall not apply to winegrapes produced only for a producer's home use or processed only for a vintner's home use. However, any producer or vintner claiming this exemption shall file an affidavit with the commission establishing the manner in which the winegrapes are used. The commission shall then determine whether the affidavit should be approved.
- 74154. Every producer and vintner subject to this chapter shall keep a complete and accurate record of their operations. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be preserved by producers and vintners for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.
- 74155. All proprietary information obtained by the commission or the director from producers or vintners, and all lists of producers and vintners in the possession of the commission or the director are confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, commodity value, and other related information which is required for reports to governmental agencies; financial reports made to the commission or aggregate sales and inventory information; and any other information which is requested from the commission excluding individual producer or vintner information, may be disclosed by the commission.
- 74156. Any assessment levied by the commission, pursuant to this chapter, is a personal debt of every person so assessed and is due and payable in a time and manner prescribed by the commission. Failure

of a vintner to collect the assessment from a producer shall not exempt the vintner from liability nor relieve the producer of the obligation to pay the assessment.

74157. Any person who fails to file a return, or remit or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 1½ percent interest per month on the unpaid balance.

## Article 7. Actions and Penalties

- 74171. It is unlawful for any person to do any of the following:
- (a) Willfully render or furnish a false report, statement, or record required by the commission.
- (b) When engaged in the marketing, processing, or other activities related to wine or winegrapes, to fail or refuse to furnish the commission or its duly authorized agents, information concerning the name and address of the persons to whom winegrapes were delivered or from whom winegrapes have been received, and the quantity so delivered or received.
- (c) Secrete, destroy, or alter records required to be maintained under this chapter.
- 74172. The commission shall establish procedures for the purpose of according individuals aggrieved by its acts or determinations an informal hearing. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court. Pending disposition of any appeal and judicial review, the parties shall abide by the acts or determinations of the commission.
- 74173. (a) The commission may commence civil action and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and the obtaining of injunctive relief or specific performance regarding this chapter and the rules and regulations adopted pursuant to this chapter.
- (b) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance and satisfaction of the judgment. Upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.
- 74174. Suspension or termination of this chapter in accordance with Article 8 (commencing with Section 74191) shall not result in any of the following:
  - (a) Affecting, waiving, or termination of any right, duty,

obligation, or liability which may have arisen or may thereafter arise in connection with this chapter.

(b) Releasing, condoning, or dismissal of any violation of this chapter.

## Article 8. Continuation or Suspension and Termination

74191. Between July 1, 1991, and June 30, 1992, inclusive, the commission shall cause a referendum to be conducted among producers and vintners in the manner specified in Section 74122 to determine whether this chapter shall be reapproved and continued in effect. A favorable vote shall be found if the director determines from the referendum that a majority of the eligible producers, or vintners, or both, who voted in the referendum voted in favor of continuing the operations of this chapter. If the director finds that a favorable vote has been given to continue a joint producer-vintner commission, a producer commission, or a vintner commission, he or she shall so certify and this chapter or the appropriate portions thereof shall remain in effect. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operations of this chapter suspended upon expiration of the marketing season. No bond or security shall be required for any such referendum.

74192. Following a favorable referendum conducted prior to June 30, 1992, a referendum shall be conducted by the commission every fifth year thereafter unless a referendum is conducted as a result of a petition pursuant to this article. In that case, the referendum shall be every fifth year following the industry petitioned referendum following procedures provided in this article.

- 74193. (a) Upon a finding by a two-thirds vote of the commission that this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing season.
- (b) Alternatively, the director may be petitioned to suspend this chapter. The petition must be signed by 20 percent of the producers by number who produced not less than 20 percent of the volume of winegrapes in the immediately preceding marketing season and 20 percent of the vintners by number who acquired not less than 20 percent of the volume of winegrapes in the immediately preceding marketing season. The director shall hold a hearing on the petition after receiving it.
- (c) The director shall, upon receipt of the recommendation to suspend this chapter from the commission, or may, after holding the hearing on the petition to suspend this chapter, hold a referendum among the producers and vintners to determine if the commission shall be suspended. However, the director shall not hold a referendum as a result of the petition unless the petitioner shows by the weight of evidence that this chapter has not tended to effectuate

its declared purposes.

- (d) The director shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers and 40 percent of the total number of vintners from the lists established by the director participate in the referendum, the director shall suspend this chapter if he or she finds either of the following has occurred:
- (1) Sixty-five percent or more of the producers and vintners who voted in the referendum, voted in favor of suspension; the producers so voting marketed a majority of the total quantity of winegrapes marketed in the preceding marketing season by all of the producers who participated in the referendum; and the vintners so voting acquired a majority of the total quantity of winegrapes acquired in the preceding marketing season by all of the vintners who participated in the referendum.
- (2) A majority of the producers and vintners who voted in the referendum voted in favor of suspension; the producers so voting marketed 65 percent or more of the total quantity of winegrapes marketed in the preceding marketing season by all of the producers who voted in the referendum; and the vintners so voting acquired 65 percent or more of the total quantity of winegrapes acquired in the preceding marketing season by all of the vintners who voted in the referendum.
- 74194. (a) The director shall terminate the commission at the end of the current marketing season if the director finds that termination is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that are directly affected that market at least 51 percent of the volume of the product, and by at least 51 percent of the eligible vintners that are directly affected that acquire at least 51 percent of the volume of the product.
- (b) The person or persons originating the request shall file a written notice with the director in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the director.
- (c) The signatures to the petition requesting termination need not all be appended to one sheet of paper. Each person signing the petition shall add his or her signature and business address. If no business address is given, a designation of the place of business shall be given which will enable the location to be readily ascertained.
- (d) The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.
- 74195. After the effective date of suspension of this chapter, the operations of the commission shall be concluded and any and all funds remaining held by the commission and not required to defray

the expenses of concluding and terminating the commission shall be returned on a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any funds shall be paid into an appropriate program conducted by the University of California or the California State University, another state agency, or a federal agency which deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

74196. Upon suspension of this chapter, the commission shall mail a copy of the notice of suspension to all producers and vintners affected by the suspension whose names and addresses are on file.

SEC. 2. Notwithstanding Section 74121 of the Food and Agricultural Code, as proposed to be added by Section 1 of this act, this act shall become operative only if Assembly Bill 4262 of the 1985–86 Regular Session is chaptered.

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 1287

An act to add Chapter 12.5 (commencing with Section 74501) and Chapter 12.7 (commencing with Section 74801) to Division 22 of, and to repeal and add Section 74108 of, the Food and Agricultural Code, relating to agricultural marketing, and making an appropriation therefor.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 74108 of the Food and Agricultural Code, as added by Senate Bill 2048 of the 1985–86 Regular Session is repealed.

SEC. 2. Section 74108 is added to the Food and Agricultural Code, to read:

74108. The director may require that any contract in which the commission is a party be submitted to him or her for concurrence prior to the commission entering into the contract. If the director requires the submission of a contract and does not concur in that contract, he or she shall hold a public hearing within 14 days of the initial decision not to concur. In the notice of the hearing, the

director shall present a written explanation of his or her decision. The director shall make a final decision on whether or not to concur in the contract within 30 days of the hearing. The contract may not be executed from the time that the director makes the initial decision not to concur to the time of the final decision.

SEC. 3. Chapter 12.5 (commencing with Section 74501) is added to Division 22 of the Food and Agricultural Code, to read:

#### CHAPTER 12.5. CALIFORNIA WINE COMMISSION

#### Article 1. Declaration and General Provisions

74501. The production and distribution of wine and wine-related products constitute an important industry of this state which provides substantial and necessary revenues for the state and employment for its citizens. It also furnishes an important food which benefits the public health and welfare.

74502. The maintenance and expansion of the wine industry of California and of its local, national, and foreign markets is necessary to assure the consuming public of a continuous supply of these products and the maintenance of needed levels of income for those engaged in the wine industry in this state.

74503. It is in the public interest that the public be made aware of accurate and scientific information relating to the beneficial qualities of wine and wine-related products.

74504. The production and marketing of wine and wine-related products produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

74505. No action taken by the commission or by any individual in accordance with this chapter or with the rules and regulations adopted under the chapter is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade. Proof that any action complained of was done in compliance with this chapter shall be a complete defense to the action or proceeding.

74506. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

74507. It is hereby declared as a matter of legislative determination that members of the commission are intended to

represent and further the interest of a particular agricultural industry, and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that with respect to persons who serve on the commission, the particular agricultural industry is tantamount to, and constitutes the public generally within the meaning of Section 87103 of the Government Code.

74508. A commission form of administration created by this chapter is designed to deal with the broad fields of market development, marketing research, and production and processing research.

### Article 2. Definitions

74521. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

74522. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

74523. "Brandy" means an alcoholic distillate or a mixture of distillates obtained from the fermented juice, mash, or wine of whole, sound, ripe grapes or from the residue thereof, distilled at not over 170 degrees proof.

74524. "Commission" means the California Wine Commission.

74524.1. "Director" means the Director of Food and Agriculture.

74524.5. "Eligible volume" means the total tonnage of winegrapes processed in the preceding marketing season by vintners subject to this chapter.

74525. "Grape concentrate" or "concentrate" means unfermented grape juice from which the major portion of the original water content has been removed.

74526. "Grape juice" or "juice" means unfermented crushed grapes without solids containing the major portion of the original water content.

74527. "Producer" and "grower" are synonymous and mean any person who produced winegrapes in the preceding marketing season. Producer also includes any person who receives winegrapes as payment for the use of his or her property in the production of winegrapes.

74528. "Ex officio member" means a nonvoting member of the commission.

74529. "High proof" means an alcoholic distillate or a mixture of distillates obtained from the fermented juice, mash, or wine of fresh winegrapes or from the residue thereof.

74530. "Market" means to sell, barter, trade, purchase, acquire, or otherwise distribute wine or wine-related products.

74531. "Market development" includes, but is not limited to, trade promotion, public information, dissemination of information

on health and social issues and other matters, and activities for the prevention, modification, or removal of trade barriers which restrict the free flow of wine and wine-related products to market and may include the presentation of facts to state, federal, or foreign governmental agencies on matters which affect this chapter.

74532. "Market research" means any investigation, development, analysis, or implementation of information relating to the marketing of wine and wine-related products, including, but not limited to, trade practices, consumer trends, promotion, sales, and advertising.

"Marketing season" or "fiscal year" means the period beginning July 1 of any year and extending through June 30 of the following years.

"Must" means a mixture of unfermented crushed grapes, solid grape particles, and grape juice.

74535. "Processing research" means research relating to the processing of winegrapes, including, but not limited to, the development of new wine-related products and uses for these products.

"Vintner" and "processor" are synonymous and mean any person engaged in producing must, grape juice, grape concentrate, wine, or products thereof, including high proof and brandy, and includes a "winegrower" as that term is defined in Section 23103 of the Business and Professions Code, who produces wine from winegrapes. However, a producer does not become a vintner solely by the act of field crushing winegrapes before delivering the winegrapes as must to another person. A vintner who acquires and processes winegrapes in the preceding marketing season in a quantity of 100 tons or less is not subject to this chapter.

74537. "Wine" means the product obtained by the fermentation of winegrapes or juice therefrom, with or without addition or abstracting, and includes any product made from winegrapes which is defined as a wine and permitted under Part III (commencing with Section 5381) of Subchapter F of Chapter 51 of Title 26 of the United States Code, and in the statutes of this state and regulations issued

thereunder defining wine produced from grapes.

74538. "Winegrapes" means grapes produced in this state which are intended to be converted from their fresh form into grape juice, grape concentrate, wine, or products thereof, including, but not limited to, high proof and brandy produced from winegrapes.

"Wine-related products" include, but are not limited to, must, grape juice, grape concentrate, wine, high proof, and brandy produced from winegrapes.

## Article 3. California Wine Commission

- (a) There is in state government, the California Wine Commission. The commission shall be composed of 18 vintners and may include one public member.
  - (b) Vintner members shall be elected by the industry at large and

serve on the commission without reference to any county, district, or area of the state.

- (c) The public member may be appointed to the commission by the director from nominees recommended by the commission.
- (d) The director, and other appropriate individuals as determined by the commission, shall be ex officio members of the commission.
- 74562. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.
- (b) If the commission refuses or fails to cease these activities or functions or to make these corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.
- (c) Actions of the commission in violation of the written notice are without legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.
- (d) Upon service of the written notice, the director shall notify the commission in writing of the specific acts which he or she determines are not in the public interest or are in violation of this chapter, the reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and may make recommendations that will make the activities or functions acceptable.
- 74563. The commission or the director may bring an action for judicial relief from the director's written notice or for noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction which may issue a temporary restraining order, permanent injunction, or other appropriate relief.
- 74564. When the director is required to concur in a decision of the commission, he or she shall indicate his or her response to the commission within 15 working days from notification of the decision. The response may be a request that additional information be provided.
- 74565. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities pursuant to this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.
- 74566. Each member of the commission, except the ex officio members, shall have an alternate member to be elected in the same

74567. Any vintner member and his or her alternate member shall be a person, or an employee representing a vintner, who has a financial interest in processing winegrapes for market. The qualifications of vintner members and alternate members shall be maintained during the entire term of office. Not more than one member and his or her alternate member shall be employed by or connected in a proprietary capacity with the same vintner.

74568. The public member and his or her alternate member shall have all the rights, privileges, and powers of any other member of the commission. The public member shall not have any financial interest in the wine or winegrape industry.

74569. The term of office of members and alternate members shall be for two years or until their successors have been elected and have qualified. However, of the first members of the commission, one-half of the vintner members and their alternate members shall serve for one year; and one-half of the vintner members and their alternate members shall serve for two years. The determination of the term of each member shall be made by lot. No member or alternate member shall serve more than four consecutive terms.

74570. No less than 10 vintner members, including alternate members when acting in place of the members, shall constitute a quorum of the commission.

74571. The vote of a majority of the members, or alternate members when acting in the place of the members, present at the meeting at which there is a quorum shall constitute the act of the commission.

74572. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

74573. The director or his or her representatives shall be notified and may attend meetings of the commission and any committee meetings of the commission.

74574. No member of the commission or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each member of the commission, except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission, may receive an amount not to exceed one hundred

dollars (\$100) per day, as established by the commission. This amount shall be paid for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission. Members shall also receive necessary traveling expenses and meal allowances, as approved by the commission.

74575. All funds received from the assessments levied pursuant to this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in an amount of not less than twenty-five thousand dollars (\$25,000).

74576. (a) The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the assets of the commission.

(b) No member, alternate member, or any employee or agent of the commission, is personally liable for the contracts of the commission or for errors in judgment, mistakes or other acts, either of commission or omission, except for their own individual acts of dishonesty or crime. Liability is several and not joint, and no member, alternate member, or any employee or agent of the commission is liable individually for the default, act, or omission of any other member, alternate member, or any employee or agent of the commission.

#### Article 4. Powers and Duties of the Commission

74591. The powers and duties of the commission shall include, but are not limited to, all of those contained in this article.

74592. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, operating procedures, and orders for carrying out this chapter, including appeals from any bylaws, rules, regulations, operating procedures, or orders of the commission.

74593. The commission may administer and enforce this chapter and do and perform all actions and exercise all powers incidental to, in connection with, or deemed reasonably necessary for, proper or advisable effectuation of this chapter, including, but not limited to, entering into contracts for services with public and private agencies which are deemed necessary by the commission to carry out this chapter.

74594. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

74595. The commission may employ a person to serve at the pleasure of the commission as president, and other personnel, including legal counsel, necessary to carry out this chapter. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective action and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

74596. The commission may fix the compensation for all employees of the commission.

74597. The commission may appoint committees composed of both members and nonmembers of the commission.

74598. The commission may establish offices, incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary in the opinion of the commission for the proper administration and enforcement of this chapter and the performance of its duties.

74599. The commission shall keep accurate books, records, and accounts of all of its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. A summary of the audit shall be made a part of an annual report to all vintners, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

74600. The commission may engage in market development and market research through plans and programs to enhance the sale of California wine and wine-related products for the purpose of maintaining existing markets and creating new and larger domestic and foreign markets, and to educate and instruct the public with respect to the uses and value of California wine and wine-related products. However, any plans and programs so developed and conducted shall not be directed towards a particular private brand or trade name, although private brands and trade names may be used in wine tastings and other similar programs authorized by the commission. In addition, the plans and programs shall make no use of false or unwarranted claims on behalf of California wine or wine-related products, nor disparage the quality, value, sale, or use of any commodity.

74601. The commission may accept contributions of private, state, or federal funds that may be available for these purposes, and may allocate funds by contract or agreement to other persons or to state or federal agencies conducting this research.

74602. The commission may undertake appropriate research relating to the production and processing of wine and winegrapes, including the development of new wine-related products and uses

for these products.

74603. The commission may publish and distribute bulletins or other communications relating to the California wine and wine-related products industries.

74604. The commission may establish an assessment rate to defray operating costs of the commission.

74605. The commission may establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to Section 74596.

74606. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

74607. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

74608. The director may require that any contract in which the commission is a party be submitted to him or her for concurrence prior to the commission entering into the contract. If the director requires the submission of a contract and does not concur in that contract, he or she shall hold a public hearing within 14 days of the initial decision not to concur. In the notice of the hearing, the director shall present a written explanation of his or her decision. The director shall make a final decision on whether or not to concur in the contract within 30 days of the hearing. The contract may not be executed from the time that the director makes the intial decision not to concur to the time of the final decision.

#### Article 5. Implementation and Voting Procedures

74621. This chapter, except as necessary to conduct an implementation referendum, shall not become operative until the director finds, in a referendum conducted by him or her, or a person designated by the director, that a favorable vote has been given pursuant to this article.

74622. (a) Not later than April 1, 1987, the director shall establish a list of vintners who are eligible to vote on the implementation of this chapter. Eligibility shall be based on volume processed in the immediately preceding marketing season. In establishing the list, the director may require producers, vintners, county agricultural commissioners, and others to submit the names and mailing addresses of all vintners. The director also may require that the information provided include the quantity of winegrapes sold to vintners and the quantity of winegrapes processed by vintners or, in the alternative, may establish procedures for receiving the information at the time of the referendum. The request for this information shall be in writing. The information required by the director shall be filed within 30 days following receipt of the written

notice.

- (b) Any vintner whose name does not appear on the director's list may have his or her name included on the list by filing with the director a signed statement identifying himself or herself as a vintner. Failure to be on the list does not exempt the vintner from paying assessments under this chapter.
- 74623. In determining whether this chapter shall become operative, the director shall find that at least 40 percent of the total number of vintners from the list established by the director participated in the referendum, and that either one of the following has occurred:
- (a) Sixty-five percent or more of the vintners who voted in the referendum voted in favor of this chapter, and the vintners so voting either acquired or processed their own production or a combination thereof, which represents a majority of the volume of winegrapes in the preceding marketing season by all the vintners who voted in the referendum.
- (b) A majority of the vintners who voted in the referendum voted in favor of this chapter, and the vintners so voting either acquired or processed their own production, or a combination thereof, which represents 65 percent or more of the volume of winegrapes in the preceding marketing season by all the vintners who voted in the referendum.
- 74624. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional procedures to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period. However, the total referendum period may not exceed 60 days.
- 74625. Nonreceipt of a ballot shall not invalidate a referendum. 74626. If the director finds that a favorable vote has not been given as provided in this chapter, he or she shall certify and declare this chapter inoperative. If the director finds that a favorable vote has been given as provided in this chapter, he or she shall certify and give notice of the favorable vote to all vintners whose names and addresses may be on file with the director.
- 74627. Upon certification of the commission, the vintner members and their alternate members who are then serving on the California Wine and Winegrape Improvement Program made effective by the director on August 21, 1984, shall become the initial members and alternate members of the commission and shall serve in accordance with the requirements of Section 74569.
- 74628. Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to the nomination and election procedures established by the commission with the concurrence of the director.
- 74629. (a) Prior to the implementation referendum conducted by the director, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray

the expenses in creating the commission, including, but not limited to, preparing the necessary vintner list and conducting the referendum.

- (b) Any funds remaining after paying expenses shall be returned to the proponents of the commission who deposited the funds with the director.
- (c) The commission may reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out this article and for any legal expenses and costs incurred in establishing the commission.

#### Article 6. Assessments and Records

- 74651. (a) Prior to the beginning of each marketing season or as soon thereafter as possible, the commission shall establish an assessment rate for the marketing season.
- (b) Unless approved by a two-thirds vote of the commission, the assessment rate shall not exceed 1 percent of the gross dollar value of winegrapes acquired by vintners from producers.
- 74652. Any vintner who is also a producer who contracts or otherwise arranges for the processing of his or her winegrapes and retains ownership of the processed product during the marketing season shall pay the assessment on the winegrapes. The "weighted average producer returns per ton" by district as published in the most recent Final Grape Crush Report issued annually for the current marketing season by the department shall be used as the basis for determining product gross dollar value and the assessment.
- 74653. This chapter does not apply to winegrapes processed only for a vintner's home use. However, any vintner claiming this exemption shall file an affidavit with the commission establishing the manner in which the winegrapes are used. The commission shall then determine whether the exemption applies.
- 74654. Every vintner shall keep a complete and accurate record of all winegrapes processed. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be preserved by the vintner for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.
- 74655. All proprietary information obtained by the commission or the director from producers or vintners, and all lists of vintners in the possession of the commission or the director are confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, commodity value, and other related information which is required for reports to governmental agencies; financial reports made to the commission or aggregate sales and inventory information; and any other information which is requested from the commission, may be disclosed by the commission. In no event may individual producer or vintner information be disclosed by the commission.

74656. Any assessment levied by the commission, pursuant to this chapter, is a personal debt of every person so assessed and is due and payable in a time and manner prescribed by the commission.

74657. Any person who fails to file a return, or remit or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 1½ percent interest per month on the unpaid balance.

## Article 7. Actions and Penalties

- 74671. It is unlawful for any person to do any of the following:
- (a) Willfully render or furnish a false report, statement, or record required by the commission.
- (b) When engaged in the marketing, processing, or other related activity of wine or wine-related products, to fail or refuse to furnish the commission or its duly authorized agents information concerning the name and address of the persons from whom winegrapes have been received.
- (c) Secrete, destroy, or alter records required to be maintained under this chapter.
- 74672. The commission shall establish procedures for the purpose of according individuals aggrieved by its acts or determinations an informal hearing. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court. Pending disposition of any appeal and judicial review, the parties shall abide by the acts or determinations of the commission.
- 74673. (a) The commission may commence civil action and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and the obtaining of injunctive relief or specific performance regarding this chapter and the rules and regulations adopted pursuant to this chapter.
- (b) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance and satisfaction of the judgment. Upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.
- 74674. Suspension or termination of this chapter in accordance with Article 8 (commencing with Section 74691) shall not result in any of the following:
- (a) Affecting, waiving, or termination of any right, duty, obligation, or liability which may have arisen or may thereafter arise

in connection with this chapter.

(b) Releasing, condoning, or dismissal of any violation of this chapter.

## Article 8. Continuation or Suspension and Termination

- 74691. (a) Between July 1, 1989, and June 30, 1990, inclusive, the commission shall cause a referendum to be conducted among vintners in the manner specified in Section 74622 to determine whether this chapter shall be reapproved and continued in effect. In determining whether this chapter is reapproved, the director shall find both of the following:
- (1) Not less than a majority of the vintners eligible to vote in the referendum voted in favor of this chapter.
- (2) As many vintners eligible to vote in the referendum that processed not less than a majority of the eligible volume voted in favor of this chapter.
- (b) If the director finds that a favorable vote has been given to continue the commission, he or she shall so certify and this chapter or the appropriate portions thereof shall remain in effect. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operations of this chapter suspended upon expiration of the marketing season. No bond or security shall be required for any such referendum.
- 74692. Following a favorable referendum conducted prior to June 30, 1990, a referendum shall be conducted by the commission every fifth year thereafter unless a referendum is conducted as a result of a petition pursuant to this article. In that case, the referendum shall be every fifth year following the industry petitioned referendum following procedures provided in this article.
- 74693. (a) Upon a finding by a two-thirds vote of the commission that this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that this chapter be suspended.
- (b) Alternatively, the director may be petitioned to suspend this chapter. The petition shall be signed by 20 percent of the vintners by number who acquired not less than 20 percent of the volume of winegrapes in the immediately preceding marketing season. The director shall hold a hearing on the petition after receiving it.
- (c) The director shall, upon receipt of the recommendation to suspend this chapter from the commission, or may, after holding the hearing on the petition to suspend this chapter, hold a referendum among the vintners to determine if the commission shall be suspended. However, the director shall not hold a referendum as a result of the petition unless the petitioner shows by the weight of evidence that this chapter has not tended to effectuate its declared purposes.

(d) The director shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The

director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of vintners from the list established by the director participate in the referendum, the director shall suspend this chapter if he or she finds either of the following has occurred:

- (1) Sixty-five percent or more of the vintners who voted in the referendum, voted in favor of suspension; and the vintners so voting acquired a majority of the total quantity of winegrapes acquired in the preceding marketing season by all of the vintners who participated in the referendum.
- (2) A majority of the vintners who voted in the referendum voted in favor of suspension; and the vintners so voting acquired 65 percent or more of the total quantity of winegrapes acquired in the preceding marketing season by all of the vintners who voted in the referendum.
- 74694. (a) The director shall terminate the commission at the end of the current marketing season if the director finds that termination is requested in writing, within a 90-day period, by at least 51 percent of the eligible vintners that are directly affected that acquire at least 51 percent of the volume of the product.
- (b) The person or persons originating the request shall file a written notice with the director in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the director.
- (c) The signatures to the petition requesting termination need not all be appended to one sheet of paper. Each person signing the petition shall add his or her signature and business address. If no business address is given, a designation of the place of business shall be given which will enable the location to be readily ascertained.
- (d) The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.

74695. After the effective date of suspension of this chapter, the operations of the commission shall be concluded and any and all funds remaining held by the commission and not required to defray the expenses of concluding and terminating the commission shall be returned on a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any funds shall be paid into an appropriate program conducted by the University of California or the California State University, another state agency, or a federal agency which deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

74696. Upon suspension of this chapter, the commission shall mail a copy of the notice of suspension to all vintners affected by the suspension whose names and addresses are on file.

SEC. 4. Chapter 12.7 (commencing with Section 74801) is added to Division 22 of the Food and Agricultural Code, to read:

## CHAPTER 12.7. CALIFORNIA WINEGRAPE GROWERS COMMISSION

#### Article 1. Declaration and General Provisions

74801. The production and distribution of winegrapes constitute an important industry of this state which provides substantial and necessary revenues for the state and employment for its citizens. It also furnishes an important food which benefits the public health and welfare.

74802. The maintenance and expansion of the winegrape industry of California and of its local, national, and foreign markets is necessary to assure the consuming public of a continuous supply of these products and needed levels of income for those engaged in the winegrape industry in this state.

74803. It is in the public interest that the public be made aware of accurate and scientific information relating to the beneficial

qualities of winegrapes and winegrape products.

74804. The production and marketing of winegrapes and winegrape products produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

74805. No action taken by the commission nor by any individual in accordance with this chapter or with the rules and regulations adopted under the chapter is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade. Proof that any action complained of was done in compliance with this chapter shall be a complete defense to the action or proceeding.

74806. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the

provisions of this chapter are severable.

74807. It is hereby declared as a matter of legislative determination that members of the commission are intended to represent and further the interest of a particular agricultural industry, and that this representation and furtherance is intended to

serve the public interest. Accordingly, the Legislature finds that with respect to persons who serve on the commission, the particular agricultural industry is tantamount to, and constitutes the public generally within the meaning of Section 87103 of the Government Code.

74808. A commission form of administration created by this chapter is designed to deal with the broad fields of market development, marketing research, and production and processing research.

#### Article 2. Definitions

- 74821. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.
- 74822. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.
- 74823. "Brandy" means an alcoholic distillate or a mixture of distillates obtained from the fermented juice, mash, or wine of whole, sound, ripe grapes or from the residue thereof, distilled at not over 170 degrees proof.
- 74824. "Commission" means the California Winegrape Growers Commission.
- 74825. "Grape concentrate" or "concentrate" means unfermented grape juice from which the major portion of the original water content has been removed.
- 74826. "Grape juice" or "juice" means unfermented crushed grapes without solids containing the major portion of the original water content.
- 74827. "Producer" and "grower" are synonymous and mean any person who produced winegrapes in a marketing season in a quantity of more than 25 tons. Unless otherwise exempted, producer also includes any person who receives winegrapes as payment for the use of his or her property in the production of winegrapes.
  - 74828. "Producer districts" shall consist of the following:
- (a) District 1 consists of Lake, Solano, Mendocino, Sonoma, Marin, and Napa Counties.
- · (b) District 2 consists of the City and County of San Francisco, Santa Barbara, San Luis Obispo, Ventura, Monterey, San Benito, Santa Clara, Santa Cruz, Alameda, San Mateo, and Contra Costa Counties.
- (c) District 3 consists of Butte, Colusa, Glenn, Sacramento, Shasta, Tehama, Yolo, Yuba, Trinity, Siskiyou, Modoc, Lassen, Plumas, Sierra, Sutter, Humboldt, and Del Norte Counties, and that portion of San Joaquin County north of State Highway 4.
- (d) District 4 consists of Merced, Stanislaus, Mariposa, Calaveras, Amador, El Dorado, Placer, Nevada, and Tuolumne Counties, and that portion of San Joaquin County south of State Highway 4.

- (e) District 5 consists of Fresno, Alpine, Mono, Inyo, and Madera Counties, and that portion of Kings and Tulare Counties north of Nevada Avenue (Avenue 192).
- (f) District 6 consists of Kern County and that portion of Kings and Tulare Counties south of Nevada Avenue (Avenue 192).
- (g) District 7 consists of Los Angeles, Orange, Riverside, San Bernardino, Imperial, and San Diego Counties.
- 74829. "Ex officio member" means a nonvoting member of the commission.
- 74830. "High proof" means an alcoholic distillate or a mixture of distillates obtained from the fermented juice, mash, or wine of fresh winegrapes or from the residue thereof.

74831. "Market" means to sell, barter, trade, purchase, acquire, or otherwise distribute wine, winegrapes, or winegrape products.

- 74832. "Market development" includes, but is not limited to, trade promotion, public information, dissemination of information on health and social issues and other matters, and activities for the prevention, modification, or removal of trade barriers which restrict the free flow of winegrape products to market and may include the presentation of facts to state, federal, or foreign governmental agencies on matters which affect this chapter.
- 74833. "Market research" means any investigation, development, analysis, or implementation of information relating to the marketing of winegrapes and winegrape products including, but not limited to, trade practices, consumer trends, promotion, sales, and advertising.
- 74834. "Marketing season" or "fiscal year" means the period beginning July 1 of any year and extending through June 30 of the following years.

74835. "Must" means a mixture of unfermented crushed grapes, solid grape particles, and grape juice.

74836. "Production research" means research relating to the production and processing of winegrapes, including, but not limited to, the development of new winegrape products and uses for these products.

74837. "Vintner" and "processor" are synonymous and mean any person engaged in producing must, grape juice, grape concentrate, wine, or products thereof, including high proof and brandy, and includes a "winegrower" as that term is defined in Section 23103 of the Business and Professions Code, who produces wine from winegrapes. However, a producer does not become a vintner solely by the act of field crushing winegrapes before delivering the winegrapes as must to another person. A vintner who acquires and processes winegrapes in the preceding marketing season in a quantity of 100 tons or less is not subject to this chapter.

74838. "Wine" means the product obtained by the fermentation of winegrapes or juice therefrom, with or without addition or abstracting, and includes any product made from winegrapes which is defined as a wine and permitted under Part III (commencing with Section 5381) of Subchapter F of Chapter 51 of Title 26 of the United

States Code, and in the statutes of this state and regulations issued thereunder defining wine produced from grapes.

74839. "Winegrapes" means grapes produced in this state which are intended to be converted from their fresh form into grape juice, grape concentrate, wine, or products thereof, including, but not limited to, high proof and brandy produced from winegrapes.

74840. "Winegrape products" include, but are not limited to, must, grape juice, grape concentrate, wine, high proof, and brandy produced from winegrapes.

## Article 3. California Winegrape Growers Commission

- 74861. There is in state government, the of California Winegrape Growers Commission. The commission shall be composed of 18 producers and one public member.
- (a) Producers within District 7 shall elect one producer member; producers within Districts 2, 3, 4, and 6 shall each elect two producer members; producers within District 5 shall elect four producer members; and producers within District 1 shall elect five producer members to serve on the commission. Alternate producer members shall be elected in the same manner. Each producer member and alternate producer member shall be elected from the district in which he or she produces the greatest portion of his or her winegrape tonnage.
- (b) The public member may be appointed to the commission by the director from nominees recommended by the commission.
- (c) The director, and other appropriate individuals as determined by the commission, shall be ex officio members of the commission.
- 74862. Periodically, the number of producer members and their respective alternate members serving on the commission from any district shall be reapportioned in a manner that assures representation in accordance with the value of winegrapes produced in each district. However, no district shall have less than one member nor more than five members on the commission.
- 74863. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.
- (b) If the commission refuses or fails to cease these activities or functions or to make these corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.
- (c) Actions of the commission in violation of the written notice are without legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(d) Upon service of the written notice, the director shall notify the commission in writing of the specific acts which he or she determines are not in the public interest or are in violation of this chapter, the reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and may make recommendations that will make the activities or functions acceptable.

74864. The commission or the director may bring an action for judicial relief from the director's written notice or for noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction which may issue a temporary restraining order, permanent injunction, or other appropriate relief.

74865. When the director is required to concur in a decision of the commission, he or she shall indicate his or her response to the commission within 15 working days from notification of the decision. The response may be a request that additional information be provided.

74866. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities pursuant to this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.

74867. Each member of the commission, except the ex officio members, shall have an alternate member to be elected in the same manner as the member. An alternate member shall, in the absence of the member of whom he or she is an alternate, serve in place of the member on the commission and have and be able to exercise all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or disqualification of a member, the alternate shall serve as a member on the commission until a successor is elected and has qualified.

74868. Any producer member and his or her alternate member shall be a person, or an employee representing a producer, who has a financial interest in producing, or causing to be produced, winegrapes for market. The qualifications of producer members and alternate members shall be maintained during the entire term of office. No more than one member and his or her alternate members shall be employed by or connected in a proprietary capacity with the same producer. However, producer membership in an agricultural nonprofit cooperative association or trade organization shall not be considered employment or being in a proprietary capacity.

74869. The public member and his or her alternate member shall have all the rights, privileges, and powers of any other member of the commission. The public member shall not have any financial interest in the wine or winegrape industry.

74870. The term of office of members and alternate members

shall be for two years or until their successors have been elected and have qualified. However, of the first members of the commission, one-half of the producer members and their alternate members shall serve for one year and one-half of the producer members and their alternate members and one-half of the shall serve for two years. The determination of the term of each member shall be made by lot. No member or alternate member shall serve more than four consecutive terms.

74871. No less than 10 producer members, including alternate members when acting in place of the members, shall constitute a quorum of the commission.

74872. The vote of a majority of the members, or alternate members when acting in the place of the members, present at the meeting at which there is a quorum shall constitute the act of the commission.

74873. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

74874. The director or his or her representatives shall be notified and may attend meetings of the commission and any committee meetings of the commission.

74875. No member of the commission or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each member of the commission, except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission, may receive an amount not to exceed one hundred dollars (\$100) per day, as established by the commission. This amount shall be paid for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission. Members shall also receive necessary traveling expenses and meal allowances, as approved by the commission.

74876. All funds received from the assessments levied pursuant to this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in an amount of not less than twenty-five thousand dollars (\$25,000).

74877. (a) The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited.

to the funds collected by the commission.

(b) No member, alternate member, or any employee or agent of the commission, is personally liable for the contracts of the commission or for errors in judgment, mistakes or other acts, either of commission or omission, except for their own individual acts of dishonesty or crime. Liability is several and not joint, and no member, alternate member, or any employee or agent of the commission is liable individually for the default, act, or omission of any other member, alternate member, or any employee or agent of the commission.

## Article 4. Powers and Duties of the Commission

74891. The powers and duties of the commission shall include, but are not limited to, all of those contained in this article.

74892. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, operating procedures, and orders for carrying out this chapter, including appeals from any bylaws, rules, regulations, operating procedures, or orders of the commission.

74893. The commission may administer and enforce this chapter and do and perform all actions and exercise all powers incidental to, in connection with, or deemed reasonably necessary for, proper or advisable effectuation of this chapter, including, but not limited to, entering into contracts for services with public and private agencies which are deemed necessary by the commission to carry out this chapter.

74894. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

74895. The commission may employ a person to serve at the pleasure of the commission as president, and other personnel, including legal counsel, necessary to carry out this chapter. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective action and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

74896. The commission may fix the compensation for all employees of the commission.

74897. The commission may appoint committees composed of both members and nonmembers of the commission.

74898. The commission may establish offices, incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary in the opinion of the commission for the proper

administration and enforcement of this chapter and the performance of its duties.

74899. The commission shall keep accurate books, records, and accounts of all of its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. A summary of the audit shall be made a part of an annual report to all producers, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

74900. The commission may engage in market development and market research through plans and programs to enhance the sale of California winegrapes and winegrape products for the purpose of maintaining existing markets and creating new and larger domestic and foreign markets, and to educate and instruct the public with respect to the uses and value of California winegrapes and winegrape products. However, any plans and programs so developed and conducted shall not be directed towards a particular private brand or trade name, although private brands and trade names may be used in wine tastings and other similar programs authorized by the commission. In addition, the plans and programs shall make no use of false or unwarranted claims on behalf of California winegrapes or winegrape products, nor disparage the quality, value, sale, or use of any commodity. The commission shall not engage in collective bargaining issues, supply control, grades and quality standards, or price setting activities.

74901. The commission may accept contributions of private, state, or federal funds that may be available for these purposes, and may allocate funds by contract or agreement to other persons or to state or federal agencies conducting this research.

74902. The commission may undertake appropriate research relating to the production and processing of winegrapes, including the development of new winegrape products and uses for these products.

74903. The commission may publish and distribute bulletins or other communications relating to the California winegrape industry.

74904. The commission may establish an assessment rate to defray operating costs of the commission.

74905. The commission may establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to Section 74896.

74906. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

74907. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

74908. The director may require that any contract in which the commission is a party be submitted to him or her for concurrence prior to the commission entering into the contract. If the director requires the submission of a contract and does not concur in that contract, he or she shall hold a public hearing within 14 days of the initial decision not to concur. In the notice of the hearing, the director shall present a written explanation of his or her decision. The director shall make a final decision on whether or not to concur in the contract within 30 days of the hearing. The contract may not be executed from the time that the director makes the initial decision not to concur to the time of the final decision.

## Article 5. Implementation and Voting Procedures

- 74921. This chapter, except as necessary to conduct an implementation referendum, shall not become operative until the director finds, in a referendum conducted by him or her, or a person designated by the director, that a favorable vote has been given pursuant to this article.
- 74922. (a) Not later than April 1, 1987, the director shall establish a list of producers who are eligible to vote on implementation of this chapter. In establishing the lists, the director may require producers, vintners, county agricultural commissioners, and others to submit the names and mailing addresses of all producers. The director also may require that the information provided include the quantity of winegrapes sold to vintners and the quantity of winegrapes processed by vintners or, in the alternative, may establish procedures for receiving the information at the time of the referendum. The request for this information shall be in writing. The information required by the director shall be filed within 30 days following receipt of the written notice.
- (b) Any producer whose name does not appear on the director's lists may have his or her name included on the appropriate list by filing with the director a signed statement identifying himself or herself as a producer or vintner. Failure to be on the appropriate list does not exempt any producer from paying assessments under this chapter.
- 74923. In determining whether this chapter is applicable to growers, the director must find that at least 40 percent of the total number of growers from the list established by the director participated in the referendum, and that either one of the following has occurred:
- (a) Sixty-five percent or more of the growers who voted in the referendum voted in favor of this chapter, and the growers so voting marketed a majority of the volume of winegrapes in the preceding marketing season, or in the current marketing season if the harvest is completed prior to the vote, by all the producers who voted in the referendum.
  - (b) A majority of the growers who voted in the referendum voted

in favor of this chapter, and the growers so voting marketed 65 percent or more of the volume of winegrapes in the preceding marketing season, or in the current marketing season if the harvest is completed prior to the vote, by all the producers who voted in the referendum.

74924. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional procedures to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period. However, the total referendum period may not exceed 60 days.

74925. Nonreceipt of a ballot shall not invalidate a referendum. 74926. If the director finds that a favorable vote has not been given as provided in this chapter, he or she shall certify and declare this chapter inoperative. If the director finds that a favorable vote has been given as provided in this chapter, he or she shall certify and give notice of the favorable vote to all producers and vintners whose names and addresses may be on file with the director.

74927. Upon certification of the commission, the producer members and their alternate members who are then serving on the California Wine and Winegrape Improvement Program made effective by the director on August 21, 1984, shall become the initial members and alternate members of the commission.

74928. Subsequent to the action taken pursuant to Section 74927, persons to be elected to the commission upon expiration of existing terms shall be selected pursuant to the nomination and election procedures established by the commission with the concurrence of the director.

- 74929. (a) Prior to the implementation referendum conducted by the director, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray the expenses in creating the commission, including, but not limited to, preparing the necessary producer and vintner lists and conducting the referendum.
- (b) Any funds remaining after paying expenses shall be returned to the proponents of the commission who deposited the funds with the director.
- (c) The commission may reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out this article and for any legal expenses and costs incurred in establishing the commission.

#### Article 6. Assessments and Records

- 74951. (a) Prior to the beginning of each marketing season or as soon thereafter as possible, the commission shall establish an assessment rate for the marketing season.
- (b) The assessment rate for producers shall not exceed 1 percent of the gross dollar value of winegrapes marketed by producers to

vintners. If a producer sells winegrapes for a specified sum in a bona fide sale, the gross dollar amount of this sum is the gross dollar value of the winegrapes.

74952. Any producer, or producer who is also a vintner, who contracts or otherwise arranges for the processing of his or her winegrapes and retains ownership of the processed product during the marketing season shall pay the producer assessment. The "weighted average producer returns per ton" by district as published in the most recent Final Grape Crush Report issued annually for the current marketing season by the department shall be used as the basis for determining product gross dollar value and the assessment.

74953. This chapter shall not apply to winegrapes produced only for a producer's home use. However, any producer claiming this exemption shall file an affidavit with the commission establishing the manner in which the winegrapes are used. The commission shall then determine whether the affidavit should be approved.

74954. Every producer subject to this chapter shall keep a complete and accurate record of their operations. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be preserved for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

74955. All proprietary information obtained by the commission or the director from producers or vintners, and all lists of producers and vintners in the possession of the commission or the director are confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, commodity value, and other related information which is required for reports to governmental agencies; financial reports made to the commission or aggregate sales and inventory information; and any other information which is requested from the commission excluding individual producer or vintner information, may be disclosed by the commission.

74956. Any assessment levied by the commission, pursuant to this chapter, is a personal debt of every person so assessed and is due and payable in a time and manner prescribed by the commission. Failure of a vintner to collect the assessment from a producer shall not exempt the vintner from liability nor relieve the producer of the obligation to pay the assessment.

74957. Any person who fails to file a return, or remit or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 1½ percent interest per month on the unpaid balance.

#### Article 7. Actions and Penalties

- 74971. It is unlawful for any person to do any of the following:
- (a) Willfully render or furnish a false report, statement, or record required by the commission.
- (b) When engaged in the marketing, processing, or other activities related to winegrapes, to fail or refuse to furnish the commission or its duly authorized agents, information concerning the name and address of the persons to whom winegrapes were delivered or from whom winegrapes have been received.
- (c) Secrete, destroy, or alter records required to be maintained under this chapter.
- 74972. The commission shall establish procedures for the purpose of according individuals aggrieved by its acts or determinations an informal hearing. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court. Pending disposition of any appeal and judicial review, the parties shall abide by the acts or determinations of the commission.
- 74973. (a) The commission may commence civil action and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and the obtaining of injunctive relief or specific performance regarding this chapter and the rules and regulations adopted pursuant to this chapter.
- (b) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance and satisfaction of the judgment. Upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.
- 74974. Suspension or termination of this chapter in accordance with Article 8 (commencing with Section 74991) shall not result in any of the following:
- (a) Affecting, waiving, or termination of any right, duty, obligation, or liability which may have arisen or may thereafter arise in connection with this chapter.
- (b) Releasing, condoning, or dismissal of any violation of this chapter.

# Article 8. Continuation or Suspension and Termination

74991. Between July 1, 1991, and June 30, 1992, inclusive, the commission shall cause a referendum to be conducted among producers in the manner specified in Section 74922 to determine

whether this chapter shall be reapproved and continued in effect. A favorable vote shall be found if the director determines from the referendum that a majority of the eligible producers who voted in the referendum voted in favor of continuing the operations of this chapter. If the director finds that a favorable vote has been given to continue a producer commission, he or she shall so certify and this chapter or the appropriate portions thereof shall remain in effect. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operations of this chapter suspended upon expiration of the marketing season. No bond or security shall be required for any such referendum.

74992. Following a favorable referendum conducted prior to June 30, 1992, a referendum shall be conducted by the commission every fifth year thereafter unless a referendum is conducted as a result of a petition pursuant to this article. In that case, the referendum shall be every fifth year following the industry petitioned referendum following procedures provided in this article.

- 74993. (a) Upon a finding by a two-thirds vote of the commission that this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing season.
- (b) Alternatively, the director may be petitioned to suspend this chapter. The petition must be signed by 20 percent of the producers by number who produced not less than 20 percent of the volume of winegrapes in the immediately preceding marketing season. The director shall hold a hearing on the petition after receiving it.
- (c) The director shall, upon receipt of the recommendation to suspend this chapter from the commission, or may, after holding the hearing on the petition to suspend this chapter, hold a referendum among producers to determine if the commission shall be suspended. However, the director shall not hold a referendum as a result of the petition unless the petitioner shows by the weight of evidence that this chapter has not tended to effectuate its declared purposes.
- (d) The director shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the lists established by the director participate in the referendum, the director shall suspend this chapter if he or she finds either of the following has occurred:
- (1) Sixty-five percent or more of the producers who voted in the referendum, voted in favor of suspension; and the producers so voting marketed a majority of the total quantity of winegrapes marketed in the preceding marketing season by all of the producers who participated in the referendum.
  - (2) A majority of the producers who voted in the referendum

voted in favor of suspension; and the producers so voting marketed 65 percent or more of the total quantity of winegrapes marketed in the preceding marketing season by all of the producers who voted in the referendum.

- 74994. (a) The director shall terminate the commission at the end of the current marketing season if the director finds that termination is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that are directly affected that market at least 51 percent of the volume of the product.
- (b) The person or persons originating the request shall file a written notice with the director in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the director.
- (c) The signatures to the petition requesting termination need not all be appended to one sheet of paper. Each person signing the petition shall add his or her signature and business address. If no business address is given, a designation of the place of business shall be given which will enable the location to be readily ascertained.
- (d) The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.
- 74995. After the effective date of suspension of this chapter, the operations of the commission shall be concluded and any and all funds remaining held by the commission and not required to defray the expenses of concluding and terminating the commission shall be returned on a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any funds shall be paid into an appropriate program conducted by the University of California or the California State University, another state agency, or a federal agency which deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

74996. Upon suspension of this chapter, the commission shall mail a copy of the notice of suspension to all producers and vintners affected by the suspension whose names and addresses are on file.

SEC. 5. It is the intent of the Legislature that the addition of Section 74908 to the Food and Agricultural Code, as proposed in Section 2 of this act, the addition of Section 74608 to the Food and Agricultural Code, as proposed in Section 3 of this act, and the addition of Section 74908 to the Food and Agricultural Code, as proposed in Section 4 of this act, are intended to apply only to the Winegrowers of California Commission, as proposed to be added by Section 1 of Senate Bill 2048 of the 1985–86 Regular Session, the California Wine Commission, as added by Section 3 of this act, and the California Winegrape Growers Commission, as added by Section

4 of this act, respectively. These sections are not intended to apply to any other agricultural commissions presently in operation or to be created in the future.

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 1288

An act to add Chapter 3.5 (commencing with Section 5085) to Title 7 of Part 3 of the Penal Code, relating to corrections, and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986 ]

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

Chapter 3.5 (commencing with Section 5085) is added to Title 7 of Part 3 of the Penal Code, to read:

# CHAPTER 3.5. THE ROBERT B. PRESLEY INSTITUTE OF CORRECTIONS RESEARCH AND TRAINING

- 5085. (a) There is hereby created in state government the Robert B. Presley Institute of Corrections Research and Training, hereafter referred to as "the institute" for the purpose of developing and enhancing research, education, and training for corrections personnel within the youth and adult corrections system in California.
- (b) The Legislature declares that the institute shall research and recommend short-term and long-term approaches to address the following:
- (1) Identify the methods and practices necessary for the most beneficial operation of the state's correctional institutions.
- (2) Reduce prison, jail, and youth facility violence and recidivism rates.
- (3) Ensure that California remains the nationwide leader in modern, humane, secure, and efficient correctional systems.
- (4) Review current educational and training practices for correctional staff and recommend new curricula and training regimens intended to enhance the professionalism, expertise, and effectiveness of these personnel.
  - 5085.5. The Legislature further finds and declares the following:
  - (a) That the Department of Corrections and the Department of

the Youth Authority require assistance in improving methods for the training and education of adult and youth corrections line employees, supervisors, managers, and directors.

(b) That there is a need for theoretical and applied research in the

subjects of the following:

- (1) Correctional facility management, planning, design, and construction.
  - (2) Inmate diagnosis, classification, and treatment.
  - (3) Staff security and inmate discipline.
- (4) Ward and inmate vocational training, and development of job skills for their permanent civilian employment.
  - (5) Correctional facility overcrowding.
  - (6) Prison, jail, and street gang activity.
- (7) Safe, secure, and cost-effective incarceration in California's correctional institutions.
- (8) New approaches to inmate and ward rehabilitation during and after incarceration.
- (9) New methods to reduce the recidivism and the consequent victimization of California citizens.

5086. The institute shall be governed by a 16-member board of trustees, hereafter referred to as "the board", which shall consult with the governing body of the University of California, the governing bodies of California State University and the California community colleges. The institute shall also consult with the Governor and the Legislature on matters related to corrections research, education, and training.

5087. The board shall be composed of 15 voting members. The members shall be selected from persons with experience or education in the fields of corrections, correctional training, criminal justice, criminal law, sociology, public health, architecture, urban planning, mental health, public protection, political science, psychology, or psychiatry. The Director of Corrections and the Director of the Youth Authority shall serve as ex officio voting members of the board. The Chairperson of the Board of the National Institute of Corrections or his or her designee, shall serve as an ex officio nonvoting member or the board.

5088. The Governor shall appoint six members of the board, one of whom shall be designated by the Governor as chairperson. The Speaker of the Assembly and the Senate Rules Committee shall each appoint two members of the board. The governing bodies of the University of California, California State University, and the California community colleges shall each appoint one member of the board.

5088.5. The three members first appointed by the Governor shall serve for a period of three years and the other three members for a period of two years. The one member first appointed by the Speaker of the Assembly and the Senate Rules Committee shall serve for a period of three years and the other member for a period of two years. The members first appointed by the governing bodies of the

University of California, the California State University, and the California community colleges shall serve for a period of three years. Thereafter, all appointments shall be for a period of four years.

- 5089. (a) In the event of a vacancy due to resignation, death, removal by the appointing authority pursuant to subdivision (b), or expiration of term of appointed office, the appointing authority shall fill the vacancy following receipt of written notification from the board that a vacancy has occurred.
- (b) Vacancies shall be filled by appointment for the unexpired term. The appointing authority may remove any member of the board disqualified by reason of neglect of any duty required by law, or for incompetency, or dishonorable conduct.
- (c) The board shall meet regularly at least four times during each year with at least one meeting each year to be held in a geographic location readily available to a large segment of the population of California. The board shall hold extra meetings as necessary on the call of the chairperson or a majority of the voting members of the board. Eight voting members of the board constitute a quorum. The vote of a majority of the voting members of the board is necessary for the transaction of the business of the board.
- 5090. (a) The board shall have the authority to appoint such technical and other advisory committees as it deems necessary to achieve the mandate of the institute as intended by the Legislature. The appointed members of the technical and other advisory committees appointed by the board shall be reimbursed for travel and other expenses at the rates allowed to state employees but shall otherwise serve without compensation.
- (b) The board shall have the authority to hire an executive director, obtain services of legal counsel, and employ such other staff as necessary to carry out the purposes of the institute. The board shall fix the compensation of all employed staff members in accordance with law. The executive director shall serve at the pleasure of the board and is exempt from civil service.
- 5091. It is the intent of the Legislature that beginning January 1, 1987, the institute shall do all of the following:
- (a) Finance research on issues of interest to state and local correctional agencies, universities, colleges, and other academic or corrections research institutions. The board shall receive and assign priority to research requests from correctional agencies, the Legislature and others. With respect to assigning priority to research requests, the board shall give preference to research tasks beyond the ordinary capability of in-house agency research divisions.
- (b) Establish a clearinghouse for correctional information and research and disseminate material of interest, including the results of institute-financed research, to correctional practitioners, the Legislature, universities, colleges, courts, and the public.
- (c) Sponsor seminars in which experts and theoreticians from various fields relevant to correctional practice may interact for the purpose of assisting the conduct of California corrections.

- (d) Address the underlying assumptions of our penal system including the prevention of violence, protection of public safety, safe, secure, and cost-effective incarceration, and the reintegration of offenders into society.
- 5092. On or before March 1, 1988, the institute shall develop a detailed and specific program for implementation by the Legislature, the Department of Corrections, and the Department of the Youth Authority that establishes a career path, which is integrated with an educational and training regimen for all youth and adult state corrections personnel in California. This program shall recommend specific actions to improve the job and career competence of state youth and adult corrections personnel and to encourage and foster the attainment of postsecondary educational degrees by correctional officers. Any minimum training and education standards recommended shall include standards for entry, basic, intermediate, advanced, supervisory, management, and specialized corrections personnel.
- 5093. It is the intent of the Legislature that a permanent home for the institute be established on or in the immediate vicinity of the Riverside campus of the University of California.
- 5094. (a) It is the intent of the Legislature to encourage the board to seek funding for necessary training, education, and research projects from the Legislature, the state college and university systems, private colleges and universities, foundations, the federal government, and other sources deemed appropriate by the board.
- (b) The executive director shall, subject to review and approval of the board, negotiate the terms, services, and costs of contracts and research projects consistent with funds available. The board shall approve contracts negotiated by the executive director and shall retain legal counsel for purposes of contract review.
- (c) Consistent with the funds available, the executive shall obtain all necessary office space, equipment, supplies, and services he or she deems necessary for the institute to perform its mandated duties.
- 5095. The board members shall receive per diem, travel, and other expenses while employed by the state to carry out the function of the institute. Per diem shall be one hundred dollars (\$100) for each day engaged in the performance of the duties of the institute pursuant to this chapter. Travel and other expenses shall be reimbursed at rates allowed to state employees.
- 5096. The sum of one hundred fifty thousand dollars (\$150,000) is hereby appropriated from the General Fund to the institute for the purposes of this act.

#### CHAPTER 1289

An act to amend Sections 11165.5, 11166, and 11167 of the Penal Code, relating to abuse.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 11165.5 of the Penal Code is amended to read:

- 11165.5. (a) As used in Sections 11165 and 11166.5, "child care custodian," in addition to the persons specified therein, means an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education. It also includes a classified employee of any public school who has been trained in the duties imposed by this article if the school has so warranted to the State Department of Education.
- (b) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.
  - SEC. 2. Section 11166 of the Penal Code is amended to read:
- 11166. (a) Except as provided in subdivision (b), any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.
- (b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

- (c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:
- (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
  - (2) Penetration of the vagina or rectum by any object.
- (3) Masturbation, for the purpose of sexual stimulation of the viewer.
- (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
- (5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.
- (d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.
- (e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.
- (f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

The internal procedures shall not require any employee required to make reports by this article to disclose his or her identity to the employer.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's

office every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department, the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

- SEC. 3. Section 11167 of the Penal Code is amended to read:
- 11167. (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.
- (b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.
- (c) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

- (d) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names.
- 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 1290

An act to add Section 66787.6 to the Government Code, to add Division 12.1 (commencing with Section 14500) to, and to repeal Sections 14530.5 and 14585 of, the Public Resources Code, and to add Sections 17153.5, 19278, and 24315 to the Revenue and Taxation Code, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986]

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

SECTION 1. Section 66787.6 is added to the Government Code, to read:

- 66787.6. (a) A local agency shall not deny a permit for the operation of a mobile recycling unit or reverse vending machine, which is certified, or has applied to be certified, as a recycling location pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code, on private property located in an area that is zoned for commercial or industrial uses, and is located within, or to be located within, a convenience zone, if the operator of the mobile recycling unit or reverse vending machine submits written certification from the property owner granting permission to operate on that property from the property owner, unless the local agency specifically finds, and states its reasons for finding, that this operation will have a detrimental effect on public health, safety, or general welfare. If the certificate is revoked pursuant to Section 14541 of the Public Resources Code, the local agency permit shall automatically expire.
- (b) Consistent with subdivision (a), a local agency may adopt reasonable rules and regulations, which are not inconsistent with Sections 14570 and 14571 of the Public Resources Code, concerning the operation of mobile recycling units and reverse vending machines, including, but not limited to, specifying the times and frequencies of operations and the posting of appropriate signs.
- (c) For purposes of this section, "mobile recycling unit" means a properly licensed automobile, truck, trailer, or van which is used for the collection of recyclable material such as aluminum, glass, plastic, and paper.
  - (d) For purposes of this section, "reverse vending machine" has

the same meaning as in Section 14525.5 of the Public Resources Code.

(e) For purposes of this section, "convenience zone" has the same meaning as in Section 14509.4 of the Public Resources Code.

SEC. 2. Division 12.1 (commencing with Section 14500) is added to the Public Resources Code, to read:

# DIVISION 12.1. CALIFORNIA BEVERAGE CONTAINER RECYCLING AND LITTER REDUCTION ACT

#### CHAPTER 1. FINDINGS

- 14500. This division shall be known and may be cited as the California Beverage Container Recycling and Litter Reduction Act. 14501. The Legislature finds and declares as follows:
- (a) Experience in this state and others demonstrates that financial incentives and convenient return systems assure the efficient and large-scale recycling of beverage containers. Accordingly, it is the intent of the Legislature to encourage increased, and more convenient, beverage container redemption opportunities for all consumers. These redemption opportunities shall consist of dealer and other shopping center locations, independent and industry operated recycling centers, curbside programs, nonprofit dropoff programs, and other recycling systems that assure all consumers, in every region of the state, the opportunity to return beverage containers conveniently, efficiently, and economically.
- (b) California grocery, beer, soft drink, container manufacturing, labor, agriculture, consumer, environmental, government, citizen, recreational, taxpayer, and recycling groups have joined together in calling for an innovative program to generate large-scale redemption and recycling of beverage containers.
- (c) This division establishes a beverage container recycling goal of 80 percent, and when the redemption rate for any one type of beverage container falls below 65 percent, the act provides for an increased redemption value.
- (d) It is the intent of the Legislature to ensure that every container type proves its own recyclability.
- (e) It is the intent of the Legislature to make redemption and recycling convenient to consumers, and the Legislature hereby urges cities and counties, when exercising their zoning authority, to act favorably on the siting of multimaterial recycling centers, reverse vending machines, mobile recycling units, or other types of recycling opportunities, as necessary for consumer convenience, and the overall success of litter abatement and beverage container recycling in the state.
- (f) The purpose of this chapter is to create and maintain a marketplace where it is profitable to establish sufficient recycling centers and locations to provide consumers with convenient recycling opportunities through the establishment of minimum redemption values, bonuses, processing fees, and, through the

proper application of these elements, to enhance the profitability of recycling centers, recycling locations, and other beverage container recycling programs.

- (g) The responsibility to provide convenient, efficient, and economical redemption opportunities rests jointly with manufacturers, distributors, dealers, recyclers, processors, and the Department of Conservation.
- (h) It is the intent of the Legislature, in enacting this division, that all empty beverage containers redeemed shall be recycled, and that the responsibilities and regulations of the department shall be determined and implemented in a manner which favors the recycling of redeemed containers, as opposed to their disposal.
- (i) Nothing in this division shall be interpreted as affecting the current business practices of scrap dealers or recycling centers, except that, to the extent they function as a recycling center or processor, they shall do so in accordance with this division.
- (j) The program established by this division will contribute significantly to the reduction of the beverage container component of litter in this state.
- 14501.5. This division does not apply to any beverage container which is sold and delivered to a railroad, sleeping car, or steamship company, or common carrier operating vessels, as defined in Section 238 of the Public Utilities Code, operating under a certificate of public convenience and necessity, or an air common carrier, for use and consumption on trains, vessels, or airplanes.

#### CHAPTER 2. DEFINITIONS

- 14502. Unless the context otherwise requires, the definitions in this chapter govern the construction of this division.
- 14503. "Aluminum beverage container" means a beverage container which consists primarily of aluminum.
- 14504. "Beverage" means beer and other malt beverages, carbonated mineral and soda waters, and similar carbonated soft drinks in liquid form which are intended for human consumption.
- 14505. "Beverage container" means the individual, separate bottle, can, jar, carton, or other receptacle, however denominated, in which a beverage is sold, and which is constructed of metal, glass, or plastic, or other material, or any combination of these materials. "Beverage container" does not include cups or other similar open or loosely sealed receptacles.
- 14506. "Beverage manufacturer" means any person who bottles, cans, or otherwise fills beverage containers, or imports filled beverage containers, for sale to distributors, dealers, or consumers.
- 14507. "Committee" means the Beverage Container Recycling Advisory Committee established pursuant to Section 14531.
- 14507.5. "Community Conservation Corps" means a nonprofit public benefit corporation formed or operating pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the

Corporations Code, or an agency operated by a city, or city and county, which is certified by the California Conservation Corps as meeting all of the following criteria:

- (a) The corps consists of not less than 60 corpsmembers organized in the form of supervised work crews and selects young men and women for participation on the basis of the criteria specifed in Section 14302.
- (b) The corps' program is based upon a highly disciplined work experience, includes an educational component, and is designed to develop corpsmembers' character and civic consciousness through rigorous work on public projects.
- (c) The corps compensates corpsmembers at not less than the federal minimum wage, and provides corpsmembers assistance in obtaining permanent employment following their participation in the corps program.
- (d) The corps engages in recycling and litter abatement projects as well as projects which accomplish the conservationist and other purposes described in subdivisions (a) to (h), inclusive, of Section 14300, and which assist agencies of local government and other nonprofit community organizations in developing, rehabilitating, and restoring parklands, recreational facilities, and other community resources.
- 14508. "Consumer" means every person who, for his or her use or consumption, purchases a beverage in a beverage container from a dealer. "Consumer" includes, but is not limited to, a lodging, eating, or drinking establishment, and soft drink vending machines.
- 14509. "Container manufacturer" means any person who produces beverage containers for filling by beverage manufacturers, including any person who imports these beverage containers from outside of this state for filling by beverage manufacturers.
- 14509.2. "Convenience incentive payment" means a special payment on a per container or by weight basis for a fixed period of time, as determined by the department, as an incentive to current or potential recycling centers to establish a recycling center or location meeting the requirements of Section 14571.
  - 14509.4. "Convenience zone" means all of the following:
  - (a) The area within a one-half mile radius of a supermarket.
- (b) A zone designated by the department pursuant to Section 14571.1 in underserved areas with no supermarket. The department shall identify supermarket locations only for the purpose of providing a reference point in the establishment of convenience zones. The department shall not designate convenience zones in the state with a statewide ratio greater than one convenience zone per 10,000 residents in nonrural underserved areas, or greater than one convenience zone per 7,000 residents in rural underserved areas. The recycling location in underserved areas shall be located within one mile of a dealer. In designating convenience zones in underserved areas, the department shall not designate zones which would require establishment of recycling centers or locations in areas

adjacent to, and conveniently accessible to, established convenience zones.

- 14509.5. "Curbside program" means a recycling program which meets all of the following criteria:
  - (a) The program picks up recyclables from individual residences.
- (b) The program is operated by, or pursuant to a contract with, a city, county, or other public agency.
- (c) The program accepts empty beverage containers from consumers with the intent to recycle them, but does not pay the redemption value or redemption bonus.
- 14510. "Dealer" means every person in this state, other than a lodging, eating, or drinking establishment, or soft drink vending machine operator, who engages in the sale of beverages in beverage containers to consumers.
  - 14510.5. "Department" means the Department of Conservation. 14510.6. "Director" means the Director of Conservation.
- 14511. "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in these sales. "Distributor" includes any person who imports beverages from outside of this state for sale to dealers or consumers in this state.
- 14511.5. "Drink" means fruit juice or any other noncarbonated drink.
- 14511.7. "Dropoff or collection program" means any person, association, nonprofit corporation, church, club, or other organization which meets the requirements of this division as determined by the department, and which accepts or collects empty beverage containers from consumers with the intention to recycle them, but is not certified by the department and does not pay consumers the redemption value or redemption bonus. "Dropoff or collection program" does not include a certified recycling center, nonprofit dropoff program, or curbside program.
- 14512. "Empty beverage container" means a beverage container which meets all of the following requirements:
- (a) Has the seal or closure installed by the manufacturer broken or removed.
- (b) Does not contain foreign materials other than the residue of the beverage originally packaged in the beverage container by the manufacturer.
- (c) Bears the message required by Section 14561, or is a refillable beverage container.
- (d) Has a redemption value established pursuant to Section 14560. 14512.5. "Food or drink packaging material" means any material which is not a beverage container in which a food or drink is sold in a retail establishment and the food or drink is not intended for consumption on the seller's premises.
- 14512.6. "For recycling" means that an empty beverage container has been received by a processor who has an arrangement whereby that container will actually be recycled.

- 14513. "Glass beverage container" means a beverage container which has a body consisting primarily of glass.
- 14514. "Nonaluminum metal beverage container" means a beverage container which consists of one or more metals but which is not an aluminum beverage container.
- 14514.5. "Nonprofit dropoff program" means a recycling program which meets all of the following criteria:
- (a) The program is organized under Section 501(c) or Section 501(d) of the Internal Revenue Code (26 U.S.C. Sec. 501(c), 501(d)), or operated by, or caused to be operated by, a city, county, or other public agency.
- (b) The program is certified by the department pursuant to Section 14541.5.
- (c) The program accepts empty beverage containers from consumers with the intent to recycle them, but may pay the redemption value or redemption bonus.
- 14514.6. "Not for recycling" means that an empty beverage container has been received by a processor who does not have an arrangement whereby that container will actually be recycled.
- 14515. "Other beverage container" means a beverage container which has a body consisting of metal, glass, plastic, other materials, or a combination of these, but which is not an aluminum, nonaluminum metal, glass, or plastic beverage container.
- 14516. "Place of business of the dealer" means the location at which a dealer sells, or offers for sale, beverages in beverage containers to consumers.
- 14517. "Plastic beverage container" means a beverage container which has a body consisting primarily of plastic.
- 14517.5. "Postfilled container" means any container which had been previously filled with a beverage or food.
- 14518. "Processor" means any person, including a scrap dealer, certified by the department who purchases empty aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, or any other beverage containers, including any one or more of those beverage containers, which have a redemption value established pursuant to this division, from recycling centers in this state for recycling, or, if the container is not recyclable, not for recycling, and who cancels, or who certifies to the department in a form prescribed by the department the cancellation of, the redemption value and redemption bonus of these empty beverage containers by processing empty beverage containers, in any manner which the department may prescribe. However, the department shall not take any action regulating scrap dealers or recycling centers who are processors or recycling centers unless authorized by and pursuant to the goals of this division.
- 14518.5. "Processing fee" means an amount paid proportionately to processors and recycling centers by the department when the department determines that the scrap value being offered by

container manufacturers, beverage manufacturers, or willing purchasers for a particular container material is below the average statewide value sufficient to insure the economic recovery of the container type at the minimum number of recycling centers or locations required pursuant to Section 14571. The processing fee shall be determined by the department pursuant to Section 14575.

14519. "Recycle," "recycled," "recycling," or "recyclable" means the reuse or refilling of empty beverage containers, or the process of sorting, cleansing, treating, and reconstituting empty postfilled beverage containers for the purpose of using the altered form. "Recycle," "recycled," "recycling," or "recyclable" does not include merely sorting, shredding, stripping, compressing, storing, landfilling with, or disposing of an empty beverage container.

14520. "Recycling center" means an operation which is certified by the department and which accepts from consumers, and pays or provides the redemption value and any applicable redemption bonus pursuant to Section 14572 for, empty beverage containers intended to be recycled.

14520.5. "Recycling location" means a place, mobile unit, reverse vending machine, or other device where a certified recycling center accepts one or more types of empty beverage containers from consumers, and pays or provides the redemption value and any applicable redemption bonus for one or more types of empty beverage containers.

14521. "Recycling rate" means the proportion of empty beverage containers by type returned to processors for recycling, measured in the manner prescribed in Section 14551.

14522. "Recycling value" means the total amount paid by a recycling center to a consumer for each individual beverage container by type. This amount is the sum of the redemption value, the redemption bonus when applicable, and any other payments as recycling centers may make to consumers for empty beverage containers. With respect to consumers returning containers to recycling centers, the recycling value shall not be subject to tax under the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) or the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code).

14522.5. "Redemption" and "redeem" means the return to a recycling center or location of an empty beverage container for a refund of at least the redemption value and any applicable redemption bonus.

14523. "Redemption bonus" means any amount paid by the department pursuant to Section 14573 for an empty beverage container in addition to the redemption value.

14523.5. "Redemption rate" means the proportion of empty beverage containers returned to processors measured in the manner prescribed in Section 14551.

14524. "Redemption value" means the minimum refundable

value established for each type of beverage container pursuant to Section 14560.

14525. "Refillable beverage container" means any aluminum beverage container, nonaluminum metal beverage container, glass beverage container, plastic beverage container, or other beverage container, holding 150 fluid ounces or less of beverage, which has a minimum refund value of three cents (\$0.03), and which ordinarily would be returned to the manufacturer to be refilled and resold.

14525.5. "Reverse vending machine" means a mechanical device which accepts one or more types of empty beverage containers and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value and applicable redemption bonus, if any. The bonus payments may be aggregated over more than one container and then paid.

14526. "Scrap value" means the price paid to a processor by a willing purchaser of empty beverage containers after shipping and handling costs are deducted.

14526.5. "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items. For purposes of this division, the department shall use the Progressive Grocer 1986 Marketing Guidebook data to identify supermarkets. The department shall amend the list by reference to the 1986 and subsequent editions of the guidebook as long as the guidebook is published at least annually and provides an accurate listing of supermarkets with gross annual sales of two million dollars (\$2,000,000) or more.

14527. "Use or consumption" includes the exercise of any right or power over a beverage incidental to the beverage's ownership, including, but not limited to, drinking the beverage. "Use or consumption" does not include the sale, or the keeping or retention, of a beverage for the purposes of sale.

14528. "Universal product code" is an 11-digit, all-numeric code that represents a beverage container or other consumer package of a particular brand, size, type, and manufacturer by using a series of alternating bars and spaces for electronic scanning.

14529. This division is a matter of statewide interest and concern and is applicable uniformly throughout the state. Accordingly, this division occupies the whole field of regulation of recycling-related refund or redemption values, deposits, and similar fees relating to beverage containers, as provided in this division. No city, county, or other public agency may enforce or implement any existing or new ordinance, resolution, regulation, or rule establishing recycling-related refund or redemption values, deposits, or similar fees relating to beverage containers in the state unless expressly authorized by this division. If a federal law is enacted which establishes recycling-related refund or redemption values, deposits, and similar fees, relating to beverage containers, other than a federal law only affecting federal lands, or if a state law is enacted by

initiative, which establishes recycling-related refund or redemption values, deposits, and similar fees relating to beverage containers, this division shall become inoperative. This section does not prohibit the implementation or enforcement of any ordinance or regulation governing curbside or dropoff recycling programs operated by, or pursuant to a contract with, a city, county, or other public agency, including actions relating to fees, or establishing fees, for these programs.

. 14529.7. This division does not apply to any program involving the collection and payment of deposits for beverage containers sold, used, or consumed at national parks and monuments, military installations, or any other property owned by and under the iurisdiction of the United States.

## CHAPTER 3. ADMINISTRATION

14530. This division shall be administered by the department. Notwithstanding Section 607, the department may, for organizational purposes, create a new division, bureau, or office to administer this division. If a new division, bureau, or office is created, any reference to "department" or "director" in this division shall be deemed to be a reference to that entity and the officer in charge of that entity.

- 14530.5. (a) For purposes of entering into contracts for consulting or advisory services necessary to implement this division, the requirements of Sections 11042 and 14615 of the Government Code and Sections 10295 and 10318 of the Public Contract Code do not apply to the activities of the department pursuant to this division.
- (b) In addition to any regulations which the department is required by statute to adopt, the department may adopt any other rules and regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code which the department determines may be necessary or useful to carry out this division or any of the department's duties or responsibilities imposed pursuant to this division.
- (c) The department may prepare, publish, and issue printed pamphlets and bulletins which the director deems necessary for the dissemination of information to the public concerning the activities of the department pursuant to this division.
- (d) This section shall remain in effect until January 1, 1989, and on that date is repealed unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.
- 14530.5. (a) In addition to any regulations which the department is required by statute to adopt, the department may adopt any other rules and regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code which the department determines may be necessary or useful to carry out this division or any of the department's duties or responsibilities imposed pursuant to this division.

- (b) The department may prepare, publish, and issue printed pamphlets and bulletins which the director deems necessary for the dissemination of information to the public concerning the activities of the department pursuant to this division.
  - (c) This section shall become operative January 1, 1989.

14530.6. Upon the request of the department, the Attorney General shall represent the department and the state in litigation concerning affairs of the department.

14531. There is hereby created the Beverage Container Recycling Advisory Committee, which shall consist of 12 members who have demonstrated interest and expertise in the recycling of beverage containers. Six members of the committee shall be appointed by the Governor, three members shall be appointed by the Senate Committee on Rules, and three members shall be appointed by the Speaker of the Assembly. The members of the committee shall be appointed on or before March 1, 1987. The committee shall advise the director on all matters concerning the recycling of beverage containers. The committee shall meet at the call of the director, but not less than once every three months.

14532. No member of the advisory committee shall receive a salary, but each shall be entitled to receive a sum not to exceed one hundred dollars (\$100) per day, as established by the department, for each day spent in actual attendance on, or in traveling to and from, meetings of the committee, together with the necessary traveling expenses and meal allowances, as approved by the department.

14533. The members of the committee are public officials for purposes of, and are subject to, Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code, including, but not limited to, Article 2 (commencing with Section 87200) of that chapter.

14534. The committee shall select annually, from its membership, a chairperson.

14535. The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

- 14536. (a) Except as provided in subdivision (b), the director shall adopt, amend, or repeal all rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) The director shall adopt regulations, and may adopt emergency regulations for the purposes of implementing Sections 14538, 14539, 14541, 14550, and 14574.

Any emergency regulations, if adopted, shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the director.

(c) Before adopting any regulations pursuant to this division, the director shall submit the regulations to the committee, if it has been appointed, for its review and comments.

14536.5. In carrying out the division, the department may solicit and use all expertise available in other state agencies and where an existing state agency performs functions of a similar nature to the department's functions, the department may contract with, or cooperate with, the agency in carrying out this division.

- 14537. The department shall keep accurate books, records, and accounts of all of its dealings, and these books, records, and accounts are subject to an annual audit by an auditing firm selected by the department. The auditing firm or the department shall also conduct a selective audit of entities making payments to, or receiving payments from, the department to determine whether redemption values and applicable processing fees are being paid to the department on all beverage containers sold in California, and that redemption values, redemption bonuses, and processing fees are being paid out properly by the department. The audit shall be made a part of an annual report, copies of which shall be submitted to the Governor and the Legislature.
- 14538. The department shall certify the operators of recycling centers pursuant to this section. The director shall adopt, by regulation, a procedure for the self-certification of recycling centers, including standards for certification. These regulations shall require that all information be submitted to the department under penalty of perjury. The regulations shall require, but shall not be limited to requiring, that all of the following conditions be met for certification:
- (a) The operator of the recycling centers demonstrates, to the satisfaction of the department, that the operator will operate in accordance with this division.
- (b) The operator of the recycling center shall not knowingly pay a redemption value or redemption bonus for, or receive a redemption value or redemption bonus from any processor for, any food or drink packaging material or any beverage container or other product which does not have a redemption value or redemption bonus established pursuant to Section 14560 or 14581.
- (c) The operator of a recycling center shall take those actions which satisfy the department to prevent the payment of a redemption value or redemption bonus for any food or drink packaging material or any beverage container or other product which does not have a redemption value established pursuant to Section 14560.
- (d) Unless exempted pursuant to subdivision (b) or (c) of Section 14572, the operator of a recycling center shall accept, and pay at least

the redemption value and applicable redemption bonus for, all empty beverage containers, regardless of type.

- (e) The operator of the recycling center shall notify the department promptly of any change in the nature of his or her operations which conflicts with information submitted in the operator's application for certification.
- (f) The operator of a recycling center shall be subject to an audit of empty beverage container redemptions by the department, in a manner determined by the department, to insure that the operator is complying with this division and all regulations adopted pursuant to this division.
- 14539. The department shall certify processors and shall require for certification that a processor demonstrate to the satisfaction of the department that the processor shall operate in accordance with this division. A processor shall not pay a redemption value or redemption bonus for, or receive a redemption value or redemption bonus from the department for, any food or drink packaging material or any beverage container or other product which does not have a redemption value established pursuant to Section 14560. A processor shall take those actions necessary and approved by the department to cancel containers to render them unfit for reredemption.
- 14540. The department may review and verify all applications for certification of recycling centers and processors, and may conduct a comprehensive field investigation of any applicant in any manner which the department deems necessary to promote the purposes of this division. This division does not prohibit the department from certifying the same location or entity as both a processor and a recycling center.
- 14541. (a) After notice and a hearing, the department may revoke, suspend, or refuse to renew a certificate granted pursuant to Section 14538 or 14539, or may impose a civil penalty on the holder of a certificate, for any one of, or any combination of, the following reasons:
- (1) The certificate holder is convicted of any crime substantially related to the qualifications, functions, and duties of a certificate holder.
- (2) The certificate holder engaged in fraud or deceit to obtain a certificate.
- (3) The certificate holder engaged in dishonesty or substantial incompetence or fraud in performing the functions and duties of a certificate holder.
- (4) The certificate holder willfully violated Section 14550, 14572, 14572.5, 14573, 14573.5, or 14575.
- (b) In making a decision pursuant to subdivision (a), the department may do any of the following:
  - (1) Immediately revoke the certificate.
- (2) Immediately suspend the certificate for a specified period of time.
  - (3) Permit the certificate holder to continue operation as a

certified processor or recycling center until a specific date, at which time the revocation or suspension shall become effective.

- (4) Permit the certificate holder to continue operation as a certified processor or recycling center on condition of complying with any conditions which the department determines would further the goals of this division.
- (5) Impose a civil penalty of not more than one hundred dollars (\$100) per violation. Each day that a violation occurs shall be considered a separate violation. The department shall deposit all revenues from civil penalties in the California Beverage Container Recycling Fund.
- (c) The department may examine the accounts and records of distributors and beverage manufacturers and assess a penalty of 10 percent per year and interest for underpayments of the redemption value for containers to the California Beverage Container Recycling Fund. The department may also impose a penalty of 15 percent of the amount due for payments up to a month late and a 5 percent additional penalty for each month the payments continue to be unremitted.
- (d) The department may examine the accounts and records of container manufacturers and beverage manufacturers and assess a penalty of 10 percent per year and interest for underpayments of the applicable processing fee to the California Beverage Container Recycling Fund. The department may also impose a penalty of 15 percent of the amount due for payments up to a month late and a 5 percent additional penalty for each month the payments continue to be unremitted.
- 14541.5. The department shall certify nonprofit dropoff programs which meet the requirements of this division, as determined by the department.
- 14542. On or before November 1, 1988, and on or before each November 1 thereafter, the department shall submit a report to the Governor and Legislature containing all of the following:
- (a) An analysis of the progress made during the previous year toward obtaining the recycling goal of at least 80 percent established in subdivision (c) of Section 14501.
- (b) Recommendations of other containers, if any, which, in the opinion of the department or the committee, should be considered for inclusion in this division.
- (c) A report on the status of beverage container recycling opportunities throughout the state, together with any recommendations on methods to enhance the opportunities for all consumers in every region of the state to return beverage containers conveniently, efficiently, and economically.
- (d) An analysis of the total amount of funds used for program administration and for payment to recyclers and an analysis of how litter abatement and recycling education funds are distributed and used.
  - 14542.5. If a redemption rate of 65 percent for any type of

beverage container is not achieved by January 1, 1993, the Legislative Analyst shall, within 90 days, prepare and submit to the Legislature a report containing recommendations on how the 65 percent redemption rate and the 80 percent recycling rate can be achieved, including, but not limited to, recommendations on the desirability of increasing the redemption value on that type of beverage container.

14543. On or before January 1, 1989, the department shall prepare a report to the Governor and the Legislature analyzing the impact of this division, if any, on employees of the industries affected by this division.

- 14544. It is the intent of the Legislature that a redemption rate of 65 percent be achieved for each type of beverage container. If the minimum redemption value for any type of beverage container fails to increase pursuant to Section 14560 because of the inclusion of empty, postfilled food or drink packaging materials which exceed 20 percent of the total volume used in the calculation of the redemption rate pursuant to Section 14551, the Legislative Analyst shall, by the date the increase in the minimum redemption value would have otherwise taken effect, prepare and submit to the Legislature a report which shall include, but not be limited to, all of the following:
- (a) Data on the redemption rate which has been achieved for that type of beverage container.
- (b) Recommendations for how the 65 percent redemption rate may be achieved, including, but not limited to, the desirability of modifying the inclusion of empty postfilled food or drink packaging materials in the calculation of the redemption rate.
- (c) Any benefits which have been derived from the inclusion of empty, postfilled food or drink packaging materials in the calculation of the redemption rate.

## CHAPTER 4. REPORTING

- 14550. (a) Every processor shall report to the department for each month beginning October 1, 1987, the amount of empty beverage containers, by material type and weight of container or material, excluding refillable beverage containers, received from recycling centers for recycling, and the amount received not for recycling. Every processor shall also report to the department for each month the amount of other postfilled aluminum, glass, and plastic food and drink packaging materials sold filled to consumers in this state and returned for recycling. These reports shall be submitted within 10 days after each month, in the form and manner which the department may prescribe.
- (b) Every distributor who sells or offers for sale in this state beverages in aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, or other beverage containers, including refillable beverage containers of these types, shall report to the department for each month beginning September 1, 1987, and for each month

- thereafter, the number of beverages sold in these beverage containers in this state, by material type and size and weight of container or any other method as the department may prescribe. These reports shall be submitted within 10 days after each month, in the form and manner which the department may prescribe.
- (c) Every distributor who sells or offers for sale in this state beverages in refillable beverage containers and who pays a refund value to distributors, dealers, or consumers who return these containers for refilling, shall report to the department for each month beginning September 1, 1987, and for each month thereafter, the number of these beverage containers returned empty to be refilled, by material type and size of container or any other method which the department may prescribe. These reports shall be submitted within 10 days after each period, in the form and manner which the department may prescribe.
- 14551. (a) The department shall establish reporting periods for the reporting of redemption rates and recycling rates, and each reporting period shall be six months, except that the first reporting period shall be the three-month period from October 1, 1987, to December 31, 1987. The department shall determine all of the following for each reporting period and shall issue a report on its determinations, within 40 days of the end of each reporting period:
- (1) Sales of beverages in aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, and other beverage containers in this state, including refillable beverage containers.
- (2) Returns for recycling, and returns not for recycling, of empty aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, and other beverage containers in this state, including refillable beverage containers returned to distributors pursuant to Section 14572. These numbers shall be calculated using the average current weights of beverage containers, as determined and reported by the department. To these numbers shall be added and separately reported the following, if greater than, or equal to, zero:
- (A) All empty postfilled aluminum, glass, and plastic food or drink packaging materials sold in the state, returned for recycling, and reported by weight to the department which do not have a redemption value less the number specified in subparagraph (B).
- (B) The number of beverage containers which comprise the first five percentage points of the redemption rate without including the empty postfilled aluminum, glass, and plastic food or drink packaging materials sold in the state, returned for recycling and reported by weight to the department which do not have a redemption value.
- (3) An aluminum beverage container redemption rate, the numerator of which shall be the number of empty aluminum beverage containers returned, including refillable aluminum beverage containers and empty postfilled aluminum food or drink packaging material included in paragraph (2), and the denominator

of which shall be the number of aluminum beverage containers sold in this state.

- (4) An aluminum beverage container recycling rate, the numerator of which shall be the number of empty aluminum beverage containers returned for recycling, including refillable aluminum beverage containers, and the denominator of which shall be the number of aluminum beverage containers sold in this state.
- (5) A nonaluminum metal beverage container redemption rate, the numerator of which shall be the number of empty nonaluminum metal beverage containers returned, and the denominator of which shall be the number of nonaluminum metal beverage containers sold in this state.
- (6) A nonaluminum metal beverage container recycling rate, the numerator of which shall be the number of empty nonaluminum beverage containers returned for recycling, including refillable nonaluminum metal beverage containers, and the denominator of which shall be the number of nonaluminum metal beverage containers sold in this state.
- (7) A glass beverage container redemption rate, the numerator of which shall be the number of empty glass beverage containers returned, including refillable glass beverage containers and empty postfilled, food or drink packaging materials included in paragraph (2), and the denominator of which shall be the number of glass beverage containers sold in this state.
- (8) A glass beverage container recycling rate, the numerator of which shall be the number of empty glass beverage containers returned for recycling, including refillable glass beverage containers, and the denominator of which shall be the number of glass beverage containers sold in this state.
- (9) A plastic beverage container redemption rate, the numerator of which shall be the number of empty plastic beverage containers returned, including refillable plastic beverage containers and empty postfilled food or drink packaging materials included in paragraph (2), and the denominator of which shall be the number of plastic beverage containers sold in this state.
- (10) A plastic beverage container recycling rate, the numerator of which shall be the number of empty plastic beverage containers returned for recycling, including refillable plastic beverage containers, and the denominator of which shall be the number of plastic beverage containers sold in this state.
- (11) A redemption rate for other beverage containers, the numerator of which shall be the number of empty beverage containers other than those containers specified in paragraphs (1) to (10), inclusive, returned, and the denominator of which shall be the number of beverage containers, other than those containers specified in paragraphs (1) to (10), inclusive, sold in this state.
- (12) A recycling rate for other beverage containers, the numerator of which shall be the number of empty beverage containers other than those containers specified in paragraphs (1) to

- (10), inclusive, returned for recycling, and the denominator of which shall be the number of beverage containers, other than those containers specified in paragraphs (1) to (10), inclusive, sold in this state.
- (13) The department may define categories of other beverage containers, and report a redemption rate and a recycling rate for each such category of other beverage containers.
- (b) The department shall determine the manner of collecting the information for the reports specified in subdivision (a), including establishing procedures, to protect any proprietary information concerning the sales and purchases.
- 14552. The department shall establish and implement an auditing system to ensure that the information collected, and redemption values and bonuses paid pursuant to this division, comply with the purposes of this division. The auditing system adopted by the department shall allow for reasonable shrinkage in material due to moisture, dirt, and foreign material. The department, after an audit by a qualified auditing firm and a hearing, shall adopt a standard to be used to account for shrinkage and shall incorporate this standard in the audit process.
- 14553. All reports, claims, and other information required pursuant to this chapter or Sections 14573, 14573.5, and 14574, shall be complete, legible, and accurate, as determined by the department by regulation.

## CHAPTER 5. MINIMUM REDEMPTION VALUE

- 14560. (a) Except as provided in subdivisions (b), (c), (d), (e), (f), and (g), every beverage container which is sold or offered for sale in this state, on and after September 1, 1987, shall have a minimum redemption value of not less than one cent (\$0.01).
- (b) Except as provided in subdivisions (c), (d), and (e), on and after December 31, 1989, a beverage container shall have a redemption value of not less than two cents (\$0.02) if both of the following conditions are met for that specific type of beverage container:
- (1) For the reporting period beginning January 1, 1989, and ending June 30, 1989, the redemption rate determined pursuant to Section 14551 for that type of beverage container is less than 65 percent.
- (2) The average redemption rate for the highest two of any three reporting periods, the third period of which is the period ending June 30, 1989, is less than 65 percent.
- (c) Except as provided in subdivisions (b), (d), (e), and (g), if for any two of any three consecutive reporting periods subsequent to December 31, 1987, the redemption rate determined pursuant to Section 14551 for that type of beverage container is less than 65 percent, every beverage container of that type shall have a redemption value of not less than two cents (\$0.02) beginning six

months after the end of the third reporting period.

- (d) Except as provided in subdivisions (e) and (g), on and after December 31, 1992, a beverage container shall have a redemption value of not less than three cents (\$0.03) if both of the following conditions are met for that specific type of beverage container:
- (1) For the reporting period beginning January 1, 1992, and ending June 30, 1992, that type of beverage container has a redemption value of not less than two cents (\$0.02) and the redemption rate determined pursuant to Section 14551 for that type of beverage container is less than 65 percent.
- (2) The average redemption rate for the highest two of any four reporting periods, the fourth period of which is the period ending June 30, 1992, is less than 65 percent.
- (e) Except as provided in subdivisions (d) and (g), if for any two of any four consecutive reporting periods subsequent to June 30, 1990, the redemption rate of any type of beverage container with a current redemption value of not less than two cents (\$0.02) is less than 65 percent, the redemption value of every beverage container of that type shall be increased to not less than three cents (\$0.03) beginning six months following the end of the fourth reporting period.
- (f) Except as provided in subdivision (g), once any redemption value is established pursuant to subdivision (b), (c), (d), or (e) for any type of beverage container, the redemption value shall not be decreased based upon the redemption rate.
- (g) The redemption value of a specific type of beverage container which has had its redemption value established pursuant to subdivision (d) or (e) shall be decreased to not less than two cents (\$0.02) if the redemption rate for that type of beverage container is 80 percent or more during all of four consecutive reporting periods. The decrease shall occur six months following the end of the fourth reporting period. If the redemption rate for that type of beverage container thereafter falls below 65 percent for any two of any four consecutive reporting periods, the redemption value for that type of beverage container shall be increased to three cents (\$0.03) until a redemption rate of 80 percent or more, during all of four consecutive reporting periods, is established for that type of beverage container.
- (h) This section does not apply to any refillable beverage container.
- 14561. (a) On and after September 1, 1987, a manufacturer shall clearly indicate on every beverage container sold or offered for sale by the beverage manufacturer in this state the message "CA Redemption Value" or "California Redemption Value," by either printing or embossing the beverage container or by securely affixing a clear and prominent stamp, label, or other device to the beverage container. Any refillable beverage container sold or offered for sale is exempt from this subdivision. However, any beverage manufacturer or container manufacturer may place upon, or affix to, a refillable beverage container, any message which they deem

appropriate relating to the refund value of the container.

(b) The department may require that any beverage container intended for sale in this state be printed, embossed, stamped, labeled, or otherwise marked with a universal product code or similar machine-readable indicia.

14562. The Legislature hereby finds and declares that the minimum redemption value established by this article is a regulatory fee collected for the purpose of assuring the return for recycling of a greater percentage of the beverage containers sold in this state, and is beneficial to the beverage industry by assuring the more reliable availability of raw materials. Accordingly, the payments of redemption values to the department for deposit in the California Beverage Container. Recycling Fund are not the "proceeds of taxes," as that term is used in subdivision (c) of Section 8 of Article XIII B of the California Constitution, and the disbursement or encumbrance of money in the fund is not subject to the limitations imposed by that article.

#### CHAPTER 6. RETURNS

- 14570. Every dealer shall identify, by a clear and conspicuous sign posted at the dealer's place of business, the address of at least the recycling center, location, or locations, nearest to the dealer, which redeems all types of empty beverage containers at one location during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9:00 a.m. to 5:00 p.m.
- 14571. Except as otherwise provided in this chapter, there shall be at least one certified recycling center or location within every convenience zone which accepts and pays the redemption value and applicable redemption bonus, if any, at one location for all types of empty beverage containers during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9:00 a.m. to 5:00 p.m.
- 14571.1. On or before January 1, 1987, the department shall, on a statewide basis, designate all convenience zones as of that date, including convenience zones in underserved areas, and shall prepare a map or maps showing these convenience zones. The department shall thereafter update convenience zone designations and maps as necessary.
- 14571.2. On or before July 31, 1987, the department shall attempt to enter into agreements with recycling centers to provide recycling centers or locations that satisfy the requirements of Section 14571 in each convenience zone.
- 14571.3. In any convenience zone where no agreement has been entered into by July 31, 1987, the department shall offer an option to retain the redemption bonus to a recycling center which, on or before October 1, 1987, shall establish a recycling location accepting all types of beverage containers in that zone. The department may

allow the recycling location to retain the redemption bonus for two to five years, at the department's discretion, for the purpose of capitalizing recycling equipment. The department shall authorize the recycling location to retain the redemption bonus for a length of time based upon the economic feasibility of developing the particular recycling location and the relative volume of material at the particular recycling location.

- 14571.4. On or before October 1, 1987, in any convenience zone where no recycling location has been established which satisfies the requirements of Section 14571, the department shall establish and offer to recycling locations a convenience incentive payment and also allow the retention of the redemption bonus.
- 14571.5. On or before November 15, 1987, in any convenience zone where no recycling location has been established which satisfies the requirements of Section 14571, the department shall notify all dealers within that zone, and, except as provided in Section 14571.6, one or more dealers within that zone shall, individually or jointly, establish, or cause to be established, a recycling location within that zone not later than December 31, 1987. The department shall offer a convenience incentive payment and the retention of the redemption bonus to one recycling location only.
- 14571.6. On or after January 1, 1988, in any convenience zone where no recycling location has been established which satisfies the requirements of Section 14571, all dealers within that zone shall, until a recycling location has been established in that zone, do one of the following:
  - (a) Offer to redeem all three types of containers.
- (b) Pay to the department for deposit in the California Beverage Container Recycling Fund the sum of one hundred dollars (\$100) per day until a recycling location is established.
- 14571.7. After January 1, 1988, in any convenience zone where a recycling location or locations were initially established, but where the location or locations cease to operate in accordance with Section 14571, the department shall notify all dealers within that convenience zone that a recycling location is required to be established within 90 days. The department shall offer a convenience incentive payment and the retention of the redemption bonus to one recycling location only. If, within 45 days of the notification, no recycling location has been established which satisfies the requirements of Section 14571, the department shall notify all dealers within that zone, and one or more dealers within that zone shall establish, or cause to be established, a recycling location. If, within 90 days of the initial notification, no recycling location has been established, all dealers within that zone shall, until a recycling location has been established, do one of the following:
  - (a) Offer to redeem all three types of containers.
- (b) Pay to the California Beverage Container Recycling Fund the sum of one hundred dollars (\$100) per day until a recycling location is established.

- 14571.8. (a) If the department determines that Section 14571 cannot be fulfilled in a particular convenience zone due to local zoning or dealer's leasehold restrictions for leases in effect on January 1, 1987, and that these factors are beyond the control of the department and the dealer, the department may establish an alternative minimum convenience requirement for that convenience zone which shall not conflict with the purposes of this division. No lease entered into by a dealer after January 1, 1987, may contain a leasehold restriction that prohibits or results in the prohibition of the establishment of a recycling location.
- (b) The director may grant an exemption to the requirements of Section 14571 if all of the following conditions exist:
- (1) The director may grant an exemption only for individual convenience zones. The director shall not grant a blanket exemption to areas larger than a single convenience zone.
- (2) Exemptions may be granted only to further the purposes of this division.
- (3) Exemptions may only be granted after a public hearing by the department.
- (4) An exemption may only be granted to prevent the creation of excessive recycling locations resulting in severe adverse local market conditions for recycled materials or if, after a public hearing, a city, county, or city and county requests an exemption for an existing nonprofit recycling center for its location or locations.
- (5) The total number of exemptions shall not be more than 10 percent of all the recycling locations which would otherwise be created under this division, as calculated by the department pursuant to Section 14571.
- (6) The director shall not grant an exemption which would significantly decrease the ability of consumers to conveniently return beverage containers for the redemption value.
- (7) In areas with curbside collection programs which collect and recycle beverage containers, the director shall not grant an exemption for the benefit of the curbside program unless the local agency administering the program requests the department to grant an exemption and the program collects and recycles all types of beverage containers from households at least weekly.
- 14571.9. The department may require any dealer, beverage distributor, or recycling center to provide that information concerning their compliance with this division which will enable the department to prepare the report required by subdivision (c) of Section 14542.
- 14572. (a) Except as provided in subdivisions (b) and (c), a certified recycling center shall accept from any consumer or dropoff or collection program any empty beverage container, and shall pay to the consumer or dropoff or collection program the redemption value and any applicable redemption bonus of the beverage container. The center may pay the redemption value and any applicable redemption bonus based on the weight of returned

containers.

- (b) A recycling center or recycling location may refuse to pay any redemption bonus for a beverage container to a consumer under either of the following circumstances:
- (1) If the beverage container is returned to any mechanical device which accepts empty beverage containers and issues a cash refund or redeemable credit slip of not less than the redemption value of the container. The exemption provided by this paragraph shall apply only to beverage containers returned on or before April 1, 1989.
- (2) If the recycling center or location was established or caused to be established solely pursuant to Section 14571.3, 14571.4, 14571.5, or 14571.7 and the department authorizes retention of the redemption bonus pursuant to Section 14571.3, 14571.4, 14571.5, or 14571.7.
- (c) Any recycling center or processor which was in existence on January 1, 1986, and which refused, as of January 1, 1986, to accept at a particular location a certain type of empty beverage container may continue to refuse to accept at the location the type or types of empty beverage containers that the recycling center or processor refused to accept as of January 1, 1986. Any recycling center which refuses, pursuant to this subdivision, to accept a certain type or types of empty beverage containers shall pay to the consumer the full redemption bonus for containers accepted and is not eligible to receive convenience incentive payments unless the center agrees to accept all types of empty beverage containers. This subdivision does not preclude the recycling center from retaining the redemption bonus or receiving a convenience incentive payment for beverage containers redeemed at locations which do accept all types of containers.
- (d) The department shall terminate the authorization for retention of the redemption bonus pursuant to Section 14571.3, 14571.4, 14571.5, or 14571.7 if another recycling location is willing to redeem containers to satisfy the requirements of Section 14571 within the convenience zone without retaining the redemption bonus
- 14572.5. A recycling center, other than a reverse vending machine, shall accept from any consumer or any dropoff or collection program and pay the applicable refund value or deposit for any refillable empty beer and other malt beverage container. The recycling center shall return, or cause to be returned, the refillable beer and other malt beverage container to the beer and other malt beverage distributor or any willing purchaser, who shall then pay the refund value or the deposit to the center. The beer and other malt beverage distributor or other purchaser shall also negotiate a handling fee with the recycling center for the return of these containers.
- 14573. The department shall pay to a processor, for every empty beverage container received by the processor from a recycling center, curbside program, dropoff or collection program, or

nonprofit dropoff program, with proof of the delivery, the sum of all of the following amounts:

- (a) The redemption value.
- (b) The applicable redemption bonus.
- (c) Two percent of the redemption value for administrative costs.
- (d) The processing fee established pursuant to Section 14575.

The department shall make this payment within two working days of the date the department is notified of the delivery or within the time determined by the department to be necessary and adequate. The payment shall be made in the form and manner which the department may prescribe.

- 14573.5. Except as provided in Section 14573.6, a processor shall pay to a recycling center, curbside program, or nonprofit dropoff program, for all types of empty beverage containers, by type of beverage container, received by the processor from recycling center, curbside program, or nonprofit dropoff program, the sum of all of the following amounts:
  - (a) The redemption value.
  - (b) The applicable redemption bonus.
  - (c) One percent of the redemption value for administrative costs.
- (d) The portion of the processing fee established pursuant to Section 14575 representing the actual cost and financial return incurred by the recycling center, as determined by the department.

The processor shall make this payment within two working days of the date the processor receives these empty beverage containers, or within the time which the department determines to be necessary and adequate. A processor may authorize a redemption center to crush and compact beverage containers before the processor receives the containers.

- 14573.6. No dropoff or collection program shall pay any redemption value or any applicable redemption bonus to the consumer, and a dropoff or collection program is not eligible to receive any sum paid pursuant to Section 14573 or 14573.5 for administrative costs.
- 14574. A distributor shall pay to the department the redemption value of every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less 1 percent for the distributor's administrative costs, within 40 days of any sale, or in the form and manner which the department may prescribe. No redemption value applies to, or shall be paid for, any refillable beverage container.
- 14575. (a) If any type of empty beverage container with a redemption value established pursuant to Section 14560 has a scrap value less than the sum of paragraphs (1) and (2), the department shall establish a processing fee for the container, by type of container, at least equal to the difference between the scrap value offered by each container manufacturer, beverage manufacturer, or willing purchaser, for each container sold by the beverage manufacturer, and the sum of both of the following:

- (1) The actual cost of receiving, handling, processing, storing, transporting, and maintaining equipment for each container sold, for recycling or, only if the container is not recyclable, for disposal, calculated pursuant to subdivision (b).
- (2) A reasonable financial return for recycling centers and processors, calculated pursuant to subdivision (b).
- (b) The department shall calculate a statewide average value for the amounts specified in paragraph (1) or (2) of subdivision (a) for each container type and the processing fee specified in subdivision (a) at least annually and whenever the statewide average scrap value changes by more than 15 percent, or more frequently if necessary, based on audited surveys of the costs specified in subdivision (a) at existing certified recycling centers, reverse vending machines, and processors, with standardized modifications for transportation distances and factors specific to a particular region, as determined by the department, and only if the container is not recyclable, local disposal fees. The processing fee shall be calculated in a manner which furthers the purposes of this division and the fee shall be sufficient to establish sufficient recycling locations and processors to achieve the goals established pursuant to subdivision (c) of Section 14501 and Section 14571.
- (c) Every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe. The department shall pay the processing fees collected on redeemed containers to processors, in the same manner as it pays redemption values pursuant to Sections 14573 and 14573.5. The department shall pay the processing fees collected on unredeemed containers into the Redemption Bonus Account created pursuant to Section 14580. The department shall not use processing fees collected on unredeemed beverage containers to pay all or a portion of the processing costs determined pursuant to subdivision (a). The processor shall pay the recycling center that portion of the processing fee representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (a).
- (d) When assessing processing fees pursuant to subdivision (b), the department shall assess the processing fee on each container sold, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled. When calculating and assessing processing fees the department also shall not assume that redemption bonuses will be kept by recycling centers or locations.
- (e) If there are no recycling locations within a convenience zone meeting the requirements of Section 14571, the department shall examine the level of the scrap values and determine whether the department is in compliance with this section. If the department is not in compliance with this section, the department shall recalculate the processing fee pursuant to this section.

- (f) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee. The payment or credit shall be made no later than the date upon which the container manufacturer, or a designated agent, submits the invoice to the beverage manufacturer.
- 14576. This chapter shall become operative on October 1, 1987, except that Sections 14574 and 14575 shall become operative on September 1, 1987.

### CHAPTER 7. FINANCIAL PROVISIONS

- 14580. The department shall deposit all amounts paid as redemption values by distributors pursuant to Section 14574, processing fees paid pursuant to Section 14575, civil penalties or fines paid pursuant to Section 14541 or subdivision (c) of Section 14591, and all other revenues received into the California Beverage Container Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the California Beverage Container Recycling Fund are hereby continuously appropriated to the department for expenditure without regard to fiscal year for the following purposes:
- (a) The payment of redemption values to processors pursuant to Section 14573.
  - (b) For costs necessary to the administration of this division.
  - (c) For a reserve for contingencies in the following amount:
- (1) During 1987, a reasonable and prudent amount, as determined by the department, but not more than five million dollars (\$5,000,000).
- (2) During each calendar year after 1987, the reserve shall not be greater than an amount equal to one-fourth of the total amount paid to processors pursuant to Section 14573 during the preceding calendar year, plus any interest earned on that amount.
- (d) After all of the expenditures pursuant to (a), (b), and (c) have been made, the balance remaining in the fund shall be deposited in the Redemption Bonus Account, which is hereby created as a subaccount in the California Beverage Container Recycling Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Redemption Bonus Account are hereby continuously appropriated to the department, without regard to fiscal year, for the purposes specified in Section 14581.
- 14581. (a) The department shall calculate the redemption bonus amount, pursuant to subdivision (b), by deducting the following amounts from the Redemption Bonus Account, for which purpose the department may expend money from the Redemption Bonus Account:
- (1) The department shall expend 10 percent of the amount deposited in the Redemption Bonus Account during the previous three months for urban, rural, and recreational litter abatement and recycling activities. These funds shall be expended by contract with

local conservation organizations. Three-quarters of this 10 percent shall be expended in the form of grants, as specified by the department, to certified community conservation corps, either existing or those established in the future, designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the last federal census, of more than 250,000 persons. Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

- (2) The department shall expend 10 percent of the amount deposited in the Redemption Bonus Account during the previous three months for recycling information, education, and promotion. These funds shall be expended by entering into contracts with public or private agencies, and at least 50 percent of the funds shall be expended by entering into contracts with statewide nonprofit private agencies.
- (3) The department may expend up to 20 percent of the amount deposited in the Redemption Bonus Account during the previous three months for convenience incentive payments pursuant to Section 14585 in 1987 and 1988, and the department may expend up to 10 percent for those purposes in 1989 and 1990.
- (b) The department shall calculate the Redemption Bonus Account using the balance remaining in the Redemption Bonus Account after deducting the amounts specified in subdivision (a).
- (1) The department shall calculate the redemption bonus at least quarterly, except that the department may revise any redemption bonus to account for seasonal variations in beverage container sales and redemptions, to prevent funds accumulated during a high sales period from providing disproportionately high redemption bonuses during a low redemption period, or to prevent funds accumulated during a low sales period from providing disproportionately low redemption bonuses during a high redemption period.
- (2) Notwithstanding any other provision of this section, the department shall pay out, as a redemption bonus, any amount deposited in the account within six months after receipt to ensure the payment of maximum redemption bonuses to processors compatible with the level of funds available in the Redemption Bonus Account.
- (3) From the remaining balance in the Redemption Bonus Account, the department shall determine the redemption bonus by dividing the balance in the Redemption Bonus Account by the number of containers redeemed during the previous quarter or other period determined pursuant to paragraph (1). The department shall calculate the redemption bonus so that all funds shall be passed entirely to processors in a prompt and efficient manner and that the redemption bonus amount will further the purposes of this division.
  - (4) For the first two quarters, beginning October 1, 1987, and

ending March 31, 1988, the redemption bonus shall be determined by the department after consultation with the committee.

- (5) The department may round any redemption bonus to the nearest one-tenth or one-quarter of a cent.
- 14584. (a) Operators of reverse vending machines or processors may apply to the California Pollution Control Financing Authority for financing pursuant to Section 44526 of the Health and Safety Code, as a means of obtaining capital for establishment of a convenience network. For purposes of Section 44508 of the Health and Safety Code, "project" includes the establishing of a recycling location pursuant to the division.
- (b) Corporations, companies, or individuals may apply for loan and grant funds from the Energy Technologies Research, Development, and Demonstration Account specified in Section 25683 by applying to the State Energy Resources Conservation and Development Commission for the purpose of demonstrating equipment for enhancing recycling opportunities.
- 14585. (a) The department shall develop guidelines and criteria for issuing convenience incentive payments solely to assist in establishing recycling locations in convenience zones without sufficient recycling locations pursuant to Chapter 6 (commencing with Section 14570). The department may establish a convenience incentive payment if the payment meets all of the following:
- (1) The convenience incentive payment is an amount paid per container or by weight for containers redeemed in the underserved convenience zone.
- (2) The payment shall be set by the department at the minimum level determined by the department to be sufficient to establish convenience in the convenience zone pursuant to Chapter 6 (commencing with Section 14570).
- (3) The department may revise the payment upon finding that the previous payment is inadequate, and shall revise the payment upon finding that the previous payment is excessive, to establish convenience in the convenience zone pursuant to Chapter 6 (commencing with Section 14570).
- (4) The department may establish a maximum number of containers for which a designated recycling location or locations in the convenience zone shall receive the payment.
- (5) The department may require the operators of the recycling locations to maintain daily records of redemptions at the locations, and may require the locations to take any other steps necessary for the department to ensure that the operators do not receive a convenience incentive payment for any containers redeemed at a recycling location not within the underserved convenience zone.
- (6) The department may make convenience incentive payments to the operators of recycling locations through processors or directly, at the department's discretion, in the same manner as the department pays redemption values, redemption bonuses, and processing fees to recycling locations.

- (7) The department shall stop making convenience incentive payments if another recycling center is willing to redeem containers within the convenience zone without payments pursuant to this section.
- (b) For each payment established pursuant to subdivision (a), the department shall determine whether the convenience incentive payment may be retained by the reycling center or is to be paid to consumers who redeem beverage containers in the convenience zone covered by the payment.
- (c) The department shall conduct a study on use of each of the payment mechanisms authorized by subdivision (b) and on use of bonds, grants, and loans authorized by Section 14584 and report to the Legislature on or before January 1, 1989, on the effectiveness of each of these mechanisms.
- (d) The department may authorize prepayment of convenience incentive payments to recycling centers pursuant to subdivision (a) for periods of up to one year at a time.
- (e) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless the department recommends its reenactment and unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.
- 14586. This division does not create any guarantee of a continuing level of support, or other obligation on the part of the State of California, the department, or any agency thereof, to pay any specified amount to any local conservation organization, community conservation corps, or statewide nonprofit private agency.
- 14587. This division does not require or create any obligation that payments made pursuant to this division to any local conservation organization, community conservation corps, or statewide nonprofit private agency in any given fiscal year be made in any subsequent fiscal year at the same or greater level.

#### Chapter 8. Severability and Enforcement

- 14590. If any provision of this division or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the division which can be given effect without the invalid provision or application, and to this end the provisions of this division are severable.
- 14591. (a) Except as provided in subdivision (b), in addition to any other applicable civil or criminal penalties, any person convicted of a violation of this division is guilty of an infraction, which is punishable by a fine of not more than one hundred dollars (\$100) per day.
- (b) Every person who, with intent to defraud, submits a false or fraudulent claim for payment pursuant to Section 14573 or 14573.5 or who, with intent to defraud, fails to accurately report the number of beverage containers sold, as required by subdivision (b) of Section 14550, or who, with intent to defraud, fails to make payments as

required by Section 14574 or who, with intent to defraud, redeems containers which have already been redeemed or returns redeemed containers to the marketplace for reredemption with intent to defraud, or who submits a false or fraudulent claim for convenience incentive payments pursuant to Section 14585, is guilty of fraud. If the money obtained or witheld exceeds four hundred dollars (\$400), the fraud is punishable by imprisonment in the county jail for not more than one year or by a fine not exceeding one thousand dollars (\$1,000), or by both, or by imprisonment in the state prison for 16 months, two years, or three years, or by a fine not exceeding ten thousand dollars (\$10,000) or twice the late or unmade payments plus interest, whichever is greater, or by both fine and imprisonment. If the money obtained or withheld equals, or is less than, four hundred dollars (\$400), the fraud is punishable by imprisonment in the county jail for not more than six months or by a fine not exceeding one thousand dollars (\$1,000), or by both.

- (c) Any person who violates this division may be assessed a civil penalty by the department of up to one hundred dollars (\$100) per day pursuant to a hearing and notice.
- SEC. 3. Section 17153.5 is added to the Revenue and Taxation Code, to read:
- 17153.5. Gross income does not include any amount received for empty beverage containers by a consumer from a recycling center or recycling location as the recycling value, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.
- SEC. 4. Section 19278 is added to the Revenue and Taxation Code, to read:
- 19278. On or before December 31, 1992, the Franchise Tax Board shall submit a report to the Legislature describing whether significant payments of redemption values and redemption bonuses for beverage containers pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code are being paid to taxpayers who are entering into collecting and redemption activities for profit, and if so, whether sufficient information is available to the Franchise Tax Board to ensure that the payments are being properly included in the gross income of the taxpayers.
- SEC. 5. Section 24315 is added to the Revenue and Taxation Code, to read:
- 24315. Gross income does not include any amount received for empty beverage containers by a consumer from a recycling center or recycling location as the recycling value, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.
- SEC. 6. The sum of five million dollars (\$5,000,000) is hereby appropriated from the General Fund or any other available fund to the Department of Conservation as a loan for the initial costs incurred by the Department of Conservation between the effective date of this act and October 1, 1987, in carrying out Division 12.1

(commencing with Section 14500) of the Public Resources Code. This amount shall be repaid by the department, during the fiscal year 1987–88 with interest calculated at the rate this amount would have earned in the Pooled Money Investment Account, with the funds deposited in the reserve in the California Beverage Container Recycling Fund, as required by paragraph (2) of subdivision (c) of Section 14580 of the Public Resources Code.

- SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.
- SEC. 8. 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 provisions or application, and to this end the provisions of this act are severable.
- 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 Department of Conservation may have sufficient time to prepare to carry out the provisions of this act, it is necessary that this act take effect immediately.

#### CHAPTER 1291

An act to amend and supplement the Budget Act of 1986 (Chapter 186 of the Statutes of 1986) by adding Item 3790-301-733 thereto, to amend and supplement the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) by amending Item 3790-301-722 thereof, and to reappropriate undisbursed balances of appropriations provided in Item 3790-301-321 of the Budget Act of 1983 (Chapter 324 of the Statutes of 1983) and reappropriated in Item 3790-490-721 of the Budget Act of 1986 (Chapter 186 of the Statutes of 1986) for augmentation of schedule (e) of Item 3790-301-721 of the Budget Act of 1983 (Chapter 324 of the Statutes of 1983), relating to state parks, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Item 3790-301-733 is added to the Budget Act of 1986 (Chapter 186 of the Statutes of 1986), to read:

# STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974

3790-301-733—For capital outlay, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974	00
SHP—completion of Phase III restoration	
SEC. 2. Item 3790-301-722 of the Budget Act of 1985 (Chapter 1. Statutes of 1985) is amended to read:	11,
3790-301-722—For Capital Outlay, Department of Parks	
and Recreation, payable from the Parklands Fund	
of 1984	100
(1) 90.RS.400-Prebudget appraisals 90,000	
(2) 90.RS.600-Preliminary planning 150,000	
(3) 90.6C.100.85 Ano Nuevo SR—	
Working drawings and construct	
visitor center and building resto-	
ration	
(3.5) 90.6C.400.851 Ano Nuevo SR—	
Ano Nuevo Dunes—acquisition 150,000 (4) 90.6C.400.85 Ano Nuevo SR—Cas-	
cade Ranch Acquisition	
(4.2) 90.EC.100.852 Baldwin Hills SRA	
-ridge area development 3,500,000	
(5) 90.62.100.85 Bale Grist Mill SHP—	
Items to complete and reconstruc-	
tion 135,000	
(6) 90.BA.400 Big Basin Redwoods SP	
—acquisition, Little Basin	
(7) 90.DN.100.85 Big Sur Coast—Plan- ning, working drawings and con-	
struct immediate public use	
facilities	
(8) 90.8Q.600.85 Brannan Island—	
General Plan 185,000	
(8.1) 90.FU.400.000 California Citrus	
SHP—acquisition	
(9) 90.5Y.100.85 Candlestick Point SRA—Working drawings and day-	
use facilities	

(10) 90.E4.400.85 Chino Hills SP-Ac-	
quisition	4,790,000
(10.1) 90.E4.400.852 Chino Hills SP—	
Brea-Olinda wilderness acquisi-	5,200,000
tion	0,200,000
quisition	153,000
(12) 90.9H.100.85 Colonel Allensworth	
SHP—Working drawings and con-	
struct building restoration	352,000
(13) 90.RS.600.852 Design and con-	001 000
struction planning	261,000
(15) 90.8U.100.85 Folsom Lake SRA— Working drawings and construct	
north Granite Bay access	81,000
(16) 90.C0.100.85 Henry W. Coe SP—	01,000
Working drawings and construct	
initial development(17) 90.C0.400.85 Henry W. Coe SP—	1,031,000
(17) 90.C0.400.85 Henry W. Coe SP-	
Acquisition	490,000
(18) 90.AD.100.85 Indian Grinding	
and construct Regional Indian	
Museum	636,000
(18.1) 90.95.100.851 Little Frank's	000,000
Tract—Development	750,000
(18.2) 90.F6.400.851 Los Encinos SHP	,
-Indian Artifact Museum, feasi-	
bility study	50,000
(18.4) 90.EX.400 Malibu Creek SP—	9.47 000
acquisition(19) 90.BK.100.85 Manresa SB—Work-	347,000
ing drawings for campground and	
beach access	144,000
(20) 90.CN.100.85 Monterey SHP—	<b>,</b>
First brick house reconstruction	208,000
(20.1) Mount Diablo SP—acquisition	3,000,000
(20.2) 90.5N.500.851 Mount Diablo SP	050 000
—Communications tower study (21) 90.RS.200.851 Natural Resources	250,000
	1,946,000
stewardship—minor projects (22) 90.AC.100.85 Old Sacramento	2,0 20,000
SHP—Planning and working	
drawings for waterfront	178,000
(23) 90.AC.400.851 Old Sacramento	
SHP—Acquisition, Railroad Ex-	1 000 000
cursion Line(23.5) 90.AC.100.85 Old Sacramento	1,988,000
	1,000,000
SHP—Working drawings and con-	1,000,000

(41) 90.RS.100.853 Statewide Topo-

graphic Surveys	350,000
(42) 90.6V.400.85 Sugarloaf Ridge SP—	. *
Acquisition	196,000
(43) 90.9F.100.85 Sugar Pine Point SP	,
—Working drawings and con-	
struction for bicycle trail	277,000
(44) 90.RS.200.852 Volunteer Pro-	
grams—Minor projects	1,000,000
(45) 90.GL.400.85 Verdugo Mountains	
Project—Acquisition	775,000
(46) 90.C0.100.85 Wilder Ranch SP—	-
Working drawings for restoration	255,000
(47) 90.C0.500.85 Wilder Ranch SP—	
Utilities study topographic survey	50,000
(48) 90.93.100.85 Woodland Opera	•
House SHP—Working drawings	
and construction for Phase IV res-	-
toration	500,000
Dravisiana	

## Provisions:

- Notwithstanding Section 2.00 of this act, funds appropriated in category (1) shall be available for expenditure only during the 1985–86 fiscal year.
- 3. Funds appropriated in category (10) for acquisitions as additions to Chino Hills State Park shall be encumbered subject to the following conditions:
  - (a) The Bryant property which the state has an option to purchase for approximately \$4,800,000 shall be the first priority for acquisition by the Department of Parks and Recreation.
  - (b) In the event that the purchase is not completed, then any remaining funds shall be reappropriated for the acquisition of property commonly known as the Brea-Olinda Wilderness Area, Rimpau, Chevron, Lamb, Hobbs, Brown, or any other high priority property in the Chino Hills area.
- 4. Funds appropriated in category (10.1) for acquisitions as additions to Chino Hills State Park shall be encumbered subject to the following conditions:
  - (a) The Shell Oil property which is commonly known as the Brea-Olinda Wilderness Area (approximately 1,100 acres) shall be acquired or leased by the Department of Parks and Recreation. However, a maximum of \$11,000,000 shall be expended to

purchase the 1,100 acres.

- (b) If the owner has not reached agreement with the Department of Parks and Recreation by June 30, 1988, then the funds that would have been available for acquisition of the property are reappropriated for the acquisition of other properties commonly known as Rimpau, Chevron, Lamb, Hobbs, Brown, Getty, or any other high priority property in the Chino Hills project area.
- 5. Funds appropriated in category (17) of this item for the acquisition of lands for the Coit Ranch access at Henry W. Coe State Park shall not be encumbered unless and until the Director of Parks and Recreation determines the portion of the acquisition which ultimately will not be required for the purpose of park access and reports his finding to the State Public Works Board. Upon completion of the acquisition, the Director of General Services shall offer for sale for fair market value that portion of the acquired land which the Director of Parks and Recreation and the State Public Works Board have determined is not needed for the purpose of park access. The sale proceeds shall be deposited in the Parklands Fund of 1984.
- 6. The funds appropriated in category (4) are approved with the condition that there shall be a 30-day review by the Joint Legislative Budget Committee prior to Public Works Board action.
- 7. Four hundred fifty-eight thousand dollars appropriated in category (3) of this item for construction of a visitor center at Ano Nuevo State Reserve may be encumbered upon the Ano Interpretive Association \$500,000 from another source and the association assuming responsibility for raising private funds to restore historic buildings at the Cascade Ranch State Park Project and Ano Nuevo State Reserve. The remaining \$1,000,000 may be encumbered when the Director of Parks and Recreation certifies to the State Public Works Board that the association will be able to reimburse the Parklands Fund of 1984 \$1,000,000 of the appropriation in category (3).
- Funds appropriated in categories (23) and (23.5) for the acquisition and development of the Old Sacramento Railroad Excursion Line shall not provide for passenger origination from

# Land Park.

- SEC. 3. Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriation provided for in schedule (hh) of Item 3790-301-721 of the Budget Act of 1982 and reappropriated in Item 3790-490-721 (13) of the Budget Act of 1986, for purposes of working drawings and partial construction of Rose-Robinson Building, Schoolroom, Alvarado Family Property, Alvardo Lucia House, and parking in Old Town San Diego SHP, are reappropriated for augmentation of schedule (e) of Item 3790-301-721 of the Budget Act of 1983, for purposes of the completion of Phase III historic restoration, and shall be available for expenditure until June 30, 1987.
- 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 Phase III of the restoration of Old Town San Diego SHP may be completed as soon as possible and thereby avoid increased construction costs and the loss of concession revenue to the Department of Parks and Recreation, and in order to expedite construction and restoration at Ano Nuevo State Reserve, it is necessary that this act take effect immediately.

## **CHAPTER 1292**

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

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

- SECTION 1. (a) The Public Utilities Commission and the Department of the California Highway Patrol shall jointly conduct a study of safety in the maintenance and operation of heavy trucks on the highways of this state.
- (1) For purposes of this section, "highway" means a highway as defined in Section 360 of the Vehicle Code.
- (2) For purposes of this section, "heavy truck" includes, but is not limited to, any vehicle within the meaning of subdivision (a), (b), (e), (f), (g), or (i) of Section 34500 of the Vehicle Code.
- (b) The study shall include, but not be limited to, all of the following:
- (1) The incidence of operation of any heavy truck in unsafe operating condition as revealed by investigations and spot checks by the department, together with any discernable trends.

- (2) The identification of any particular class or classes of heavy trucks found to be disproportionately responsible for incidents of unsafe operation on the highways or motor vehicle accidents including, but not limited to, a comparative analysis of California and foreign-registered heavy trucks, heavy trucks operated by carriers subject to commission jurisdiction and heavy trucks whose operators are not subject to commission jurisdiction, and heavy trucks operated by owner-operators and those operated by large trucking businesses.
- (3) The extent to which information on vehicle safety and maintenance is shared and exchanged between the commission and the department for use by the department in the enforcement of motor vehicle laws and by the commission in its regulation of the operations of carriers.
- (4) The extent to which the department's vehicle inspection procedures and the commission's certification, permit, and regulation procedures are consistent and cooperative.
- (5) The extent to which increased penalties and enforcement authority enacted by Chapters 573 and 1369 of the Statutes of 1985 have aided the commission's enforcement activities in this regard.
- (6) Whether the extension of the commission's jurisdiction to include operators of heavy trucks not presently subject to regulation by the commission would benefit safe motor vehicle operations and sound maintenance practices.
- (7) The feasibility of coordinating the enforcement activities of agencies having jurisdiction at or near the California-Mexico border.
- (c) The commission and the department shall jointly prepare and submit to the Legislature a report of the results of this study together with their conclusions and recommendations on or before June 30, 1987.
- SEC. 2. It is the intent of the Legislature that the study and report required by Section 1 of this act shall be funded out of existing resources of the Public Utilities Commission.
- 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 ascertain the extent of safety violations by operators of heavy trucks using the highways of this state so that any necessary action to ensure compliance with all safety requirements may be taken as quickly as possible, it is necessary that this act take effect immediately.

# CHAPTER 1293

An act to amend the heading of Division 9.5 (commencing with Section 10800) of, and to add Section 10800.4 to, the Health and Safety Code, relating to health.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. The heading of Division 9.5 (commencing with Section 10800) of the Health and Safety Code is amended to read:

## DIVISION 9.5. BIRTH DEFECTS MONITORING PROGRAM

SEC. 2. Section 10800.4 is added to the Health and Safety Code, to read:

10800.4. The birth defects monitoring program shall be expanded to the Counties of Amador, Calaveras, Colusa, Del Norte, El Dorado, Humboldt, Imperial, Kern, Kings, Madera, Marin, Mariposa, Nevada, Placer, San Benito, San Diego, Sonoma, Solano, Sutter, Tuolumne, and Yuba during the second half of the 1986–87 fiscal year.

It is the intent of the Legislature that funding for the birth defects monitoring program in fiscal year 1986–87 be provided through the State Budget Act.

## CHAPTER 1294

An act to amend Sections 1 and 4 of Chapter 1265 of the Statutes of 1985, relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. Section 1 of Chapter 1265 of the Statutes of 1985 is amended to read:

Section 1. (a) The Legislature hereby finds and declares as follows:

(1) The Department of Food and Agriculture and the State Department of Health Services have made extraordinary efforts to protect the consuming public from the risks associated with instances occurring during the summer of 1985 of the improper application of pesticides on watermelons, resulting in the confiscation and destruction of a significant portion of the 1985 watermelon crop.

- (2) Those law-abiding farmers shippers, brokers, wholesalers, and retailers who were not involved in this pesticide misuse have nonetheless suffered economic hardships due to the confiscation and destruction of these watermelons by public officials to eliminate any possible risk to the public health and safety.
- (3) There is precedent for state economic assistance for the losses suffered by innocent persons during the recent epidemics of Newcastle's disease, avian influenza, brucellosis, and the Mediterranean Fruit Fly.
- (b) It is, therefore, the intent of the Legislature, in enacting this act, to provide certain relief from the economic impacts of this recent watermelon crop emergency by facilitating settlement of all legitimate claims arising out of this situation.
- (c) It is further the intent of the Legislature that the state limit reimbursement to retailers for only the amount of money they paid to innocent farmers, shippers, brokers, and wholesalers for watermelons destroyed when the state recalled and condemned a significant portion of the 1985 watermelon crop.
- SEC. 2. Section 4 of Chapter 1265 of the Statutes of 1985 is amended to read:
- Sec. 4. (a) The State Board of Control shall consider and approve or reject all claims pursuant to this act, and may require the submission of sufficient evidence or documentation in support thereof as it may specify. Those claims shall include free on board price, preharvest costs, and average market value.
- (b) As used in this section, "average market value" means the average free on board market price for watermelons over the preceding five-year period computed on a county-by-county basis by the county agricultural commissioner for each county. Those claims submitted under average market value shall only be approved if the FOB price received does not cover actual documented production costs.
- SEC. 3. It is the intent of the Legislature, in enacting this act, to provide limited economic relief by appropriating funds to settle legitimate claims, approved by the State Board of Control upon the advice of the Director of Food and Agriculture pursuant to Chapter 1265 of the Statutes of 1985, arising out of the unprecedented situation.
- SEC. 4. The sum of six million two hundred thousand dollars (\$6,200,000) is hereby appropriated from the Special Fund for Economic Uncertainties to the State Board of Control to make payments in settlement of claims approved pursuant to Chapter 1265 of the Statutes of 1985. Any unused funds shall revert to the Special Fund for Economic Uncertainties. The Controller shall provide a listing of the settlement payments made from this appropriation pursuant to Chapter 1265 of the Statutes of 1985 to the Franchise Tax Board. The state shall have subrogation rights on any claims paid by the appropriation made by this act.
  - SEC. 5. If the funds appropriated in this act are insufficient to

make total payments in settlement of claims approved pursuant to Chapter 1265 of the Statutes of 1985, all claims approved shall be proportionately reduced.

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:

Innocent farmers, shippers, brokers, wholesalers, and retailers suffered large monetary losses during the summer of 1985 due to the acts of a few persons. These losses could imperil the watermelon industry as a whole. Thus, in order to ensure that there will be an adequate supply of California watermelons in 1986 and on into the future, it is necessary that this act take effect immediately.

#### CHAPTER 1295

An act to amend Section 16707 of the Welfare and Institutions Code, relating to medication eduation for persons 60 years of age or older, and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. Section 16707 of the Welfare and Institutions Code is amended to read:

16707. (a) Savings that occur in the County Health Services Fund due to a lack of applications for funds or for failure of local jurisdictions to expend funds as required to qualify for funding under this part may be appropriated to the State Department of Health Services by the Legislature in the annual Budget Act. To the extent that these savings are appropriated, the state department shall allocate these funds and any other funds appropriated by the Legislature pursuant to priority categories established by the Legislature in the Budget Act pursuant to subdivision (b). The funds shall be available to local jurisdictions for one-time projects upon application by the governing body of the jurisdiction. These state funds shall only be expended if a local jurisdiction agrees to a net expenditure of local jurisdiction funds in the same amount as the state funds. However, the State Director of Health Services may waive or reduce this matching fund requirement when funds are needed for a public health emergency or for a distressed county hospital if the director determines that one of the following exists:

- (1) Due to financial constraints, a local jurisdiction is unable to incur net expenditures of local jurisdiction funds in the same amount as state funds provided.
  - (2) The interest of the state would best be served by the waiver

or reduction of the matching fund requirement.

- (b) The priority categories established pursuant to subdivision (a) may include, but are not limited to, the following:
- (1) Public health emergencies which are unforeseen events that pose an immediate threat to the public health, such as an impending outbreak of encephalitis, plague, or other infectious disease.
- (2) Distressed county hospitals which are facilities in danger of closure due to deterioration, age, or lack of compliance with code standards, and which would, in the opinion of the State Department of Health Services, be likely to stay open if certain identifiable improvements are made. No expenditure in this category shall exceed one hundred fifty thousand dollars (\$150,000).
- (3) Computerization of county information systems which is equipment or software, or both, that would help county health departments' accounting, revenue recovery, collections and billings, patient records, management information, and birth certification systems, or help provide the Legislature with information to better enable it to assess the impact and effectiveness of state funds used for public health and medically indigent care services.
- (4) Refugee health programs which are projects that address the unique public health problems posed by the influx of refugees into California, such as tuberculosis testing, parasitic disease control, and nutrition education.
- (5) County-clinic coordination which are projects that facilitate effective utilization of private nonprofit clinics to reduce costs and improve access to primary care and public health services in medically underserved areas. These funds shall not be used for capital financing.
- (6) Elder care projects, which includes the development of adult day health care centers, which are projects for developing adult day health care councils, plans, and new centers, and assisting centers which have been licensed in the prior two years, and the development of previously nonexistent programs for the elderly, which are projects establishing new programs such as cervical and breast cancer education and detection, public health nursing programs specifically for seniors, addition of case management components to existing programs, and audiovisual nutrition education programs.
- (7) Medication education programs for seniors, which may include projects which provide medication consultation to persons 60 years of age or older, or develop and implement the use of multilingual educational materials and tools to assist in individual and group processes, or provide for the training of health care professionals and paraprofessionals who care for the elderly, or provide special outreach efforts to high-risk elderly clients, or create organized public awareness media campaigns. This category shall be established pursuant to subdivision (a) during the 1986–87, 1987–88, and 1988–89 fiscal years.
  - (8) Any public health purpose the Legislature deems necessary.

- (c) The amount of savings which may be utilized pursuant to this section shall be limited each fiscal year to the amount of funds authorized through the regular budget process pursuant to subdivision (e) plus either of the following greater amounts: (1) an amount equal to one-quarter of 1 percent of the total amount of funds appropriated to the County Health Services Fund in that fiscal year; or (2) two million two hundred thousand dollars (\$2,200,000). Any funds in excess of that amount which are savings from the allocation made pursuant to Section 16702 and any funds in excess of that amount allocated to a county which did not contract with the department, pursuant to Section 16709, for the fiscal year and which are savings from allocations made from the Medically Indigent Services Account pursuant to subdivision (b) of Section 16703 shall be transferred to the County Health Facilities Financing Assistance Fund created by subdivision (a) of Section 15463 of the Government Code.
- (d) The director shall report annually to the Legislature on the prior year's distribution of funds under this section.
- (e) The State Department of Health Services is authorized to utilize funds that accumulate in the County Health Services Fund for administration of this program so long as these costs are authorized through the regular budget process.
- SEC. 2. To the extent funds are available and it is administratively feasible, the Department of Health Services shall award funds appropriated for the 1986–87 fiscal year for the category of medication education program for seniors by November 1, 1986.

#### CHAPTER 1296

An act to amend Sections 56167, 56168, 56169, 56169.5, 56425, 56427, and 56429 of, to add Sections 56167.5, 56169.7, 56361.2, 56425.5, 56426.1, 56426.2, 56426.25, 56426.3, 56426.4, 56426.5, 56426.6, 56426.7, 56426.8, 56426.9, and 56431 to, to repeal and add Sections 56032, 56426, and 56430 of, and to repeal the heading of Article 1 (commencing with Section 56425) of Chapter 4.4 of Part 30 of, the Education Code, relating to special education.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 56032 of the Education Code is repealed. SEC. 1.3. Section 56032 is added to the Education Code, to read: 56032. "Special education local plan area" means the service area covered by the local plan developed under subdivision (a), (b), or (c) of Section 56170. Any reference in this part to "special education services region" shall be deemed to mean "special education local

plan area."

- SEC. 1.5. Section 56167 of the Education Code is amended to read:
- 56167. (a) Individuals with exceptional needs who are placed in a public hospital, state licensed children's hospital, psychiatric hospital, proprietary hospital, or a health facility for medical purposes are the educational responsibility of the district, special education local plan area, or county office in which the hospital or facility is located, as determined in local written agreements pursuant to subdivision (e) of Section 56220.
- (b) For the purposes of this part, "health facility" shall have the definition set forth in Sections 1250, 1250.2, and 1205.3 of the Health and Safety Code.
- SEC. 2. Section 56167.5 is added to the Education Code, to read: 56167.5. Nothing in this article shall be construed to mean that the placement of any individual with exceptional needs in a hospital or health facility constitutes a necessary residential placement, as described under Section 300.302 of Title 34 of the Code of Federal Regulations, for which the district, special education local plan area, or county office would be responsible as an educational program option under this part.
- SEC. 3. Section 56168 of the Education Code is amended to read: 56168. If the hospital or health facility also operates a nonpublic, nonsectarian school and the individual with exceptional needs is served by that nonpublic school, the responsibility for assuring appropriate education of the individual shall be that of the district in which the parent resides, pursuant to Sections 56365 and 56366.
- SEC. 3.5. Section 56169 of the Education Code is amended to read:
- 56169. (a) The superintendent shall apportion funds pursuant to Chapter 7 (commencing with Section 56700) to the district or county operating programs under this article. Classes operated pursuant to this article shall not be subject to the deficit provisions prescribed by Article 10 (commencing with Section 56790) of Chapter 7.
- (b) Except where the hospital or health facility also operates a nonsectarian, nonpublic school, the revenue limit of the district in which the hospital or health facility is located shall be used for computational purposes.
- SEC. 4. Section 56169.5 of the Education Code is amended to read:
- 56169.5. This article shall not apply to programs operating in state hospitals.
- SEC. 5. Section 56169.7 is added to the Education Code, to read: 56169.7. If any provision of this article, or the application thereof to any person or circumstances, is held invalid by an appellate court of competent jurisdiction, the remainder of the article, and the application of the provision to other persons or circumstances, shall not be affected thereby.
  - SEC. 5.5. Section 56361.2 is added to the Education Code, to read:

56361.2. All special education and related services for any individual with exceptional needs who is younger than three years of age shall be provided pursuant to Chapter 4.4 (commencing with Section 56425).

SEC. 6. The heading of Article 1 (commencing with Section 56425) of Chapter 4.4 of Part 30 of the Education Code is repealed.

SEC. 7. Section 56425 of the Education Code is amended to read: 56425. As a condition of receiving state aid pursuant to this part, each district, special education local plan area, or county office that operated early education programs for individuals with exceptional needs younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those programs in the 1980–81 fiscal year, shall continue to operate early education programs in the 1981–82 fiscal year and each fiscal year thereafter.

If a district or county office offered those programs in the 1980-81 fiscal year but in a subsequent year transfers the programs to another district or county office in the special education local plan area, the district or county office shall be exempt from the provisions of this section in any year when the programs are offered by the district or county office to which they were transferred.

A district, special education local plan area, or county office that is required to offer a program pursuant to this section shall be eligible for funding pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

SEC. 8. Section 56425.5 is added to the Education Code, to read: 56425.5. The Legislature hereby finds and declares that early education programs for infants identified as individuals with exceptional needs, which provide educational services with active parent involvement, can significantly reduce the potential impact of many handicapping conditions, and positively influence later development when the child reaches school age.

Early education programs funded pursuant to Sections 56427, 56428, and 56428.8 shall provide a continuum of program options provided by a transdisciplinary team to meet the multiple and varied needs of infants and their families. Recognizing the parent as the infant's primary teacher, it is the Legislature's intent that early education programs shall include opportunities for the family to receive home visits and to participate in family involvement activities pursuant to Sections 56426.1 and 56426.4. It is the intent of the Legislature that, as an infant grows older, program emphasis would shift from home-based services to a combination of home-based and group services.

It is further the intent of the Legislature that services rendered by state and local agencies serving infants with exceptional needs and their families be coordinated and maximized.

SEC. 9. Section 56426 of the Education Code is repealed.

SEC. 10. Section 56426 is added to the Education Code, to read: 56426. An early education program shall include services

specially designed to meet the unique needs of infants, from birth to three years of age, and their families. The primary purpose of an early education program is to enhance development of the infant. To meet this purpose, the program shall focus upon the infant and his or her family, and shall include home visits, group services, and family involvement activities. Early education programs funded pursuant to Sections 56427, 56428, and 56728.8 shall include, as program options, home-based services pursuant to Section 56426.1, and home-based and group services pursuant to Section 56426.2.

- SEC. 11. Section 56426.1 is added to the Education Code, to read: 56426.1. (a) Home-based early education services funded pursuant to Sections 56427, 56428, and 56728.8 shall include, but not be limited to, all of the following:
- (1) Observing the infant's behavior and development in his or her natural environment.
- (2) Presenting activities that are developmentally appropriate for the infant and are specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized education program and to ensure that they do not conflict with his or her medical needs.
- (3) Modeling and demonstrating developmentally appropriate activities for the infant to the parents, siblings, and other caregivers, as designated by the parent.
- (4) Interacting with the family members and other caregivers, as designated by the parent, to enhance and reinforce their development of skills necessary to promote the infant's development.
- (5) Discussing parental concerns related to the infant and the family, and supporting parents in coping with their infant's needs.
- (6) Assisting parents to solve problems, to seek other services in their community, and to coordinate the services provided by various agencies.
- (b) The frequency of home-based services shall be once or twice a week, depending on the needs of the infant and the family.
- SEC. 12. Section 56426.2 is added to the Education Code, to read: 56426.2. (a) Early education services funded pursuant to Sections 56427, 56428, and 56728.8 shall be provided both through home visits and group settings with other infants, with or without the parent. Home-based and group services shall include, but not be limited to, all of the following:
  - (1) All services identified in subdivision (a) of Section 56426.1.
- (2) Group and individual activities that are developmentally appropriate and specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized education program and to ensure that they do not conflict with his or her medical needs.
  - (3) Opportunities for infants to socialize and participate in play

and exploration activities.

- (4) Transdisciplinary services by therapists, psychologists, and other specialists as appropriate.
- (5) Access to various developmentally appropriate equipment and specialized materials.
- (6) Opportunities for family involvement activities, including parent education and parent support groups.
- (b) Services provided in a center under this chapter shall not include child care or respite care.
- (c) The frequency of group services shall not exceed three hours a day for up to, and including, three days a week, and shall be determined on the basis of the needs of the infant and the family.
- (d) The frequency of home visits provided in conjunction with group services shall range from one to eight visits per month, depending on the needs of the infant and the family.
- (e) Group services shall be provided on a ratio of no more than four infants to one adult.
- (f) Parent participation in group services shall be encouraged. SEC. 13. Section 56426.25 is added to the Education Code, to read:
- 56426.25. The maximum service levels set forth in Sections 56426.1 and 56426.2 apply only for purposes of the allocation of funds for early education programs pursuant to Sections 56427, 56428, and 56728.8, and may be exceeded by a district, special education local plan area, or county office, in accordance with the infants' individualized education programs, provided that no change in the level of entitlement to state funding under this part thereby results.
- SEC. 13.5. Section 56426.3 is added to the Education Code, to read:
- 56426.3. In addition to home-based or home-based and group early education services, related services as defined in Section 300.13 of Title 34 of the Code of Federal Regulations, as that section read on April 1, 1986, shall be available to infants and their families. Related services may be provided in the home or at the center according to needs of the infant and the family.
- SEC. 14. Section 56426.4 is added to the Education Code, to read: 56426.4: (a) Family involvement activities funded pursuant to Sections 56427, 56428, and 56728.8 shall support family members in meeting the practical and emotional issues and needs of raising their infant. These activities may include, but are not limited to, the following:
- (1) Educational programs that present information or demonstrate techniques to assist the family to promote their infant's development.
- (2) Parent education and training to assist families in understanding, planning for, and meeting the unique needs of their infant.
- (3) Parent support groups to share similar experiences and possible solutions.

- (4) Instruction in making toys and other materials appropriate to their infant's exceptional needs and development.
- (b) The frequency of family involvement activities shall be at least once a month.
- (c) Participation by families in family involvement activities shall be voluntary.
- SEC. 15. Section 56426.5 is added to the Education Code, to read: 56426.5. If the individualized education program team determines home-based and group early education services to be appropriate, but the parent chooses not to receive home-based services, group services shall be made available to the infant. Similarly, the choice not to participate in family involvement activities shall not limit the availability to the infant and his or her family of home-based services or home-based and group services as determined appropriate by the individualized education program team.
- SEC. 16. Section 56426.6 is added to the Education Code, to read: 56426.6. (a) Early education services shall be provided by the district, special education local plan area, or county office through a transdisciplinary team consisting of a group of professionals from various disciplines and parents who shall share their expertise and otherwise work together to provide these services for infants and their families. Each team member shall be responsible for providing and coordinating early education services for one or more infants and their families, and shall serve as a consultant to other team members and as a provider of appropriate related services to other infants in the program.
- (b) Credentialed personnel with expertise in vision or hearing impairments shall be made available by the district, special education local plan area, or county office to early education programs serving infants identified in accordance with subdivision (a), (b), or (d) of Section 3030 of Title 5 of the California Administrative Code, and shall be the primary providers of services under those programs whenever possible.
- (c) Transdisciplinary teams may include, but need not be limited to, qualified persons from the following disciplines:
  - (1) Early childhood special education.
  - (2) Speech and language therapy.
- (3) Nursing, with a skill level not less than that of a registered nurse.
  - (4) Social work, psychology, or mental health.
- (d) School districts, special education local plan areas, and county offices may include, as part of the transdisciplinary team, occupational therapist and physical therapist consultants who provide professional consultation to early education program personnel. Those consultation services may include, but are not limited to, the following:
- (1) Positioning, feeding, and the neurological system and its impact on learning.

- (2) Adaptive equipment.
- (3) Possible limitations in movement, strength, and endurance.

(4) Appropriate handling techniques.

This subdivision shall not be construed to permit occupational therapist and physical therapist consultants to provide direct therapy services to infants, except in accordance with the provisions of Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and regulations implementing that chapter.

- (e) Any person who is authorized by the district, special education local plan area, or county office to provide early education or related services to infants shall have appropriate experience in normal and atypical infant development and an understanding of the unique needs of families of infants with exceptional needs, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which plan shall be developed and implemented as part of the staff development component of the local plan for early education services.
- SEC. 17. Section 56426.7 is added to the Education Code, to read: 56426.7. Medically necessary occupational therapy and physical therapy shall be provided to the infant when warranted by medical diagnosis and contained in the individualized education program, as specified under Section 7575 of the Government Code.
- SEC. 18. Section 56426.8 is added to the Education Code, to read: 56426.8. (a) Early education and related services shall be based on the needs of the infant and the family as determined by the individualized education program team, and shall be specified in the individualized education program, including the frequency and duration of each type of service. The provision of any early education or related service may be provided only upon written parental consent.
- (b) The individualized education program for any infant shall be developed in consultation with the infant's physician in order to ensure that the services specified in the plan do not conflict with the infant's medical needs.
- SEC. 19. Section 56426.9 is added to the Education Code, to read: 56426.9. Any infant who becomes three years of age while participating in an early education program under this chapter may continue in the program until June 30 of the current program year, if determined appropriate by the individualized education program team. No later than June 30 of that year, an individualized education program team shall meet to review the infant's progress, determine eligibility for preschool special education services, and develop the individualized education program accordingly. That individualized education program team meeting shall be conducted by the local educational agency responsible for the provision of preschool special education services. Representatives of the early education program shall be invited to that meeting.
  - SEC. 20. Section 56427 of the Education Code is amended to read:

- .56427. (a) Not less than two million three hundred twenty-four thousand dollars (\$2,324,000) of the federal discretionary funds appropriated to the State Department of Education under Public Law 94-142 in any fiscal year shall be expended for early education programs for infants with exceptional needs and their families, until the department determines, and the Legislature concurs, that the funds are no longer needed for that purpose.
- (b) Programs ineligible to receive funding pursuant to Section 56425 or 56728.8 may receive funding pursuant to subdivision (a).
- SEC. 21. Section 56429 of the Education Code is amended to read: 56429. In order to assure the maximum utilization and coordination of local early education services, eligibility for the receipt of funds pursuant to Section 56425, 56427, 56428, or 56728.8 is conditioned upon the approval by the Superintendent of Public Instruction of a local plan for early education services, which approval shall apply for not less than one, nor more than three, years. The local plan shall identify existing public and private early education services, and shall include an interagency plan for the delivery of early education services.
  - SEC. 22. Section 56430 of the Education Code is repealed.
- SEC. 23. Section 56430 is added to the Education Code, to read: 56430. (a) Early education services may be provided by any of the following methods:
  - (1) Directly by a local educational agency.
- (2) Through an interagency agreement between a local educational agency and another public agency.
- (3) Through a contract with another public agency pursuant to Section 56369.
- (4) Through a contract with a certified nonpublic, nonsectarian school, or nonpublic, nonprofit agency pursuant to Section 56366.
- (5) Through a contract with a nonsectarian hospital in accordance with Section 56361.5.
- (b) Contracts or agreements with agencies identified in subdivision (a) for early education services are strongly encouraged when early education services are currently provided by another agency, and when found to be a cost-effective means of providing the services. The placement of individual infants under any such contract shall not require specific approval by the governing board of the district or the county office.
- (c) Early education services provided under this chapter shall be funded pursuant to Sections 56427, 56428, and 56728.8. Early education programs shall not be funded pursuant to any of Sections 56740 to 56743, inclusive.
- SEC. 24. Section 56431 is added to the Education Code, to read: 56431. The superintendent shall develop procedures and criteria to enable a district, special education local plan area, or county office to contract with private nonprofit preschools or child development centers to provide special education and related services to infant and preschool age individuals with exceptional needs. The criteria

shall include minimum standards that the private, nonprofit preschool or center shall be required to meet.

SEC. 25. Sections 5.5 to 24, inclusive, of this act shall become operative on July 1, 1987.

## CHAPTER 1297

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

> [Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

The sum of four hundred thousand dollars SECTION 1. (\$400,000) is hereby appropriated from the Environmental License Plate Fund to the State Coastal Conservancy for expenditure during the 1986-87 fiscal year for a grant to the National Audubon Society for capital costs in connection with the construction of the Audubon Living Museum at Ballona Creek near Marina del Rey in the County of Los Angeles if the museum will provide environmental education identified in the local coastal program. The funds appropriated pursuant to this act shall be used exclusively for environmental education facilities and shall not be encumbered unless at least 50 percent of the costs of the environmental education facilities are provided from nonstate funds. The State Coastal Conservancy shall ensure through contract that none of the funds transferred to the grant recipient are used for other than environmental education, including exhibits, and fresh and saltwater support systems directly related to those exhibits. The appropriated funds shall not be used for the construction of permanent museum buildings, and if the total of the nonstate funds contributed for capital costs of the museum and the grant exceeds the actual capital costs of the museum as described in the funding application submitted to the Resources Agency, the amount that the total exceeds the actual capital costs, but not to exceed four hundred thousand dollars (\$400,000), shall be reverted and deposited in the California Environmental License Plate Fund.

The state has no liability or operational responsibility for the Audubon Living Museum.

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

In order that the development project provided for in this act may be commenced during the 1986–87 fiscal year, it is necessary that this act take effect immediately.

#### CHAPTER 1298

An act to add Sections 1505.5, and 1569.5 to, and to add and repeal Article 12 (commencing with Section 1339.62) of Chapter 2 of Division 2 of, the Health and Safety Code, relating to respite care.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Article 12 (commencing with Section 1339.62) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 12. Demonstration Program for Respite Care in General Acute Care Hospitals, Skilled Nursing Facilities, and Intermediate Care Facilities

1339.62. It is the intent of the Legislature to establish a demonstration program to facilitate admissions to licensed general acute care hospitals, skilled nursing facilities, and intermediate care facilities to provide rest and relief for families and others who are caring for a relative or other individual in the community. Temporary admissions through respite provide these applicants and their families with temporary relief from their constant vigil while frail elderly persons, functionally impaired adults, and mentally disordered persons continue to receive the responsible help and supervision they need. Respite care can reduce the need for institutionalizing persons, since caretakers are able to take a break from their duties when needed.

It is further the intent of the Legislature that licensed general acute care hospitals, skilled nursing facilities, and intermediate care facilities may fill unused capacity to provide respite care for frail elderly persons, functionally impaired adults, and mentally disordered persons.

The purpose of establishing this program on a demonstration basis is to enable the State Department of Health Services to design model standards that facilitate the admissions process for respite care and ensure the health and safety of clients being cared for on a respite care basis.

The Legislature finds and declares that such respite care programs should be designed to be tailored to and responsive to the specific needs of those individuals requiring these services. The Legislature further recognizes that the needs of the frail elderly and functionally impaired may be very different and diverse from the needs of

mentally disordered persons. Therefore, standards and regulations adopted pursuant to this article shall ensure any mixing of patients within the respite care units must address, and be consistent with, and responsive to the special needs of the particular patient populations being served.

1339.63. The department shall administer a three-year demonstration program for the purpose of providing respite care services to frail elderly persons, functionally impaired adults, and mentally disordered persons in at least one of each of the following licensed health facilities, not to exceed six facilities:

- (a) General acute care hospitals.
- (b) Skilled nursing facilities.
- (c) Intermediate care facilities.
- 1339.64. The department shall select applicants for this program based upon their compliance record and their ability to provide safe and adequate care.

1339.65. Respite care shall include, but not be limited to, all of the following:

- (a) Supervision, room, leisure activities, and meals.
- (b) Provided in a wing or distinct part of the facility separate from the inpatient population.
- (c) Screening of persons to determine the level of care required, a physical history completed by the person's personal physician including orders for medications and treatments, and other alternative admission criteria to protect the health and safety of persons applying for respite care.
- (d) Establishment of an abbreviated medical record sufficient to provide information for this program, identifying the guest clearly and data to document the care provided.
- (e) Skilled nursing and intermediate care facilities which are holding beds for patients who are temporarily hospitalized or are on a leave of absence shall not utilize those beds for respite care services.
- (f) No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.
- (g) A written agreement executed between the respite patient or the patient's representative and the facility to include the scope and limitation of services provided, including charges.
- (h) Persons providing direct care to respite patients shall be trained in the needs of the patient, encouraging self-care to preserve functional capabilities, as opposed to an overemphasis on procedures and the diagnosis and cure orientation commonly found in an acute care setting.
- 1339.66. (a) It is the intent of the Legislature to collect data and information on a variety of types of services that can meet the needs for and upon which to consider the development of regulations governing provision of respite care in licensed health facilities if determined by this program to be necessary.
- (b) On or before July 1, 1989, and in consultation with the department, the Office of Statewide Health Planning and

Development shall submit a report to the Legislature on the implementation of this article, which shall address the following:

- (1) The number of persons served by the program, and the types of services provided to them.
- (2) As assessment of the need for respite care services and to identification of services that may be necessary but not currently available.
- (3) Identification of any factors which significantly enhance or inhibit the successful provision of respite care.
- (4) Recommendations for amended regulations necessary to govern respite care services in licensed health facilities.
- 1339.67. This article shall remain in effect until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends that date.
- SEC. 2. Section 1505.5 is added to the Health and Safety Code, to read:
- director shall adopt regulations authorizing The residential facilities, as defined in Section 1502, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for frail elderly persons, functionally impaired adults, or mentally disordered persons who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a fee for services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.

No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.

SEC. 3. Section 1569.5 is added to the Health and Safety Code, to read:

1569.5. The director shall adopt regulations authorizing residential care facilities for the elderly, as defined in Section 1569.2, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for frail elderly persons, functionally impaired adults, or mentally disordered persons who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a

fee for the services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.

No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.

#### CHAPTER 1299

An act to amend Sections 261, 266c, 286, 288, 288a, 289, 290, 667.7, 667.9, 1170.1, 1192.7, 1203.065, 1203.066, 1203.075, and 12022.8 of the Penal Code, relating to crime.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

- SECTION 1. Section 261 of the Penal Code is amended to read: 261. Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:
- (1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.
- (2) Where it is accomplished against a person's will by means of force, violence, or fear of immediate and unlawful bodily injury on the person or another.
- (3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused.
- (4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused.
- (5) Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.
- (6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

- (7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.
  - SEC. 2. Section 266c of the Penal Code is amended to read:
- 266c. Every person who induces any other person, except the spouse of the perpetrator, to engage in sexual intercourse, penetration of the genital or anal openings by a foreign object, substance, instrument, or device, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act, is punishable by imprisonment in either the county jail for not more than one year or in the state prison for two, three, or four years.

As used in this section, "fear" means the fear of unlawful physical injury or death to the person or to any relative of the person or member of the person's family.

- SEC. 3. Section 286 of the Penal Code is amended to read:
- 286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person.
- (b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.
- (2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.
- (c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for three, six, or eight years.
- (d) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting such other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to

retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for five, seven, or nine years.

- (e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4 shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.
- (f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
- (g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.
- (h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county iail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act ( Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.
- (i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
- (j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense,

or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

- $(\tilde{l})$  As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.
  - SEC. 4. Section 288 of the Penal Code is amended to read:
- 288. (a) Any person who shall willfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, six, or eight years.
- (b) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, six or eight years.
- (c) In any arrest or prosecution under this section the peace officer, the district attorney, and the court shall consider the needs of the child victim and shall do whatever is necessary and constitutionally permissible to prevent psychological harm to the child victim.
- , SEC. 5. Section 288a of the Penal Code is amended to read:
- 288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.
- (b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.
- (2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony.
- (c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of

immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for three, six, or eight years.

- (d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation (1) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (2) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (3) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.
- (e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.
- (f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
- (g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

- (h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.
- (i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
- (j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
- (k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

- $(\bar{l})$  As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.
  - SEC. 6. Section 289 of the Penal Code is amended to read:
- 289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future

- against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (b) Except as provided in subdivision (c), every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.
- (c) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.
- (d) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (e) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object,

substance, instrument, or device, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

- (f) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
- (g) Every person who causes the penetration, however slight, of the genital or anal openings of another person for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the act is accomplished against the victim's will by threatening to use the authority of a public offical to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

- (h) Except as provided in Section 288, any person who participates in an act of penetration of vaginal or anal openings with a foreign object, substance, instrument, or device of a person who is under 18 years of age for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.
- (i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of penetration of the vaginal or anal openings with a foreign object, substance, instrument, or device of another person who is under 16 years of age for the purpose of sexual arousal, gratification, or abuse, shall be guilty of a felony.
- (j) Any person who participates in an act of penetration of the anal or vaginal openings with a foreign object, instrument, or device of another person who is under 14 years of age and who is more than 10 years younger than he or she for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (k) As used in this section, "foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.
- (1) As used in subdivision (a) "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

- SEC. 7. Section 290 of the Penal Code, as added by Chapter 1474 of the Statutes of 1985, is amended to read:
- (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape or sodomy under Section 220, or of any offense defined in subdivisions (1), (2), (3), (4), and (6) of Section 261, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 289, or 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county or city, or city and county in which he or she temporarily resides or is domiciled for that length of time register with the chief of police of the city in which he or she is domiciled or the sheriff of the county if he or she is domiciled in an unincorporated area.
- (b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction,

- the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the court where the person was prosecuted. All such forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency, prosecuting agency, and court 30 days prior to the discharge, parole, or release of the person.
- (c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send one copy to the Department of Justice, and shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.
- (d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section: assault with intent to commit rape, sodomy, or oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220; or any offense defined in Section 288, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 286, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 288a, subdivision (2) of Section 261, or subdivision (a) of Section 289; or any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.
- (2) Prior to discharge or parole from the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Youth Authority officials shall transmit the required forms and information to the Department of Justice.
- (3) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25.

- (4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.
- (e) The registration shall consist of (a) a statement in writing signed by the person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Department of Justice.
- (f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of the new address. The law enforcement agency shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.
- (g) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy, or of any violation of Section 261, 264.1, 286, 288, 288a, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.
- (h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youth Authority, or the court, as the case may be, shall order the parole or probation of the person revoked.
- (i) The statements, photographs, and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.
- (j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be

temporarily sent outside the institution where he or she is confined on any assignment within a city or county including fire fighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision does not apply to any person temporarily released under guard from the institution where he or she is confined.

- (k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.
- (l) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (f) if the person did register within 30 days.
  - (m) This section shall be operative January 1, 1988.
  - SEC. 8. Section 667.7 of the Penal Code is amended to read:
- 667.7. Any person convicted of a felony in which such person inflicted great bodily injury as provided in Section 12022.7, or personally used force which was likely to produce great bodily injury. who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; voluntary manslaughter; mayhem; rape by force or violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, penetration of a vaginal or anal opening in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a device with intent to murder in violation of Section 12308; exploding a

destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3; any felony in which such person inflicted great bodily injury as provided in Section 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender and shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. 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 in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time. This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

SEC. 9. Section 667.9 of the Penal Code is amended to read:

- 667.9. (a) Any person who has a prior conviction for any of the offenses listed in subdivision (b), and who commits one or more of the crimes listed in subdivision (b) against a person who is 65 years of age or older, or against a person who is blind, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.
  - (b) Subdivision (a) applies to the following crimes:
  - (1) Robbery, in violation of Section 211.
  - (2) Kidnapping, in violation of Section 207.
- (3) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.
- (4) Rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person in violation of subdivision (2) of Section 261.

- (5) Sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person in violation of Section 286 or 288a.
  - (6) Mayhem, as defined in Section 203.
- (c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.
- SEC. 10. Section 1170.1 of the Penal Code is amended to read: (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667.5, 667.6, or 12022.1. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to Section 12022, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9. The subordinate term for each consecutive offense which is not a "violent felony" as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for such consecutive offenses which are not "violent felonies" as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a "violent felony" as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8) of subdivision (c) of Section 667.5, shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.4, 12022.5, 12022.7, or 12022.9.
- (b) When a consecutive term of imprisonment is imposed under Sections 669 and 1170 for two or more convictions for kidnapping, as defined in Section 207, involving both separate victims and separate occasions, the aggregate term shall be calculated as provided in subdivision (a), except that the subordinate term for each subsequent kidnapping conviction shall consist of the middle term for each kidnapping conviction for which a consecutive term of imprisonment is imposed and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.4, 12022.5, 12022.7, or 12022.9. The five-year limitation on the total of

- subordinate terms provided in subdivision (a) shall not apply to subordinate terms for second and subsequent convictions of kidnapping, as defined in Section 207, involving separate victims and separate occasions.
- (c) In the case of any person convicted of one or more felonies committed while the person is confined in a state prison, or is subject to reimprisonment for escape from such custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all the convictions which the person is required to serve consecutively shall commence from the time such person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.
- (d) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667.5, 12022, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, unless the additional punishment therefore is stricken pursuant to subdivision (g). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of such additional term, the court shall apply the sentencing rules of the Judicial Council.
- (e) When two or more enhancements under Sections 12022, 12022.4, 12022.5, 12022.7, and 12022.9 may be imposed for any single offense, only the greatest enhancement shall apply; however, in cases of robbery, rape or burglary, or attempted robbery, rape or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022, 12022.4, or 12022.5 and (2) an enhancement for great bodily injury as provided in Section 12022.7 or 12022.9.
- (f) The enhancements provided in Sections 667.5, 667.6, 12022, 12022.1, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, and 12022.9 shall be pleaded and proven as provided by law.
- (g) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (c) of this section, or an enhancement is imposed pursuant to Section 12022, 12022.4, 12022.5, 12022.6, 12022.7, or 12022.9 or the defendant stands convicted of felony escape from an institution in which he is lawfully confined.
- (h) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in

Sections 667.5, 12022, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9 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.

- (i) For any violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of these enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.
- SEC. 11. 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, 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 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 inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant 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; (17) exploding a destructive device or any explosive with intent to murder; (18) burglary of a residence; (19) robbery; (20) kidnapping; (21) taking of a hostage by an inmate

- of 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 or providing heroin, cocaine, or phencyclidine (PCP) to a minor; (25) any attempt to commit a crime listed in this subdivision other than an assault; and (26) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- (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.
- SEC. 12. Section 1203.065 of the Penal Code is amended to read: 1203.065. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of violating subdivision (2) of Section 261, or Section 264.1, or Section 266h, or Section 266i, or Section 266j, or 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or subdivision (c) of Section 311.4.
- (b) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person convicted of a violation of Section 220 for assault with intent to commit rape, sodomy, oral copulation any violation of Section 264.1, any violation of subdivision (b) of Section 288, or any violation of Section 289.

When probation is granted, 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.

- (c) This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.
- SEC. 13. Section 1203.066 of the Penal Code is amended to read: 1203.066. (a) Notwithstanding Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:
- (1) A person convicted of violating Section 288 when the act is committed by the use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
  - (2) A person who caused bodily injury on the child victim in

committing a violation of Section 288.

- (3) A person convicted of a violation of Section 288 and who was a stranger to the child victim or made friends with the child victim for the purpose of committing an act in violation of Section 288, unless the defendant honestly and reasonably believed the victim was 14 years old or older.
- (4) A person who used a weapon during the commission of a violation of Section 288.
- (5) A person convicted of committing a violation of Section 288 and who has had a prior conviction of Section 261, 264.1, 267, 285, 288, or 289, of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, of assaulting another with intent to commit a crime specified in this paragraph in violation of Section 220, or a violation of Section 266.
- (6) A person convicted of kidnapping the child victim in violation of either Section 207 or 209 and who kidnapped the victim for the purpose of committing a violation of Section 288.
- (7) A person who is convicted of committing a violation of Section 288 on more than one victim at the same time or in the same course of conduct.
- (8) A person who in violating Section 288 has substantial sexual conduct with a victim under the age of 11 years.
- (9) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the victim. Position of authority includes, but is not limited to, the position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer.
- (10) A person who, in committing a violation of Section 288, used obscene matter, as defined in Section 311, or matter (as defined in Section 311) depicting sexual conduct, as defined in Section 311.3.
- (b) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the victim or the offender.
- (c) Paragraphs (7), (8), (9), and (10) of subdivision (a) shall not apply when the court makes all of the following findings:
- (1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the household.
- (2) Imprisonment of the defendant is not in the best interest of the child.
- (3) Rehabilitation of the defendant is feasible in a recognized treatment program designed to deal with child molestation, and if the defendant is to remain in the household, a program that is

specifically designed to deal with molestation within the family.

(4) There is no threat of physical harm to the child victim if there is no imprisonment. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

The court shall order the psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the factors specified in paragraphs (2), (3), and (4) in making his or her report to the court.

- (d) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.
  - SEC. 14. Section 1203.075 of the Penal Code is amended to read: 1203.075. Notwithstanding the provisions of Section 1203:
- (a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any person who, with the intent to inflict such injury, personally inflicts great bodily injury on the person of another in the commission or attempted commission of any of the following crimes:
  - (1) Murder.
- (2) Assault with intent to commit murder, in violation of Section 217.
  - (3) Robbery, in violation of Section 211.
  - (4) Kidnapping, in violation of Section 207.
- (5) Kidnapping for ransom, extortion or robbery, in violation of Section 209.
  - (6) Burglary of the first degree, as defined in Section 460.
  - (7) Rape in violation of subdivision (2) of Section 261.
- (8) Assault with intent to commit rape, sodomy, or robbery, in violation of Section 220.
  - (9) Escape, in violation of Section 4530 or 4532.
  - (10) A violation of subdivision (a) of Section 289.
  - (11) Sodomy, in violation of Section 286.
  - (12) Oral copulation, in violation of Section 288a.
- (b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.
- (2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000)

or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

- (3) As used in subdivision (a), "great bodily injury" means "great bodily injury" as defined in Section 12022.7.
- SEC. 15. Section 12022.8 of the Penal Code is amended to read: 12022.8. Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a shall receive a five-year enhancement for each such violation in addition to the sentence provided for the felony conviction.
- SEC. 16. Any section of any act enacted by the Legislature during the 1986 calendar year, which takes effect on or before January 1, 1987, and which amends, amends and renumbers, repeals and adds, or repeals Section 667.5, 667.7, 667.9, 1170.1, 1192.7, 1203.066, 1203.075 or 12022.8 of the Penal Code, as proposed to be amended by this act, shall prevail over this act, whether that act is enacted prior to or subsequent to this act. However, Section 1170.1 of the Penal Code, as amended by this act, shall prevail over the amendments proposed by Senate Bill 2451 (Ch. 248, Stats. 1986).
- 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 1300

An act to amend Section 926.15 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 926.15 of the Government Code is amended to read:

926.15. (a) Any state agency which, without reasonable cause, fails to make any payment within 30 days of the required payment date to a small business or a nonprofit organization awarded a contract with the agency to supply property or services, for an undisputed claim which was properly executed by the claimant and submitted to the agency, shall pay a penalty of 0.25 percent of the

amount due, per day, from the 31st day after the required payment date. In the event that the contracting state agency properly executes the claim and forwards the claim to the Controller, and the Controller fails to make payment within 30 days after receipt of a properly executed claim, the Controller shall pay a penalty of 0.25 percent of the amount due, per day, from the 31st day after the Controller's receipt of the claim. A nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract in an amount less than five hundred thousand dollars (\$500,000).

- (b) In applying this section to claims submitted to the state, or to its fiscal intermediary, by providers of services or equipment under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, payment for claims shall be due 30 days after a claim is received by the state or its fiscal intermediary, unless reasonable cause for nonpayment exists. With regard to Medi-Cal claims "reasonable cause" shall include review of claims to determine medical necessity, review of claims for providers subject to special prepayment fraud and abuse controls, and claims which require review by the fiscal intermediary or department due to special circumstances. Claims requiring special review as specified above shall not be eligible for a late payment penalty.
- (c) Unless otherwise specified, for the purposes of this section, "reasonable cause" shall include review of a claim which is improperly executed by the claimant or for which additional evidence of the validity of the claim is required. If it is determined by the state agency that a claim was improperly executed or that additional evidence of the validity of the claim is required, the small business or nonprofit organization shall be notified within 15 working days of receipt by the state agency that the claim needs correction or that additional evidence of validity is required. The required payment date for claims requiring correction or additional information establishing validity shall be 30 days from the date the corrected claim is received by the state agency.
- (d) For the purposes of this section, "required payment date" means any of the following:
- (1) The date on which payment is due under the terms of the contract.
- (2) If a specific date is not established by contract, the date upon which an invoice is received, if the invoice specifies payment is due upon receipt.
- (3) If a specific date is not established by contract or invoice, 30 days after receipt of a proper invoice for the amount of the payment
- (e) For the purposes of this section, the terms "small business" and "nonprofit organization" shall be defined by regulations of the Department of General Services which implement this section.
  - (f) Any penalty required to be paid by a state agency pursuant to

this section shall be paid by the Controller out of the state agency's budget.

- (g) When a state agency is required by this section to pay a penalty, it shall be presumed that the fault is that of the head of the state agency and, in such cases, the head of the state agency shall submit to the Legislature a report on the actions taken to correct the problem.
- (h) Any state agency which requests that the Legislature make a deficiency appropriation for the agency shall identify what part of the requested amount is necessitated because of any penalties imposed by this section.
- (i) Accrual of the penalty provided by subdivision (a) shall cease for a state agency on the date a properly executed claims schedule for the claim is submitted to the Controller, and for the Controller on the date the claim is paid. For purposes of this section, the terms "small business" and "nonprofit organization," in referring to providers under the Medi-Cal program, mean a business or organization:
  - (1) Where the principal office is located in California.
  - (2) Where the officers, if any, are domiciled in California.
- (3) Which, if a small business, is independently owned and operated.
  - (4) Which is not dominant in its field of operation.
- (5) Which, together with any affiliates, has gross receipts from business operations which do not exceed three million dollars (\$3,000,000) per year, except that the State Director of Health Services may increase this amount if the director deems that this action would be in futherance of the intent of this section.
- (j) No nonprofit public benefit corporation shall be eligible for a late payment penalty if the state agency has failed to make timely payment because no Budget Act has been enacted. For the purposes of this section, "nonprofit public benefit corporation" means a corporation as defined by subdivision (b) of Section 5046 of the Corporations Code which has registered with the Department of General Services as a small business.
- 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 resolve any confusion as to when the penalty for late payment of Medi-Cal claims presented by providers begins to accrue and to enable the State Department of Health Services to make these payments promptly, it is necessary that this act take effect immediately.

## CHAPTER 1301

An act to add and repeal Section 14027 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 14027 is added to the Welfare and Institutions Code, to read:

14027. (a) The department shall establish a committee, which shall be comprised of practicing dentists who are Medi-Cal providers.

- (b) The committee established pursuant to subdivision (a) shall review and advise the Director of Health Services on regulations regarding the provision of dental services as covered benefits under this chapter.
- (c) Members of the committee shall be reimbursed for all necessary expenses incurred performing the duties of the committee.
- (d) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.
- SEC. 2. The committee established pursuant to Section 1 of this act shall report to the Legislature, by January 1, 1987, on the status of the Denti-Cal program.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the committee established pursuant to this act adequate time for the preparation of the report to the Legislature on the status of the Denti-Cal program, it is necessary that this act go into effect immediately.

## CHAPTER 1302

An act to amend Sections 113, 26009, and 26801 of, to add Sections 26568.5 and 26568.6 to, and to add Article 1.5 (commencing with Section 26506) to Chapter 5 of Division 21 of, the Health and Safety Code, relating to the Sherman Food, Drug, and Cosmetic Law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 113 of the Health and Safety Code, as amended by Chapter 248 of the Statutes of 1986, is amended to read:

- 113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Sections 436.53, 527, 1616, 1676, 1677, 4042, 4042.2, 4042.3, 11887, 25198.7, 25694, 25696, 25697, 25816, 25817, 26506.2, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.
- (b) The department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- SEC. 2. Section 26009 of the Health and Safety Code is amended to read:
- 26009. "Device" means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is any of the following:
- (a) Recognized in the official National Formulary or the United States Pharmacopeia, or any supplement to them.
- (b) Intended for use in the diagnosis of disease or other condition, or in the cure, mitigation, treatment, or prevention of disease in humans or any other animal.
- (c) Intended to affect the structure or any function of the body of humans or any other animal and which does not achieve any of its principal intended purposes through chemical action within or on the body of humans or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.
- SEC. 3. Article 1.5 (commencing with Section 26506) is added to Chapter 5 of Division 21 of the Health and Safety Code, to read:

# Article 1.5. Registration

- 26506. Every person upon first engaging in the manufacture, packing, or holding of processed food in this state shall immediately register with the department. The registration is valid for two calendar years from the date of validation by the department of the completed registration form. The department shall provide to each registrant a validated copy of the completed registration form, sent to the mailing address shown on the form, as evidence of valid registration.
- 26506.1. A separate registration is required for each place of manufacture, packing, or holding.
- 26506.2. A registration form provided by the department shall be completed biennially and accompanied by a nonreturnable registration fee of twenty-five dollars (\$25). The registration or renewal of registration shall set forth all applicable information called for by the registration form. The fee amount shall be adjusted annually pursuant to Section 113.
- 26506.3. Any person registered pursuant to this article shall immediately notify the department of any change in the information reported on the registration form.
- 26506.4. The registration provisions of this chapter shall not apply to any of the following:
- (a) Any retail food facility as defined in Chapter 4 (commencing with Section 27500) of Division 22.
- (b) Any person who has a valid bottled water or water vending machine license issued pursuant to Chapter 7.5 (commencing with Section 4040) of Part 1 of Division 5.
- (c) Any person who has a valid cannery license issued pursuant to Chapter 8 (commencing with Section 28360) of Division 22.
- (d) Any person who has a valid shellfish certificate issued pursuant to Chapter 10 (commencing with Section 28500) of Division 22.
- (e) Any person who has a valid milk products plant, margarine, imitation ice cream, imitation ice milk, or a products resembling milk products plant license, issued pursuant to Division 15 (commencing with Section 32501) of the Food and Agricultural Code.
- 26506.5. The department may issue some registrations for a period of less than two years during the first two years of this requirement. If a registration is issued for less than two years, the fee shall be adjusted accordingly.
- SEC. 4. Section 26568.5 is added to the Health and Safety Code, to read:
- 26568.5. It is unlawful for any person to manufacture, pack, or hold processed food in this state unless in an establishment duly registered, as provided in this division.
- SEC. 5. Section 26568.6 is added to the Health and Safety Code, to read:
  - 26568.6. It is unlawful for any person to willfully make a false

statement or representation, or knowingly fail to disclose a fact required to be disclosed in the application for registration or renewal of registration, as provided in Article 1.5 (commencing with Section 26506) of Chapter 5.

SEC. 6. Section 26801 of the Health and Safety Code is amended to read:

26801. Any person who violates any provision of this division or any regulation adopted pursuant to this division shall, if convicted, be subject to imprisonment for not more than one year in the county jail or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and fine. If the violation is committed after a previous conviction under this section which has become final, or if the violation is committed with intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year in the county jail, imprisonment in state prison, or a fine of not more than ten thousand dollars (\$10,000), or both the imprisonment and fine

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 because this act creates a new crime 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.

SEC. 8. Section 1 of this act shall become operative on January 1, 1987, but that shall not delay the operative effect of Section 26506.2 of the Health and Safety Code.

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:

California has experienced the most serious and tragic food contamination episode of the twentieth century. In order to assure that all food in California is safely manufactured, packed, and held and potential health problems are promptly identified and corrected, it is necessary that this act take effect immediately. Furthermore, in order to make a clarifying change in a definition contained in the Sherman Food, Drug, and Cosmetic Law as soon as possible, it is necessary for this act to take effect immediately.

### CHAPTER 1303

An act to add Chapter 14 (commencing with Section 67320) to Part 40 of the Education Code, relating to postsecondary education.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Chapter 14 (commencing with Section 67320) is added to Part 40 of the Education Code, to read:

# CHAPTER 14. OFFICE EQUIPMENT

67320. Each campus of the California Community Colleges, the California State University, and the University of California shall consider human and ergonomic factors, including human health and safety, human comfort, and equipment usefulness when they select and procure office equipment and related support equipment.

The Board of Governors of the California Community Colleges, the Trustees of the California State University, and the Regents of the University of California shall adopt regulations that are necessary to carry out this chapter.

For purposes of this chapter, "office equipment and related support equipment" includes, but is not limited to, electronic equipment, typewriters, chairs, and tables.

67321. No provision of this chapter shall apply to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

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 5 of Title 2 of the Government Code.

### CHAPTER 1304

An act to amend Sections 25118, 25165, and 25358.3 of, and to add Sections 25110.1, 25110.8, 25112.5, 25117.10, 25186.5, and 25200.4 to, the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 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 proper collection, transportation, treatment, recycling, storage, and disposal of hazardous waste is critical to maintaining the health, environmental soundness, and economic prosperity of the state.
- (b) This act will extend strict state regulation to those persons involved in the operations of these hazardous waste management activities, so as to foster and justify the public confidence and trust in the credibility and integrity of the conduct of these activities.
- (c) The hazardous waste industry in California can attain, maintain, and retain integrity, public confidence, and trust, and promote the general public interest, only under a system of control and regulation that precludes the participation of persons with known criminal records, habits, or associations, and excludes or removes from any position of authority or responsibility any person who is known to be so deficient in reliability, expertise, or competence concerning hazardous waste and hazardous materials management that the person's participation would create or enhance the dangers of unsound, unfair, or illegal practices, methods, and activities in the conduct of the business of the hazardous waste industry.
- (d) Notwithstanding the fact that the major percentage of operators involved in these industries are respectable and responsible and that a substantial hazardous waste industry capable of meeting the licensing standards exists in California, the hazardous waste industry remains vulnerable to corrupting influences.
- (e) Therefore, it is vital to the interests of the state to prevent entry, direct or indirect, into the operations of the hazardous waste industry of any person who has violated specified laws or regulations of a state, local, or federal agency, and the powers and authority provided by this act shall be carried out to the fullest extent consistent with the law to exclude these persons from the hazardous waste industry.
- SEC. 2. Section 25110.1 is added to the Health and Safety Code, to read:
  - 25110.1. "Applicant" means any person seeking an original

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hazardous waste facilities permit, or an original hazardous waste hauler's registration from the department to generate, transport, treat, store, recycle, dispose of or handle hazardous waste.

- SEC. 3. Section 25110.8 is added to the Health and Safety Code, to read:
- 25110.8. "Business concern" means any sole proprietorship, corporation, association, firm, partnership, trust, or other form of commercial organization.
- SEC. 4. Section 25112.5 is added to the Health and Safety Code, to read:
  - 25112.5. "Disclosure statement" means either of the following:
- (a) A statement submitted to the department by an applicant, signed by the applicant under penalty of perjury, which includes all of the following information:
- (1) The full name, business address, and social security number of all of the following:
  - (A) The applicant.
- (B) Any officers, directors, or partners, if the applicant is a business concern.
- (C) All persons or any officers, directors, or partners of business concerns holding more than 5 percent of the equity in, or debt liability of the applicant, except that if the debt liability is held by a lending institution, the applicant shall only supply the name and address of the lending institution.
- (2) The full name and business address of any company which generates, transports, treats, stores, recycles, disposes of, or handles hazardous waste and hazardous materials in which the applicant holds at least a 5 percent debt liability or equity interest.
- (3) A description of any local, state, or federal licenses, permits, or registrations for the generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste or hazardous materials applied for, or possessed by the applicant, or, if the applicant is a business concern, by the officers, directors, or partners of the business concern, including the name and address of the issuing agency.
- (4) A listing and explanation of any final administrative orders or license revocations or suspensions issued or initiated by any local, state, or federal authority, in the three years immediately preceding the filing of the statement, or any civil or criminal prosecutions pending at the time the statement is filed, relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste or hazardous materials received by the applicant, or, if the applicant is a business concern, by any officer, director, or partner of the business concern.
- (5) A listing of any agencies outside of the state which regulate, or had regulated, the applicant's generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste or hazardous materials.
  - (6) A listing and explanation of any federal or state conviction,

judgment, or settlement, in the three years immediately preceding the filing of the statement, relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste or hazardous materials by the applicant, or if the applicant is a business concern, by any officer, director, or partner of the business concern.

- (b) In lieu of the statement specified in subdivision (a), a corporation, the stock of which is listed on a national securities exchange and registered under the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78a et seq.), or a subsidiary of such a corporation, may submit to the department copies of all periodic reports, including, but not limited to, those reports required by Section 78m of Title 15 of the United States Code and Part 229 (commencing with Section 229.10) of Chapter II of Title 17 of the Code of Federal Regulations which the corporation or subsidiary has filed with the Securities and Exchange Commission in the three years immediately preceding the submittal, if the corporation or subsidiary thereof has held a hazardous waste facility under interim status pursuant to Section 25200 or 25200.5 since January 1, 1984.
- SEC. 5. Section 25117.10 is added to the Health and Safety Code, to read:
- 25117.10. "License" includes, but is not limited to any, permit, registration, or certification issued by any local, state, or federal agency for the generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste.
- SEC. 6. Section 25118 of the Health and Safety Code is amended to read:
- 25118. "Person" means an individual, trust, firm, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, district, and the state or any department or agency thereof, and the federal government or any department or agency thereof to the extent permitted by law.
- SEC. 7. Section 25165 of the Health and Safety Code is amended to read:
- 25165. (a) A hazardous waste hauler's application for original and renewal registration shall be on a form provided by the department and shall be accompanied by the appropriate fees.
- (b) Any application for registration under this section shall be filed with the department. If the applicant is not a federal, state, or local agency, the application shall include a disclosure statement.
- SEC. 8. Section 25186.5 is added to the Health and Safety Code, to read:
- 25186.5. (a) In making a determination pursuant to Section 25186, the director may contact the Attorney General, the United States Department of Justice, the Environmental Protection Agency, or other agencies outside of the state which have, or have had, regulatory or enforcement jurisdiction over the applicant in

connection with any hazardous waste or hazardous materials activities.

- (b) Every hazardous waste licenseholder or applicant, other than a federal, state, or local agency, who is not otherwise required to file a disclosure statement on or before January 1, 1989, shall file a disclosure statement with the department on or before January 1, 1989.
- (c) If any of the information required to be included in a disclosure statement submitted to the department changes, or if any additional information should be added after the filing of the statement, the license holder or applicant shall provide that information to the department, in writing, within 30 days of the change or addition.
- (d) Any person submitting a disclosure statement shall pay a fee set by the department in an amount adequate to defray the costs of implementing this section, per person, officer, director, or partner required to be listed in the disclosure statement, in addition to any other fees required. The department shall deposit these fees in the Hazardous Waste Control Account. The fees shall be made available, upon appropriation by the Legislature, to cover the costs of conducting the necessary background searches.
- (e) Any person who knowingly makes any false statement or misrepresentation in a disclosure statement filed pursuant to the requirements of this chapter is, upon conviction, subject to the penalties specified in subdivision (a) of Section 25191.
- (f) The disclosure statement submitted pursuant to subdivision (b) is exempt from the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
- SEC. 9. Section 25200.4 is added to the Health and Safety Code, to read:
- 25200.4. Any application to use and operate a hazardous waste facility made pursuant to Section 25200, other than one submitted by a federal, state, or local agency, shall include a disclosure statement.
- SEC. 10. Section 25358.3 of the Health and Safety Code is amended to read:
- 25358.3. (a) Whenever the director determines that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance, the director may do any or all of the following:
- (1) Order any responsible party or parties to take appropriate removal or remedial action necessary to protect the public health and safety and the environment. No order under this section shall be made to an owner of real property solely on the basis of that ownership.
  - (2) Take or contract for any necessary removal or remedial action.
- (3) Request the Attorney General to secure relief that may be necessary to abate the danger or threat. The superior court of the

county in which the threat or danger occurs shall have jurisdiction to grant the relief which the public interest and equities of the case may require.

- (b) When the director determines that a release of a hazardous substance has occurred or is about to occur, the director may do any or all of the following:
- (1) Undertake those investigations, monitoring, surveys, testing, and other information gathering necessary to identify the existence, source, nature, and extent of the hazardous substances involved and the extent of danger to the public health or environment.
- (2) Undertake those planning, legal, fiscal, economic, engineering, architectural, and other studies or investigations which are necessary or appropriate to plan and direct response actions, to recover the cost of those actions, and to enforce this chapter.
- (c) Whenever there is a release or threatened release of a hazardous substance into the environment, the director may take or contract for any necessary removal or remedial action and may take or contract for any actions authorized by subdivision (b), in compliance with the provisions of this chapter, including, but not limited to, subdivision (b) of Section 25355.
- (d) Any person bidding for a contract specified in subdivision (c) shall submit a disclosure statement, as specified by Section 25112.5, except for a federal, state, or local agency. The director may prohibit a person from bidding on such a contract if the director makes any of the following determinations:
- (1) The director determines, in writing, that the bidder, or, if the bidder is a business entity, any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in or debt liability of that business entity, has engaged in activities resulting in any federal or state conviction which are significantly related to the fitness of the bidder to perform the bidder's duties or activities under the contract. For purposes of this paragraph, "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department may take pursuant to this subdivision relating to the department's refusal to permit a person to bid on the contract may be based upon a conviction for which any of the following has occurred:
  - (A) The time for appeal has elapsed.
  - (B) The judgment of conviction has been affirmed on appeal.
- (C) Any order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code permitting that person to withdraw the 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.
- (2) The director determines, in writing, that the bidder, or, if the bidder is a business entity, any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in or debt liability of that business entity, has violated or failed to comply with

this chapter or Chapter 6.5 (commencing with Section 25100) or Chapter 6.7 (commencing with Section 25280) of this division, the Porter-Cologne Water Quality Control Act (Division (commencing with Section 13000) of the Water Code), the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sec. 1801 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), or any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle Code, if the violation or failure to comply shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment.

(3) The director determines, in writing, that the bidder has had a license, permit, or registration for the generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste or hazardous substances revoked or suspended.

SEC. 11. The sum of two hundred forty thousand dollars (\$240,000) is hereby appropriated from the Hazardous Waste Control Account, without regard to fiscal years, to the State Department of Health Services, for the purpose of implementing Section 25186.5.

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

SEC. 13. 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 1305

An act to amend Sections 12520, 12520.5, and 12810.5 of, and to add Sections 612, 12519.5, and 12520.7 to, the Vehicle Code, relating to transportation.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

- SECTION 1. Section 612 is added to the Vehicle Code, to read: 612. "Tour bus" means a bus designed for carrying more than 16 passengers and the driver which is operated by or for a charter-party carrier of passengers, as defined in Section 5360 of the Public Utilities Code.
- SEC. 2. Section 12519.5 is added to the Vehicle Code, to read: 12519.5. (a) No person shall operate a tour bus unless that person has in his or her immediate possession a valid driver's license for the appropriate class of vehicle operated. When transporting one or more passengers, that person shall also have in his or her immediate possession a certificate to operate a tour bus issued by the department pursuant to subdivision (b).
- (b) The driver's certificate shall be issued only to applicants qualified by examinations prescribed and conducted by the department upon payment of a forty-one dollars (\$41) fee.
- (c) An operator of a tour bus shall, at all times when operating a tour bus, do all of the following:
  - (1) Use a safety belt.
- (2) Report any accidents involving the tour bus to the Department of the California Highway Patrol.
- (d) This section shall become operative on July 1, 1987. The department may establish implementation dates for this section by regulation in order to accomplish an orderly certification program.
- SEC. 3. Section 12520 of the Vehicle Code is amended to read: 12520. (a) The department shall deny any application for the issuance of a farm labor vehicle or tour bus driver's certificate made by any applicant who:
- (1) Has been convicted, within the three years next preceding the applicant's application for the certificate, of any violation involving felony hit-and-run driving, any violation of Section 23152 or 23153, or reckless driving, or whose driving privilege is or has been under suspension, revocation, or probation, by the department for a cause involving safe operation of a motor vehicle.
- (2) Because of excessive and continuous use of alcoholic beverages, is incapable of safely operating a motor vehicle.
- (3) Habitually or excessively uses or is addicted to the use of any drug.
  - (4) Does not meet minimum medical standards established or

approved by the department.

- (b) The department may deny a farm labor vehicle or tour bus driver's certificate to any applicant who:
- (1) Has been involved, within the two years next preceding his or her application, as a driver in any accident causing death or personal injury or damage to the property of any one person in excess of two hundred dollars (\$200).
- (2) Has been involved as a driver in three or more accidents within the 12-month period preceding his or her application.
- (3) Has been determined to be a reckless or incompetent driver. SEC. 4. Section 12520.5 of the Vehicle Code is amended to read: 12520.5. (a) The department shall revoke the farm labor vehicle or tour bus driver's certificate of any holder who after issuance of the certificate:
- (1) Is convicted of any violation involving felony hit-and-run driving, driving under the influence of an alcoholic beverage, reckless driving or has had his driving privilege suspended or revoked by the department for a cause involving the safe operation of a motor vehicle, or is found by the department to be a negligent operator.
- (2) Because of excessive and continuous use of alcoholic beverages, is incapable of safely operating a motor vehicle.
- (3) Habitually or excessively uses or is addicted to the use of any drug.
- (b) The department may revoke the farm labor vehicle or tour bus driver's certificate of any holder for any cause, whether existing before or after the issuance of the certificate, which would either authorize or require the department to refuse to issue a certificate.
- SEC. 5. Section 12520.7 is added to the Vehicle Code, to read: 12520.7. The department may refuse to issue, or may cancel, suspend, or revoke, a certificate to operate a tour bus if the applicant for, or holder of, a certificate does any of the following:
  - (1) Voluntarily requests cancellation.
- (2) Has his or her driving privilege suspended or revoked for a cause involving other than the safe operation of a motor vehicle.
- (3) Fails to meet the requirements for issuance and retention of a driver certificate, including, but not limited to, payment of the proper fee and submittal of an acceptable medical report.
- SEC. 6. 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, 12519.5, 12521, 12523, 12804.1, 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, 12519.5, 12521, 12523, 12804.1, 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.

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 1306

An act to amend Sections 768, 5373, and 5373.1 of, and to add Section 5380 to, the Public Utilities Code, to amend Sections 1808.1, 2807.2, 14601, 14601.1, 14601.2, 14601.3, 34506, and 40000.21 of, and to add Sections 612, 34500.1, 34501.3, 34501.4, 34505, 34505.1, 34513, and 40000.6 to, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. The Legislature finds and declares all of the following:

- (1) Recent bus accidents have called into question the adequacy of the existing regulatory scheme for buses in this state. Thirty passengers have been killed in bus accidents in California since 1984, with scores of other passengers injured. With deregulation of the bus industry, many new bus carriers have entered the market, some of which lack sufficient financial resources to adequately maintain their bus fleets in a safe and prudent manner.
- (2) Spot checks of tour buses by the California Highway Patrol have resulted in one of every four buses checked being removed from service as being too unsafe to drive. There is a need to check the safety of tour buses on an individual and systematic basis, similar to existing programs which help ensure proper maintenance of schoolbuses.
- (3) Coordination between the California Highway Patrol and the Public Utilities Commission is essential to expeditiously remove the operating authority of those tour bus companies which fail to keep their buses in safe operating condition. In addition, the adequacy of existing insurance requirements has been questioned following recent bus accidents.
  - SEC. 2. Section 768 of the Public Utilities Code is amended to

read:

- The commission may, after a hearing, require every public *76*8. utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. The commission may prescribe, among other things, the installation, use, maintenance, and operation of appropriate safety or other devices or appliances. including interlocking and other protective devices at grade crossings or junctions and block or other systems of signaling. The commission may establish uniform or other standards of construction and equipment, and require the performance of any other act which the health or safety of its employees, passengers, customers, or the public may demand. The Department of the California Highway Patrol shall have the primary responsibility for the regulation of the safety of operation of passenger stage corporations, highway common carriers, and other motor carriers. The commission shall cooperate with the Department of the California Highway Patrol to ensure safe operation of these carriers.
- SEC. 3. Section 5373 of the Public Utilities Code is amended to read:
- 5373. (a) Each annual application for a permit to act as a charter-party carrier of passengers pursuant to this chapter shall be accompanied by a filing fee of three hundred dollars (\$300). Each certificate to act as a charter-party carrier of passengers shall be accompanied by an annual renewal fee of three hundred dollars (\$300).
- (b) The commission shall also require each application to be accompanied by a fee to offset the cost of the charter-party carrier bus terminal inspections conducted by the Department of the California Highway Patrol. The fee shall be fifteen dollars (\$15) per tour bus, as defined in Section 612 of the Vehicle Code, or a maximum of six thousand five hundred dollars (\$6,500) for each operating carrier.
- (c) The commission shall deposit the fees collected pursuant to subdivision (b) in the Motor Vehicle Account in the State Transportation Fund.
- SEC. 4. Section 5373.1 of the Public Utilities Code is amended to read:
- 5373.1. (a) Each initial application for a certificate or permit shall be accompanied by a filing fee as follows:
  - (1) Class A certificates—five hundred dollars (\$500).
  - (2) Class B certificates—five hundred dollars (\$500).
  - (3) Permits—five hundred dollars (\$500).
- (b) The commission shall also require each initial application to be accompanied by a fee to offset the cost of the charter-party carrier bus terminal inspections conducted by the Department of the California Highway Patrol. The fee shall be fifteen dollars (\$15) per tour bus, as defined in Section 612 of the Vehicle Code, or a

maximum of six thousand five hundred dollars (\$6,500) for each operating carrier.

- (c) The commission shall deposit the fees collected pursuant to subdivision (b) in the Motor Vehicle Account in the State Transportation Fund.
- SEC. 5. Section 5380 is added to the Public Utilities Code, to read: 5380. (a) Upon notification by the Department of the California Highway Patrol that a charter-party carrier of passengers has failed to comply with the inspection requirements in the Vehicle Code, or has received an unsatisfactory terminal rating, the commission shall immediately deny, suspend, or revoke the carrier's permit or certificate.
- (b) Applications for reissue or reinstatement of a permit or certificate denied, suspended, or revoked pursuant to subdivision (a) shall be accompanied by a filing fee of five hundred dollars (\$500).
  - SEC. 6. Section 612 is added to the Vehicle Code, to read:
- 612. "Tour bus" means a bus designed for carrying more than 16 passengers and the driver which is operated by or for a charter-party carrier of passengers, as defined in Section 5360 of the Public Utilities Code.
- SEC. 7. Section 1808.1 of the Vehicle Code is amended to read: (a) The employer or prospective employer of a driver who drives a tour bus shall make a request to the department to participate in a notification process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, or driver's license revocations added to the driver's record while the employer's notification request remains valid and uncanceled. The employer or prospective employer of a driver who drives a vehicle requiring a certificate issued pursuant to Section 12524, 12804.1, or 12804.3 may, upon request, participate in the notification program. The request shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811.
- (b) An employer of a tour bus driver shall notify the department to cancel the request upon the termination of the driver's employment.
- (c) When an employer of a driver of a vehicle requiring a certificate issued pursuant to Section 12524, 12804.1, or 12804.3 no longer wishes to receive information pursuant to this section, the employer shall notify the department to cancel the request.
- (d) The operating carrier of a tour bus shall obtain a report of each employee who operates the bus and verify that the employee's operator's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been charged with a violation of Section 23152 or 23153. The

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- operating carrier shall obtain the report at least every six months except that an operating carrier who employs more than 500 tour bus drivers shall obtain the report no less than annually. The report shall be signed and dated by the owner and maintained at the principal place of business of the owner. The reports shall be presented upon demand to any authorized representative of the Department of the California Highway Patrol during the regular business hours of the owner.
- (e) An operating carrier of a tour bus, who, after receiving the report pursuant to subdivision (d), employs or continues to employ as a driver of a tour bus any person whose driver's license has been suspended or revoked, is guilty of a public offense, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.
- SEC. 8. Section 2807.2 of the Vehicle Code is amended to read: 2807.2. The Department of the California Highway Patrol shall, by regulation, provide for a preventive maintenance inspection guide for use by operators of tour buses and motor vehicles specified in Sections 2807 and 2807.1. The regulations shall provide that the record of inspection shall be signed by the person making the inspection, and the record of the inspections shall be retained on file by the operator for review and inspection by the Department of the California Highway Patrol.
- SEC. 9. Section 14601 of the Vehicle Code is amended to read: 14601. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103 or 23104, any reason listed in subdivisions (b) to (f), inclusive, of Section 12805 requiring the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810, and when the person so driving has knowledge of the suspension or revocation. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (b) Any person convicted under this section shall be punished as follows:
- (1) Upon a first conviction, by imprisonment in the county jail for not less than five days or more than six months and by fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000).
- (2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1 or 14601.2, by imprisonment in the county jail for not less than 10 days or more than one year and by fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).
- (c) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section

- 14601.1 or 14601.2 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.
- (d) Nothing in this section prohibits a person from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.
- SEC. 10. Section 14601.1 of the Vehicle Code is amended to read: 14601.1. (a) No person shall drive a motor vehicle when his or her driving privilege is suspended or revoked for any reason other than those listed in Section 14601 or 14601.2 and when the person so driving has knowledge of the suspension or revocation. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (b) Any person convicted under this section shall be punished as follows:
- (1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), or by both that fine and imprisonment.
- (2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601 or 14601.2, by imprisonment in the county jail for not less than five days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).
- (c) Nothing in this section prohibits a person from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.
- SEC. 11. Section 14601.2 of the Vehicle Code is amended to read: 14601.2. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153, and when the person so driving has knowledge of the suspension or revocation.
- (b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Article 2 (commencing with Section 23151) of Chapter 12 of Division 11, and when the person so driving has knowledge of the restriction.
- (c) Knowledge of suspension or revocation of the driving privilege shall be presumed if notice has been given by the department to the person and knowledge of restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.
  - (d) Any person convicted of a violation of this section shall be

punished as follows:

- (1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or more than six months and by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000).
- (2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601, by imprisonment in the county jail for not less than 30 days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).
- (e) If any person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.
- (f) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.
- (g) If any person is convicted of a second or subsequent offense which results in a conviction of this section within seven years, but over five years, of a prior offense which resulted in a conviction of a violation of this section or Section 14601 or 14601.1 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.
- (h) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.
- SEC. 12. Section 14601.3 of the Vehicle Code is amended to read: 14601.3. (a) It is unlawful for a person whose driving privilege has been suspended or revoked to accumulate a driving record history which results from driving during the period of suspension or revocation. A person who violates this subdivision is designated a habitual traffic offender.

For purposes of this section, a driving record history means any of the following, if the driving occurred during any period of suspension or revocation which resulted from a conviction of an offense or offenses of driving under the influence of alcohol or drugs, or both, or from negligent driving:

- (1) Two or more convictions within a 12-month period of an offense given a violation point count of two pursuant to Section 12810.
- (2) Three or more convictions within a 12-month period of an offense given a violation point count of one pursuant to Section 12810.
  - (3) Three or more accidents within a 12-month period that are

subject to the reporting requirements of Section 16000.

- (4) Any combination of convictions or accidents, as specified in paragraphs (1) to (3), inclusive, which results during any 12-month period in a violation point count of three or more pursuant to Section 12810.
- (b) Knowledge of suspension or revocation of the driving privilege shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (c) The department, within 30 days of receipt of a duly certified abstract of the record of any court or accident report which results in a person being designated a habitual traffic offender, may execute and transmit by mail a notice of that designation to the office of the district attorney having jurisdiction over the location of the person's last known address as contained in the department's records.
- (d) The district attorney, within 30 days of receiving the notice required in subdivision (c), shall inform the department of whether or not the person will be prosecuted for being a habitual traffic offender.
- (e) Any person convicted under this section of being a habitual traffic offender shall be punished as follows:
- (1) Upon a first conviction, by imprisonment in the county jail for 30 days and by a fine of one thousand dollars (\$1,000).
- (2) Upon a second or any subsequent offense within seven years of a prior conviction under this section, by imprisonment in the county jail for 180 days and by a fine of two thousand dollars (\$2,000).
- SEC. 13. Section 34500.1 is added to the Vehicle Code, to read: 34500.1. In addition to the duties imposed by Section 34500, the department shall regulate the safe operation of tour buses.
- SEC. 14. Section 34501.3 is added to the Vehicle Code, to read: 34501.3. (a) No motor carrier shall schedule a run nor permit nor require the operation of any motor vehicle subject to this division between points in a period of time which would necessitate the vehicle being operated at speeds greater than those prescribed by this code.
- (b) A logbook of a driver, which reflects a trip or trips between points within a period of time which would have necessitated excessive speed to complete, shall give rise to a rebuttable presumption that the driver exceeded the lawful speed limit.
- SEC. 15. Section 34501.4 is added to the Vehicle Code, to read: 34501.4. Any driver subject to the hours of service limitations and logbook requirements of this division, who is unable to produce upon request of a representative of the department any driver's logbook or is only able to produce an incomplete driver's log book for the prior 24-hour period, is rebuttably presumed to be in violation of the hours of service limitations in Sections 34501 and 34501.2.
  - SEC. 16. Section 34505 is added to the Vehicle Code, to read:
- 34505. (a) Tour bus operators shall, in addition to the systematic inspection, maintenance, and lubrication services required of all

motor carriers, require each tour bus to be inspected at least every 45 days, or more often if necessary to ensure safe operation. This inspection shall include, but not be limited to, all of the following:

- (1) Brake adjustment.
- (2) Brake system components and leaks.
- (3) Steering and suspension systems.
- (4) Tires and wheels.
- (b) A tour bus shall not be used to transport passengers until all defects listed during the inspection conducted pursuant to subdivision (a) have been corrected and attested to by the signature of the operator's authorized representative.
- (c) Records of inspections conducted pursuant to subdivision (a) shall be kept at the operator's maintenance facility or terminal where the tour bus is regularly garaged. The records shall be retained by the operator for one year, and shall be made available for inspection upon request by any authorized employee of the department. Each record shall include, but not be limited to, all of the following:
- (1) Identification of the vehicle, including make, model, license number, or other means of positive identification.
  - (2) Date and nature of each inspection and any repair performed.
- (3) Signature of operator's authorized representative attesting to the inspection and to the completion of all required repairs.
  - (4) Company vehicle number.
- SEC. 17. Section 34505.1 is added to the Vehicle Code, to read: 34505.1. Upon determining that a tour bus operator failed to complete and document an inspection required by this code, or that a tour bus operator's terminal is rated unsatisfactory, the department shall recommend to the Public Utilities Commission or the Interstate Commerce Commission that the carrier's operating authority be denied, suspended, or revoked, whichever is appropriate. The department shall retain a record, by operator, of every recommendation made pursuant to this section.
- SEC. 18. Section 34506 of the Vehicle Code is amended to read: 34506. It is a misdemeanor to fail to comply with any rule or regulation adopted by the Department of the California Highway Patrol pursuant to Sections 34501, 34501.5, 34508, or 34513 regarding any of the following:
  - (a) Hours of service of drivers.
  - (b) Hazardous material transportation.
- (c) Schoolbus constructions, design, color, equipment, maintenance, or operation.
  - (d) Youth bus equipment, maintenance, or operation.
  - (e) Tour bus equipment, maintenance, or operation.
  - SEC. 19. Section 34513 is added to the Vehicle Code, to read:
- 34513. The department shall adopt rules and regulations relating to the equipment and maintenance of tour buses.
- SEC. 20. Section 40000.6 is added to the Vehicle Code, to read: 40000.6. A violation of subdivision (d) of Section 1808.1, relating to tour buses, is a misdemeanor and not an infraction.

- SEC. 21. Section 40000.21 of the Vehicle Code is amended to read: 40000.21. A violation of any of the following provisions is a misdemeanor, and not an infraction:
- (a) Section 34506, subdivision (a), relating to the hours of service of drivers.
- (b) Section 34506, subdivision (b), relating to the transportation of hazardous materials.
  - (c) Section 34506, subdivision (c), relating to schoolbuses.
  - (d) Section 34506, subdivision (d), relating to youth buses.
- (e) Section 34505 or subdivision (e) of Section 34506, relating to tour buses.
- SEC. 22. The Department of Motor Vehicles shall perform a study of class 1 and class 2 drivers licenses and report the results of the study to the Legislature on or before January 1, 1988. The study shall examine a statistically valid random sample of all class 1 and class 2 drivers to provide the following information, on an anonymous basis:
  - (1) The frequency of records under aliases or similar names.
- (2) The frequency of duplicate licenses of the same or different classes.
- (3) The frequency of so-called "x-files" for unidentified drivers of this license class.
- (4) An analysis of the point counts for the drivers, and a listing of driving under the influence convictions.

The department may utilize thumb prints or other information to ensure the identity of the drivers selected.

- SEC. 23. (a) The Public Utilities Commission shall, on or before January 1, 1988, review and adjust the amount of insurance required pursuant to Sections 1040 and 5391 of the Public Utilities Code for tour bus operators to an amount which is sufficient to provide for ability to respond in damages for injury, medical, and liability to passengers and others.
- (b) The Public Utilities Commission shall also adopt standards which ensure that all bus carriers subject to its jurisdiction have sufficient financial resources to properly and safely maintain their buses, and that those carriers with insufficient resources do not receive an extension of their operating authority.
- (c) The Public Utilities Commission shall examine whether passenger stage corporations should be included in the program established by this act.
- (d) The commission shall report to the Legislature on or before January 1, 1988, on the action it has taken, or plans to take, and on any recommendations regarding this section which may require legislation.
- 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.

- SEC. 25. There is hereby appropriated the sum of one hundred fifty-four thousand dollars (\$154,000) for the purposes of this act for allocation as follows:
- (a) From the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles, the sum of ninety-two thousand dollars (\$92,000).
- (b) From the Public Utilities Commission Transportation Reimbursement Account in the General Fund to the Public Utilities Commission, the sum of sixty-two thousand dollars (\$62,000).

### CHAPTER 1307

An act to amend Section 69104 of the Government Code, relating to courts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 69104 of the Government Code is amended to read:

69104. The Court of Appeal for the Fourth Appellate District consists of three divisions. One division shall hold its regular sessions at San Diego and shall have six judges. One division shall hold its regular sessions in the San Bernardino/Riverside area and shall have four judges. One division shall hold its regular sessions in Orange County and shall have four judges.

SEC. 2. The Department of General Services shall work with the Court of Appeal of the Fourth Appellate District to ascertain the office space needs of the division now holding regular sessions in San Bernardino, and shall take appropriate measures based upon the convenience to the public in the San Bernardino/Riverside area and the Fourth Appellate District's program and operational requirements.

SEC. 3. There is hereby appropriated from the General Fund to the Court of Appeal for the Fourth Appellate District, in augmentation of Item 0250-001-001 (b) of the Budget Act of 1986, the sum of two hundred seventy-five thousand dollars (\$275,000) for costs associated with the relocation of the Second Division thereof within the San Bernardino/Riverside area.

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 is necessary to solve the space and security problems of the

Court of Appeal for the Fourth Appellate District in its present location by facilitating relocation to larger quarters.

### CHAPTER 1308

An act to amend Section 25170 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 25170 of the Health and Safety Code is amended to read:

25170. The department, in performing its duties under this chapter, shall do all of the following:

(a) Coordinate research and development regarding methods of hazardous waste handling, storage, use, processing, and disposal and may conduct appropriate studies relating to hazardous wastes.

(b) Maintain a technical reference center on hazardous waste management practices, including, but not limited to, hazardous waste disposal, recycling practices, and related information for

public and private use.

- (c) Establish and maintain a toll-free Toxic Substances Hotline, operating during the regular working hours of the department, to provide information on hazardous waste or appropriate referrals on other toxic substances to the regulated community and the public. The department shall coordinate the Toxic Substances Hotline program with other programs that provide information on hazardous wastes and other toxic substances, including, but not limited to, the technical reference center established pursuant to subdivision (b).
- (d) Provide statewide planning for hazardous waste facility site identification and assessment and render technical assistance to state and local agencies in the planning and operation of hazardous waste programs.

(e) Provide for appropriate surveillance of hazardous waste processing, use, handling, storage, and disposal practices in the state.

- (f) Coordinate research and study in the technical and managerial aspects of management and use of hazardous wastes, and recycling and recovery of resources from hazardous wastes.
- (g) Determine existing and expected rates of production of hazardous waste.
- (h) Investigate market potential and feasibility of use of hazardous wastes and recovery of resources from hazardous wastes.
- (i) Promote recycling and recovery of resources from hazardous wastes.
  - (j) Conduct studies for the purpose of improving departmental

operations.

- (k) Encourage the reduction or exchange, or both, of hazardous waste, including, but not limited to, publishing and distributing both of the following:
- (1) Lists of hazardous wastes for the purpose of enabling persons to match the constituents of hazardous waste streams with needs for hazardous materials resources.
- (2) Directories of known and permitted commercial hazardous waste recyclers in the state.
- (l) Establish and maintain an information clearinghouse, which shall consist of a record of wastes which may be recyclable. Every producer of hazardous waste shall supply the department with information for the clearinghouse. Each producer shall not be required to supply any more information than is required by the manifests provided for in Section 25160. The department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.
- (m) Conduct pilot projects, as appropriate, to document the technical performance of emerging technologies which offer potential for ameliorating California's hazardous waste disposal problems.
- (n) Develop and implement an industry education program which shall emphasize small business education and shall include, but not be limited to, all of the following elements:
- (1) Preparation of a synopsis of laws and regulations relating to hazardous waste, which the department shall publish by January 1 of each year.
- (2) Publication of educational pamphlets for selected types of business explaining selected areas of the law, regulations, or programs concerning hazardous waste.
  - (3) Audio-visual training programs, as needed.
- (4) An annual California Hazardous Waste Management Symposium.

### CHAPTER 1309

An act to amend Section 984 of the Unemployment Insurance Code, relating to disability insurance, and making an appropriation therefor.

> [Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 984 of the Unemployment Insurance Code is amended to read:

- 984. (a) (1) Each worker shall pay worker contributions at the rate determined by the director pursuant to this section with respect to wages, as defined by Sections 926, 927, and 985. On or before October 31 of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of worker contributions for the calendar year and shall notify promptly all employers of employees covered for disability insurance of the rate.
- (2) Except as provided in paragraph (3), the rate of worker contributions for calendar year 1987 and for each subsequent calendar year shall be 1.45 times the amount disbursed from the Disability Fund during the 12-month period ending September 30 and immediately preceding the calendar year for which the rate is to be effective, less the amount in the Disability Fund on that September 30, with the resulting figure divided by total wages paid pursuant to Sections 926, 927, and 985 during the same 12-month period, and then rounded to the nearest one-tenth of 1 percent.
- (3) In no event shall the rate of worker contributions exceed 1 and two-tenths ercent or be less than one-tenth of 1 percent. For calendar year 1990, and for each subsequent calendar year, the rate of worker contributions shall not decrease from the rate in the previous year by more than two-tenths of 1 percent.
- (b) Worker contributions required under Sections 708 and 708.5 shall be at a rate determined by the director to reimburse the Disability Fund for unemployment compensation disability benefits paid and estimated to be paid to all employers and self-employed individuals covered by those sections. On or before November 30th of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of contributions for the succeeding calendar year for all employers and self-employed individuals covered under Sections 708 and 708.5 and shall notify promptly the employers and self-employed individuals of the rate. The rate shall be determined by dividing the estimated benefits paid in the prior year by the product of the annual remuneration deemed to have been received under Sections 708 and 708.5 and the estimated number of persons who were covered at any time in the prior year. The resulting rate shall be rounded to the next higher one-hundredth percentage point. The rate may also be reduced or increased by a factor estimated to maintain as nearly as practicable a cumulative zero balance in the funds contributed pursuant to Sections 708 and 708.5. Estimates made pursuant to this subdivision may be made on the basis of statistical sampling, or other method determined by the director.
- (c) The director's action in determining a rate under this section shall not constitute an authorized regulation.
- SEC. 2. It is the intent of the Legislature in enacting this act that the Director of Employment Development shall provide prompt and adequate notice to all employers of employees covered by disability insurance of the change in the worker contribution rate for

the 1987 calendar year as provided in Section 1 of this act. This notice shall be provided to employers on or before October 31, 1986, as required by Section 984 of the Unemployment Insurance Code.

### CHAPTER 1310

An act to amend Section 26749 of the Government Code, to amend Sections 987.2, 1037, 2621.5, and 4700.1 of, to add Chapter 6 (commencing with Section 4750) to Title 5 of Part 3 of, and to repeal Sections 4700 and 4700.5 of, the Penal Code, relating to prisoners costs.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986]

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

SECTION 1. Section 26749 of the Government Code is amended to read:

26749. The sheriff shall receive expenses necessarily incurred in conveying insane persons to and from the state hospitals and in conveying persons to and from the state prisons or other state institutions, or to other destinations for the purpose of deportation to other states, or in advancing actual traveling expenses to any person committed to a state institution who is permitted to report to an institution without escort, which expenses shall be allowed as provided by Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 of the Penal Code for cases subject to that chapter, and, otherwise, by the State Board of Control and paid by the state.

SEC. 2. Section 987.2 of the Penal Code is amended to read:

- 987.2. (a) In any case in which a person, including a person who is a minor, desires but is unable to employ counsel and in which counsel is assigned in the superior court, municipal court, or justice court to represent the person in a criminal trial, proceeding or appeal, the assigned counsel, in a county or city and county in which there is no public defender, or in a case in which the court finds that because of conflict of interest or other reasons the public defender has properly refused to represent the person accused, shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county.
- (b) The sum provided for in subdivision (a) may be determined by contract between the court and one or more responsible attorneys after consultation with the board of supervisors as to the total amount of compensation and expenses to be paid, which shall be within the amount of funds allocated by the board of supervisors for the cost of assigned counsel in such cases.
  - (c) In counties that utilize an assigned private counsel system as

either the primary method of public defense or as the method of appointing counsel in cases where the public defender is unavailable, the county, the courts, or the local county bar association working with the courts are encouraged to do all of the following:

- (1) Establish panels that shall be open to members of the State Bar of California.
- (2) Categorize attorneys for panel placement on the basis of experience.
- (3) Refer cases to panel members on a rotational basis within the level of experience of each panel, except that a judge may exclude an individual attorney from appointment to an individual case for good cause.
- (4) Seek to educate those panel members through an approved training program.
- (5) Establish a cost-efficient plan to insure maximum recovery of costs pursuant to Section 987.8.
- (d) The county may recover costs of public defender services under Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 for any case subject to Section 4750.
- (e) Counsel shall be appointed to represent, in the municipal or justice court, a person who desires but is unable to employ counsel, when it appears that such appointment is necessary to provide an adequate and effective defense for the defendant.
  - SEC. 3. Section 1037 of the Penal Code is amended to read:
- 1037. (a) When a court orders a change of venue to another county all costs incurred by that county, which are not payable pursuant to Section 4750, for the transfer, preparation and trial of the action, the guarding, keeping and transportation of the prisoner, any appeal or other proceeding relating to the action and execution of the sentence shall be a charge against the county in which the action originated.
- (b) Claim for the costs described in subdivision (a) shall be forwarded to the treasurer and auditor of the county in which the action originated and the treasurer shall pay the amount of such costs out of the general funds of the county.
- (c) The term "all costs" means all reasonable and necessary costs incurred by the county as a result of the change of venue which would not have been incurred but for the change, and does not include normal salaries, overhead, and other expenses which would have been incurred by the county in any event.
  - SEC. 4. Section 2621.5 of the Penal Code is amended to read:
- 2621.5. The provisions of Sections 2620 and 2621 which impose a charge upon the counties shall not apply to cases coming within the provisions of Section 4750.
  - SEC. 5. Section 4700 of the Penal Code is repealed.
  - SEC. 6. Section 4700.1 of the Penal Code is amended to read:
- 4700.1. For any trial or hearing referred to in Section 4750, the sheriff of the county where such trial or hearing is had and the person in charge of the prison may agree that the county shall transport

prisoners in a state prison to and from such prison. Upon such agreement, the county, and not the Department of Corrections, shall perform the transportation referred to in this section.

SEC. 7. Section 4700.5 of the Penal Code is repealed.

SEC. 8. Chapter 6 (commencing with Section 4750) is added to Title 5 of Part 3 of the Penal Code, to read:

## CHAPTER 6. LOCAL EXPENSES

- 4750. A city or county shall be entitled to reimbursement for reasonable and necessary costs connected with state prisons or prisoners in connection with any of the following:
- (a) Any crime committed at a state prison, whether by a prisoner, employee, or other person.
- (b) Any hearing on any return of a writ of habeas corpus prosecuted by or on behalf of a prisoner.
  - (c) Any trial or hearing on the question of the sanity of a prisoner.
- (d) Any costs not otherwise reimbursable under Section 1557 or any other related provision in connection with any extradition proceeding for any prisoner released to hold.
- (e) Any costs incurred by a coroner in connection with the death of a prisoner.
- (f) Any costs incurred in transporting a prisoner within the host county or as requested by the prison facility or incurred for increased security while a prisoner is outside a state prison.
  - 4751. Costs incurred include all of the following:
- (a) Costs of law enforcement agencies in connection with any matter set forth in Section 4750, including the investigation or evaluation of any of those matters regardless of whether a crime has in fact occurred, a hearing held, or an offense prosecuted.
- (b) Costs of any trial or hearing of any matter set forth in Section 4750, including costs for the preparation of the trial, pretrial hearing, actual trial or hearing, expert witness fees, the costs of guarding or keeping the prisoner, the transportation of the prisoner, the costs of appeal, and the execution of the sentence. The cost of detention in a city or county correctional facility shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.
- (c) The costs of the prosecuting attorney in investigating, evaluating, or prosecuting cases related to any matter set forth in Section 4750, whether or not the prosecuting attorney decides to commence legal action.
- (d) Costs incurred by the public defender or court appointed attorney with respect to any matter set forth in Section 4750.
- (e) Any other costs reasonably incurred by a county in connection with any matter set forth in Section 4750.
- 4752. As used in this chapter, reasonable and necessary costs shall be based upon all operating costs, including the cost of elected officials while serving in line functions and including all

administrative costs associated with providing the necessary services and securing reimbursement therefor. Administrative costs include a proportional allowance for overhead determined in accordance with current accounting practices.

4753. A city or county shall designate an officer or agency to prepare a statement of costs that shall be reimbursed under this chapter.

The statement shall be sent to the Controller for approval. The Controller shall reimburse the city or county within 60 days after receipt of the statement or provide a written statement as to the reason for not making reimbursement at that time.

- 4754. As used in this chapter, "prisoner" means any person committed to a state prison, including a person who has been transferred to any other facility, has escaped, or is otherwise absent, but does not include a person while on parole.
- 4755. Whenever a person has entered upon a term of imprisonment in a penal or correctional institution, and whenever during the continuance of the term of imprisonment there is a detainer lodged against the prisoner by a law enforcement or prosecutorial agency of the state or its subdivisions, the Department of Corrections may do either of the following:
- (a) Release the inmate to the agency lodging the detainer, within seven days prior to the scheduled release date provided the inmate is kept in custody until the scheduled release date.
- (b) Retain the inmate in custody up to seven days after the scheduled release date to facilitate pickup by the agency lodging the detainer.
- SEC. 9. 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 1311

An act to add Section 4105 to the Food and Agricultural Code, relating to the California Museum of Science and Industry.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. Section 4105 is added to the Food and Agricultural Code, to read:

4105. Notwithstanding any other provision of law, from

December 14 to December 21, inclusive, of any year, the California Museum of Science and Industry may not charge parking fees for the parking facilities surrounding the Los Angeles Memorial Coliseum when an event is being held at the facilities of the museum by a private nonprofit charitable organization for the purpose of collection and distribution of toys and food.

## CHAPTER 1312

An act to amend Section 233 of, and to add and repeal Section 1271.2 of, the Health and Safety Code, relating to honey, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) Honey is a safe and wholesome food for persons over one year of age.
- (b) Scientific research has concluded that honey fed to infants under one year of age can be one cause of the disease known as infant botulism.
- (c) While honey may contain spores known to cause infant botulism, these spores do not have any adverse health effects on persons over one year of age and are a naturally occurring phenomena and are not in any way the result of mishandling or adulteration of honey during its collection, storage, or packaging.

Therefore, it is the intent of the Legislature that any licensed facility that provides prenatal, birthing, or postnatal services is urged to provide to each patient receiving these services the educational pamphlet available pursuant to Section 1271.2 of the Health and Safety Code, regarding the danger of feeding honey to infants under one year of age.

- SEC. 2. Section 233 of the Health and Safety Code is amended to read:
- 233. The state department shall report to the Legislature on or before March 1, 1988, on the Infant Botulism Prevention Program. The report shall include all of the following:
- (a) The number of infants evaluated or treated for infant botulism.
  - (b) The identified causes of infant botulism.
- (c) Any measures developed to control and prevent infant botulism.
- (d) An evaluation of the effectiveness of these measures in preventing infant botulism.

- SEC. 3. Section 1271.2 is added to the Health and Safety Code, to read:
- 1271.2. (a) The state department shall prepare an educational pamphlet that describes the association between honey and the disease known as infant botulism and explains the danger of feeding honey to infants under one year of age, and may contract with entities representing California's honey industry for the preparation and printing of the pamphlet. The state department shall, upon request and at no charge, distribute the educational pamphlet to any health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2. The state department shall distribute the educational pamphlet to every local health department for purposes of dissemination to the public. The educational pamphlet shall be approved by the state department prior to its distribution, shall be available for distribution by March 1, 1987, and shall be printed in both English and Spanish.
- (b) The state department shall maintain active surveillance of infant botulism statewide in order to determine the effectiveness of these educational materials in decreasing the incidence of infant botulism.
- (c) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.
- SEC. 4. (a) The sum of forty-five thousand dollars (\$45,000) is hereby appropriated from the General Fund to the State Department of Health Services to cover the state department's preparation, printing, and distribution costs in complying with the requirements of Section 1271.2 of the Health and Safety Code.
- (b) It is the intent of the Legislature that ongoing funding for the preparation, printing, and distribution costs be provided through the annual Budget Act.

## CHAPTER 1313

An act to add and repeal Chapter 8 (commencing with Section 465) of Division 1 of the Business and Professions Code, relating to dispute resolution programs.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Chapter 8 (commencing with Section 465) is added to Division 1 of the Business and Professions Code, to read:

# CHAPTER 8. DISPUTE RESOLUTION PROGRAMS

# Article 1. Legislative Purpose

- 465. The Legislature hereby finds and declares all of the following:
- (a) The resolution of many disputes can be unnecessarily costly, time-consuming, and complex when achieved through formal court proceedings where the parties are adversaries and are subjected to formalized procedures.
- (b) To achieve more effective and efficient dispute resolution in a complex society, greater use of alternatives to the courts, such as mediation, conciliation, and arbitration should be encouraged. Community dispute resolution programs and increased use of other alternatives to the formal judicial system may offer less threatening. and more flexible forums for persons of all ethnic, racial, and socioeconomic backgrounds. These alternatives, among other things, can assist in the resolution of disputes between neighbors, some domestic disputes, consumer-merchant disputes, and other kinds of disputes in which the parties have continuing relationships. A noncoercive dispute resolution forum in the community may also prevention provide valuable and early intervention problem-solving resource to the community.
- (c) Local resources, including volunteers reflective of the diversity of the community and available public buildings should be utilized to achieve more accessible, cost-effective resolutions of disputes. Additional financial resources are needed to expand, stabilize, and improve existing programs and entities which sponsor alternative dispute resolution.
- (d) Courts, prosecuting authorities, law enforcement agencies, and administrative agencies should encourage greater use of alternative dispute resolution techniques whenever the administration of justice will be improved.
- (e) Counties should consider increasing the use of alternative dispute resolution in their operations as plans for court reform are developed and implemented.
- (f) The Judicial Council should consider, in redrafting or updating any of the official pleading forms used in the trial courts of this state, the inclusion of information on options for alternative dispute resolution.
- 465.5. It is the intent of the Legislature to permit counties to accomplish all of the following:
- (a) Encouragement and support of the development and use of alternative dispute resolution techniques.
- (b) Encouragement and support of community participation in the development, administration, and oversight of local programs designed to facilitate the informal resolution of disputes among members of the community.
  - (c) Development of structures for dispute resolution that may

serve as models for resolution programs in other communities.

- (d) Education of communities with regard to the availability and benefits of alternative dispute resolution techniques.
- (e) Encouragement of courts, prosecuting authorities, public defenders, law enforcement agencies, and administrative agencies to work in cooperation with, and to make referrals to, dispute resolution programs.

At the time that the state assumes the responsibility for the funding of California trial courts, consideration shall be given to the Dispute Resolution Advisory Council's evaluation of the effectiveness of alternative dispute resolution programs and the feasibility of the operation of a statewide program of grants, with the intention of funding alternative dispute resolution programs on a statewide basis.

### Article 2. Definitions

466. As used in this chapter:

- (a) "Dispute resolution" includes, but is not limited to, mediation, conciliation, and arbitration.
  - (b) "Program" means an entity that provides dispute resolution.
- (c) "Advisory Council" means the Dispute Resolution Advisory Council.

# Article 3. Establishment and Administration of Programs

467. (a) There is in the Department of Consumer Affairs a Dispute Resolution Advisory Council, consisting of seven persons, five of whom 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.

At least four of the persons appointed to the advisory council shall be active members of the State Bar of California, and at least four persons appointed to the advisory council shall have a minimum of two years of direct experience in utilizing dispute resolution techniques. The members of the advisory council shall reflect the racial, ethnic, sexual, and geographic diversity of the State of California.

The members of the advisory council shall not receive a salary for their services but shall be reimbursed for their actual and necessary travel and other expenses incurred in the performance of their duties.

The advisory council shall adopt rules and regulations to effectuate the purposes of this chapter, including, but not limited to, guidelines to be used by the programs for the recruitment and training of persons conducting dispute resolution, and provisions for periodic monitoring and evaluation of the programs funded pursuant to this chapter. The advisory council shall establish guidelines to evaluate the performance of participating programs, which shall include analysis of court caseload reduction, cost saving to the state, the efficacy of the programs, and the feasibility of operation of a statewide program of grants at the time the state assumes the responsibility for the funding of trial courts.

The advisory council shall complete its duties no later than January 1, 1989.

- (b) Counties may establish a program of grants to public entities and nonpartisan nonprofit corporations for the establishment and continuance of programs to be operated under the requirements of this chapter and the standards developed by the advisory council.
- 467.1. A program funded pursuant to this chapter shall be operated pursuant to contract with the county and shall comply with all of the requirements of this chapter.
- 467.2. A program shall not be eligible for funding under this chapter unless it meets all of the following requirements:
- (a) Compliance with this chapter and the applicable rules and regulations of the advisory council.
- (b) Provision of neutral persons adequately trained in conflict resolution techniques as required by the rules and regulations promulgated by the advisory council pursuant to Section 471.
- (c) Provision of dispute resolution, on a sliding scale basis, and without cost to indigents.
- (d) Provision that, upon consent of the parties, a written agreement or an award resolving a dispute will be issued setting out a settlement of the issues involved in the dispute and the future responsibilities of each party.
- (e) Provision of neutral procedures applicable equally to all participants without any special benefit or consideration given to persons or entities providing funding for the programs.
- (f) Provision that participation in the program is voluntary and that the parties are not coerced to enter dispute resolution.
- (g) Provision of alternative dispute resolution is the primary purpose of the program.
- (h) Programs operated by counties that receive funding under this chapter shall be operated primarily for the purposes of dispute resolution, consistent with the purposes of this chapter.
- 467.3. Programs funded pursuant to this chapter shall provide persons indicating an intention to utilize the dispute resolution process with a written statement prior to the dispute resolution proceeding, in language easy to read and understand, stating all of the following:
  - (a) The nature of the dispute.
  - (b) The nature of the dispute resolution process.
- (c) The rights and obligations of the parties, including, but not limited to, all of the following:
  - (1) The right to call and examine witnesses.
- (2) The right of the parties to be accompanied by counsel, who may participate as permitted under the rules and procedures of the program.

- (d) The procedures under which the dispute resolution will be conducted.
- (e) If the parties enter into arbitration, whether the dispute resolution process will be binding.
- 467.4. (a) An agreement resolving a dispute entered into with the assistance of a program shall not be enforceable in a court nor shall it be admissible as evidence in any judicial or administrative proceeding, unless the consent of the parties or the agreement includes a provision that clearly states the intention of the parties that the agreement or any resulting award shall be so enforceable or admissible as evidence.
- (b) The parties may agree in writing to toll the applicable statute of limitations during the pendency of the dispute resolution process.
- 467.5. Any proceeding conducted by a program is subject to Section 1152.5 of the Evidence Code.
- 467.6. Each program shall maintain those statistical records required by Section 471.5, and as may be required by the county. The records shall maintain the confidentiality and anonymity of the parties.
- 467.7. (a) Unless the parties have agreed to a binding award, nothing in this chapter shall be construed to prohibit any person who voluntarily enters the dispute resolution process from revoking his or her consent, withdrawing from dispute resolution, and seeking judicial or administrative redress.
- (b) In cases in which a criminal complaint has been filed by a prosecutor, other than for an infraction, the advice of counsel shall be obtained before any dispute resolution process is initiated. Nothing in this subdivision shall be construed to preclude a defendant from knowingly and voluntarily waiving the right to counsel. A defendant who indicates a desire to waive the right to counsel shall be encouraged to consult with the public defender or private counsel before waiving that right.

# Article 4. Application Procedures

- 468. All funds available to a county for the purposes of this chapter shall be utilized for projects proposed by eligible programs.
- 468.1. Programs shall be selected for funding by a county from the applications submitted therefor.
- 468.2. Applications submitted for funding shall include, but need not be limited to, all of the following information:
  - (a) Evidence of compliance with Sections 467.2, 467.3, and 467.4.
- (b) A description of the proposed community area of service, cost of the principal components of operation, and any other characteristics, as determined by rules of the advisory council.
- (c) A description of available dispute resolution services and facilities within the defined geographical area.
- (d) A description of the applicant's proposed program, by type and purpose, including evidence of community support, the present

availability of resources, and the applicant's administrative capability.

- (e) A description of existing or planned cooperation between the applicant and local human service and justice system agencies.
- (f) A demonstrated effort on the part of the applicant to show the manner in which funds that may be awarded under this program may be coordinated or consolidated with other local, state, or federal funds available for the activities described in Sections 467.2, 467.3, and 467.4.
- (g) An explanation of the methods to be used for selecting and training mediators and other facilitators used in the dispute resolution process.
- (h) Such additional information as may be required by the county. 468.3. Data supplied by each applicant shall be used to assign relative funding priority on the basis of criteria developed by the advisory council. The criteria may include, but shall not be limited
- advisory council. The criteria may include, but shall not be limited to, all of the following, in addition to the criteria set forth in Section 468.2:
- (a) Unit cost, according to the type and scope of the proposed program.
  - (b) Quality and validity of the program.
  - (c) Number of participants who may be served.
  - (d) Administrative capability.
  - (e) Community support factors.

# Article 5. Payment Procedures

469. Upon the approval of the county, funds available for the purposes of this chapter shall be used for the costs of operation of approved programs. Not more than 10 percent of funds available for the purposes of this chapter shall be used to finance the administration of the program by a county with a population of 500,000 or more persons, and no more than 20 percent may be so used if its population is less than that amount. All moneys allocated for the purposes of this chapter shall be apportioned and distributed to programs in the county, taking into account the relative population and needs of a community as well as the availability of existing dispute resolution facilities offering alternatives to the formal judicial system. The methods of payment or reimbursement for dispute resolution costs shall be specified by the county and may vary among programs. All such arrangements shall conform to the regulations of the advisory council.

# Article 6. Funding

- 470. A county may accept and disburse funds from any public or private source for the purposes of this chapter.
- 470.1. (a) A grant recipient may accept funds from any public or private source for the purposes of this chapter.

- (b) A county and its representatives may inspect, examine, and audit the fiscal affairs of the programs and the projects funded under this chapter.
- (c) Programs shall, whenever reasonably possible, make use of public facilities at free or nominal costs.
- 470.2. A county's share of the funding pursuant to this chapter shall not exceed 50 percent of the approved estimated cost of the program.
- 470.3. A fee of not less than one dollar (\$1) and not more than three dollars (\$3) may be added to the total fees collected and fixed pursuant to Sections 26820.4, 26826, 26827, 68090, 72055, and 72056 of the Government Code for the filing of a first paper in a civil action in the superior court or the municipal court, other than a small claims action. These fees may be utilized for the support of the programs authorized by this chapter.

# Article 7. Rules and Regulations

- 471. The rules and regulations adopted by the advisory council pursuant to Section 471 shall be formulated to promote statewide uniformity with the guidelines contained in those rules and regulations.
- 471.5. Each program funded pursuant to this chapter shall annually provide the county with statistical data regarding its operating budget; the number of referrals, categories, or types of cases referred to the program; the number of persons served by the program; the number of disputes resolved; the nature of the disputes resolved; rates of compliance; the number of persons utilizing the process more than once; the duration of and the estimated costs of the hearings conducted by the programs; and such other information as the county may require. The data shall maintain the confidentiality and anonymity of the persons employing the dispute resolution process. to
- SEC. 2. This act 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, 1991, deletes or extends that date.
- SEC. 3. The Legislative Analyst shall make a progress report to the Legislature on or before March 1, 1988, regarding the implementation of this act.

### CHAPTER 1314

An act to amend Section 7003 of the Penal Code, and to amend Section 2.5 of Chapter 1549 of the Statutes of 1982, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 7003 of the Penal Code is amended to read: 7003. (a) For each facility included within its master plan, at least 30 days prior to submission pursuant to subdivision (b), the department shall submit the site plans and project planning guide which is to include preliminary staffing ratios, to the Joint Legislative Committee on Prison Construction and Operation for review.

The chairman may request a longer period of review if necessary for the committee and if feasible for compliance by the department.

(b) The department shall submit completed preliminary plans, proposed staffing patterns and proposed inmate work programs for all facilities included within its master plan, as defined in subdivision (b) of Section 7000, as soon as is practicable, but no later than 30 days prior to submission to the Public Works Board, to the Joint Legislative Committee on Prison Construction and Operation and the fiscal committees of the Senate and Assembly for review and approval. The department shall submit proposed staffing patterns at the time preliminary plans for inmate housing facilities are submitted. The department shall submit proposed inmate work-training programs at the time preliminary plans for the industrial vocational education buildings are submitted.

If each committee does not, by majority vote of the committee membership, approve the submittal, the Public Works Board shall not act upon the affected plans. If a committee fails to take any action with respect to the submitted plans within 45 days after submittal, this inaction shall be deemed to be approval for purposes of this section.

- SEC. 2. Section 2.5 of Chapter 1549 of the Statutes of 1982 is amended to read:
- Sec. 2.5. (a) The Joint Legislative Committee on Prison Construction and Operation is hereby created. The committee shall assume primary responsibility for providing close legislative scrutiny over prison construction and operation.
- (b) The committee shall consist of three Members of the Senate appointed by the Committee on Rules thereof, and three Members of the Assembly appointed by the Speaker thereof. The chairperson shall appoint staff persons who shall be able to inspect prison facilities and departmental documents except as otherwise provided by law.

- (c) The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.
- (d) This section shall remain in effect until January 1, 1993, and as of that date is repealed.
- SEC. 3. Notwithstanding any other provision of law, the Department of Corrections shall not construct any prisons or service facilities authorized by Section 1 of Chapter 1549 of the Statutes of 1982 until the department has submitted completed preliminary plans, proposed staffing patterns, and proposed inmate work programs to the Joint Legislative Committee on Prison Construction and Operation and the fiscal committees of the Senate and Assembly in concordance with Section 7003 of the Penal Code. Compliance with that section shall be in lieu of the review and approval requirement of Section 1 of Chapter 1549 of the Statutes of 1982.
- SEC. 4. The Legislature hereby authorizes the Department of Corrections to remedy structural and physical deficiencies at the California State Prisons at San Quentin and Folsom 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).
- SEC. 5. The sum of forty-seven million six hundred seventy-one thousand three hundred ten dollars (\$47,671,310) is appropriated to the Department of Corrections, as follows:
- (a) The sum of fourteen million one hundred thousand dollars (\$14,100,000) is appropriated from the 1986 Prison Construction Fund to the Department of Corrections for funding renovation activities on San Quentin State Prison. Those activities include cell and cell block repairs including day labor costs, inmate day labor support staff costs and construction support costs, kitchen repairs, laundry repairs, architectural and engineering services, and construction management services.

Notwithstanding any other provision of law, the Department of Corrections is authorized to solicit and award bids for the purposes specified in Section 4, provided that the bid requests shall specify that no obligation shall be incurred by the state pending approval by the electors of the New Prison Construction Bond Act of 1986.

(b) The sum of seventeen million seven hundred sixty-four thousand three hundred fifty dollars (\$17,764,350) is appropriated from the Special Account for Capital Outlay to the Department of Corrections for funding renovation activities on San Quentin State Prison. Those activities include cell and cell block repairs including day labor costs, inmate day labor support staff costs and construction support costs, kitchen repairs, laundry repairs, architectural and

engineering services, and construction management services.

(c) The sum of four million nine hundred ninety-three thousand nine hundred sixty dollars (\$4,993,960) is appropriated from the 1986 Prison Construction Fund for renovation of the food service facilities at the California State Prison at Folsom in order to comply with the 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).

Funds appropriated by this subdivision shall be available as necessary for master planning, architectural programming, schematics, preliminary plans, working drawings, construction and long lead items.

(d) The sum of ten million eight hundred thirteen thousand dollars (\$10,813,000) is appropriated from the General Fund to establish, effective September 1, 1986, 271.51 positions to meet the Toussaint v. McCarthy permanent court injunction mandates.

All positions created under this subdivision are of limited term, effective until July 1, 1987.

- (e) Funds appropriated by subdivisions (a) and (b) for inmate day labor support staff costs may be used to establish 16 positions and provide support funding for the supervision and operation of the inmate day labor activities of renovation activities at San Quentin State Prison. These positions shall be available for the duration of the day labor portion of this project.
- SEC. 6. The Department of Corrections shall report to the Legislature on the staffing and funding implications of vacating cells at San Quentin for purposes of renovation. Any savings resulting from these renovations shall revert to the General Fund.
- SEC. 7. Notwithstanding any other provision of law, seventeen million seven hundred sixty-four thousand three hundred fifty dollars (\$17,764,350) of the appropriations provided in Chapter 1121 of the Statutes of 1984, as amended by Chapter 1133 of the Statutes of 1984, and as reallocated by Chapter 1181 of the Statutes of 1985, is reverted to the Special Account for Capital Outlay, on the effective date of this act.
- 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:

It is essential to the public safety, and to comply with court orders, to remedy structural and physical deficiencies at the California State Prisons at San Quentin and Folsom at the earliest possible time. Thus, it is necessary that this act take effect immediately.

#### CHAPTER 1315

An act to add Section 58805 to the Education Code, relating to schools.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 58805 is added to the Education Code, to read:

- 58805. (a) The Superintendent of Public Instruction may enter into an interagency agreement with a consortium of two or more school districts to establish an academy of visual and performing arts to operate specialized secondary school programs in visual and performing arts that are conducted outside the regular schoolday, subject to this chapter.
- (b) The governing boards of any two or more school districts or county offices of education may enter into the consortium described in subdivision (a). The academy established by this section shall be governed, subject to the interagency agreement provided for by subdivision (a), by a five-member governing board which shall be made up of 3 members representing the consortium who shall be superintendents or their designees of school districts or county offices of education with the largest student participation; and two members appointed by the Foundation for the Academy of Performing and Visual Arts. The authority of the board to operate the academy shall include, but not be limited to, the following:
- (1) The appointment of a director to develop and administer the academy and the specialized secondary school programs operated by the academy.
- (2) The execution of an agreement with any urban campus of a college or university with a means for assisting in the development of similar programs at other campuses or universities on a statewide basis, for the use of the educational resources of that campus for the purposes of this section.
  - (3) Responsibility over the fiscal accountability of the academy.
- (c) For the purposes of subdivision (e) of Section 46300, the off-campus participation, by a pupil in any of the grades 9 to 12, inclusive, in any program of visual or performing arts operated under this section may be authorized as an independent study program in accordance with Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28. In no event shall a pupil concurrently enrolled in an independent study program and in a regular comprehensive high school or junior high school generate, for the purposes of Section 46300, more than one unit of average daily attendance per school year.

## CHAPTER 1316

An act to amend Section 21080.18 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 21080.18 of the Public Resources Code is amended to read:

21080.18. This division does not apply to the closing of any public school in which kindergarten or any of grades 1 through 12 is maintained or the transfer of students from that public school to another school if the only physical changes involved are categorically exempt under Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Administrative Code.

## CHAPTER 1317

An act to amend Section 4726 of the Civil Code, to add Section 15703 to the Government Code, and to amend Section 11476.2 of, to add Sections 11490 and 11491 to, and to repeal Sections 11490, 11491, and 11492 of, the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. The Legislature finds and declares that a recently enacted federal law, Public Law 98-378, provides for enhanced enforcement of child support orders. It is the intent of the Legislature in enacting this act to improve the enforcement of child support through the adoption of provisions contained in the federal law and through the rapid automation of child support enforcement in California.

SEC. 2. Section 4726 of the Civil Code is amended to read:

4726. Health insurance coverage for the supported children shall be maintained by either or both parents if that insurance is available at no cost or at nominal cost to the parent or parents. The district attorney shall seek the inclusion of a provision in the support order which provides for health insurance should it become available at no or nominal cost. This provision shall apply in all cases, irrespective of whether the award made is based on the mandatory minimum schedule or a higher amount based on a state or county schedule. Any

parent so responsible shall complete a form specifying his or her insurance coverage, which shall be forwarded to the State Department of Health Services in accord with Section 11490 of the Welfare and Institutions Code.

- SEC. 3. Section 15703 is added to the Government Code, to read: 15703. Notwithstanding any other provision of law, the Franchise Tax Board shall, upon the request of the district attorney, provide to that agency the address, in addition to the social security number, of an absent parent against whose personal income tax refund the agency has requested an offset for nonpayment of child support, if that information is required for the enforcement of a child support order.
- SEC. 4. Section 11476.2 of the Welfare and Institutions Code is amended to read:
- 11476.2. Annually, the county department shall provide to AFDC recipients or former recipients for whom an assignment pursuant to subdivision (a) of Section 11477 is currently effective, a notice of the amount of assigned support payments made on behalf of the recipient or former recipients or any other family member for whom aid is received.
- SEC. 5. Section 11490 of the Welfare and Institutions Code is repealed.
- SEC. 6. Section 11490 is added to the Welfare and Institutions Code, to read:
- 11490. (a) The state medical insurance form required in Section 4726 of the Civil Code shall include, but shall not be limited to, all of the following:
- (1) The parent or parents' names, addresses, and social security numbers.
  - (2) The name and address of each parent's place of employment.
- (3) The name or names, addresses, policy number or numbers, and coverage type of the medical insurance policy or policies of the parents, if any.
- (4) The name, AFDC case number, social security number, and Title IV-E foster care case number or Medi-Cal case numbers of the parents and children covered by the medical insurance policy or policies.
- (b) In any action brought or enforcement proceeding instituted by the district attorney under this article for payment of child or spousal support, a completed state medical insurance form shall be obtained and sent by the district attorney to the State Department of Health Services in the manner prescribed by the State Department of Health Services.

Where it has been determined under Section 4726 of the Civil Code that health insurance coverage is not available at no or nominal cost, the district attorney shall seek a provision in the support order which provides for health insurance coverage should it become available at no or nominal cost.

(c) (1) The district attorney shall request employers and other

groups offering health insurance coverage that is being enforced under this article to notify the district attorney if there has been a lapse in insurance coverage. The State Department of Health Services shall notify the district attorney when there has been a lapse in court-ordered insurance coverage.

(2) The district attorney shall take appropriate action, civil or criminal, to enforce the obligation to obtain health insurance when there has been a lapse in insurance coverage or failure by the responsible parent to obtain insurance as ordered by the court.

(3) The district attorney shall inform all individuals upon their application for child support enforcement services that medical

support enforcement services are available.

If the spouse or child does not receive public assistance or aid and is not a Medi-Cal applicant or recipient, the district attorney shall obtain the applicant's consent prior to providing medical support enforcement services.

- SEC. 7. Section 11491 of the Welfare and Institutions Code is repealed.
- SEC. 8. Section 11491 is added to the Welfare and Institutions Code, to read:
- 11491. The State Department of Social Services shall, by February 1, 1987, submit a proposal to the Legislature for the provision of assistance to counties that experience a decrease in federal incentive payments as a result of Public Law 98-378. The proposal shall be consistent with the provisions of Public Law 98-378. The department shall consider the feasibility of paying an additional state incentive to counties for collections received during the transitional period of October 1, 1985, to June 30, 1987.
- SEC. 9. Section 11492 of the Welfare and Institutions Code is repealed.
- SEC. 10. 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 1318

An act to amend Section 1250.8 of the Health and Safety Code, relating to long-term health care.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 1250.8 of the Health and Safety Code is amended to read:

- 1250.8. (a) Notwithstanding subdivision (a) of Section 437.10, the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single consolidated license shall not be issued where the separate freestanding physical plant is a skilled nursing facility or an intermediate care facility, whether or not the location of the skilled nursing facility or intermediate care facility is contiguous to the general acute care hospital unless the hospital is exempt from the requirements of subdivision (b) of Section 1254, or the facility is part of the physical structure licensed to provide acute care.
- (b) The issuance of a single consolidated license shall be based on the following criteria:
- (1) There is a single governing body for all of the facilities maintained and operated by the licensee.
- (2) There is a single administration for all of the facilities maintained and operated by the licensee.
- (3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.
- (4) The physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more than 15 miles apart. However, the director may issue a single consolidated license to a general acute care hospital which maintains and operates two or more physical plants which are located beyond 15 miles if all of the following exist:
- (A) One or more physical plants are located in a rural area, as defined by regulations of the director.
- (B) The director finds, after consultation with the Director of the Office of Statewide Health Planning and Development, that the issuance of the single consolidated license for the general acute care hospital would not significantly impair the operation of Part 1.5 (commencing with Section 437) of Division 1.
- (C) The director finds that the licensee can comply with the requirements of licensure and maintain the provision of quality care, and adequate administrative and professional supervision.
- (c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee.
- (d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:
- (1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.
  - (2) Shall not transfer, in whole or in part, from one facility to

another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render such estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

- (3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:
- (A) A cost estimate, certified by a person qualified by experience or training to render such estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.
- (B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transferor facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

- (e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.
- (f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.
  - (g) For purposes of selective provider contracts negotiated under

the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

- (h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.
- (i) The amendments made to this section during the 1985–86 Regular Session of the California Legislature pertaining to the issuance of a single consolidated license to a general acute care hospital in the case where the separate physical plant is a skilled nursing facility or intermediate care facility shall not apply to the following facilities:
- (1) Any facility which obtained a certificate of need after August 1, 1984, and prior to February 14, 1985, as described in this subdivision. The certificate of need shall be for the construction of a skilled nursing facility or intermediate care facility which is the same facility for which the hospital applies for a single consolidated license, pursuant to subdivision (a).
- (2) Any facility for which a single consolidated license has been issued pursuant to subdivision (a), as described in this subdivision, prior to the effective date of the amendments made to this section during the 1985-86 Regular Session of the California Legislature.

Any facility which has been issued a single consolidated license pursuant to subdivision (a), as described in this subdivision, shall be granted renewal licenses based upon the same criteria used for the initial consolidated license.

SEC. 2. The changes to Section 1250.8 of the Health and Safety Code enacted during the 1985–86 Regular Session of the Legislature shall not apply to any project for which a certificate of need was issued prior to January 1, 1987, nor shall it apply to any project for which an application for licensure is submitted prior to January 1, 1987. Licensing decisions on projects referred to in this section shall be based upon Section 1250.8 of the Health and Safety Code as it existed on December 31, 1986.

### CHAPTER 1319

An act making an appropriation for the payment of claims against the State of California, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

- SECTION 1. The sum of four hundred thirty-five thousand dollars (\$435,000) is hereby appropriated from the General Fund to the Department of Justice, to be allocated in accordance with the following schedule:
- (a) Three hundred thousand dollars (\$300,000) to pay the settlement in the interrelated actions generally known as the McColl Toxic Dumpsite Litigation, of which the lead case is captioned Glen Cosman et al. v. State of California et al., Case No. 37-48-02, brought in the Superior Court of the State of California in and for the County of Orange.
- (b) One hundred thirty-five thousand dollars (\$135,000) to pay the settlement in the action captioned Doyle v. State of California et al., Case No. H 102025-0, brought in the Superior Court of the State of California in and for the County of Alameda.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

## CHAPTER 1320

An act to amend Section 1250 of, and to add Section 1250.9 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness,

physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

- (a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises, as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.
- (b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.
- (c) "Skilled nursing facility" means a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. However, this subdivision shall not be construed to restrict the use of skilled nursing facilities participating in a demonstration project described in Section 1250.9.
- (d) "Intermediate care facility" means a health facility which provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.
- (e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

- (f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.
- (g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.
- (h) "Intermediate care facility/developmentally disabled—nursing" means a facility with a capacity of four to six beds which provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.
- SEC. 2. Section 1250.9 is added to the Health and Safety Code, to read:
- 1250.9. (a) The Office of Statewide Health Planning and Development shall conduct a demonstration project to evaluate the accommodation of postsurgical care patients for periods not exceeding two days, except that the attending physician may require that the stay be extended to no more than three days.
- (b) The demonstration project shall operate for a period not to exceed three years, for no more than six facilities, one of which shall be located in Fresno County.
- (c) (1) The office shall establish standards for participation, commensurate with the needs of postsurgical care patients requiring temporary nursing services following outpatient surgical procedures.
- (2) In preparing the standards for participation, the office may, as appropriate, consult with the department and with a technical advisory committee which may be appointed by the Director of Statewide Health Planning and Development. The committee shall have no more than seven members, all of whom shall be experts in health care, as determined by the director.
- (3) If a technical advisory committee is established by the director, members of the committee shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.
- (d) Within one year after the conclusion of the demonstration project, the office shall submit an evaluation of the demonstration project to the Legislature on the effectiveness and safety of the demonstration project in providing recovery services to patients receiving outpatient surgical services. The office, as part of the evaluation, shall include recommendations regarding the

establishment of a new license catagory or amendment of existing licensing standards.

- (e) The office shall establish and administer the demonstration project in facilities with no more than 20 beds which continuously meet the standards of skilled nursing facilities licensed under subdivision (c) of Section 1250, except that the office may, as appropriate and unless a danger to patients would be created, eliminate or modify the standards.
- (f) The department shall issue a facility identification number to each facility selected for participation in the demonstration project.
- (g) Persons who wish to establish freestanding recovery care programs shall make application to the office for inclusion in the pilot program. Applications shall be made on forms provided by the office and shall contain sufficient information determined as necessary by the office.
- (h) As a condition of participation in the pilot program, each applicant shall agree to provide statistical data and patient information that the office deems necessary for effective evaluation. It is the intent of the Legislature that the office shall develop procedures to assure the confidentiality of patient information and shall only disclose patient information, including name identification, as is necessary pursuant to this section or any other law.
- (i) Any authorized officer, employee, or agent of the office or the state department may, upon presentation of proper identification, enter and inspect any building or premises and any records, including patient records, of a pilot project participant at any reasonable time to review compliance with, or to prevent any violation of, this section or the regulations and standards adopted thereunder.
- (j) The office may suspend or withdraw approval of any or all pilot projects with notice, but without hearing if it determines that patient safety is being jeopardized.
- (k) The office may charge applicants and participants in the program a reasonable fee, not to exceed fifteen thousand dollars (\$15,000) per site per year to cover its actual cost of administering the pilot program and the cost of any committee created under this section. The costs of the office and the committee under this section shall not exceed the amount of the fees.
- (1) The office may contract with a medical consultant or other advisors as necessary, as determined by the office. Due to the necessity to expedite the demonstration project and its extremely specialized nature, the contracts shall be exempt from the provisions of Section 10373 of the Public Contract Code, and shall be considered sole-source contracts.
- (m) The office may adopt emergency regulations to implement this section in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and (g) of that section. The

regulations shall be deemed an emergency for the purposes of Section 11346.1.

### CHAPTER 1321

An act to amend Sections 676 and 678 of, and to add Sections 675.5, 676.2, 676.5, 677.2, and 678.1 to, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 675.5 is added to the Insurance Code, to read:

- 675.5. (a) In addition to any policy of insurance specified in Section 675, this chapter shall apply to policies of commercial insurance issued or issued for delivery in this state which are issued and take effect or are renewed on or after January 1, 1987.
- (b) As used in this section, commercial insurance means commercial multiperil, commercial property, commercial liability, commercial special multiperil, commercial comprehensive multiperil, errors and omissions liability, and professional liability insurance, and any other insurance not included in subdivision (d) which covers any of the following contingencies:
- (1) Loss of or damage to real property used or owned by a commercial or industrial enterprise.
- (2) Loss of or damage to personal property, except personally owned motor vehicles, used in the conduct of a commercial or industrial enterprise.
- (3) Legal liability of any person for loss of, damage to, or injury to persons or property, arising from the conduct of a commercial or industrial enterprise.
- (c) As used in this section, the term commercial or industrial enterprise includes a business operated for profit, a professional practice, a nonprofit organization, or a governmental entity.
- (d) As used in this section, the term commercial insurance does not include any of the following:
  - (1) Worker's compensation insurance.
- (2) Insurance provided pursuant to the California FAIR plan or the California automobile assigned risk plan.
  - (3) Disability insurance.
- (4) Automobile insurance covered by Section 660 and property insurance covered by Section 675.
  - (5) Ocean marine insurance.
  - (6) Fidelity and surety insurance.
  - (7) Surplus line insurance.

- (8) Reinsurance.
- (9) Any insurance, other than professional liability insurance for malpractice, errors, or omissions, for which premiums are determined on a retrospective rating basis.
  - (10) Nuclear liability insurance.
  - (11) Nuclear property insurance.
  - SEC. 2. Section 676 of the Insurance Code is amended to read:
- 676. After a policy specified in Section 675 has been in effect for 60 days, or, if the policy is a renewal, effective immediately, no notice of cancellation shall be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following:
- (a) Nonpayment of premium, including nonpayment of any additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use.
- (b) Conviction of the named insured of a crime having as one of its necessary elements an act increasing any hazard insured against.
- (c) Discovery of fraud or material misrepresentation by either of the following:
- (1) The insured or his or her representative in obtaining the insurance.
- (2) The named insured or his or her representative in pursuing a claim under the policy.
- (d) Discovery of grossly negligent acts or omissions by the insured or his or her representative substantially increasing any of the hazards insured against.
- (e) Physical changes in the insured property which result in the property becoming uninsurable.
  - SEC. 3. Section 676.2 is added to the Insurance Code, to read:
- 676.2. (a) This section applies only to policies of commercial insurance which are subject to Section 675.5.
- (b) After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately, no notice of cancellation shall be effective unless it complies with Section 677.2 and it is based on the occurrence, after the effective date of the policy, of one or more of the following:
- (1) Nonpayment of premium, including payment due on a prior policy issued by the insurer and due during the current policy term covering the same risks.
- (2) A judgment by a court or an administrative tribunal that the named insured has violated any law of this state or of the United States having as one of its necessary elements an act which materially increases any of the risks insured against.
- (3) Discovery of fraud or material misrepresentation by either of the following:
- (A) The insured or his or her representative in obtaining the insurance.
- (B) The named insured or his or her representative in pursuing a claim under the policy.

- (4) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by the named insured or his or her representative, which materially increase any of the risks insured against.
- (5) Failure by the named insured or his or her representative to implement reasonable loss control requirements which were agreed to by the insured as a condition of policy issuance or which were conditions precedent to the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.
- (6) A determination by the commissioner that the loss of, or changes in, an insurer's reinsurance covering all or part of the risk would threaten the financial integrity or solvency of the insurer. A certification made under penalty of perjury to the commissioner by an officer of the insurer of the loss of, or change in, reinsurance and that the loss or change will threaten the financial integrity or solvency of the insurer if the cancellation of the policy is not permitted shall constitute such a determination unless disapproved by the commissioner within 30 days of the filing. There shall be no extensions to this 30-day period.
- (7) A determination by the commissioner that a continuation of the policy coverage would place the insurer in violation of the laws of this state or the state of its domicile or that the continuation of coverage would threaten the solvency of the insurer.
- (8) A change by the named insured or his or her representative in the activities or property of the commercial or industrial enterprise which results in a material added risk, a materially increased risk or a materially changed risk, unless the added, increased, or changed risk is included in the policy.
- (c) After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately upon renewal, no increase in the rate upon which the premium is based, reduction in limits, or change in the conditions of coverage shall be effective during the policy period unless a written notice is mailed or delivered to the named insured and the producer of record at the mailing address shown on the policy, at least 30 days prior to the effective date of the increase, reduction, or change. Subdivision (a) of Section 1013 of the Code of Civil procedure is applicable if the notice is mailed. The notice shall state the effective date of, and the reasons for, the increase, reduction, or change.

That increase, reduction or change shall not be effective unless based upon one of the following reasons:

- (1) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards by the named insured which materially increase any of the risks or hazards insured against.
- (2) Failure by the named insured to implement reasonable loss control requirements which were agreed to by the insured as a condition of policy issuance or which were conditions precedent to

the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.

- (3) A determination by the commissioner that loss of or changes in an insurer's reinsurance covering all or part of the risk covered by the policy would threaten the financial integrity or solvency of the insurer unless the change in the terms or conditions or rate upon which the premium is based is permitted.
- (4) A change by the named insured in the activities or property of the commercial or industrial enterprise which results in a materially added risk, a materially increased risk, or a materially changed risk, unless the added, increased, or changed risk is included in the policy.
- (d) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Title 2 of Division 3 of the Government Code) shall not apply to a determination pursuant to paragraph (6) or (7) of subdivision (b) or paragraph (3) of subdivision (c). The commissioner shall charge an insurer who requests a determination pursuant to paragraph (6) or (7) of subdivision (b) a fee sufficient to recover the costs of making the determination. If the commissioner does not act upon a request by a insurer to cancel or change a policy pursuant to those provisions within 30 days, the request shall be deemed to be approved.
- (e) This section shall not prohibit an insurer from increasing a premium during the policy period, if the increase is calculated in accordance with the current rating manual of the insurer, and is justified by a physical change in the insured property or by a change in the activities of the commercial or industrial enterprise which materially increases any of the risks insured against.
- (f) This section shall not apply to a transfer of a policy without a change in its terms or conditions or the rate upon which the premium is based between insurers which are members of the same insurance group.
  - SEC. 4. Section 676.5 is added to the Insurance Code, to read:
- 676.5. (a) This section applies only to policies of commercial insurance which are subject to Section 675.5.
- (b) Except as provided in subdivision (c), for purposes of this chapter only, a policy with no fixed expiration, or with a term of less than one year, shall be considered to be a policy for a term of one year, and a policy written for a term of more than one year shall be considered as if written for successive terms of one year.
- (c) For purposes of this chapter, a policy shall be considered to be for a term of less than one year if the policy is issued for a specific risk which does not continue beyond the period of the policy, or if the insured requests a policy for a term of less than one year.
- SEC. 5. Section 677.2 is added to the Insurance Code, to read: 677.2. (a) This section applies only to policies covered by Section 675.5.
  - (b) A notice of cancellation shall be in writing and shall be

delivered or mailed to the producer of record, provided that the producer of record is not an employee of the insurer, and to the named insured at the mailing address shown on the policy. Subdivision (a) of Section 1013 of the Code of Civil Procedure is applicable if the notice is mailed.

The notice of cancellation shall include the effective date of the

cancellation and the reasons for the cancellation.

- (c) The notice of cancellation shall be given at least 30 days prior to the effective date of the cancellation, except that in the case of cancellation for nonpayment of premiums or for fraud the notice shall be given no less than 10 days prior to the effective date of the cancellation. Notice of a proposed cancellation pursuant to subdivision (d) of Section 676.2 given prior to a finding of the commissioner shall satisfy the requirements of this section if it is given no less than 30 days prior to the effective date of the cancellation and if it states that cancellation will be effective only upon the approval of the commissioner.
- (d) This section applies only to cancellations pursuant to Section 676.2.
- SEC. 6. Section 678 of the Insurance Code is amended to read: 678. (a) This section applies only to policies of insurance specified in Section 675.
- (b) Unless the insurer, at least 45 days in advance of the end of the policy period, mails or delivers to the named insured at the address shown in the policy notice of its intention not to renew the policy or to condition its renewal upon a reduction of limits or an elimination of coverages the insurer shall not fail to renew the policy upon payment of the premium due on the effective date of the renewal, in accordance with the then existing rating manual of the insurer. Any policy written for a term of less than one year shall be considered as if written for a term of one year. Any policy written for a term longer than one year, or any policy with no fixed expiration date, shall be considered as if written for successive policy periods or terms of one year.
  - SEC. 7. Section 678.1 is added to the Insurance Code, to read:
- 678.1. (a) This section applies only to policies of insurance of commercial insurance which are subject to Section 675.5.
- (b) A notice of nonrenewal shall be in writing and shall be delivered or mailed to the producer of record and to the named insured at the mailing address shown on the policy. Subdivision (a) of Section 1013 of the Code of Civil Procedure shall be applicable if the notice is mailed.
- (c) An insurer, at least 45 days, but not more than 120 days, in advance of the end of the policy period, shall give notice of nonrenewal, and the reasons for the nonrenewal, if the insurer intends not to renew the policy, or to condition renewal upon reduction of limits, elimination of coverages, increase in deductibles, or increase of more than 25 percent in the rate upon which the premium is based. Excepting that an insurer for policyholders whose

aggregate premium is ten thousand dollars (\$10,000) or less shall, at least 60 days but not more than 120 days in advance of the policy period, give notice of nonrenewal, and the reasons for the nonrenewal if the insurer intends to not renew the policy, or, to condition renewal upon reduction of limits, elimination of coverages, increase in deductibles, or increase of more than 25 percent in the rate upon which the premium is based.

- (d) If an insurer fails to give timely notice required by subdivision (c), the policy of insurance shall be continued, with no change in its terms or conditions, for a period of 60 days after the insurer gives the notice.
- (e) A notice of nonrenewal shall not be required in any of the following situations:
- (1) The transfer of, or renewal of, a policy without a change in its terms or conditions or the rate on which the premium is based between insurers which are members of the same insurance group.
- (2) The policy has been extended for 90 days or less, if the notice required in subdivision (c) has been given prior to the extension.
- (3) The named insured has obtained replacement coverage or has agreed, in writing, within 60 days of the termination of the policy, to obtain that coverage.
- (4) The policy is for a period of no more than 60 days and the insured is notified at the time of issuance that it may not be renewed.
- (5) The named insured requests a change in the terms or conditions or risks covered by the policy within 60 days prior to the end of the policy period.
- (6) The insurer has made an offer to the insured, within the time period specified in subdivision (c), to renew the policy under changed terms or conditions or at a changed premium rate.
- SEC. 8. This act shall be known as the Robbins-Brown Insurance Consumer Reform Act of 1986.
- 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 1322

An act to amend Sections 663 and 678 of the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. Section 663 of the Insurance Code is amended to read:

663. At least 20 days prior to policy expiration, an insurer shall deliver to the named insured or mail to the named insured at the address shown in the policy, either of the following:

(a) A written or verbal offer of renewal of the policy contingent

upon payment of premium as stated in the offer.

- (b) A notice of nonrenewal of the policy. That notice shall contain or be accompanied by a statement that upon written request by the named insured, made not later than one month following the expiration of the policy period, or delivered to the insurer, the insurer will notify the insured in writing, within 20 days of his request, the reason or reasons for such nonrenewal.
- (c) In the event that an insurer fails to give the named insured either an offer of renewal or notice of nonrenewal as required by this section, the existing policy, with no change in its terms and conditions, shall remain in effect for 20 days from the date that either the offer to renew or the notice of nonrenewal is delivered or mailed to the named insured. A notice to this effect shall be provided by the insurer to the named insured with the policy or the notice of renewal or nonrenewal. Notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other replacement or succeeding automobile insurance policy procured by the insured, or his agent or broker, with respect to any automobile designated in both policies.
- (d) The insurer shall not be required to notify the named insured, or any other insured, of nonrenewal of the policy if the insurer has mailed or delivered a notice of expiration or cancellation, on or prior to the 20th day preceding expiration of the policy period.
- SEC. 2. Section 678 of the Insurance Code is amended to read: 678. At least 45 days prior to policy expiration, an insurer shall deliver to the named insured or mail to the named insured at the address shown in the policy, either of the following:
- (a) An offer of renewal of the policy contingent upon payment of premium as stated in the offer, stating any reduction of limits or elimination of coverage if any.
  - (b) A notice of nonrenewal of the policy.

In the event an insurer fails to give the named insured either an offer of renewal or notice of nonrenewal as required by this section,

the existing policy, with no change in its terms and conditions, shall remain in effect for 45 days from the date that either the offer to renew or the notice of nonrenewal is delivered or mailed to the named insured. A notice to this effect shall be provided by the insurer to the named insured with the policy or the notice of renewal or nonrenewal.

Any policy written for a term of less than one year shall be considered as if written for a term of one year. Any policy written for a term longer than one year, or any policy with no fixed expiration date, shall be considered as if written for successive policy periods or terms of one year.

- (c) This section applies only to policies of insurance specified in Section 675.
- SEC. 3. The amendments to Sections 663 and 678 of the Insurance Code made in Sections 1 and 2 of this act shall become operative July 1, 1987.

#### CHAPTER 1323

An act to amend Section 1864 of the Insurance Code, relating to child care, and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986]

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

SECTION 1. Section 1864 of the Insurance Code is amended to read:

- 1864. (a) On or before May 1 of each year, commencing in 1987, each insurer engaged in writing child care liability insurance coverage in this state shall submit to the commissioner a report of its operations regarding child care liability claims experience for the last preceding calendar year ending on December 31 on a form furnished by the commissioner. Each report shall separately state the following information for family day care homes, as defined in Section 1596.78 of the Health and Safety Code, and licensed child care centers, as defined in Section 1596.76 of the Health and Safety Code:
  - (1) Premiums earned.
  - (2) Premiums written.
  - (3) Number of claims.
  - (4) Number of new claims during the reporting period.
  - (5) Number of claims closed during the reporting period.
- (6) Number of claims outstanding at the end of the reporting period.
  - (7) Total losses incurred.
  - (8) Total losses incurred as a percentage of premiums earned.
  - (9) Total number of policies in force on the last day of the

reporting period.

- (10) Total number of policies canceled.
- (11) Total number of policies nonrenewed.
- (12) Net underwriting gain or loss.
- (13) Separate allocations of expenses for commissions, other acquisition costs, general office expenses, taxes, licenses and fees, and other expenses. The allocations required by this section shall be made by dividing the company's total premiums earned for child care liability insurance by its total premiums earned and applying the ratio determined to the expenses reported in the company's annual statement filed with the Commissioner pursuant to Section 900.
- (b) The commissioner shall develop and issue reporting forms to insurers at least 90 days prior to the due date of the reports required pursuant to this section.
- (c) By February 1, 1986, a task force appointed pursuant to this subdivision shall submit a preliminary report to the Legislature which contains recommendations on any other appropriate data to be required from insurers in their annual report of operations. A final report shall be submitted no later than July 1, 1986. The task force shall include one representative from the Insurance Commissioner, one representative from the insurance industry who shall be appointed by the Governor, and one representative from the Legislative Analyst's Office, as well as one child care provider appointed by the Senate Committee on Rules and one child care provider appointed by the Speaker of the Assembly. These members shall be appointed no later than October 15, 1985. The task force shall review all data used by insurance companies in calculating and determining increases in premiums, and the underwriting criteria and rationale they use to decide whether or not to provide coverage for child care providers.
- (d) The task force shall continue its review of the data collected as a legislative advisory committee on child care liability insurance through 1987. The advisory committee shall, by December 1, 1987, issue a report to the Legislature on the availability and affordability of child care liability insurance in California. The advisory committee shall be comprised of the original task force members, with vacancies filled as needed according to the appointment procedures specified in subdivision (c).
- (e) The Legislature finds that it is in the public interest of the policyholders of this state that insurers writing child care liability insurance permit remittance of premiums to occur on an installment basis.
- (f) The information provided under this section pertaining to a specified claim, insurance policy, or insurer shall be confidential and shall only be revealed by the department on a nonspecific basis as part of an aggregate report of claims or policies.

An act to amend Section 556 of the Insurance Code, and to add Section 801.5 to the Penal Code, relating to crimes.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 556 of the Insurance Code is amended to read:

556. (a) It is unlawful to:

- (1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.
- (2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.
- (3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.
- (4) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented in support of any such claim.
- (b) Every person who violates any provision of this section is punishable by imprisonment in the state prison, for two, three, or four years, or by fine not exceeding ten thousand dollars (\$10,000), or by both.
- (c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of a violation of this section who has been previously convicted of violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision 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.

Except where the existence of such fact was not admitted or found to be true or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 2. Section 801.5 is added to the Penal Code, to read:

- 801.5. Notwithstanding Section 801 or any other provision of law, prosecution for a violation of Section 556 of the Insurance Code shall be commenced within three years after discovery of the commission of the offense.
- 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.

An act to add Section 11628.3 to the Insurance Code, and to add Sections 1675, 1676, 1677, and 1678 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. The Legislature finds and declares that a driver improvement course specifically designed for the needs of older drivers can be of assistance in increasing the safety of older drivers on the road.

It is therefore the intent of the Legislature to encourage older drivers to update their driving skills and knowledge through a driver improvement course which may be taken every three years, and to offer a reduction in auto insurance premiums upon successful completion of the course.

- SEC. 2. Section 11628.3 is added to the Insurance Code, to read: 11628.3. (a) Based on the actuarial and loss experience data available to each insurer, including the driving records of mature driver improvement course graduates, as recorded by the Department of Motor Vehicles, every admitted insurer shall provide for an appropriate percentage of reduction in premium rates for motor vehicle liability insurance for principal operators who are 55 years of age or older and who produce proof of successful completion of the mature driver improvement course provided for and approved by the Department of Motor Vehicles pursuant to Section 1675 of the Vehicle Code.
- (b) The insured shall enroll in and successfully complete the course described in subdivision (a) once every three years in order to continue to be eligible for an appropriate percentage of reduced premium.
- (c) The percentage of premium reduction required by subdivision (a) shall be reassessed by the insurer upon renewal of the

insured's policy. The insured's eligibility for any percentage of premium reduction shall be effective for a three-year period from the date of successful completion of the course described in subdivision (a), except that the insurer may discontinue the reduced premium rate if the insured is in any case:

- (1) Involved in an accident for which the insured is at fault, as determined by the insurer.
- (2) Convicted of a violation of Division 11 (commencing with Section 21000) of the Vehicle Code, except Chapter 9 (commencing with Section 22500) of that division, or of a traffic related offense involving alcohol or narcotics.
- (d) The percentage of premium rate reduction required by subdivision (a) does not apply in the event the insured enrolls in, and successfully completes, an approved course pursuant to a court order provided for in Section 42005 of the Vehicle Code. Nothing in this subdivision precludes an insured from also enrolling in a driver improvement course.
  - SEC. 3. Section 1675 is added to the Vehicle Code, to read:
- 1675. (a) The director shall establish standards and develop criteria for the approval of driver improvement courses specifically designed for the safe driving needs of drivers who are 55 years of age or older which shall be known as the mature driver improvement course.
- (b) The curriculum for the course provided for in subdivision (a) shall include, but is not limited to, all of the following components:
- (1) How impairment of visual and audio perception affects driving performance and how to compensate for that impairment.
- (2) The effects of fatigue, medications, and alcohol on driving performance, when experienced alone or in combination, and precautionary measures to prevent or offset ill effects.
- (3) Updates on rules of the road and equipment, including, but not limited to, safety belts and safe and efficient driving techniques under present day road and traffic conditions.
- (4) How to plan travel time and select routes for safety and efficiency.
- (5) How to make crucial decisions in dangerous, hazardous, and unforeseen situations.
- (c) Each mature driver improvement course shall include not less than 400 minutes of instruction, and shall not exceed 25 students per single day of instruction or 30 students per two days of instruction.
- (d) Upon satisfactory completion of the mature driver improvement course, participants shall receive and retain a certificate provided by the department, awarded and distributed by the course provider, which shall be suitable evidence of satisfactory course completion, and eligibility for three years, from the date of completion, for the mature driver vehicle liability insurance premium reduction pursuant to Section 11628.3 of the Insurance Code.
  - (e) The course provider shall report to the department, upon

enrollment, the name of each participant and the person's driver's license number. The course provider shall also transmit a copy of each certificate distributed to a participant to the department. These reports shall be used in the evaluation required by Section 1678.

- (f) The certificate may be renewed every three years from the date of completion by successfully completing a subsequent mature driver improvement course.
- (g) For the purposes of this section, and Sections 1676 and 1677, "course provider" means any person offering a mature driver improvement course approved by the department pursuant to subdivision (a) of this section.
  - SEC. 4. Section 1676 is added to the Vehicle Code, to read:
- 1676. (a) An individual enrolling in a mature driver improvement course pursuant to Section 1675, shall pay to the course provider, a fee not to exceed twenty dollars (\$20).
- (b) Each course provider shall issue a receipt for any fee it collects from any individual who registers for or attends a mature driver improvement course.
- (c) The department shall charge a fee not to exceed three dollars (\$3) for each completion certificate issued by a mature driver improvement course provider, pursuant to subdivision (d) of Section 1675. The amount of the fee shall be determined by the department and shall be sufficient to defray the actual costs incurred by the department for administering the mature driver improvement program, for evaluating the program, and for any other activities deemed necessary by the department to assure high quality education for participants of the program. A course provider shall not charge a fee in excess of the fee charged by the department pursuant to this subdivision for furnishing a certificate of completion or duplicate thereof. The department shall transmit all fees it receives for deposit in the Motor Vehicle Account in the State Transportation Fund pursuant to Section 42270.
  - SEC. 5. Section 1677 is added to the Vehicle Code, to read:
- 1677. (a) The department may collect a fee, to be determined by the department, from each course provider who shall be responsible for the development and operation of a mature driver improvement course, for the approval of the course, but not to exceed the actual cost of approval of the course. The department shall transmit all fees it receives for deposit in the Motor Vehicle Account in the State Transportation Fund pursuant to Section 42270.
- (b) Each course provider, who has received course approval from the department, is responsible for the delivery, instruction, and content of his or her mature driver improvement course.
- (c) The department shall investigate claims of impropriety on the part of a course provider. The department may withdraw the approval of courses in violation of Section 1675 or 1676, as determined by the department, for just cause, including, but not limited to any of the following:
  - (1) Furnishing course completion certificates to course enrollees

prior to, or in the absence of, completion of the curriculum specified in subdivisions (b) and (c) of Section 1675.

- (2) Failure to report records of enrolled students and records of satisfactory course completion.
- (3) Charging fees in excess of the amounts specified in subdivision (a) and subdivision (c) of Section 1676.
- (d) Mature driver improvement courses approved by the department shall continue to be approved until either of the following occurs:
  - (1) The course provider does not meet the conditions of approval.
- (2) The department finds just cause to terminate the approval pursuant to subdivision (c).
  - SEC. 6. Section 1678 is added to the Vehicle Code, to read:
- 1678. (a) The department shall produce a set of statistical tabulations of the accident rates of graduates and nonparticipants in mature driver improvement courses. The tabulations shall include, but are not limited to, all of the following:
- (1) Differences, if any, between the cumulative driving records of mature driver improvement course graduates and the driving records of other drivers with similar characteristics who have not taken the course.
  - (2) Factors that may influence course participation.
- (b) The department shall report its findings, and make recommendations, to the Legislature not later than July 1 of each year, beginning with July 1, 1989.
- SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.
- SEC. 8. Sections 1 to 7 of this act shall become operative on July 1, 1987.

#### CHAPTER 1326

An act to add Section 12922.1 to the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) Insurance for tort liability in California is increasingly unavailable or not affordable.

- (b) It is claimed that excessive court awards to plaintiffs in tort actions have, in part, caused insurers to raise insurance premiums and to discontinue offering certain classes of insurance.
- (c) There is insufficient data available to determine whether, or to what extent, court judgments and settlements have had an effect on insurance companies' ability to offer tort liability insurance at adequate rates in California.
- (d) The Insurance Commissioner needs the information about judgments and settlements in tort cases to assist in evaluating whether rates charged by insurance companies are excessive.
- SEC. 2. Section 12922.1 is added to the Insurance Code, to read: 12922.1. (a) The commissioner shall contract on an annual basis with the Judicial Council to provide the commissioner with an annual report analyzing the following types of cases:
  - (1) Medical malpractice cases.
  - (2) Toxic substance tort cases.
  - (3) Product and design liability cases.
  - (4) Tort cases in which a public entity is a defendant.
- (5) Tort cases involving judgments or settlements of one million dollars (\$1,000,000) or more.
  - (6) Class action tort cases.
  - (7) Defamation and invasion of privacy cases.
- (8) Other categories of tort cases involving commercial liability claims designated in the contract between the commissioner and the Judicial Council.
- (b) The study may exclude cases in which the only defendant is an individual sued in his or her private capacity. The study may exclude cases filed in municipal court.
- (c) If any of the information required to be provided by the parties is confidential under any other provision of law or pursuant to any court order, the Judicial Council shall keep that information confidential and shall limit its analysis of that information to aggregate data or other analysis which will not reveal the identity of the parties.
- (d) A copy of the report required by this section shall be provided to the Legislature by the Judicial Council.
- SEC. 3. The sum of thirty-eight thousand dollars (\$38,000) is hereby appropriated from the Insurance Fund to the Insurance Commissioner for the purposes of this act.

An act to add Chapter 5.5 (commencing with Section 6599.01) to Division 7 of Title 1 of the Government Code, relating to liability, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Chapter 5.5 (commencing with Section 6599.01) is added to Division 7 of Title 1 of the Government Code, to read:

#### CHAPTER 5.5. LOCAL AGENCY SELF-INSURANCE AUTHORITY

### Article 1. Organization and Powers

- 6599.01. Pursuant to Section 6 of Article XVI of the California Constitution, local agencies may enter into a joint pooling agreement to form a single statewide insurance pooling arrangement administered by a single statewide agency for the payment of tort liability or public liability losses incurred by such agencies. The agency shall be known as the Local Agency Self-Insurance Authority. 6599.02. As used in this chapter:
- (a) "Local agency" means any city, county, city and county, school district, special district, authority, other political subdivision of or within the state, or any joint powers authority composed of any of these agencies.
- (b) "Original board" means the first board of directors constituted and selected pursuant to Section 6599.06.
- (c) "Board" means the original board and any successor board selected and constituted under this chapter.
- 6599.03. In addition to the powers specified in Chapter 5 (commencing with Section 6500), the authority may issue revenue bonds or certificates of participation, or both, to establish capital, surplus, and prudent reserves, and may secure payment of the bonds and interest by pledging all or part of its revenues from the receipt of premiums.
- 6599.04. Except as otherwise provided in this chapter, Chapter 5 (commencing with Section 6500) applies to the authority.

6599.05. The authority is not a state agency and has no power at any time or in any manner to pledge the credit of the state.

- 6599.06. The authority shall be organized and administered by a board of directors. The original board shall be constituted and selected as follows:
- (a) Two directors shall be appointed by the County Supervisors Association of California and at least one shall have no less than five years of proven successful experience at a management level in

providing risk management and insurance services to a county or an insurance joint powers agency composed of counties.

- (b) Two directors shall be appointed by the League of California Cities and at least one shall have not less than five years of proven successful experience at a management level in providing risk management and insurance services to a city or an insurance joint powers agency composed of cities.
- (c) One director shall be appointed by the California Special District Association and one director shall be appointed by the Association of California Water Agencies.
- (d) Two directors shall be appointed by the California School Boards Association and at least one member shall have no less than five years of proven successful experience at a management level in providing risk management and insurance services to a school district or an insurance joint powers agency composed of school districts.
- (e) One director shall be a person selected by a majority vote of the other eight members.
- (f) The original directors shall hold their first meeting not later than April 1, 1987, and shall hold office until the permanent composition of the board is determined by the agreement or agreements entered pursuant to this chapter and the appointment and qualification of their successors, but in no event longer than three years.
- 6599.07. There shall not be any liability in an individual or private capacity on the part of the board of directors or any member of the board, or any officer or employee of the authority for or on account of any act performed or obligation entered into in an official capacity, when done in good faith, without intent to defraud and in connection with the administration, management, or conduct of the authority or affairs relating to it. Members of the board and employees and officers of the authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1.
- 6599.08. The authority shall be operated on an actuarially sound basis and become neither more nor less than self-supporting. For that purpose, loss experience and expense shall be ascertained and credits, refunds, and assessments may be made as determined appropriate by the board. The authority shall have the powers and duties set forth in this chapter and the powers and duties given it by its agreement. The original board may enter into the original joint powers agreement creating and governing the authority, which shall be made subject to subsequent modification and termination by the members of the authority.

6599.09. The board shall do all of the following:

- (a) Develop, promulgate, and effectuate loss prevention programs, risk management programs, and safety programs.
- (b) Subject to Section 6599.10, establish minimum standards for entry into membership and continued participation in the authority which shall include standards for risk management and loss control

in addition to those other standards that the board deems appropriate.

(c) Establish standards and requirements for exit from the authority, which shall include those limits and conditions on exit that the board determines appropriate to insure actuarial soundness of the authority.

6599.10. All those local agencies that request membership in the authority and meet the standards established by the authority pursuant to Section 6599.09, for entry into and continued participation in the authority may become members of the authority. If the authority determines that a local agency requesting membership meets the underwriting standards of the authority, the authority, upon receipt of the premium prescribed by the authority, shall admit the requesting local agency to membership. No local agency may be denied membership unless the board determines the agency cannot be actuarially safely underwritten. Premiums shall be based upon all appropriate actuarial data, including, but not limited to, claims and loss experience of applicant member agencies. Local agencies may request membership individually or through insurance joint powers authorities.

#### Article 2. Amounts of Insurance

6599.21. The authority may only cover risks to the extent that liability on any one occurrence exceeds one million dollars (\$1,000,000), and may not provide coverage for any amount of liability on any one occurrence which exceeds twenty-five million dollars (\$25,000,000).

6599.22. The authority may establish limits on coverage for a member or category of members, but those limits may neither be less than the minimum nor more than the maximum limits established by Section 6599.21.

6599.23. A local agency requesting membership from the authority may request coverage in any sum, so long as the coverage requested is neither less than the minimum nor more than the maximum limits established by Section 6599.21.

## Article 3. Reports and Statements

6599.31. The books and records of the authority shall be audited annually and a summary of the audit shall be provided to the authority's members and shall be a public record. The audit shall be done by a certified public accountant pursuant to agreement with the authority. Each annual audit, or a separate annual actuarial analysis, shall determine whether the authority has sufficient assets and reserves to maintain actuarial soundness, and shall recommend to the board any amounts which the authority should credit, refund, or assess its members to retain that soundness.

If any provision of this section conflicts with Section 6505, this

section governs.

#### Article 4. Miscellaneous

6599.41. If the original board is not selected on or before January 1, 1990, this chapter shall cease to be operative.

SEC. 2. The sum of three hundred forty-five thousand dollars (\$345,000) is appropriated from the General Fund to the Controller for purposes of loaning that sum to the Local Agency Self-Insurance Authority to pay for original operating costs. The Local Agency Self-Insurance Authority shall repay the money to the General Fund not later than one year after the date the money is first loaned by the Controller to the authority, together with interest at the same rate as the Pooled Money Investment Account.

#### CHAPTER 1328

An act to add Sections 925, 925.1, 925.2, 925.3, 925.4, and 10506.3 to, and to add Article 7 (commencing with Section 13500) to Chapter 2 of Division 3 of, the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 925 is added to the Insurance Code, to read: 925. Upon request of the commissioner, and at intervals as prescribed by him or her, any insurer that appears to the commissioner to require immediate regulatory attention shall provide to the commissioner supplemental accounting, financial, and actuarial information. The commissioner may request that an insurer select and retain an independent certified public accountant or independent actuary satisfactory to the commissioner, if that person has not already been retained by the insurer, whenever the information supplied or likely to be supplied is not satisfactory or acceptable to the commissioner, or, whenever the person who would be responsible for that preparation of that information has previously provided information that was not satisfactory or acceptable to the commissioner. If the information is prepared by an independent certified public accountant or independent actuary, or other independent professional financial person, the person shall examine and render an opinion upon that supplemental information.

SEC. 2. Section 925.1 is added to the Insurance Code, to read:

925.1. (a) All supplemental information, work papers and other relevant documents of the independent certified public accountant, or independent actuary, or other independent professional financial person and the insurer relevant to information provided to the

- commissioner pursuant to Sections 925 to 925.2, inclusive, shall be made available by the insurer for review by the commissioner upon request at the insurer's office, at the commissioner's office, or any other reasonable place designated by the commissioner.
- (b) All supplemental information, relevant work papers and other relevant documents of the certified public accountant or actuary shall be retained for a period of not less than five years from the date of the report. The certified public accountant or the actuary shall make that information available to the insurer upon the reasonable request of the commissioner made to the insurer, except when that information is subject to the right against self-incrimination or other relevant privileges.
- (c) Every insurer shall authorize, in writing, the independent certified public accountant, independent actuary, or other independent professional financial person retained or engaged by it to provide to the commissioner all information subject to Section 925 to 925.2, inclusive.
  - SEC. 3. Section 925.2 is added to the Insurance Code, to read:
- 925.2. The commissioner may prescribe the subject matter and form of reporting supplemental information and the subject matter of opinions.
  - SEC. 4. Section 925.3 is added to the Insurance Code, to read:
- 925.3. All supplemental information provided or made available to the commissioner pursuant to Sections 925 to 925.2, inclusive, including work papers and other relevant documents of the independent certified public accountants or, independent actuary or other independent professional financial person and the insurer relevant to that information, shall be received in confidence within the meaning of subdivision (d) of Section 6254 of the Government Code and exempt from the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Additionally, that information shall not be subject to subpoena or subpoena duces tecum.
  - SEC. 5. Section 925.4 is added to the Insurance Code, to read:
- 925.4. Nothing contained herein shall be deemed in any manner to limit, restrict or abridge the powers of the commissioner to examine insurers, to inquire into their financial condition or to obtain supplemental information in accordance with any other provision of this code.
- SEC. 6. Section 10506.3 is added to the Insurance Code, to read: 10506.3. (a) The commissioner shall adopt appropriate administrative regulations governing modified guaranteed annuities.
- (b) The commissioner shall issue a bulletin, on or before July 1, 1987, setting forth conditions under which variable life insurance may be issued, or issued for delivery, in this state as permitted by Chapter 731 of the Statutes of 1984.

Upon issuance of the bulletin, regulations regarding variable life insurance contained in Article 11.1 (commencing with Section 2534)

of Title 10 of the California Administrative Code shall be of no force and effect as long as the bulletin is effective. The bulletin authorized by this section shall have the same force and effect, and may be enforced by the commissioner to the same extent and degree, as the regulations superseded by it until such time as the commissioner may make additional or amended regulations as provided by subdivision (h)- of Section 10506.

SEC. 7. Article 7 (commencing with Section 13500) is added to Chapter 2 of Division 3 of the Insurance Code, to read:

# Article 7: Suspension of Privilege of Appearing or Practicing Before the Commissioner

13500. The commissioner may deny, temporarily or permanently, the privilege of appearing or practicing before the department in any way to any person, other than an attorney acting in that capacity, who is found by the commissioner, after notice of and opportunity for hearing, to be subject to any of the following:

- (a) The person does not possess the requisite qualifications to represent others.
- (b) The person is lacking in character or integrity or has engaged in unethical or improper professional conduct.
- (c) The person has willfully violated, or willfully aided and abetted the violation of any provision of this code, or the rules and regulations promulgated thereunder.
- 13501. Any person whose license to practice as an accountant, actuary, or other expert has been revoked or suspended in any state, territory, district, commonwealth, or possession, or any person who has been convicted of a felony, or of a misdemeanor involving moral turpitude, shall be forthwith suspended from appearing or practicing before the commissioner. A suspension, revocation, or conviction within the meaning of this article shall be deemed to have occurred when the suspending, revoking, or convicting agency or tribunal enters its judgment or order, regardless of whether appeal is pending or could be taken, and includes a judgment or order on a plea of nolo contendere.
- 13502. (a) An application for reinstatement of a person permanently suspended or disqualified under Section 13500 may be made at any time, and the applicant may, in the commissioner's discretion, be afforded a hearing. However, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the commissioner for good cause shown.
- (b) Any person suspended under Section 13501 shall be reinstated by the commissioner, upon appropriate application, if all the grounds for application of the provisions of Section 13501 are subsequently removed by a reversal of the conviction or termination of the suspension or revocation. An application for reinstatement on any other grounds by any person suspended under Section 13501 may be filed at any time and the applicant shall be afforded an opportunity

for a hearing in the matter. However, the suspension shall continue unless and until the applicant has been reinstated by the commissioner for good cause shown.

13503. Any person appearing or practicing before the commissioner who has been the subject of an order, judgment, decree, or finding relevant to Section 13501 shall promptly file with the commissioner a copy thereof, together with any related opinion or statement of the agency or tribunal involved. Failure to make this filing shall not impair the operation of any other provision of this article.

13504. Any proceeding brought under any section of this article shall not preclude a proceeding under any other section.

13505. All hearings held under this article shall be closed to the public, unless the commissioner on his or her own motion, or at the request of a party, otherwise directs.

#### CHAPTER 1329

An act to add Sections 674.5, 1857.9, and 12922.5 to the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 674.5 is added to the Insurance Code, to read:

- 674.5. (a) No insurer shall cease to offer any particular class of commercial liability insurance without prior notification to the commissioner.
- (b) The department shall adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, except that for the purposes of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, any regulations adopted under this section shall be deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall remain in effect for 180 days. Unless the regulation provides for notification by some other classification or category, notification pursuant to this section shall be made for each class of insurance as defined by the Insurance Services Office.
- SEC. 2. Section 1857.9 is added to the Insurance Code, to read: 1857.9. (a) Every insurer doing business in this state, except as provided by subdivision (g), shall report on a calendar year basis for each class of insurance designated in the prior calendar year by the commissioner pursuant to subdivision (b) and for each class listed in

subdivision (c), both for policies issued or issued for delivery in California, and for policies issued or issued for delivery in the United States and territories:

- (1) The number of policies written, the direct premiums written, the direct premiums earned, the direct losses paid, the direct losses incurred, the direct losses unpaid (not including losses incurred but not reported) the number of outstanding claims at year end and the number of claims paid in the preceding year, the allocated loss adjustment expense, and the percentage of allocated loss adjustment expense attributable to defense attorney expenses.
- (2) Whether policies are written on a claim made or occurrence basis, and whether there has been a change in the preceding 12 months.
- (3) For each loss reserve for each class, whether the reserve is discounted in anticipation of future investment earnings.
- (4) The commissioner shall waive the requirements of paragraph (1) for any information that has been provided to the Insurance Services Office by the insurer, if the Insurance Services Office provides the information to the commissioner on or before the date on which the insurer is required to file the statement.
- (b) No later than October 1 of each year the commissioner shall designate those classes of insurance, as defined by the Insurance Services Office, that are generally unavailable or unaffordable in California, or for which there have been unusually great premium increases. The factors the commissioner shall consider in making this determination shall include, but are not limited to, the following:
  - (1) Consumer complaints.
  - (2) Rate complaints.
  - (3) Surveillance by the department.
  - (4) Market conduct.
- (c) In addition to the classes designated by the commissioner pursuant to subdivision (b) the insurer shall include the information required by subdivision (a) for those classes of insurance, as defined by the Insurance Services Office, covering liability insurance for municipalities, products liability insurance, liability insurance for any business or nonprofit enterprise required to carry liability insurance by state law, news publishers' liability insurance, and professional errors and omissions (malpractice) liability insurance for doctors and for lawyers. Collection of the data described in this section shall be terminated upon a joint resolution of the Legislature specifying such termination of collection. Insurers shall not be required to report under this section information required to be reported under Sections 1857.7, 1864, 11555.2, and 12958.
- (d) The insurer shall also report for both California and for the United States and its territories for the calendar year:
- (1) Each class of commercial liability insurance, as defined by the Insurance Services Office, that is specifically excluded from any reinsurance treaty for reinsurance ceded.
  - (2) Each class of commercial liability insurance, as defined by the

Insurance Services Office, that is specifically excluded from any reinsurance treaty for reinsurance assumed.

- (e) The department shall retain the information reported pursuant to this section for a period of no less than five years.
- (f) Insurers that are members of the same insurance group may aggregate the information required by this section in a single report.
- (g) The reports required by this section shall not be applicable to any insurer that has been established for less than three years.
- (h) The reports required by this section shall be filed on a form provided by the commissioner no later than May 1 of the calendar year following the year for which the information is reported.
- (i) The department shall adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, except that for the purposes of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, any regulations adopted under this section shall be deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall remain in effect for 180 days. The regulations may require insurers to report the information required by subdivision (d) by categories other than those used by the Insurance Services Office.
- (j) The information provided pursuant to subdivision (a) shall be confidential and not revealed by the department, except that the commissioner may publish an analysis of the data in aggregate form or in a manner which does not disclose confidential information about identified insurers or insureds.
- SEC. 3. Section 12922.5 is added to the Insurance Code, to read: 12922.5. The commissioner shall make an annual report to the Legislature and to the Governor on or before October 1. The report shall include an analysis of the information required by Sections 674.5, 1857.7, 1857.9, 1864, 11555.2, and 12958, including, but not limited to:
- (a) An aggregate and an average for all insurers for each item of information required by these sections.
- (b) The number of insurers reporting policies written for each class during the calendar year.
- (c) For each class, the number of insurers reporting a combined loss ratio of 100 percent or more, and the number reporting a combined loss ratio of under 100 percent.
- (d) An analysis of adjustments made to loss reserves for prior years.
- (e) The change in any item required to be included by subdivisions (a) to (d), inclusive, from the immediately prior year.
- (f) The requirements of this section shall be satisfied if the analysis required by this section is included in the annual report to the Governor required by Section 12922, and a copy of that report is provided to the Legislature.

An act to add and repeal Section 43.55 of the Civil Code, to add and repeal Article 2.5 (commencing with Section 1527) of Chapter 3 of Division 2 of the Health and Safety Code, and to add and repeal Section 676.2 of the Insurance Code, relating to community care facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. The Legislature finds and declares that foster parents are a valuable resource providing a needed important service to the citizens of California. The Legislature further recognizes that the current insurance crisis has adversely affected some foster family homes and small family homes in three ways: (a) homeowners' and tenants' insurance is unavailable to foster parents in some locales or available coverage excludes foster parent activities; (b) in some locales, foster parents are unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child or the child's parents or legal guardian. In addition, the monthly payment made to foster family homes and small family homes is not sufficient to cover the cost of obtaining this extended coverage and there is no mechanism in place by which foster parents can recapture this cost; (c) foster parents' personal resources are at risk as a result of foster children and their parents filing an increasing number of claims against them. Therefore, the Legislature is providing interim relief to address these problems.

SEC. 2. Section 43.55 is added to the Civil Code, to read:

43.55. No cause of action arises against a foster parent for alienation of affection of a foster child.

This section shall become inoperative on June 30, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. 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 Home and Small Family Home Insurance Fund

1527. As used in this article:

- (a) "Aircraft" includes, but is not limited to, any airplane, glider, or hot air balloon.
  - (b) "Bodily injury" means any bodily injury, sickness, or disease

sustained by any person including death at any time resulting therefrom.

- (c) "Foster child" means a person under 19 years old who has been placed in the care and supervision of licensed foster parents.
- (d) "Foster parent" means the person, and including his or her spouse if the spouse is a resident of the same household, providing care, custody, and control of a foster child in a licensed foster family home or licensed small family home, as defined in Section 1502 of the Health and Safety Code.
- (e) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or personal injury neither expected nor intended by the foster parent.
- (f) "Motor vehicle" means an automobile, motorcycle, moped, midget automobile, including the type commonly referred to as a kart, go-kart, speedmobile, or by a comparable name whether commercially built or otherwise, trailer or semitrailer designed for travel on public roads, including any machinery or apparatus attached thereto, or snowmobile.
- (g) "Personal injury" means any injury to the feelings or reputation of any person or organization arising out of libel, slander, defamation, or disparagement, wrongful eviction, or entry.
- (h) "Property damage" means any physical injury to, or destruction of, tangible property, including the loss of use thereof at any time resulting therefrom.
- (i) "Watercraft" includes, but is not limited to, any boat, ship, raft, or canoe, whether motorized or not.
- 1527.1. There is hereby established the Foster Family Home and Small Family Home Insurance Fund within the State Department of Social Services. The fund shall consist of all moneys appropriated by the Legislature. The department may contract with another state agency to set up and operate the fund and perform such other administrative functions as may be necessary to carry out the intentions of this article. The purpose of the fund is to pay, on behalf of foster family homes and small family homes, as defined in Section 1502, claims of foster children, their parents, guardians, or guardians ad litem resulting from occurrences peculiar to the foster-care relationship and the provision of foster-care services. The fund may sue and be sued.
- 1527.2. The fund, subject to this article, shall pay, on behalf of foster family homes and small family homes, any claims of foster children, their parents, guardians, or guardians ad litem for damages arising from, and peculiar to, the foster-care relationship and the provision of foster-care services, or shall reimburse foster family homes and small family homes for those damages.
  - 1527.3. The fund shall not be liable for any of the following:
- (a) Any loss arising out of a dishonest, fraudulent, criminal, or intentional act.
- (b) Any occurrence which does not arise from the foster-care relationship.

- (c) Any bodily injury arising out of the operation or use of any motor vehicle, aircraft, or watercraft owned or operated by, or rented or loaned to, any foster parent.
- (d) Any loss arising out of licentious, immoral, or sexual behavior on the part of a foster parent intended to lead to, or culminating in, any sexual act.
  - (e) Any allegation of alienation of affection against a foster parent.
- (f) Any loss or damage arising out of occurrences prior to October 1, 1986.
  - (g) Exemplary damages.
- (h) Any liability of a foster parent which is uninsured due solely to the foster parent's failure to obtain insurance specified in Section 676.2 of the Insurance Code. Nothing in this subdivision shall be construed to expand the liability of the fund with respect to insured foster parents.
- 1527.4. Notwithstanding any other provision of this article, the fund shall not be liable for damages in excess of three hundred thousand dollars (\$300,000) for any single foster family home or small family home for all claims arising due to one or more occurrences during a single calendar year.
- 1527.5. The fund shall be liable, if a claim is approved, to pay on behalf of each licensed foster family home or small family home, all sums which the foster family home or small family home is obligated to pay as a result of a valid claim of bodily injury or personal injury arising out of the activities of a foster parent or foster parents, which occurs while the foster child resides in the foster family home or small family home. Claims specified in this section of a foster child or a parent, guardian, or guardian ad litem of a foster child shall be the sole responsibility of the fund.
- 1527.6. (a) Any claim against the fund shall be filed with the fund in accordance with claims procedures and on forms prescribed by the State Department of Social Services or its designated contract agency.
- (b) Any claim against the fund filed by a foster parent or a third party shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim. If a claim is not submitted to the fund within the applicable time, there shall be no recourse against the fund.
- (c) The department shall approve or reject a claim within 180 days after it is presented.
- (d) No person may bring a civil action against a foster parent for which the fund is liable unless that person has first filed a claim against the fund and the claim has been rejected, or the claim has been filed, approved, and paid, and damages in excess of the payment are claimed.
- 1527.7. All processing of decisions and reports, payment of claims, and other administrative actions relating to the fund shall be conducted by the State Department of Social Services or its designated contract agency.

- 1527.8. It is the intent of the Legislature to maintain the fund established pursuant to Section 1527.1 at an adequate level to meet anticipated liabilities.
- 1527.9. On or before January 1, 1988, the Department of Insurance, in consultation with the State Department of Social Services, shall submit a report to the Legislature assessing the availability of commercial liability insurance for foster family homes and small family homes and making recommendations for the continued necessity for, or modification of, the measures authorized by this article. The report shall also include, but not be limited to, the number of foster care homes and small family homes carrying homeowner's or tenant's liability insurance, provisions of the liability coverage, including any exclusions relevant to foster-care status of the insured, the premium cost, the number of insurers offering coverage to foster care families, and the number of claims made against each insurer by insureds relevant to the foster-care relationship.
- 1527.10. This article shall become inoperative on June 30, 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 that date.
  - SEC. 4. Section 676.2 is added to the Insurance Code, to read:
- 676.2. (a) No admitted insurer, licensed to issue and issuing homeowner's or tenant's policies, as described in Section 122, shall (1) fail or refuse to accept an application for that insurance or to issue that insurance to an applicant or (2) cancel that insurance, solely on the basis that the applicant or policyholder is engaged in foster home activities in a licensed foster family home or licensed small family home, as defined in Section 1502 of the Health and Safety Code.
- (b) Coverage under policies described in subdivision (a) with respect to a foster child shall be the same as that provided for a natural child. However, unless specifically provided in the policy, there shall be no coverage expressly provided in the policy for any bodily injury arising out of the operation or use of any motor vehicle, aircraft, or watercraft owned or operated by, or rented or loaned to, any foster parent.
- (c) It is against public policy for a policy of homeowner's or tenant's insurance subject to this section to provide liability coverage for any of the following losses:
- (1) Claims of a foster child, or a parent, guardian, or guardian ad litem thereof, of a type payable by the Foster Family Home and Small Family Home Insurance Fund established by Section 1527.1 of the Health and Safety Code, regardless of whether the claim is within the limits of coverage specified in Section 1527.4 of the Health and Safety Code.
- (2) An insurer shall not be liable, under a policy of insurance subject to this section, to any governmental agency for damage arising from occurrences peculiar to the foster-care relationship and the provision of foster-care services.

- (3) Alienation of affection of a foster child.
- (4) Any loss arising out of licentious, immoral or sexual behavior on the part of a foster parent intended to lead to, or culminating in, any sexual act.
- (5) Any loss arising out of a dishonest, fraudulent, criminal, or intentional act.
- (d) There shall be no penalty for violations of this section prior to January 1, 1987.
- (e) Insurers may provide a special endorsement to a homeowners' or tenants' policy covering claims related to foster care that are not excluded by subdivision (c).
- (f) Insurers may provide by a separate policy for some or all of the claims related to foster care that are excluded by subdivision (c).

This section shall become inoperative on June 30, 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 that date.

- SEC. 5. The sum of three hundred fifty thousand dollars (\$350,000) is hereby appropriated from the General Fund for allocation as follows:
- (a) The sum of two hundred thousand dollars (\$200,000) is allocated to the Foster Family Home and Small Family Home Insurance Fund for payment of claims during the 1986–87 fiscal year.
- (b) The sum of one hundred fifty thousand dollars (\$150,000) is allocated to the State Department of Social Services for costs of establishing and operating that fund during the 1986–87 fiscal year. The department may contract with another state agency to establish and operate the fund and perform such other administrative functions as may be necessary to carry out the intent of this act.
- SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure against the loss of foster family home resources in this state, temporary authority and funding of the liability insurance coverage must immediately be provided.

An act to add Sections 674.6 and 674.7 to the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986 ]

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

SECTION 1. Section 674.6 is added to the Insurance Code, to read:

674.6. No insurer issuing policies of insurance subject to Section 674.5 or 675 shall cease to offer any particular line of coverage without prior notification to the commissioner. The commissioner shall adopt appropriate rules, regulations, and standards for purposes of implementing this provision.

SEC. 2. Section 674.7 is added to the Insurance Code, to read:

- 674.7. (a) If the commissioner finds after a public hearing that commercial liability insurance for a designated class of risk is not readily available under standard commercial policy forms in the voluntary insurance market, and that the public interest requires this availability, the commissioner may authorize the formation of a market assistance program to assist in securing that insurance for those risks in the designated class. The commissioner may require insurers, agents, and brokers to attend public hearings and meetings concerning either the need for a market assistance program or the organization and formation of a program.
- (b) The commissioner shall formulate a market assistance program giving consideration to the need for adequate and readily accessible coverage, to the needs of insureds, insurers, agents, and brokers, to the need for reasonable underwriting standards and required loss prevention measures, and to the need for minimum interference with the operation of the voluntary market. The commissioner may require insurers, agents, and brokers to assist in the formation and implementation of the market assistance program.
- (c) A market assistance program shall be comprised of insurers, agents, and brokers and their participation shall be voluntary. The commissioner shall not permit an insurer to condition its participation in such a way as to be inequitable to the other insurer participants.
- (d) Market assistance programs shall not be established for the following types of insurance: medical malpractice, pollution liability, insurance available through an involuntary market mechanism, including, but not limited to, the California Automobile Assigned Risk Plan and the California Fair Plan Association, or that form of risk covered under the provisions of Public Law 97-45 (15 U.S.C. 3901 et seq.) as enacted September 25, 1981.

An act to amend and repeal Section 900.5 of, and to add and repeal Section 911.5 of, the Insurance Code, relating to insurance; and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986]

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

SECTION 1. Section 900.5 of the Insurance Code is amended to read:

- 900.5. (a) The commissioner shall charge and collect two hundred dollars (\$200) in advance as a fee for the first filing each year of a statement under this article. Only one such fee shall be charged or collected from any one insurer in any one calendar year.
- (b) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is 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 900.5 of the Insurance Code, as amended by Section 3.2 of Chapter 770 of the Statutes of 1985, shall have the same force and effect as if this temporary provision had not been enacted.
  - SEC. 2. Section 911.5 is added to the Insurance Code, to read:
- 911.5. The commissioner shall prepare an annual report to the Legislature summarizing financial data for all property and casualty insurers subject to Section 905 and all life and disability insurers subject to Section 913. The report shall include the following:
- (a) For all property and casualty insurers subject to the reporting requirements of Section 905, the report shall provide each of the following:
- (1) Aggregate balance sheet, statement of income, and capital and surplus account.
- (2) Aggregate net premiums and losses data by lines of business nationwide.
- (3) Aggregate net premiums and losses data by lines of business for the state.

To the extent practicable the report shall utilize the categories delineated in Sections 907, 908, 909, and 910. Wherever feasible, property and casualty information shall be broken down into subcategories for commercial and personal lines.

- (b) For life and disability insurers subject to the reporting requirements of Section 913, the report shall provide each of the following:
- (1) Aggregate balance sheet, summary of operations, and capital and surplus account.
  - (2) Aggregate analysis of operations by lines of business

nationwide.

. (3) Aggregate direct premiums, benefits and losses data by lines of business for the state.

The report shall be presented to the Legislature annually on or before June 15, or any earlier date that the Legislature may establish in the budget process, and shall be compiled from financial information reported in the most recent filings to the commissioner pursuant to Section 900.

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.

#### CHAPTER 1333

An act to amend Section 1 of Chapter 236 of the Statutes of 1986, relating to insurance.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986]

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) There is a growing demand throughout California and the nation for long-term care services for the elderly, as a result of changing demographics and the dramatic increase in the aged population.
- (b) Elderly persons and their families are increasingly forced to bear the financial burden of obtaining long-term care services, which has become the largest out-of-pocket health expense for older people.
- (c) Older people find that health insurance coverage for long-term care is either unavailable or inadequate to meet their needs. Private insurance now covers less than 2 percent of the cost of nursing home care, the largest component of long-term care.
- (d) Federally funded health care programs, such as Medicare and Medicaid, are designed with an emphasis on acute care, and eligibility requirements often require elderly persons to "spend down" their assets to the poverty level or to transfer assets to family members.
- (e) Federal expenditures for nursing home care increased tenfold between 1965 and 1980, and are estimated to quadruple by 1990, surpassing eighty billion dollars (\$80,000,000,000) annually.
- (f) Federal deficits and the rising cost of government health care programs has caused the federal government to favor private sector solutions to the problem of inadequate or nonexistent long-term care insurance.

- (g) The State of California has budgeted over one billion dollars (\$1,000,000,000) in the Medi-Cal program in 1985–86 for nursing home care, almost one-quarter of the total Medi-Cal budget.
- (h) In order to control rising state expenditures for health care, the state has an interest in investigating and encouraging the development of private insurance options for long-term care.
- (i) The complexity of this issue and the implications of long-term care insurance for consumers, government, industry, and labor, demand that a thorough investigation be made, involving all affected parties.
- SEC. 2. Section 1 of Chapter 236 of the Statutes of 1986 is amended to read:
- Section 1. (a) The Department of Insurance shall, in consultation with the Departments of Aging and Health, conduct a study of the feasibility of public or private insurance policies offering coverage for the following:
- (1) Services provided by a home health agency regardless of prior confinement in an acute care hospital or skilled nursing facility.
- (2) In-home supportive services, as defined in Section 12300 of the Welfare and Institutions Code regardless of prior confinement in an acute care hospital or skilled nursing facility.
- (3) Other nontraditional long-term care services, including adult day health care, hospice, and respite care.
- (4) Custodial care in a licensed long-term health care facility, as defined in Section 1418 of the Health and Safety Code.

The department shall consult with other state agencies to consider the potential savings of Medi-Cal expenditures due to the availability of the defined in-home insurance policies.

- (b) The study shall include, but not be limited to, the following issues:
  - (1) Purchase disincentives, including the following:
- (A) The lack of perceived risk from chronic illness, such as Alzheimer's disease, necessitating long-term care needs.
- (B) Misunderstanding of the scope and availability of benefits from existing programs such as Medi-Cal and Medicare.
  - (C) The availability of Medi-Cal benefits.
- (D) Any other disincentives to the purchase of private or public insurance covering in-home health and supportive services.
- (2) Market factors limiting the supply of available insurance policies for in-home health and supportive services including the following:
  - (A) Adverse selection.
  - (B) Induced demand or excessive utilization of services.
- (C) Inappropriate regulations and guidelines governing the types and conditions of policies.
  - (D) Cost of coverage versus the income of potential purchasers.
  - (3) Policy design, including the following:
  - (A) The definition of care services.
  - (B) Premium pricing.

- (C) Per diem indemnity versus cost reimbursement benefits.
- (4) Recommendations on the following public policy issues related to long-term care insurance:
- (A) How government and private industry can work together to assure financial protection to individuals against the tremendous costs of long-term care services.
- (B) Public policy initiatives that will encourage the development of private long-term care insurance.
- (C) Analysis of the effectiveness and the methods of existing programs which provide comprehensive health and social services to the elderly on an at-risk basis and information on their potential replication statewide.
- (D) Statutory or regulatory requirements for coverage of long-term care services in health insurance programs, including Medigap policies, prepaid health plans, and health maintenance organizations.
- (E) Educational initiatives that will better inform the public on the need for long-term care insurance as part of comprehensive insurance and retirement planning and provide information on the gaps and inadequacies of Medicare coverage for long-term care.
- (F) Feasibility of encouraging innovative planning for long-term care coverage through public policies, including tax incentives for Individual Retirement Accounts for long-term care.
- (c) In carrying out the mandate to study long-term care insurance, the department shall appoint, and seek input from, an ad hoc advisory committee composed of representatives of at least the following:
  - (1) The health care insurance industry.
  - (2) The Commission on Aging.
  - (3) The California Senior Legislature.
  - (4) Providers of adult day health care.
  - (5) Providers of home health services.
  - (6) Consumers of health care.
  - (7) Academicians researching the area of long-term care.
  - (8) An association representing proprietary nursing homes.
  - (9) An association representing nonprofit nursing homes.
  - (10) Organized labor.
- (11) Major corporations which provide health benefits to their employees.
- (d) The department shall report to the appropriate policy and fiscal committees of the Legislature on or before June 30, 1987, regarding their findings. The department's report to the Legislature, shall reflect the input from the ad hoc advisory committee.

An act to repeal and add Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure is repealed.

SEC. 2. Article 3 (commencing with Section 2016) is added to Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, to read:

## Article 3. Discovery

2016. (a) As used in this article:

- (1) "Action" includes a civil action and a special proceeding of a civil nature pursuant to Part 3 (commencing with Section 1063).
- (2) "Court" means the trial court in which the action is pending, unless otherwise specified.
- (b) This article applies to actions pending in a municipal court or in a justice court only to the extent provided in Sections 94 and 95.
- (c) This article applies to discovery in aid of enforcement of a money judgment only to the extent provided in Article 1 (commencing with Section 708.010) of Chapter 6 of Title 9 of Part 2.
- 2017. (a) Unless otherwise limited by order of the court in accordance with this article, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Discovery may relate to the claim or defense of the party seeking discovery or of any other party to the action. Discovery may be obtained of the identity and location of persons having knowledge of any discoverable matter, as well as of the existence, description, nature, custody, condition, and location of any writing or other tangible thing. However, except for that identifying information concerning persons, writings, or tangible things, any information or material prepared in anticipation of litigation or for trial by or for another party or by or for an attorney, insurer, consultant, surety, indemnitor, or agent of another party is discoverable only to the extent set forth in Section 2018.
- (b) A party may obtain discovery of the existence and contents of any agreement under which any insurance carrier may be liable to

satisfy in whole or in part a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. This discovery may include the identity of the carrier and the nature and limits of the coverage. A party may also obtain discovery as to whether that insurance carrier is disputing the agreement's coverage of the claim involved in the action, but not the nature and substance of the dispute. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial.

- (c) The court shall limit the scope of discovery if it determines that the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. The court may make this determination pursuant to a motion for protective order by a party or other affected person.
- (d) In any civil action alleging conduct that constitutes sexual harassment, sexual assault, or sexual battery, any party seeking discovery concerning the plaintiff's sexual conduct with individuals other than the alleged perpetrator is required to establish specific facts showing good cause for that discovery, and that the matter sought to be discovered is relevant to the subject matter of the action and reasonably calculated to lead to the discovery of admissible evidence. This showing shall be made by noticed motion and shall not be made or considered by the court at an ex parte hearing.
- 2018. (a) It is the policy of the state to assure to each party to an action, and to each party's attorney, insurer, consultant, surety, indemnitor, and agent, that degree of privacy for the product of their work in anticipation of litigation or for trial that will (1) provide an incentive for thorough preparation of their case for trial, (2) promote the investigation of not only the strengths but also the weaknesses of their case, and (3) prevent one party from taking unfair advantage of another party's industry and efforts.
- (b) Subject to subdivisions (c) and (d), the work product of a party, or of that party's attorney, insurer, surety, indemnitor, or agent is discoverable only if the party seeking discovery shows both of the following:
- (1) Specific facts evincing a substantial need of a particular item of work product in preparation for trial.
- (2) An inability without undue hardship to obtain the substantial equivalent of that item by other means.
- (c) If an expert has been consulted, retained, or specially employed by a party in anticipation of litigation or preparation for trial, and has not yet been designated a trial witness under Section 2034, another party may discover the identity of and the facts observed by that expert only in either of the following ways:
- (1) On a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain those facts by other means.
  - (2) By an exchange of medical reports as provided in subdivisions

(h) and (j) of Section 2032.

Nothing in this subdivision shall require the disclosure of the identity of an expert consulted by an attorney in order to make the certification required in actions for professional negligence pursuant to Sections 411.30 and 411.35.

With respect to discovery obtained under this subdivision, the court, unless manifest injustice would result, shall require the party seeking discovery to pay a fair portion of the fees and expenses reasonably incurred by the party providing the discovery in obtaining the facts observed by the expert.

- (d) Any writing that reflects an attorney's impressions, conclusions, opinions, or legal research or theories, whether prepared in anticipation of litigation or for trial, or prepared while acting in a nonlitigation legal capacity, shall not be discoverable under any circumstances.
- (e) The provisions of this section shall not be construed to alter, amend, or affect the law in existence at the time this section became effective. However, it is the intent of the Legislature that work product protection applicable to attorneys, insurers, sureties, indemnitors, or agents shall not apply to discovery regarding any cause of action for fraud or any first- or third-party action brought against an insurer.
- 2019. (a) Any party may obtain discovery by one or more of the following methods:
  - (1) Oral and written depositions.
  - (2) Interrogatories to a party.
  - (3) Inspections of documents, things, and places.
  - (4) Physical and mental examinations.
  - (5) Requests for admissions.
  - (6) Simultaneous exchanges of expert trial witness information.
- (b) The court shall restrict the frequency or extent of use of these discovery methods if it determines any of the following:
- (1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive.
- (2) The selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation.

The court may make those determinations pursuant to a motion for a protective order by a party or other affected person.

- (c) No party shall combine in a single document requests for admissions with any other method of discovery.
- (d) Unless there is a rule of the Judicial Council, or a local court rule or local uniform written policy to the contrary, the methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or another method, shall not operate to delay the discovery of any other party. However, upon motion and for good cause shown, the court may establish the

sequence and timing of discovery for the convenience of parties and witnesses and in the interests of justice.

- (e) In any action alleging the misappropriation of a trade secret under the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), before commencing discovery relating to the trade secret, the party alleging the misappropriation shall identify the trade secret with reasonable particularity subject to any orders that may be appropriate under Section 3426.5 of the Civil Code.
- 2020. (a) The method for obtaining discovery within the state from one who is not a party to the action is an oral deposition under Section 2025, a written deposition under Section 2028, or a deposition for production of business records and things under subdivisions (d) and (e). The process by which a nonparty is required to provide discovery is a deposition subpoena. The deposition subpoena may command any of the following:
- (1) Only the attendance and testimony of the deponent, under subdivision (c).
- (2) Only the production of business records for copying, under subdivision (d).
- (3) Both the attendance and testimony of the deponent, as well as the production of business records, other writings, and things under subdivision (e).

Except as modified in this section, the provisions of Chapter 2 (commencing with Section 1985), and of Article 4 (commencing with Section 1560) of Chapter 2 of Division 11 of the Evidence Code, apply to a deposition subpoena.

- (b) The clerk of the court in which the action is pending shall issue a deposition subpoena signed and sealed, but otherwise in blank, to a party requesting it, who shall fill it in before service. In lieu of the court-issued deposition subpoena, an attorney of record for any party may sign and issue a deposition subpoena; the deposition subpoena in that case need not be sealed.
- (c) A deposition subpoena that commands only the attendance and testimony of the deponent shall specify the time when and the place where the deponent is commanded to attend for the deposition. It shall set forth a summary of (1) the nature of a deposition, (2) the rights and duties of the deponent, and (3) the penalties for disobedience of a deposition subpoena described in subdivision (h). If the deposition will be recorded by video tape pursuant to paragraph (2) of subdivision (1) of Section 2025, the deposition subpoena shall state that it will be recorded in that manner. If the deponent is an organization, the deposition subpoena shall advise that organization of its duty to make the designation of employees or agents who will attend described in subdivision (d) of Section 2025.
- (d) (1) A deposition subpoena that commands only the production of business records for copying shall designate the business records to be produced either by specifically describing

each individual item or by reasonably particularizing each category of item. It shall be directed to the custodian of those records or another person qualified to certify the records. It shall command compliance in accordance with paragraph (4) within 20 days of the issuance, or within 15 days after the service, of the deposition subpoena, whichever date is later.

- (2) If, under Section 1985.3, the one to whom the deposition subpoena is directed is a witness, and the business records described in the deposition subpoena are personal records pertaining to a consumer, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the notice to the consumer described in subdivision (e) of Section 1985.3, or by the consumer's written authorization to release personal records described in paragraph (2) of subdivision (c) of Section 1985.3.
- (3) The officer for a deposition seeking discovery only of business records for copying pursuant to this subdivision shall be a professional photocopier registered under Chapter 20 (commencing with Section 22450) of Division 8 of the Business and Professions Code, or a person exempted from the registration requirements of that chapter pursuant to Section 22451 of the Business and Professions Code. This deposition officer shall not be financially interested in the action, or a relative or employee of any attorney of the parties. Any objection to the qualifications of the deposition officer is waived unless made before the date of production or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.
- (4) The custodian of the records or other qualified person shall, in person, by messenger, or by mail, deliver only to the deposition officer specified in the deposition subpoena (1) a true, legible, and durable copy of the records, and (2) an affidavit in compliance with Section 1561 of the Evidence Code. If this delivery is made to the office of the deposition officer, the records shall be enclosed, sealed, and directed as described in subdivision (c) of Section 1560 of the Evidence Code. If this delivery is made at the office of the business whose records are the subject of the deposition subpoena, the custodian of those records or other qualified person may (1) permit the deposition officer specified in the deposition subpoena to make a copy of the originals of the designated business records, or (2) deliver to that deposition officer a true, legible, and durable copy of the records on receipt of payment in cash or by check, by or on behalf of the party serving the deposition subpoena, of the reasonable costs of preparing that copy as determined pursuant to subdivision (b) of Section 1563 of the Evidence Code. This copy need not be delivered in a sealed envelope.
- (5) Promptly after the receipt or the making of a copy of business records under this subdivision, the deposition officer shall provide that copy to the party at whose instance the deposition subpoena was served, and a copy thereof to any other party to the action who then or subsequently notifies the deposition officer that the party desires

to purchase a copy of those records.

- (6) The provisions of Section 1562 of the Evidence Code concerning the admissibility of the affidavit of the custodian or other qualified person apply to a deposition subpoena served pursuant to this subdivision.
- (e) A deposition subpoena that commands both the attendance and testimony of the deponent, as well as the production of records, documents, or things shall (1) comply with the requirements of subdivision (c), (2) designate the documents and things to be produced either by specifically describing each individual item or by reasonably particularizing each category of item, and (3) specify any testing or sampling that is being sought.

Where, as described in Section 1985.3, the person to whom the deposition subpoena is directed is a witness, and the business records described in the deposition subpoena are personal records pertaining to a consumer, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the notice to the consumer described in subdivision (e) of Section 1985.3, or by the consumer's written authorization to release personal records described in paragraph (2) of subdivision (c) of Section 1985.3.

(f) Service of a deposition subpoena shall be effected a sufficient time in advance of the deposition to provide the deponent a reasonable opportunity to locate and produce any designated business records, other documents, and things, and, where personal attendance is commanded, a reasonable time to travel to the place of deposition. Any person may serve the subpoena by personal delivery of a copy of it (1) if the deponent is a natural person, to that person, and (2) if the deponent is an organization, to any officer, director, custodian of records, or to any agent or employee authorized by the organization to accept service of a subpoena.

If a deposition subpoena requires the personal attendance of the deponent, pursuant to subdivision (c) or (e), the party noticing the deposition shall pay to the deponent in cash or by check the same witness fee and mileage required by Chapter 1 (commencing with Section 68070) of Title 8 of the Government Code for attendance and testimony before the court in which the action is pending. This payment shall be made either at the time of service of the deposition subpoena, or at the time the deponent attends for the taking of testimony.

Service of a deposition subpoena that does not require the personal attendance of a custodian of records or other qualified person, pursuant to subdivision (d), shall be accompanied, whether or not demanded by the deponent, by a payment in cash or by check of the witness fee required by paragraph (6) of subdivision (b) of Section 1563 of the Evidence Code.

(g) Personal service of any deposition subpoena is effective to require of any deponent who is a resident of California at the time of service (1) personal attendance and testimony, if the subpoena so

- specifies, (2) any specified production, inspection, testing, and sampling, and (3) the deponent's attendance at a court session to consider any issue arising out of the deponent's refusal to be sworn, or to answer any questions, or to produce specified items, or to permit inspection or specified testing and sampling of the items produced.
- (h) A deponent who disobeys a deposition subpoena, either by failing to attend at the time and place commanded, or by refusing to be sworn as a witness (1) may be punished for contempt under Section 2023 without the necessity of a prior order of court directing compliance by the witness, and (2) is subject to the forfeiture and the payment of damages set forth in Section 1992.
- 2021. Unless the court orders otherwise, the parties may by written stipulation (a) provide that depositions may be taken before any person, at any time or place, on any notice, and in any manner, and when so taken may be used like other depositions, and (b) modify the procedures provided by this article for other methods of discovery.
- 2023. (a) Abuses of the discovery process include, but are not limited to, the following:
- (1) Persisting, over objection, in an attempt to obtain information or materials that are outside the scope of permissible discovery.
- (2) Using a discovery method in a manner that does not comply with its specified procedures.
- (3) Employing a discovery method in a manner or to an extent that causes unwarranted annoyance, embarrassment, or oppression, or undue burden and expense.
- (4) Failing to respond or submit to an authorized method of discovery.
- (5) Making an unmeritorious objection or evasive response to discovery.
  - (6) Disobeying a court order to provide discovery.
- (7) Failing to confer in person, by telephone, or by letter with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery, if the section governing a particular method of discovery requires any informal conference as a prerequisite for making or opposing a motion to compel discovery, or to limit the scope or the method of discovery. The court may impose a monetary sanction pursuant to Section 2023 against any party or attorney who fails to confer as required.
- (b) To the extent authorized by the section governing any particular discovery method, the court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct constituting an abuse of the discovery process.
- (1) The court may impose a monetary sanction ordering that one engaging in a discovery abuse or any attorney advising that conduct pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct. The court may also impose this

sanction on one unsuccessfully asserting that another has engaged in a discovery abuse and on any attorney who advised that assertion. If the section governing a particular method of discovery authorizes a monetary sanction, the court shall impose that sanction unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the sanction unjust.

- (2) The court may impose an issue sanction ordering that designated facts shall be taken as established in the action in accordance with the claim of the party adversely affected by a discovery abuse. The court may also impose an issue sanction by an order prohibiting any party engaging in a discovery abuse from supporting or opposing designated claims or defenses.
- (3) The court may impose an evidence sanction by an order prohibiting any party engaging in a discovery abuse from introducing designated matters in evidence.
- (4) The court may impose a terminating sanction by one of the following orders:
- (A) An order striking out pleadings or parts thereof of any party engaging in a discovery abuse.
- (B) An order staying further proceedings by that party until an order for discovery is obeyed.
- (C) An order dismissing the action, or any part thereof, of that party.
  - (D) An order rendering a judgment by default against that party.
- (5) The court may impose a contempt sanction by an order treating the discovery abuse as a contempt of court.
- 2024. (a) Except as provided in subdivision (b), any party shall be entitled as a matter of right to complete discovery proceedings until 30 days, and to have motions concerning discovery heard until 15 days, before the date initially set for the trial of the action. As used in this section, discovery is considered completed on the day a response is due or on the day a deposition begins. Except as provided in subdivision (c), a continuance or postponement of the trial date does not operate to reopen discovery proceedings.

This section does not apply to (1) summary proceedings for obtaining possession of real property governed by Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, or (2) eminent domain proceedings, governed by Title 7 (commencing with Section 1230.010) of Part 3.

- (b) Any party shall be entitled as a matter of right to complete discovery proceedings pertaining to a witness identified under Section 2034 until 15 days, and to have motions concerning that discovery heard until 10 days, before the date initially set for the trial of the action.
- (c) On motion of any party, the court may grant leave to complete discovery proceedings, or to have a motion concerning discovery heard, closer to the initial trial date, or to reopen discovery after a new trial date has been set. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt

at an informal resolution of any issue presented by the motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any matter relevant to the leave requested, including, but not limited to, the following:

- (1) The necessity and the reasons for the discovery.
- (2) The diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier.
- (3) Any likelihood that permitting the discovery or hearing the discovery motion will prevent the case from going to trial on the day set, or otherwise interfere with the trial calendar, or result in prejudice to any other party.

(4) The length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action.

- (d) The parties to the action may agree to extend the time for the completion of discovery proceedings or for the hearing of motions concerning discovery, or to reopen discovery after a new date for trial of the action has been set. This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date. Any party affected by the agreement shall have consented to it. In no event shall this agreement require a court to grant a continuance or postponement of the trial of the action.
- 2025. (a) Any party may obtain discovery within the scope fixed by Section 2017, and subject to the restrictions set forth in Section 2019, by taking in California the oral deposition of any person, including, but not limited to, a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency, including the deposition of any party to the action.
- (b) Subject to the provisions of subdivisions (f) and (t), an oral deposition may be taken as follows:
- (1) The defendant may take a deposition without leave of court at any time after that defendant has been served or has appeared in the action, whichever occurs first.
- (2) The plaintiff may take a deposition without leave of court on any date that is 20 days after the service of the summons on, or appearance by, any defendant. However, on motion with or without notice, the court, for good cause shown, may grant to a plaintiff leave to take a deposition at an earlier date.
- (c) A party desiring to take the oral deposition of any person shall give notice in writing in the manner set forth in subdivision (d). The notice of deposition shall be given to every other party who has appeared in the action. The deposition notice shall list all the parties or attorneys for parties on whom it is served.

Where, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer who is not a party to the action, the subpoenaing party shall serve on that consumer (1) a notice of the deposition, (2) the notice of privacy rights specified in subdivision (e) of Section 1985.3, and (3) a copy of the deposition subpoena.

- (d) The deposition notice shall state all of the following:
- (1) The address where the deposition will be taken.
- (2) The date of the deposition, selected pursuant to subdivision (f), and the time it will commence.
  - (3) The name, address, and telephone number of each deponent.
- (4) The specification with reasonable particularity of any materials or category of materials to be produced by the deponent.
- (5) Any intention to record the testimony by audio tape or video tape, in addition to recording the testimony by the stenographic method as required by paragraph (1) of subdivision (l).
- (6) Any intention to use at trial a video tape deposition of a treating or consulting physician or of any expert witness pursuant to paragraph (4) of subdivision (u). In this event, the operator of the video tape camera shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties.

If the name of the deponent is not known, the deposition notice shall set forth instead a general description sufficient to identify the person or particular class to which the person belongs.

If the deponent named is not a natural person, the deposition notice shall describe with reasonable particularity the matters on which examination is requested. In that event, the deponent shall designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent. A deposition subpoena shall advise a nonparty deponent of its duty to make this designation.

If the attendance of the deponent is to be compelled by service of a deposition subpoena pursuant to Section 2020, an identical copy of that subpoena shall be served with the deposition notice.

- (e) (1) The deposition of a natural person, whether or not a party to the action, shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 150 miles of the deponent's residence, unless the court orders otherwise pursuant to paragraph (3).
- (2) The deposition of an organization that is a party to the action shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the organization's principal executive business office in California, or in the county where the action is pending and within 150 miles of the office, unless the court orders otherwise pursuant to paragraph (3). The deposition of any other organization shall be taken within 75 miles of the organization's principal executive or business office in

California, unless the organization consents to a more distant place. If the organization has not designated a principal executive or business office, the deposition shall be taken at a place that is, at the option of the party giving notice of the deposition, either within the county where the action is pending, or within 75 miles of any executive or business office of the organization in California.

(3) A party desiring to take the deposition of a natural person who is a party to the action or an officer, director, managing agent, or employee of a party may make a motion for an order that the deponent attend for deposition at a place that is more than 150 miles from the deponent's residence. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any factor tending to show whether the interests of justice will be served by requiring the deponent's attendance at that more distant place, including, but not limited to, the following:

- (A) Whether the moving party selected the forum.
- (B) Whether the deponent will be present to testify at the trial of the action.
  - (C) The convenience of the deponent.
- (D) The feasibility of conducting the deposition by written questions pursuant to Section 2028, or by a discovery method other than a deposition.
- (E) The number of depositions sought to be taken at a place more distant than 150 miles from a deponent's residence.
- (F) The expense to the parties of requiring the deposition to be taken within 150 miles from the deponent's residence.
- (G) The whereabouts of the deponent at the time for which the deposition is scheduled.

The order may be conditioned on the advancement by the moving party of the reasonable expenses and costs to the deponent for travel to the place of deposition.

(f) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice. If, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena. If service of the deposition notice is made by mail, five days shall be added to each of the foregoing periods.

On motion of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order pursuant to subdivision (i).

(g) Any party served with a deposition notice that does not comply with subdivisions (b) to (f), inclusive, waives any error or

irregularity unless that party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written objection specifying that error or irregularity on the party seeking to take the deposition and any other attorney or party on whom the deposition notice was served. If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to Section 1011 on the party who gave notice of the deposition. Any deposition taken after the service of a written objection shall not be used against the objecting party pursuant to subdivision (u) if the court determines that the objection was a valid one.

In addition to serving this written objection, a party may also move for an order staying the taking of the deposition and quashing the deposition notice. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The taking of the deposition is stayed pending the determination of this motion.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on a motion to quash a deposition notice, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of the issues presented by the motion.

- (h) (1) The service of a deposition notice under subdivision (c) is effective to require any deponent who is a party to the action or an officer, director, managing agent, or employee of a party to attend and to testify, as well as to produce any writing or tangible thing for inspection and copying.
- (2) The attendance and testimony of any other deponent, as well as the production of any writing or tangible thing for inspection and copying, requires the service on the deponent of a deposition subpoena under Section 2020.
- (i) Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

- (1) That the deposition not be taken at all.
- (2) That the deposition be taken at a different time.
- (3) That a video tape deposition of a treating or consulting physician or of any expert witness, intended for use at trial pursuant to paragraph (4) of subdivision (u), be postponed until the moving party has had an adequate opportunity to prepare, by discovery, deposition of the deponent, or other means, for cross-examination.

- (4) That the deposition of a party or of a party-affiliated deponent be taken at a place other than that specified in the deposition notice, if it is a place permitted by subdivision (e).
- (5) That the deposition be taken only on certain specified terms and conditions.
- (6) That the deponent's testimony be taken by written, instead of oral, examination.
- (7) That the method of discovery be interrogatories to a party instead of an oral deposition.
- (8) That the testimony be recorded in a manner different from that specified in the deposition notice.
  - (9) That certain matters not be inquired into.
- (10) That the scope of the examination be limited to certain matters.
- (11) That all or certain of the writings or tangible things designated in the deposition notice not be produced, inspected, or copied.
- (12) That designated persons, other than the parties to the action and their officers and counsel, be excluded from attending the deposition.
- (13) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only to specified persons or only in a specified way.
- (14) That the parties simultaneously file specified documents enclosed in sealed envelopes to be opened as directed by the court.
- (15) That the deposition be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the deponent provide or permit the discovery against which protection was sought on those terms and conditions that are just.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on a motion for a protective order, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

- (j) (1) If the party giving notice of a deposition fails to attend or proceed with it, the court may impose a monetary sanction under Section 2023 against that party, and in favor of any party attending in person or by attorney.
- (2) If a deponent does not appear for a deposition because the party giving notice of the deposition failed to serve a required deposition subpoena, the court may impose a monetary sanction under Section 2023 against that party and in favor of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken.

If a deponent on whom a deposition subpoena has been served fails to attend a deposition or refuses to be sworn as a witness, the court may impose on the deponent the sanctions described in subdivision (h) of Section 2020.

(3) If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party pursuant to subdivision (d) fails to appear for examination, or to proceed with it, or to produce for inspection any document or thing described in the deposition notice without having served a valid objection under subdivision (g), the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or thing described in the deposition notice, as well as for a monetary sanction under Section 2023 against that deponent or any party with whom the deponent is affiliated. Any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken may also move for a monetary sanction pursuant to Section 2023.

If that party or party-affiliated deponent then fails to obey an order compelling attendance, testimony, and production, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the party deponent or against the party with whom the deponent is affiliated. In lieu of or in addition to this sanction, the court may impose a monetary sanction under Section 2023 against that deponent or against the party with whom that deponent is affiliated, and in favor of any party who, in person or by attorney, attended in the expectation that the deponent's testimony would be taken pursuant to that order.

- (k) Except as provided in paragraph (3) of subdivision (d) of Section 2020, the deposition shall be conducted under the supervision of an officer who is authorized to administer an oath. This officer shall not be financially interested in the action and shall not be a relative or employee of any attorney of any of the parties. Any objection to the qualification of the deposition officer is waived unless made before the deposition begins or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.
- (1) (1) The deposition officer shall put the deponent on oath. Unless the parties agree or the court orders otherwise, the testimony, as well as any objections, shall be taken stenographically. The party noticing the deposition may also record the testimony by audio tape or video tape if the notice of deposition stated an intention also to record the testimony by either of those methods, or if all the parties agree that the testimony may also be recorded by either of those methods. Any other party, at that party's expense, may make a simultaneous audio tape or video tape record of the deposition, provided that the other party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written notice of this intention to audio tape or

video tape the deposition testimony on the party or attorney who notices the deposition and on all other parties or attorneys on whom the deposition notice was served pursuant to subdivision (c). Examination and cross-examination of the deponent shall proceed as permitted at trial under the provisions of the Evidence Code.

- (2) If the deposition is being recorded by means of audio tape or video tape, the following procedure shall be observed:
- (A) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.
- (B) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this subdivision. The operator may be an employee of the attorney taking the deposition unless the operator is also the deposition officer. However, if a video tape of deposition testimony is to be used pursuant to paragraph (4) of subdivision (u), the operator of the recording equipment shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions.
- (C) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.
- (D) The deposition shall begin with an oral or written statement on camera or on the audio tape that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.
- $(\dot{E})$  Counsel for the parties shall identify themselves on camera or on the audio tape.
- (F) The oath shall be administered to the deponent on camera or on the audio tape.
- (G) If the length of a deposition requires the use of more than one unit of tape, the end of each unit and the beginning of succeeding unit shall be announced on camera or on the audio tape.
- (H) At the conclusion of a deposition, a statement shall be made on camera or on the audio tape that the deposition is ended. A statement shall be made on camera or on the audio tape setting forth any stipulations made by counsel concerning the custody of the audio tape or video tape recording and the exhibits, or concerning other pertinent matters.
- (I) A party intending to offer an audio taped or video taped recording of a deposition in evidence pursuant to subdivision (u) shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered within sufficient time for objections to be made and ruled on before the trial or hearing. Objections to all or part of the deposition shall be made in writing

within sufficient time to allow for rulings on them and for editing of the tape. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audio taped or video taped deposition that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the deposition tape be prepared for use at the trial or hearing. However, the original audio tape or video tape of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony has previously been made, the party offering a video tape or an audio tape recording of that testimony pursuant to subdivision (u) shall accompany that offer with a stenographic transcript prepared from that recording.

- (3) In lieu of participating in the oral examination, parties may transmit written questions in a sealed envelope to the party taking the deposition for delivery to the deposition officer, who shall unseal the envelope and propound them to the deponent after the oral examination has been completed.
- (m) (1) The protection of information from discovery on the ground that it is privileged or that it is protected work product prepared in anticipation of litigation or for trial is waived unless a specific objection to its disclosure is timely made during the deposition.
- (2) Errors and irregularities of any kind occurring at the oral examination that might be cured if promptly presented are waived unless a specific objection to them is timely made during the deposition. These errors and irregularities include, but are not limited to, those relating to the manner of taking the deposition, to the oath or affirmation administered, to the conduct of a party, attorney, deponent, or deposition officer, or to the form of any question or answer. Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order pursuant to subdivision (n), the deposition shall proceed subject to the objection.
- (3) Objections to the competency of the deponent, or to the relevancy or materiality or admissibility at trial of the testimony or of the materials produced are unnecessary and are not waived by failure to make them before or during the deposition.
- (4) If a deponent fails to answer any question or to produce any writing or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking that answer or production may adjourn or complete the examination on other matters without waiving the right at a later time to move for an order compelling that answer or production under subdivision (o).
- (n) On demand of any party or the deponent, the deposition officer shall suspend the taking of testimony to enable that party or deponent to move for a protective order on the ground that the

examination is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The court, for good cause shown, may terminate the examination or may limit the scope and manner of taking the deposition as provided in subdivision (i). If the order terminates the examination, the deposition shall not thereafter be resumed, except on order of the court.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on a motion for a protective order, if prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

(o) If a deponent fails to answer any question or to produce any writing or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production. This motion shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. Notice of this motion shall be given to all parties, and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally, the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice. Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion. If a deposition is recorded by audio tape or video tape, the moving party is required to lodge a certified copy of a transcript of any parts of the deposition that are relevant to the motion. If the court determines that the answer or production sought is subject to discovery, it shall order that the answer be given or the production be made on the resumption of the deposition.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on a motion to compel answer or production, if prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

If a deponent fails or refuses to obey an order entered under this subdivision, the failure or refusal may be considered a contempt of court. In addition, if the disobedient deponent is a party to the action or an officer, director, managing agent, or employee of a party, the court may make those orders that are just against the disobedient party, or against the party with whom the disobedient deponent is affiliated, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or

in addition to this sanction, the court may impose a monetary sanction under Section 2023 against that party deponent or against any party with whom the deponent is affiliated.

(p) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed. The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party. Any other party, at that party's expense, may obtain a copy of the transcript. At the request of any other party to the action, including a party who did not attend the taking of the deposition testimony, any party who records or causes the recording of that testimony by means of audio tape or video tape shall promptly: (1) permit that other party to hear the audio tape or to view the video tape and, (2) furnish a copy of the audio tape or video tape to that other party on receipt of payment of the reasonable cost of making that copy of the tape.

If the testimony at the deposition is recorded both stenographically, and by audio tape or video tape, the stenographic transcript is the offical record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

(q) (1) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the original transcript of the testimony is available for reading and signing, unless the deponent and all these parties agree on the record to waive the reading and signing of the transcript of the testimony. For 30 days following this notice, which period is extended by five days where the service is made by mail, the deponent, either in person or by a signed letter to the deposition officer, may change the form or the substance of his or her answer to any question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it. For good cause shown the court may shorten this time.

The deposition officer shall indicate on the original any action taken by the deponent, or the failure of the deponent to contact the officer within the allotted period. When a deponent fails to contact the officer within the allotted period, or expressly disapproves the accuracy of the transcript by refusing to sign it, the deposition shall be given the same effect as though signed. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion, the court may determine that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on this motion to suppress, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

(2) If there is no stenographic transcription of the deposition, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the recording is available for review, unless the deponent and all these parties agree on the record to waive the hearing or viewing of an audio tape or video tape recording of the testimony. For 30 days following this notice, which period is extended by five days where the service is made by mail, the deponent, either in person or by signed letter to the deposition officer, may change the substance of his or her answer to any question.

The deposition officer shall set forth in a writing to accompany the recording any changes made by the deponent, as well as either the deponent's signature identifying the deposition as his or her own, or a statement of the deponent's failure to supply such signature, or to contact the officer within the allotted period. When a deponent fails to contact the officer within the allotted period, or expressly refuses by a signature to identify the deposition as his or her own, the deposition shall be given the same effect as though signed. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion, the court may determine that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. The court may impose a monetary sanction under Section 2023 against one who does not prevail, and in favor of anyone who does prevail, on this motion to suppress, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

- (r) The deposition officer shall certify on the transcript of the deposition, or in the writing accompanying an audio taped or video taped deposition prepared under paragraph (2) of subdivision (q), that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given and of any changes made by the deponent.
- (s) (1) The certified transcript of a deposition shall not be filed with the court. Instead, the deposition officer shall securely seal that transcript in an envelope or package endorsed with the title of the action and marked: "Deposition of (here insert name of deponent)", and promptly transmit it to the attorney for the party who noticed the deposition. This attorney shall store it under conditions that will protect it against loss or destruction or tampering.

The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until six months after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript or record be preserved for a longer period.

(2) An audio tape or video tape record of deposition testimony, including a certified tape made by an operator qualified pursuant to subparagraph (B) of paragraph (2) of subdivision (1), shall not be

filed with the court. Instead, the operator shall retain custody of that record and shall store it under conditions that will protect it against loss or destruction or tampering and preserve as far as practicable the quality of the tape and the integrity of the testimony and images it contains.

At the request of any party to the action, including a party who did not attend the taking of the deposition testimony, or at the request of the deponent, that operator shall promptly, (A) permit the one making the request to hear and to view the tape on receipt of payment of a reasonable charge for providing the facilities for hearing or viewing the tape and, (B) furnish a copy of the audio tape or the video tape recording to the one making the request on receipt of payment of the reasonable cost of making that copy of the tape.

The attorney or operator who has custody of an audio tape or video tape record or deposition testimony shall retain custody of it until six months after final disposition of the action. At that time, the audio tape or video tape may be destroyed or erased, unless the court, on motion of any party and for good cause shown, orders that the tape be preserved for a longer period.

- (t) Once any party has taken the deposition of any natural person, including that of a party to the action, neither the party who gave, nor any other party who received, notice of the deposition may take a subsequent deposition of that deponent. However, for good cause shown, the court may grant leave to take a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition be taken. This subdivision does not preclude taking one subsequent deposition of a natural person who has previously been examined as a result of that person's designation to testify on behalf of an organization under subdivision (d).
- (u) At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice thereof and did not serve a valid objection under subdivision (g), so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:
- (1) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.
- (2) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under subdivision (d) of a party. It is not ground for objection to the use of a deposition of a party to the action by an adverse party that the party deponent is present, and has testified or will testify, at the trial or other hearing.
  - (3) Any party may use for any purpose the deposition of any

person or organization, including that of any party to the action, if the court finds any of the following:

- (A) The deponent resides more than 150 miles from the place of the trial or other hearing.
- (B) Without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, the deponent is (i) exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant or, (ii) disqualified from testifying or, (iii) dead or unable to attend or testify because of existing physical or mental illness or infirmity or, (iv) absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process or, (v) absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.
- (C) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.
- (4) Any party may use a video tape deposition of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice specified under subdivision (d) that the deposition was intended for use at trial.
- 2026. (a) Any party may obtain discovery by taking an oral deposition, as described in subdivision (a) of Section 2025, in another state of the United States, or in a territory or an insular possession subject to its jurisdiction. Except as modified in this section, the procedures for taking oral depositions in California set forth in Section 2025 apply to an oral deposition taken in another state of the United States, or in a territory or an insular possession subject to its jurisdiction.
- (b) (1) If a deponent is a party to the action or an officer, director, managing agent, or employee of a party, the service of the deposition notice is effective to compel that deponent to attend and to testify, as well as to produce any writing or tangible thing for inspection, copying, and any related activity. The deposition notice shall specify a place in the state, territory, or insular possession of the United States that is within 75 miles of the residence or a business office of the deponent.
- (2) If the deponent is not a party to the action or an officer, director, managing agent, or employee of a party, a party serving a deposition notice under this section shall use any process and procedures required and available under the laws of the state, territory, or insular possession where the deposition is to be taken to compel the attendance, testimony, and production of documents and things by the deponent.
  - (c) A deposition taken under this section shall be conducted: (1)

under the supervision of a person who is authorized to administer oaths by the laws of the United States or those of the place where the examination is to be held, and who is not otherwise disqualified under subdivision (k) of Section 2025 or, (2) before a person appointed by the court. This appointment is effective to authorize that person to administer oaths and to take testimony. When necessary or convenient, the court shall issue a commission on such terms and with such directions as are just and appropriate.

- 2027. (a) Any party may obtain discovery by taking an oral deposition, as described in subdivision (a) of Section 2025, in a foreign nation. Except as modified in this section, or by order of court under Section 2022, the procedures for taking oral depositions in California set forth in Section 2025 apply to an oral deposition taken in a foreign nation.
- (b) (1) If a deponent is a party to the action or an officer, director, managing agent, or employee of a party, the service of the deposition notice is effective to compel the deponent to attend and to testify, as well as to produce any writing or tangible thing for inspection, copying, and any related activity. The deposition notice shall specify as the place for the deposition the embassy, legation, or consular office that is located nearest to the residence or a business office of the deponent.
- (2) If a deponent is not a party to the action or an officer, director, managing agent or employee of a party, a party serving a deposition notice pursuant to this section shall use any process and procedures required and available under the laws of the foreign nation where the deposition is to be taken to compel the deponent to attend and to testify, as well as to produce any writing or tangible thing for inspection, copying, and any related activity.
- (c) A deposition taken pursuant to this section shall be conducted before a person who is authorized to administer oaths or their equivalent by the laws of the foreign nation and not otherwise disqualified pursuant to subdivision (k) of Section 2025. The deposition officer shall be a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States; or a person or officer appointed by commission or under letters rogatory; or any person agreed to by all the parties.

On motion of the party seeking to take an oral deposition in a foreign nation, the court in which the action is pending shall issue a commission, or letters rogatory, or a letter of request, if it determines that one is necessary or convenient. The commission, or letters rogatory, or letter of request may include any terms and directions that are just and appropriate. The deposition officer may be designated by name or by descriptive title in the deposition notice and in a commission. Letters rogatory or a letter of request may be addressed: "To the Appropriate Judicial Authority in [name of nation, state, or country]."

2028. (a) Any party may obtain discovery by taking a deposition by written questions instead of by oral examination. Except as

modified in this section, the procedures for taking oral depositions set forth in Sections 2025, 2026, and 2027 apply to written depositions.

- (b) The notice of a written deposition shall comply with subdivision (d) of Section 2025, except that (1) the name or descriptive title, as well as the address of the deposition officer shall be stated and, (2) the date, time, and place for commencement of the deposition may be left to future determination by the deposition officer.
- (c) The questions to be propounded to the deponent by direct examination shall accompany the notice of a written deposition.

Within 30 days after the deposition notice and questions are served, which period is extended by five days where the service is made by mail, a party shall serve any cross questions on all other parties entitled to notice of the deposition.

Within 15 days after being served with cross questions which period is extended by five days where such service is made by mail, a party shall serve any redirect questions on all other parties entitled to notice of the deposition.

Within 15 days after being served with redirect questions which period is extended by five days where such service is made by mail, a party shall serve any recross questions on all other parties entitled to notice of the deposition.

The court may, for good cause shown, extend or shorten the time periods for the interchange of cross, redirect, and recross questions.

(d) (1) A party who objects to the form of any question may serve a specific objection thereto on all parties entitled to notice of the deposition within 15 days after service of the question which period is extended by five days where the service is made by mail. A party who fails to timely serve the objection waives it. The objecting party may promptly move the court to sustain the objection. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of the issue presented by the objection and motion. Unless the court has sustained the objection, the deposition officer shall propound to the deponent any question to which objection is made subject to that objection.

The court may impose a monetary sanction under Section 2023 against any party who does not prevail, and in favor of any party who does prevail, on a motion to sustain an objection, if prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by that objection and motion.

(2) A party who objects to any question on the ground that it calls for information that is privileged or is protected work product prepared in anticipation of litigation, or for trial shall serve a specific objection thereto on all parties entitled to notice of the deposition within 15 days after service of the question which period is extended by five days where such service is made by mail. A party who fails to timely serve that objection waives it. The party propounding any question to which an objection is made may then move the court for

an order overruling that objection. This motion shall be accompanied by a declaration stating facts constituting a reasonable and good faith attempt at an informal resolution of the issue presented by the objection and motion. The deposition officer shall not propound to the deponent any question to which an objection has been made unless the court has overruled that objection.

The court may impose a monetary sanction under Section 2023 against any party who does not prevail, and in favor of any party who does prevail, on a motion to overrule an objection, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by that objection and motion.

- (e) The party taking a written deposition may forward to the deponent a copy of the questions on direct examination for study prior to the deposition. No party or attorney shall permit the deponent to preview the form or the substance of any cross, redirect, or recross questions.
- (f) In addition to any appropriate order listed in subdivision (i) of Section 2025, the court may order any of the following:
- (1) That the deponent's testimony be taken by oral, instead of written, examination.
- (2) That one or more of the parties receiving notice of the written deposition be permitted to attend in person or by attorney and to propound questions to the deponent by oral examination.
- (3) That objections under subdivision (d) be sustained or overruled.
- (4) That the deposition be taken before an officer other than the one named or described in the deposition notice.
- (g) The party taking the deposition shall deliver to the officer designated in the deposition notice a copy of that notice and of all questions served under subdivision (c). The deposition officer shall proceed promptly to propound the questions and to take and record the testimony of the deponent in response to the questions. In addition to any other means specified in the deposition notice, the testimony taken at a written deposition shall be recorded stenographically.
- 2029. (a) Whenever any mandate, writ, letters rogatory, letter of request, or commission is issued out of any court of record in any other state, territory, or district of the United States, or in a foreign nation, or whenever, on notice or agreement, it is required to take the oral or written deposition of a natural person in California, the deponent may be compelled to appear and testify, and to produce documents and things, in the same manner, and by the same process as may be employed for the purpose of taking testimony in actions pending in California.
- (b) The clerk of the superior court in which the deponent resides shall issue a deposition subpoena directed to the deponent if it appears by affidavit or declaration filed that (1) the deponent resides within 75 miles of the place at which the deposition is to be taken,

- (2) the testimony of the deponent as well as any documents or things described in the deposition subpoena are relevant to the subject matter involved in the action or proceeding, and (3) a deposition taken under these circumstances may be used in the action under the law of the state, territory, district, or foreign nation in which it is pending.
- 2030. (a) Any party may obtain discovery within the scope fixed by Section 2017, and subject to the restrictions set forth in Section 2019, by propounding to any other party to the action written interrogatories to be answered under oath.
- (b) A defendant may propound interrogatories to a party to the action without leave of court at any time. A plaintiff may propound interrogatories to a party without leave of court at any time that is 10 days after the service of the summons upon, or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to propound interrogatories at an earlier time.
- (c) (1) Absent a stipulation or court order increasing the number, and except as provided in paragraph (8) of subdivision (c), no party shall, as a matter of right, propound to any other party more than 35 interrogatories. If the initial set of interrogatories does not exhaust this limit, the balance may be propounded in subsequent sets. Any particular interrogatory that exceeds this limit need not be answered, if the responding party states an objection to it on that ground under paragraph (3) of subdivision (f).
- (2) Any party may stipulate in writing with another party that each may propound to the other a greater or an unlimited number of interrogatories. Any party may propound a greater number of interrogatories to another party if this greater number is warranted because of any of the following:
- (A) The complexity or the quantity of the existing and potential issues in the particular case.
- (B) The financial burden on a party entailed in conducting the discovery by oral deposition.
- (C) The expedience of using this method of discovery to provide to the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.
- (3) Any party who is propounding or has propounded more than 35 interrogatories to any other party shall attach to each set of interrogatories a declaration containing substantially the following:

## DECLARATION FOR ADDITIONAL DISCOVERY

i,, declare:	
1. I am (a party to this action or proceeding appearing in prop	ria
persona) (presently the principal attorney for	., a
party to this action or proceeding).	
2. I am propounding to, the attached set	of

interrogatories.

- 3. This set of interrogatories will cause the total number of interrogatories propounded to the party to whom they are directed to exceed the number of interrogatories permitted by subdivision (c) of Section 2030 of the Code of Civil Procedure.
- 4. I have previously propounded a a total of \_\_\_\_\_\_interrogatories (including subparts) to this party.
- 5. I am familiar with the issues and previous discovery conducted by all parties in this case.
- 6. This set of interrogatories contains a total of \_\_\_\_\_ questions (including subparts).
- 7. I have personally examined each of the questions, including any subparts, in this set of interrogatories.
- 8. The information sought by each question and any subparts is necessary for the proper preparation of this case and reasonably requires this number of questions.
- 9. None of the questions or subparts in this set of interrogatories is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct. Executed on \_\_\_\_\_\_\_.

rue and correct.	Executed on
	(Signature)
Attorney for	
•	(party—may be left blank if
	signed by party appearing in
	propria persona)

- (4) A party propounding interrogatories shall number each set of interrogatories consecutively. In the first paragraph immediately below the title of the case, there shall appear (1) the identity of the propounding party, (2) the set number, and (3) the identity of the responding party. Each interrogatory in a set shall be separately set forth.
- (5) Each interrogatory shall be full and complete in and of itself. No preface or instructions shall be included with a set of interrogatories unless it has been approved under Section 2033.5. Any term specially defined in a set of interrogatories shall be typed with all letters capitalized whenever that term appears. No interrogatory shall contain subparts, or a compound, conjunctive, or disjunctive question unless it has been approved under Section 2033.5.
- (6) An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based. An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on

information obtained or legal theories developed in anticipation of litigation or in preparation for trial by the party to whom it is directed or by the attorney, insurer, consultant, surety, indemnitor, or agent of that party.

- (7) An interrogatory may not be made a continuing one so as to impose on the party responding to it a duty to supplement an answer to it that was initially correct and complete with information thereafter acquired.
- (8) In addition to the number of interrogatories permitted by paragraphs (1) and (2), a party may propound a supplemental interrogatory to elicit any later acquired information bearing on all answers previously made by any party in response to interrogatories (1) twice prior to the initial setting of a trial date, and (2) subject to the time limit on discovery as provided in Section 2024, once after each setting of a trial date. However, on motion, for good cause shown, the court may grant leave to a party to propound an additional number of supplemental interrogatories.
- (d) The party propounding interrogatories shall serve a copy of them (1) on the party to whom they are directed and (2), on all other parties who have appeared in the action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly expensive, oppressive, or burdensome.
- (e) When interrogatories have been propounded, the responding party, and any other party or affected natural person or organization may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

- (1) That the set of interrogatories, or particular interrogatories in the set, need not be answered.
- (2) That the time specified in subdivision (h) to respond to the set of interrogatories, or to particular interrogatories in the set, be extended.
- (3) That the response be made only upon specified terms and conditions.
- (4) That the method of discovery be an oral deposition instead of interrogatories to a party.
- (5) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a certain way.
- (6) That some or all of the answers to interrogatories be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part,

the court may order that the party provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on a motion for a protective order, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

- (f) The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by (1) an answer containing the information sought to be discovered, (2) an exercise of the party's option to produce writings, or (3) an objection to the particular interrogatory. Each answer, exercise of option, or objection in the response shall bear the same number and be in the same sequence as the corresponding interrogatory, but the text of that interrogatory need not be repeated.
- (1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. If an interrogatory cannot be answered completely, it shall be answered to the extent possible. If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.
- (2) If the answer to an interrogatory would necessitate the preparation or the making of a compilation, abstract, audit, or summary of or from the writings of the party to whom the interrogatory is directed, and if that compilation, abstract, audit, or summary does not already exist, or if the burden or expense of preparing or making it would be substantially the same for the party propounding the interrogatory as for the responding party, it is a sufficient answer to that interrogatory to refer to this subdivision and to specify the writings from which the answer may be derived or ascertained. This specification shall be in sufficient detail to permit the propounding party to locate and to identify, as readily as the responding party can, the writings from which the answer may be ascertained. The responding party shall then afford to the propounding party a reasonable opportunity to examine, audit, or inspect these writings and to make copies, compilations, abstracts, or summaries of them.
- (3) If only a part of an interrogatory is objectionable, the remainder of the interrogatory shall be answered. If an objection is made to an interrogatory or to a part of an interrogatory, the specific ground for the objection shall be set forth clearly in the response. If an objection is made to an interrogatory on the ground that it exceeds the limit on the number of interrogatories specified in paragraph (1) of subdivision (c), it suffices to state that the propounding party has exceeded that limit. If an objection is based

- on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the information sought is protected work product prepared in anticipation of litigation or for trial, that claim shall be expressly asserted.
- (g) The party to whom the interrogatories are directed shall sign the response under oath. If that party is a public or private corporation, or a partnership, association, or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney, that party waives any lawyer-client privilege and any protection for work product prepared in anticipation of litigation or for trial during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response.
- (h) Within 30 days after service of interrogatories which period is extended by five days where the service is made by mail, the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response. The party to whom the interrogatories are propounded shall also serve a copy of the response on all other parties who have appeared in the action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly expensive; oppressive, or burdensome.
- (i) The party propounding interrogtories and the responding party may agree to extend the time for service of a response to a set of interrogatories, or to particular interrogatories in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any interrogatory to which the agreement applies in any manner specified in subdivision (f).
- (j) The interrogatories and the response thereto shall not be filed with the court. The propounding party shall retain both the original of the interrogatories with the original proof of service affixed thereto, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court on motion of any party and for good cause shown orders that the originals be preserved for a longer period.
- (k) If a party to whom interrogatories have been directed fails to serve a timely response, that party waives any right to exercise the option to produce writings under subdivision (f), as well as any objection to the interrogatories, including one based on privilege or on the protection for work product prepared in anticipation of litigation or for trial. However, the court, on motion, may relieve that party from this waiver on its determination that, (1) the party has

subsequently served a response to the interrogatories that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response to the interrogatories was the result of mistake, inadvertence, or excusable neglect.

The party propounding the interrogatories may move for an order compelling response and for a monetary sanction pursuant to Section 2023. If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the disobedient party. In lieu of or in addition to that sanction, the court may impose a monetary sanction pursuant to Section 2023 against the disobedient party.

(1) If the propounding party, on receipt of a response to interrogatories, deems that (1) an answer to a particular interrogatory is evasive or incomplete, (2) an exercise of the option to produce business records under subdivision (h) is unwarranted or the required specification of those records is inadequate, or (3) an objection to an interrogatory is without merit or too general, that party may move for an order compelling a further response. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it.

Unless notice of this motion is given within 45 days of the service of the response which period is extended by five days where such service was made by mail, or any specific later date to which the propounding party and the responding party have agreed in writing, the propounding party waives any right to compel a further response to the interrogatories.

The court may impose a monetary sanction under Section 2023 against one who does not prevail, and in favor of one who does prevail, on a motion to compel answers, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

If a party fails to obey an order compelling further response to interrogatories, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the disobedient party. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023 against the disobedient party.

(m) Without leave of court, a party may serve an amended answer to any interrogatory that contains information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory. At the trial of the action, the propounding party or any other party may use the initial answer pursuant to subdivision (n), and the responding party may then use the amended answer.

The party who propounded an interrogatory to which an amended answer has been served may move for an order that the initial answer to that interrogatory be deemed binding on the responding party for the purpose of the pending action. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The court shall grant this motion if it determines that (1) the initial failure of the responding party to answer the interrogatory correctly has substantially prejudiced the party who propounded the interrogatory, (2) the responding party has failed to show substantial justification for the initial answer to that interrogatory and, (3) the prejudice to the propounding party cannot be cured either by a continuance to permit further discovery or by the use of the initial answer pursuant to subdivision (n).

The court may impose a monetary sanction pursuant to Section 2023 against any party who does not prevail on a motion to deem binding an initial answer to an interrogatory, provided the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

- (n) At the trial or any other hearing in the action, so far as admissible under the rules of evidence, the propounding party or any party other than the responding party may use any answer or part of an answer to an interrogatory only against the party giving the answer. It is not ground for objection to the use of an answer to an interrogatory that the responding party is present, and has testified or will testify, at the trial or other hearing.
- 2031. (a) Any party may obtain discovery within the scope permitted by Section 2017, and subject to the restrictions set forth in Section 2019, by inspecting documents, tangible things, and land or other property that are in the possession, custody, or control of any other party to the action.
- (1) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to copy documents that are in the possession, custody, or control of the party on whom the demand is made. The word "documents" includes, but is not limited to, writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information may be obtained.
- (2) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to photograph, test, or sample any tangible things that are in the possession, custody, or control of the party on whom the demand is made.
- (3) A party may demand that any other party allow entry on any land or other property that is in the possession, custody, or control of the party on whom the demand is made to inspect and to measure, survey, photograph, test, or sample the land or other property, or any designated object or operation on it.
- (b) A defendant may make a demand for inspection without leave of court at any time. A plaintiff may make a demand for inspection without leave of court at any time that is 10 days after the service of the summons on, or appearance by, the party to whom the demand

is directed, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make an inspection demand at an earlier time.

(c) A demand for inspection shall be in writing and shall do all of

the following:

- (1) Designate the documents, tangible things, or land or other property to be inspected either by specifically describing each individual item or by reasonably particularizing each category of item.
  - (2) Set forth separately each item or category of item.
- (3) Specify a reasonable time for the inspection that is at least 30 days after service of the demand, which period is extended by five days where the service is made by mail, unless the court for good cause shown has granted leave to specify an earlier date.
- (4) Specify a reasonable place for making the inspection, copying, and performing any related activity.
- (5) Specify any related activity that is being demanded in addition to an inspection and copying, as well as the manner in which that related activity will be performed, and whether that activity will permanently alter or destroy the item involved.
- (d) The party demanding an inspection shall serve a copy of the inspection demand on the party to whom it is directed and on all other parties who have appeared in the action.
- (e) When an inspection of documents, things or places has been demanded, the party to whom the demand has been directed, and any other party or affected person or organization may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

- (1) That all or some of the items or categories of items in the inspection demand need not be produced at all.
- (2) That the time specified in subdivision (h) to respond to the set of inspection demands, or to a particular item or category in the set, be extended.
- (3) That the place of production be other than that specified in the inspection demand.
- (4) That the response be made only on specified terms and conditions.
- (5) That a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way.
- (6) That the items produced be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part,

the court may order that the party to whom the demand was directed provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of any one who does prevail, on a motion for a protective order, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

- (f) (1) The party to whom an inspection demand has been directed shall respond separately to each item or category of item by any of the following:
- (A) A statement that the party will comply with the particular demand for inspection and any related activities.
- (B) A representation that the party lacks the ability to comply with the demand for inspection of a particular item or category of item.
- (C) An objection to the demand either in its entirety or in some particular respect.

Each statement of compliance, each representation, and each objection in the response shall bear the same number and be in the same sequence as the corresponding item or category in the demand, but the text of that item or category need not be repeated.

- (2) A statement that the party to whom an inspection demand has been directed will comply with the particular demand shall state all of the following:
- (A) That the production, inspection, and related activity demanded will be allowed either in whole or in part.
- (B) That all documents or things in a demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.

Any documents demanded shall either be produced as they are kept in the usual course of business, or be organized and labeled to correspond with the categories in the demand. If necessary, the responding party at the reasonable expense of the demanding party shall, through detection devices, translate any data compilations included in the demanded into reasonably usable form.

- (3) A representation of inability to comply with the particular demand for inspection shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category of item, (A) has never existed, (B) has been destroyed, (C) has been lost, misplaced, or stolen, or (D) has never been, or is no longer, in the possession, custody, or control of the responding party, as well as the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.
- (4) If only a part of an item or category of item in an inspection demand in objectionable, the response shall contain a statement of

- compliance, or a representation of inability to comply with respect to the remainder of that item or category. If the responding party objects to the demand for inspection of an item or category of item, the response shall set forth clearly the extent of, and the specific ground for, the objection. If an objection is based on a claim of privilege, the particular privilege invoked shall be stated. If an objection is based on a claim that the information sought is protected work product prepared in anticipation of litigation or for trial, that claim shall be expressly asserted.
- (g) The party to whom the demand for inspection is directed shall sign the response under oath. If that party is a public or private corporation or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney, that party waives any lawyer-client privilege and any protection for work product prepared in anticipation of litigation or for trial during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response.
- (h) Within 20 days after service of an inspection demand, which period is extended by five days where the service was made by mail, the party to whom the demands directed shall serve the original of the response to them on the party making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the party making the demand the court has shortened the time for response, or unless on motion of the party to whom the demand has been directed, the court has extended the time for response.
- (i) The party demanding an inspection and the responding party may agree to extend the time for service of a response to a set of inspection demands, or to particular items or categories of items in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any item or category of item in the demand to which the agreement applies in any manner specified in subdivision (f).
- (j) The inspection demand and the response thereto shall not be filed with the court. The party demanding an inspection shall retain both the original of the inspection demand, with the original proof of service affixed to it, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.
- (k) If a party to whom an inspection demand has been directed fails to serve a timely response to it, that party waives any objection to the demand, including one based on privilege or on the protection

for work product prepared in anticipation of litigation or for trial. However, the court, on motion, may relieve that party from this waiver on its determination that, (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertance, or excusable neglect.

The party making the demand may move for an order compelling response and for a monetary sanction under Section 2023. If a party then fails to obey the order compelling a response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the disobedient party. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023 against the disobedient party.

(l) If the party demanding an inspection, on receipt of a response to an inspection demand, deems that (1) a statement of compliance with the demand is incomplete, (2) a representation of inability to comply is inadequate, or incomplete, or evasive, or (3) an objection in the response is without merit or too general, that party may move for an order compelling further response to the demand. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it.

Unless notice of this motion is given within 45 days of the service of the response which period is extended by five days where the service was made by mail, or any specific later date to which the parties have agreed in writing, the demanding party waives any right to compel a further response to the inspection demand.

The court may impose a monetary sanction under Section 2023 against one who does not prevail, and in favor of one who does prevail, on this motion to compel further response, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

If a party fails to obey an order compelling further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the disobedient party. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023 against the disobedient party.

(m) If a party filing a response to a demand for inspection under subdivision (f) thereafter fails to permit the inspection in accordance with that party's statement of compliance, the party demanding the inspection may move for an order compelling compliance.

The court may impose a monetary sanction under Section 2023 against one who does not prevail, and in favor of one who does prevail, on this motion to compel compliance, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

If a party fails to obey an order compelling inspection, the court

may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the disobedient party. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023 against the disobedient party.

- (a) Any party may obtain discovery within the scope fixed by Section 2017, and subject to the restrictions set forth in Section 2019, by a written request that any other party to the action admit the genuineness of specified documents, or the truth of specified matters of fact or opinions relating to fact. A request for admission may relate to a matter that is in controversy between the parties, but a request shall not require an application of law to fact.
- (b) A defendant may make requests for admission by a party without leave of court at any time. A plaintiff may make requests for admission by a party without leave of court at any time that is 10 days after the service of the summons on, or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make requests for admission at an earlier time.
- (c) (1) Absent a stipulation or court order increasing the number, no party shall request, as a matter of right, that any other party to admit more than 35 matters that do not relate to the genuineness of documents. If the initial set of admission requests does not exhaust this limit, the balance may be made in subsequent sets. Any particular request for admission that exceeds this limit need not be answered, if the party to whom it is directed states an objection to it on that ground under paragraph (2) of subdivision (f).

The number of requests for admission of the genuineness of documents is not limited except as justice requires to protect the responding party from annoyance, embarrassment, oppression, or undue burden and expense.

- (2) Any party may stipulate in writing with another party that each may make to the other a greater or an unlimited number of requests for admission. Any party may request a greater number of admissions by another party if the greater number is warranted by the complexity or the quantity of the existing and potential issues in the particular case.
- (3) Any party who is requesting or who has already requested more than 35 admissions not relating to the genuineness of documents by any other party shall attach to each set of requests for admissions a declaration containing substantially the following words:

## DECLARATION FOR ADDITIONAL DISCOVERY

I,, de	eclare:	
		g appearing in propria
persona) (presently tl	he principal attorney	for, a
party to this action or	proceeding).	

- 2. I am propounding to \_\_\_\_\_, the attached set of requests for admissions.
- 3. This set of requests for admissions will cause the total number of requests propounded to the party to whom they are directed to exceed the number of requests permitted by Section 2033 of the Code of Civil Procedure.
- 4. I have previously propounded a total of \_\_\_\_\_ requests for admissions (including subparts) to this party.
- 5. I am familiar with the issues and previous discovery conducted by all parties in this case.
  - 6. This set of requests for admissions contains a total of \_\_\_\_ requests (including subparts).
- 7. I have personally examined each of the requests, including any subparts, in this set of requests.
- 8. The information sought by each request and any subparts is necessary for the proper preparation of this case and reasonably requires this number of requests.
- 9. None of the requests or subparts in this set of requests is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct. Executed on \_\_\_\_\_\_.

•	(Signature)
Attorney for	
(party—may be	left blank if signed by party
, appearin	g in propria persona) .

- (4) A party requesting admissions shall number each set of requests consecutively. In the first paragraph immediately below the title of the case, there shall appear, (1) the identity of the party requesting the admissions, (2) the set number, and (3) the identity of the party to whom the requests are directed. Each request for admission in a set shall be separately set forth. If more than one set of admission requests is made to any party, the number of the first request in a subsequent set shall be one number higher than that of the last request of the previous set.
- (5) Each request for admission shall be full and complete in and of itself. No preface or instructions shall be included with a set of admission requests unless it has been approved under Section 2033.5. Any term specially defined in a request for admission shall be typed with all letters capitalized whenever the term appears. No request for admission shall contain subparts, or a compound, conjunctive, or disjunctive request unless it has been approved under Section 2033.5.
- (6) A party requesting an admission of the genuineness of any documents shall attach copies of those documents to the requests. and shall make the original of those documents available for

inspection on demand by the party to whom the requests for admission are directed.

- (d) The party requesting admissions shall serve a copy of them on the party to whom they are directed and on all other parties who have appeared in the action.
- (e) When requests for admission have been made, the responding party may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from annoyance, embarrassment, oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

- (1) That the set of admission requests, or particular requests in the set, need not be answered at all.
- (2) That the time specified in subdivision (h) to respond to the set of admission requests, or to particular requests in the set, be extended.
- (3) That a trade secret or other confidential research, development, or commercial information not be admitted or be admitted only in a certain way.
- (4) That some or all of the answers to requests for admission be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the responding party provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on a motion for a protective order, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

- (f) The party to whom requests for admission have been directed shall respond in writing under oath separately to each request. Each response shall answer the substance of the requested admission, or set forth an objection to the particular request. Each answer or objection in the response shall bear the same number and be in the same sequence as the corresponding request, but the text of the particular request need not be repeated.
- (1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. Each answer shall, (A) admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party, (B) deny so much of the matter involved in the request as is untrue, and (C) specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge. If a responding party gives lack

- of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.
- (2) If only a part of a request for admission is objectionable, the remainder of the request shall be answered. If an objection is made to a request or to a part of a request, the specific ground for the objection shall be set forth clearly in the response. If an objection is made to a request on the ground that it exceeds the limit on the number of requests specified in paragraph (1) of subdivision (c), it suffices to state that the party making the requests has exceeded that limit. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the matter as to which an admission is requested is protected work product prepared in anticipation of litigation or for trial, that claim shall be expressly asserted.
- (g) The party to whom the requests for admission are directed shall sign the response under oath. If that party is a public or private corporation, or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney, that party waives any lawyer-client privilege and any protection for work product prepared in anticipation of litigation or for trial during any subsequent discovery from that attorney that is related to the sources of the information contained in the response.
- (h) Within 30 days after service of requests for admission, which period is extended by five days where the service is made by mail, the party to whom the requests are directed shall serve the original of the response to them on the requesting party, and a copy of the response on all other parties who have appeared, unless on motion of the requesting party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.
- (i) The party requesting admissions and the responding party may agree to extend the time for service of a response to a set of admission requests, or to particular requests in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any request for admission to which the agreement applies in any manner specified in subdivision (f). Notice of this agreement shall be given by the responding party to all other parties who were served with a copy of the request.
- (j) The requests for admission and the response shall not be filed with the court. The party requesting admissions shall retain both the original of the requests for admission, with the original proof of

service affixed, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

- (k) If a party to whom requests for admission have been directed fails to serve a timely response, that party thereby waives any objection to the requests, including one based on privilege or on the protection for work product prepared in anticipation of litigation or for trial. The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction pursuant to Section 2023. The court shall make this order, unless it finds that prior to the hearing on the motion the party to whom the requests for admission have been directed has served a proposed response to the requests for admission that is in substantial compliance with paragraph (1) of subdivision (f). It is mandatory that the court impose a monetary sanction under Section 2023 on the party whose failure to serve a timely response to requests for admission necessitated this motion.
- (l) If the party requesting admissions, on receipt of a response thereto, deems that, (1) an answer to a particular request is evasive or incomplete, or (2) an objection to a particular request is without merit or too general, that party may move for an order compelling a further response. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it.

Unless notice of this motion is given within 45 days of the service of the response, which period is extended by five days where the service was made by mail, or any specific later date to which the requesting party and the responding party have agreed in writing; the party requesting admissions waives any right to compel further response to the requests for admission.

The court may impose a monetary sanction under Section 2023 against one who does not prevail, and in favor of one who does prevail on the motion to compel further response, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

If a party fails to obey an order compelling further response to requests for admission, the court may make those orders that are just, including an order that the matters involved in the requests be deemed admitted. In lieu of or in addition to this order, the court may impose a monetary sanction under Section 2023 against the disobedient party.

(m) A party may amend or withdraw an admission made in response to a request for admission only on leave of court granted after notice to all parties. The court may permit withdrawal or amendment of an admission only if it determines that the admission was the result of mistake, inadvertence, or excusable neglect and the

party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits. The court may impose conditions on the granting of the motion that are just, including, but not limited to, an order that (1) the party who obtained the admission be permitted to pursue additional discovery related to the matter involved in the withdrawn or amended admission, and (2) the costs of any additional discovery be borne in whole or in part by the party amending or withdrawing the admission.

- (n) Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action, unless the court has permitted withdrawal or amendment of that admission under subdivision (m). However, any admission made by a party under this section is (1) binding only on that party, and (2) made for the purpose of the pending action only. It is not an admission by that party for any other purpose, and it shall not be used in any manner against that party in any other proceeding.
- (o) If a party fails to admit the genuineness of any document or the truth of any matter when requested to do so under this section, and if the party requesting that admission thereafter proves the genuineness of that document or the truth of that matter, the party requesting the admission may move the court for an order requiring the party to whom the request was directed to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make this order unless it finds that (1) an objection to the request was sustained or a response to it was waived under subdivision (1), (2) the admission sought was of no substantial importance, (3) the party failing to make the admission had reasonable ground to believe that that party would prevail on the matter, or (4) there was other good reason for the failure to admit.

2033.5. The Judicial Council shall develop and approve official form interrogatories and requests for admission of the genuineness of any relevant documents or of the truth of any relevant matters of fact in any civil action in a state court based upon personal injury, property damage, wrongful death, unlawful detainer, breach of contract or fraud. Use of the approved form interrogatories and requests for admission shall be optional and shall not restrict the right to propound different or additional interrogatories and requests for admission.

In developing the form interrogatories and requests for admission required by this section, the Judicial Council shall consult with a representative advisory committee which shall include, but not be limited to, representatives of the plaintiff's bar, the defense bar, the public interest bar, court administrators, and the public. The form interrogatories and requests for admission shall be drafted in nontechnical language and shall be made available through the office of the clerk of the appropriate trial court.

The Judicial Council also shall promulgate any necessary rules to govern the use of the form interrogatories and requests for admission.

- 2035. (a) One who expects to be a party to any action that may be cognizable in any court of the State of California, whether as a plaintiff, or as a defendant, or in any other capacity, may obtain discovery within the scope fixed by Section 2017, and subject to the restrictions set forth in Section 2019, for the purpose of perpetuating his or her own testimony or that of another natural person or organization, or of preserving evidence for use in the event an action is subsequently filed. One shall not employ the procedures of this section for the purpose either of ascertaining the possible existence of a cause of action or a defense to it, or of identifying those who might be made parties to an action not yet filed.
- (b) The methods available for discovery conducted for the purposes set forth in subdivision (a) are (1) oral and written depositions, (2) inspections of documents, things, and places, and (3) physical and mental examinations.
- (c) One who desires to perpetuate testimony or preserve evidence for the purposes set forth in subdivision (a) shall file a verified petition in the superior court of the county of the residence of at least one expected adverse party, or, if no expected adverse party is a resident of the State of California, in the superior court of a county where the action or proceeding may be filed.
- (d) The petition shall be titled in the name of the one who desires the perpetuation of testimony or the preservation of evidence. The petition shall set forth all of the following:
- (1) The expectation that the petitioner will be a party to an action cognizable in a court of the State of California.
- (2) The present inability of the petitioner either to bring that action or to cause it to be brought.
- (3) The subject matter of the expected action and the petitioner's involvement.
- (4) The particular discovery methods described in subdivision (b) that the petitioner desires to employ.
- (5) The facts that the petitioner desires to establish by the proposed discovery.
- (6) The reasons for desiring to perpetuate or preserve these facts before an action has been filed.
- (7) The names or a description of those whom the petitioner expects to be adverse so far as known.
- (8) The names and addresses of those from whom the discovery is to be sought.
- (9) The substance of the information expected to be elicited from each of those from whom discovery is being sought.

The petition shall request the court to enter an order authorizing the petitioner to engage in discovery by the described methods for the purpose of perpetuating the described testimony or preserving the described evidence. (e) The petitioner shall cause service of a notice of the petition to be made on each natural person or organization named in the petition as an expected adverse party. This service shall be made in the same manner provided for the service of a summons. The service of the notice shall be accompanied by a copy of the petition. The notice shall state that the petitioner will apply to the court at a time and place specified in the notice for the order requested in the petition. This service shall be effected at least 20 days prior to the date specified in the notice for the hearing on the petition.

If after the exercise of due diligence, the petitioner is unable to cause service to be made on any expected adverse party named in the petition, the court in which the petition is filed shall make an order for service by publication. If any expected adverse party served by publication does not appear at the hearing, the court shall appoint an attorney to represent that party for all purposes, including the cross-examination of any person whose testimony is taken by deposition. The court shall order that the petitioner pay the reasonable fees and expenses of any attorney so appointed.

- (f) If the court determines that all or part of the discovery requested may prevent a failure or delay of justice, it shall make an order authorizing that discovery. The order shall identify any witness whose deposition may be taken, and any documents, things, or places that may be inspected, and any person whose physical or mental condition may be examined. Any authorized depositions, inspections, and physical or mental examinations shall then be conducted in accordance with the provisions of this article relating to those methods of discovery in actions that have been filed.
- (g) If a deposition to perpetuate testimony has been taken either under the provisions of this section, or under comparable provisions of the laws of another state, or the federal courts, or a foreign nation, that deposition may be used, in any action involving the same subject matter that is brought in a court of the State of California, in accordance with the provisions of subdivision (u) of Section 2025 against any party named in the petition as an expected adverse party.
- 2036. (a) If an appeal has been taken from a judgment entered by any court of the State of California, or if the time for taking an appeal has not expired, a party may obtain discovery within the scope fixed by Section 2017, and subject to the restrictions set forth in Section 2019, for the purpose of perpetuating testimony or preserving information for use in the event of further proceedings in that court.
- (b) The methods available for discovery for the purpose set forth in subdivision (a) are (1) oral and written depositions, (2) inspections of documents, things, and places, and (3) physical and mental examinations.
- (c) A party who desires to obtain discovery pending appeal shall obtain leave of the court that entered the judgment. This motion shall be made on the same notice to and service of parties as is required for discovery sought in an action pending in that court.

- (d) The motion for leave to conduct discovery pending appeal shall set forth (1) the names and addresses of the natural persons or organizations from whom the discovery is being sought, (2) the methods of discovery for which authorization is being sought, and (3) the reasons for perpetuating testimony or preserving evidence.
- (e) If the court determines that all or part of the discovery requested may prevent a failure or delay of justice in the event of further proceedings in the action in that court, it shall make an order authorizing that discovery. The order shall identify any witness whose deposition may be taken, and any documents, things, or places that may be inspected, and any person whose physical or mental condition may be examined. Any authorized depositions, inspections, and physical and mental examinations shall then be conducted in accordance with the provisions of this article relating to these methods of discovery in a pending action.
- (f) If a deposition to perpetuate testimony has been taken under the provisions of this section, it may be used in any later proceeding in accordance with the provisions of subdivision (u) of Section 2025.
  - SEC. 3. This act shall become operative on July 1, 1987.
- SEC. 4. This act shall become operative only if Assembly Bill No. 1334 is enacted.

## CHAPTER 1335

An act to add Article 5 (commencing with Section 68600) to Chapter 2 of Title 8 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986]

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

SECTION 1. Article 5 (commencing with Section 68600) is added to Chapter 2 of Title 8 of the Government Code, to read:

Article 5. The Trial Court Delay Reduction Act of 1986

68600. This article shall be known and may be cited as the Trial Court Delay Reduction Act of 1986.

68601. The Legislature hereby finds and declares that:

- (a) The expeditious and timely resolution of civil and criminal actions is an integral and necessary function of the judicial branch of state government under Article VI of the California Constitution.
- (b) Delay in the resolution of both civil and criminal litigation is not in the best interests of the state and the public. The people of the State of California expect and deserve prompt justice and the speedy resolution of disputes. Delay in the resolution of litigation may reflect

- a failure of justice and subjects the judiciary to a loss of confidence by the public in both its fairness and utility as a public institution. Delay reduces the chance that justice will in fact be done, and often imposes severe emotional and financial hardship on litigants.
- (c) Cases filed in California's trial courts should be resolved as expeditiously as possible, consistent with the obligation of the courts to give full and careful consideration to the issues presented, and consistent with the right of parties to adequately prepare and present their cases to the courts.
- (d) Various methods for reducing delay in the litigation of cases in trial courts have been identified and tested, and have been effective in reducing the time necessary for the resolution of both civil and criminal litigation. It is in the public interest for certain trial courts to utilize these methods on a pilot program basis, in order to demonstrate their effectiveness in California.
- 68602. The Legislature further finds and declares that the expenditure of any state funds appropriated for purposes of this article is in the public interest and necessary to the accomplishment of the purposes set forth in Section 68601.
- 68603. (a) On or before July 1, 1987, the Judicial Council shall adopt standards of timely disposition for the processing and disposition of civil and criminal actions. The standards shall be guidelines by which the progress of litigation in the superior court of every county may be measured. In establishing such standards, the Judicial Council shall be guided by the principles that litigation, from commencement to resolution, should require only that time reasonably necessary for pleadings, discovery, preparation and court events, and that any additional elapsed time is delay and should be eliminated.
- (b) The Judicial Council may adopt the standards of timely disposition adopted by the National Conference of State Trial Judges and the American Bar Association or may adopt different standards, but in the latter event shall specify reasons for approval of any standard which permits greater elapsed time for the resolution of litigation than that provided in the standards of the National Conference of State Trial Judges.
- 68604. Beginning on January 1, 1988, the Judicial Council shall collect and maintain statistics, and shall publish them at least on a yearly basis, regarding the compliance of the superior court of each county and of each branch court with the standards of timely disposition adopted pursuant to Section 68603. In collecting and publishing such statistics, the Judicial Council shall measure the time required for the resolution of civil cases from the filing of the first document invoking court jurisdiction, and for the resolution of criminal cases from the date of arrest, including a separate measurement in felony cases from the first appearance in superior court.
- 68605. On or before February 1, 1987, the Judicial Council shall designate the four superior courts with 18 or more judicial positions

which, as of June 30, 1986, had the highest ratio per judicial position of at-issue civil cases pending more than one year, and the five superior courts with more than eight judicial positions, not otherwise designated, with the highest such ratio. In each such court, an exemplary delay reduction program shall be established. The superior court of any other county, at the option of the presiding judge, may elect to establish an exemplary delay reduction program, and the Judicial Council may designate additional superior courts for participation in an exemplary delay reduction program.

68606. In each of the counties in which an exemplary delay reduction program is established, the presiding judge shall, on or before March 1, 1987, (a) select a sufficient number of judges for the program that will provide, consistent with the size of the court, an adequate basis for determining the effectiveness of the methods for reducing delay specified in this article; provided, however, that a minimum of four judges shall be included in the program; and (b) identify the particular judges who will participate in the program. Each presiding judge may select, and is encouraged to select, all the judges of the superior court or the branch of a superior court as the judges of an exemplary delay reduction program.

68607. (a) The judges selected for an exemplary delay reduction program shall serve for the term of the program; provided, however, that a presiding judge may appoint a replacement judge in the event of elevation, retirement, disability, or death.

- (b) Except in instances where all the judges of a superior court or the branch of a superior court are selected, the judges selected for an exemplary delay reduction program shall be assigned only civil cases unless otherwise required by constitution or statute.
- (c) No provision of this article shall affect the power of the Chief Justice to make assignments of judges.

68608. The judges selected for an exemplary delay reduction program shall commence operation of the program on January 1, 1988, continuing for a three-year period. The judges involved in such programs shall have the responsibility to eliminate delay in the progress and ultimate resolution of litigation, to assume and maintain control over the pace of litigation, to actively manage the processing of litigation from commencement to disposition, and to compel attorneys and litigants to prepare and resolve all litigation without delay, from the filing of the first document invoking court jurisdiction to final disposition of the action.

In operation of an exemplary delay reduction program, the judges of the program shall, consistent with the policies of this article:

- (a) Actively monitor, supervise and control the movement of all cases assigned to the program from the time of filing of the first document invoking court jurisdiction through final disposition.
- (b) Seek to meet the standards for timely disposition adopted pursuant to Section 68603.
- (c) Establish procedures for early identification of cases within the program which may be protracted and for giving such cases

special administrative and judicial attention as appropriate, including special assignment.

- (d) Establish procedures for early identification and timely and appropriate handling of cases within the program which may be amenable to settlement or other alternative disposition techniques.
- (e) Adopt a trial setting policy which, to the maximum extent possible, schedules a trial date within the time standards adopted pursuant to Section 68603 and which schedules a sufficient number of cases to ensure efficient use of judicial time while minimizing resetting caused by overscheduling.
  - (f) Commence trials on the date scheduled.
- (g) Adopt and utilize a firm, consistent policy against continuances, to the maximum extent possible and reasonable, in all stages of the litigation.
- 68609. (a) Beginning on January 1, 1988, the presiding judge of each superior court with an exemplary delay reduction program shall assign a pro rata share of new cases, and an appropriate number of existing cases, to the program, and these cases shall thereafter be handled by the judges of the program for all purposes.
- (b) Juvenile, probate, and domestic relations cases need not be assigned to an exemplary delay reduction program, and cases which have been assigned to a judge or judges for all purposes based on subject matter need not be assigned to the program.
- (c) No case shall be removed from an exemplary delay reduction program because of a challenge filed under Section 170.6 of the Code of Civil Procedure.
- (d) In order to enforce the requirements of an exemplary delay reduction program and orders issued in cases assigned to it, the judges of the program shall have all the powers to impose sanctions authorized by law, including the power to dismiss actions or strike pleadings as appropriate, and are encouraged to utilize them in order to achieve the purposes of this article.
- 68610. The Judicial Council, in conjunction with other interested groups as it determines appropriate, shall prepare and administer a program, consistent with the policies and requirements of this article, for the training of judges selected for inclusion in an exemplary delay reduction program.
- 68611. The Judicial Council shall collect and maintain statistics, and shall publish them at least on an annual basis, regarding the compliance of each court in the exemplary delay reduction program with the standards for timely disposition adopted pursuant to Section 68603, with the policies and requirements of this article, and regarding the cases assigned to the judges of each program. On or before July 1, 1991, the Judicial Council shall report to the Legislature on the results of the exemplary delay reduction program and recommend whether the requirements of Section 68608 should be applied to the superior or municipal courts of the state.
- 68612. The judges selected in each county as judges of an exemplary delay reduction program shall, in consultation with the

bar of the county to the maximum extent feasible, develop, and publish the procedures, standards, and policies which will be used in the program, including time standards for the conclusion of all critical steps in the litigation process, including discovery, and shall meet on a regular basis with the bar of the county in order to explain and publicize the program and the procedures, standards, and policies which shall govern cases assigned to the program. Such procedures, standards, and policies may be inconsistent with the California Rules of Court. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all of such procedures, standards, or policies on a statewide basis.

68613. The Judicial Council may receive and expend on the programs established by this article any funds available from county, state, or federal government or other sources which may be available for such purposes.

68614. Nothing in this article is intended to prevent a presiding judge from directing the use of the methods of delay reduction specified in Section 68608 by judges who are not part of an exemplary delay reduction program.

68615. In its discretion, the Judicial Council may contract out for

performance of any of the duties imposed by this article.

- 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.
- SEC. 3. The sum of one hundred thirty thousand dollars (\$130,000) is hereby appropriated from the General Fund to the Judicial Council for the purposes of this act.
- SEC. 4. It is the intent of the Legislature that, commencing with the 1987–88 fiscal year, the purposes of this act shall be funded in the annual budget acts.

#### CHAPTER 1336

An act to add Sections 2032 and 2034 to, and to repeal Article 4 (commencing with Section 2037) of Chapter 3 of Title 3 of Part 4 of, the Code of Civil Procedure, relating to expert witnesses.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 2032 is added to the Code of Civil Procedure, to read:

- 2032. (a) Any party may obtain discovery, subject to the restrictions set forth in Section 2019, by means of a physical or mental examination of (1) a party to the action, (2) an agent of any party, or (3) a natural person in the custody or under the legal control of a party, in any action in which the mental or physical condition (including the blood group) of that party or other person is in controversy in the action.
- (b) A physical examination conducted pursuant to this section shall be performed only by a licensed physician or other appropriate licensed health care practitioner. A mental examination conducted pursuant to this section shall be performed only by a licensed physician, or by a licensed clinical psychologist who holds a doctoral degree in psychology and has had at least five years of postgraduate experience in the diagnosis of emotional and mental disorders. Nothing in this section affects tests under the Uniform Act on Blood Tests to Determine Paternity (Chapter 2 (commencing with Section 890) of Division 7 of the Evidence Code).
- (c) (1) In any case in which a plaintiff is seeking recovery for personal injuries, any defendant may demand one physical examination of the plaintiff provided the examination does not include any diagnostic test or procedure that is painful, protracted, or intrusive, and is conducted at a location within 75 miles of the residence of the examinee. A defendant may make this demand without leave of court after that defendant has been served or has appeared in the action, whichever occurs first. This demand shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the physician who will perform the examination.
- (2) A physical examination demanded pursuant to this subdivision shall be scheduled for a date at least 30 days after service of the demand for it, which period is extended by five days where the service is made by mail, unless on motion of the party demanding the examination the court has shortened this time.
- (3) The defendant shall serve a copy of the demand for this physical examination on the plaintiff and on all other parties who have appeared in the action.
- (4) The plaintiff to whom this demand for a physical examination has been directed shall respond to the demand by a written statement that the examinee either will comply with the demand as stated, or will comply with the demand as specifically modified by the plaintiff, or will refuse, for reasons specified in the response, to submit to the demanded physical examination. Within 20 days after service of the demand, which period is extended by five days where the service was made by mail, the plaintiff to whom the demand is directed shall serve the original of the response to it on the defendant making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the defendant making the demand the court has shortened the time for response, or unless on motion of the plaintiff to whom the demand has been

directed, the court has extended the time for response.

(5) If a defendant who has demanded a physical examination pursuant to this subdivision, on receipt of the plaintiff's response to that demand, deems that any modifications of the demand, or any refusal to submit to the physical examination is unwarranted, that defendant may move for an order compelling compliance with the demand. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it.

The court may impose a monetary sanction pursuant to Section 2023 against one who does not prevail, and in favor of one who does prevail, on this motion to compel compliance, provided the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

- (6) The demand for a physical examination shall not be filed with the court. The demanding party shall retain the original of the demand until six months after final disposition of the action. At that time, the original may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the original be preserved for a longer period.
- (d) If any party desires to obtain discovery by a physical examination other than that described in subdivision (c), or by a mental examination, the party shall obtain leave of court. The motion for the examination shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the person or persons who will perform the examination. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt to arrange for the examination by an agreement under subdivision (e). If the motion seeks the performance of unusual, painful, protracted, dangerous, or intrusive diagnostic procedures, it shall also be accompanied by a declaration of a physician explaining the necessity for those procedures and the degree of pain or danger involved. Notice of the motion shall be served on the person to be examined and on all parties who have appeared in the action.

The court shall grant a motion for a physical or mental examination only for good cause shown. If a party seeking recovery for personal injuries stipulates that, (1) no claim is being made for an unusual or particularly serious component of mental and emotional distress over and above that usually associated with such physical injuries, and (2) no psychiatric testimony will be presented at trial in support of the claim for damages for this usual mental and emotional distress, a mental examination of a person for whose personal injuries a recovery is being sought shall not be ordered except on a showing of exceptional circumstances. The order granting a physical or mental examination shall specify the person or persons who may perform the examination, and the time, place, manner, diagnostic tests and procedures, conditions, scope, and nature of the examination. The mental examiner and the examinee shall have the

right to record the examination on audio tape. However, nothing in this article shall be construed to alter, amend, or affect existing case law with respect to the presence of counsel or other persons during the examination by agreement or court order. If the place of the examination is more than 75 miles from the residence of the person to be examined, the order to submit to it shall be (1) made only on the court's determination that there is good cause for the travel involved, and (2) conditioned on the advancement by the moving party of the reasonable expenses and costs to the examinee for travel to the place of examination.

- (e) In lieu of the procedures and restrictions specified in subdivisions (c) and (d), any physical or mental examination may be arranged by, and carried out pursuant to, a written agreement of the parties.
- (f) If a party required by subdivision (c), (d), or (e) to submit to a physical or mental examination fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the delinquent party. In lieu of or in addition to that sanction, the court may, on motion of the party, impose a monetary sanction under Section 2023 against that party and in favor of the party entitled to the examination.

If a party required by subdivision (c), (d), or (e) to produce another for a physical or mental examination fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023, unless the party failing to comply demonstrates an inability to produce that person for examination. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023 against that party and in favor of the party entitled to the examination.

(g) The attorney for the examinee or for a party producing the examinee, or that attorney's representative, shall be permitted to attend and observe any physical examination conducted for discovery purposes, and to record stenographically or by audio tape any words spoken to or by the examinee during any phase of the examination. This observer may monitor the examination, but shall not participate in or disrupt it.

If in the judgment of the observer the examiner becomes abusive to the examinee or undertakes to engage in unauthorized diagnostic tests and procedures, the observer may suspend the examination to enable the party being examined or producing the examinee to make a motion for a protective order. If the observer begins to participate in or disrupt the examination, the person conducting the physical examination may suspend the examination to enable the party at whose instance it is being conducted to move for a protective order. The court may impose a monetary sanction under Section 2023

against anyone who does not prevail, and in favor of anyone who does prevail, on a motion for a protective order.

If the examinee submits or authorizes access to X-rays of any area of his or her body for inspection by the examining physician, no additional X-rays of that area may be taken by the examining physician except with consent of the examinee or on order of the court for good cause shown.

(h) If a party submits to, or produces another for, a physical or mental examination in compliance with a demand under subdivision (c), an order of court under subdivision (d), or an agreement under subdivision (e), that party has the option of making a written demand that the party at whose instance the examination was made deliver to the demanding party (1) a copy of a detailed written report setting out the history, examinations, findings, including the results of all tests made, diagnoses, prognoses, and conclusions of the examiner, and (2) a copy of reports of all earlier examinations of the same condition of the examinee made by that or any other examiner. If this option is exercised, a copy of these reports shall be delivered within 30 days after service of the demand, which period is extended by five days where the service is made by mail, or within 15 days of trial, whichever is earlier.

If the party at whose instance the examination was made fails to make a timely delivery of the reports demanded, the demanding party may move for an order compelling their delivery. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it. The court may impose a monetary sanction under Section 2023 against one who does not prevail, and in favor of one who does prevail, on a motion to compel delivery of medical reports, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

If a party fails to obey an order compelling delivery of demanded medical reports, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the party, or a contempt sanction under Section 2023 against any examiner failing to provide a report of an examination conducted under this section. In lieu of or in addition to those sanctions, the court may impose a monetary sanction under Section 2023 against the disobedient party or the examiner. The court shall exclude at trial the testimony of any examiner who fails to submit a report of an examination after having been ordered to do so by the court.

(i) By demanding and obtaining a report of a physical or mental examination under the provisions of subdivision (h), or by taking the deposition of the examiner, the party who submitted to, or produced another for a physical or mental examination waives in the pending action, or in any other action involving the same controversy, any privilege, as well as any protection for work product prepared in

anticipation of litigation or for trial, that the examinee may have regarding the testimony of every other physician or psychotherapist who has examined or may thereafter examine the party, in respect of the same physical or mental condition.

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Nothing in this subdivision requires the disclosure of the identity of an expert consulted in actions for professional negligence pursuant to Section 411.30 or 411.35. Nothing in this section affects existing law as to the disclosure of consulting experts under the lawyer-client privilege or under the protection for work product prepared in anticipation of litigation or for trial.

(j) A party receiving a demand for a report under subdivision (h) is entitled at the time of compliance to receive in exchange a copy of any existing written report of any examination of the same condition, as well as the identity of any other physician or psychologist who has examined the same condition, but who has not submitted a report. In addition, that party is entitled to receive, promptly after it has been prepared, any later report of any previous or subsequent examination of that condition, as well as the identity of any physician or psychologist who later examines the same condition, but who does not submit a report.

If a party who has demanded and received delivery of medical reports under subdivision (h) fails to deliver existing or later reports of previous or subsequent examinations, or the identity of examiners who have not submitted reports, a party who has complied with subdivision (h) may move for an order compelling delivery of medical reports and identification of examiners. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it. The court may impose a monetary sanction under Section 2023 against one who does not prevail, and in favor of one who does prevail, on a motion to compel delivery of medical reports or identification of examiners, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

If a party fails to obey an order compelling delivery of medical reports or identification of examiners, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against the disobedient party. In lieu of or in addition to the sanction, the court may impose a monetary sanction under Section 2023 against that party. The court shall exclude at trial the testimony of any physician or psychologist who has made a report that has not been provided as required by this subdivision.

- SEC. 2. Section 2034 is added to the Code of Civil Procedure, to read:
- 2034. (a) After the setting of a trial date for the action, any party may obtain discovery by demanding that all parties simultaneously exchange information concerning each other's expert trial witnesses to the following extent:

- (1) Any party may demand a mutual and simultaneous exchange by all parties of a list containing the name and address of any natural person, including one who is a party, whose oral or deposition testimony in the form of an expert opinion each party expects to offer in evidence at the trial.
- (2) If any expert designated by a party under paragraph (1) is an employee of that party, or has been retained by that party for the purpose of forming and expressing an opinion in anticipation of the litigation or in preparation for the trial of the action, the designation of that witness shall include or be accompanied by an expert witness declaration under paragraph (2) of subdivision (f).
- (3) Any party may also include a demand for the mutual and simultaneous production for inspection and copying of all discoverable reports and writings, if any, made by any expert described in paragraph (2) in the course of preparing that expert's opinion.

This section does not apply to exchanges of lists of experts and valuation data in eminent domain proceedings pursuant to Chapter 7 (commencing with Section 1258.010) of Title 7 of Part 3.

- (b) A demand for an exchange of information concerning expert trial witnesses may be made without leave of court. A party desiring that exchange shall make the demand no later than 90 days before the trial date. On motion, with notice to all parties, the court, for good cause shown, may permit a party to make this demand on a different date. However, in any case where the parties receive less than 120 days notice of the trial date, the court shall set an earlier schedule for any exchange of expert witness information.
- (c) A demand for an exchange of information concerning expert trial witnesses shall be in writing and shall identify, below the title of the case, the party making the demand. The demand shall state that it is being made under this section.

The demand shall specify the date for the exchange of lists of expert trial witnesses, expert witness declarations, and any demand for production of writings. The specified date of exchange shall be at least 20 days after the service of the demand.

- (d) The party demanding an exchange of information concerning expert trial witnesses shall serve a copy of the demand on all parties who have appeared in the action.
- (e) A party who has been served with a demand to exchange information concerning expert trial witnesses may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from annoyance, embarassment, oppression, or undue burden and expense. The protective order may include, but is not limited to, one or more of the following directions:

- (1) That the demand be guashed because it was not timely served.
- (2) That the date of exchange be earlier or later than that

specified in the demand.

- (3) That the exchange be made only on specified terms and conditions.
- (4) That the production and exchange of any reports and writings of experts be made at a different place or at a different time than that specified in the demand.
- (5) That some or all of the parties be divided into sides on the basis of their identity of interest in the issues in the action, and that the designation of employed or retained experts as described in paragraph (2) of subdivision (a) be made by any side so created.

(6) That a party or a side reduce the list of employed or retained

experts designated by that party or side.

If the motion for a protective order is denied in whole or in part, the court may order that the party to whom the demand is directed, provide or permit the discovery against which the protection was sought on those terms and conditions that are just.

The court may impose a monetary sanction under Section 2023 against anyone who does not prevail, and in favor of anyone who does prevail, on a motion for a protective order, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

- (f) The party demanding an exchange of information concerning expert witnesses, and any party served with a copy of that demand, shall exchange this information in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by a mailing on or before the date of exchange.
  - (1) The exchange shall include:
- (A) A list setting forth the name and address of any person whose expert opinion that party expects to offer in evidence at the trial.
- (B) A statement that the party does not presently intend to offer the testimony of any expert witness.
- (2) If any witness on the list is an expert described in paragraph (2) of subdivison (a), the exchange shall also include or be accompanied by an expert witness declaration signed by that party's attorney. This declaration shall contain:
- (A) A brief narrative statement of the qualifications of each expert.
- (B) A brief narrative statement of the general substance of the testimony that the expert is expected to give.
- (C) A representation that the expert has agreed to testify at the trial.
- (D) A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning any opinion and its basis.
- (E) A statement of the expert's hourly and daily fee for providing deposition testimony.
- (g) A party who has demanded the production and exchange of reports and writings of any employed expert described in paragraph

- (2) of subdivision (a), and any party served with a copy of that demand, shall produce and exchange, at the place and on the date specified in the demand, all discoverable reports and writings, if any, made by that expert.
- (h) Within 20 days after the exchange described in subdivision (f), any party who engaged in the exchange may submit:
- (1) A supplemental expert witness list containing the name and address of any experts who will express an opinion on a subject to be covered by an expert designated by another party to the exchange, if the party supplementing an expert witness list has not previously retained an expert to testify on that subject.
- (2) An expert witness declaration pursuant to paragraph (2) of subdivision (f) concerning those additional experts.
- (3) All discoverable reports and writings, if any, made by those experts.
- (i) On receipt of an expert witness list from a party, any other party may take the deposition of any person on the list. The procedures for taking oral and written depositions set forth in Sections 2025, 2026, 2027, and 2028 apply to a deposition of a listed trial expert witness except as follows:
- (1) The deposition of a retained or specially employed expert, as described in paragraph (2) of subdivision (a), shall be taken at a place that is within 75 miles of the courthouse where the action is pending. However, on motion for a protective order by the party designating an expert witness, and on a showing of exceptional hardship, the court may order that the deposition be taken at a more distant place from the courthouse.
- (2) A party desiring to depose any expert, described in paragraph (2) of subdivision (a) except one who is an employee of the party designating the expert, or any treating physician or other treating health care practitioner who is to be asked to express an opinion, shall pay the reasonable and customary hourly or daily fee for the actual time consumed in the examination of that expert by any party attending the deposition. In a worker's compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, a party desiring to depose any expert on another party's expert witness list shall pay this fee.

The party taking the deposition shall accompany the service of the deposition notice with a tender of the expert's fee based on the anticipated length of the deposition. The expert's fee shall be delivered to the attorney for the party designating the expert. If the deposition of the expert takes longer than anticipated, the party giving notice of the deposition shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert. The party designating the expert is responsible for any fee charged by the expert for preparing for the deposition and for traveling to the place of the deposition, as well as for any travel expenses of the expert.

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- (3) The service of a proper deposition notice accompanied by the tender of expert witness fee described in paragraph (2) is effective to require the party retaining or specially employing the expert to produce the expert for the deposition.
- (4) If a party desiring to take the deposition of an expert witness under this subdivision deems that the hourly or daily fee of that expert for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. Notice of this motion shall be given to the expert.

The court shall set the fee of the expert for providing deposition testimony if it determines that the fee demanded by that expert is unreasonable. The court may impose a monetary sanction under Section 2023 against any party who does not prevail, and in favor of any party who does prevail, on a motion to set expert witness fee, if the prevailing party who has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

- (j) Except as provided in subdivisions (k), (l), and (m), on objection of any party who has made a complete and timely compliance with subdivision (f), the trial court shall exclude from evidence the expert opinion of any expert that is offered by any party who has failed to do any of the following:
- (1) List that witness as an expert under subdivision (f) on or before the specified date of exchange.
- (2) State in an expert witness declaration the general substance of the testimony of that expert.
- (3) Produce reports and writings of expert witnesses under subdivision (f) on or before any date specified for that production.
- (4) Make that expert available for a deposition under subdivision (i).
- (k) On motion of any party who has engaged in a timely exchange of expert witness information, the court may grant leave to (1) augment that party's expert witness list and declaration by adding the name and address of any expert witness whom that party has subsequently retained, or (2) amend that party's expert witness declaration with respect to the general substance of the testimony that an expert previously designated is expected to give. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The demand, and all expert witness lists and declarations exchanged in response to it shall be lodged with the court when their contents become relevant to an issue in any pending matter in the action.

The court shall grant leave to augment or amend an expert witness list or declaration only if it determines that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party (1) retained the expert or decided to offer the different or additional testimony of the expert after the date specified for exchange of expert witness information, (2) failed to include the name and address of the expert or the general substance of the different or additional testimony of the expert as a result of mistake, inadvertence, surprise, or excusable neglect on the part of the party seeking leave, (3) sought leave to augment or amend promptly after deciding to call the expert or to offer the different or additional testimony, and (4) has promptly thereafter served a copy of the proposed expert witness information concerning the expert or the testimony, described in subdivision (f), on all other parties who have appeared in the action. Leave shall be conditioned on the moving party making the expert available immediately for a deposition pursuant to subdivision (i), and may include leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated.

The court may impose a monetary sanction under Section 2023 against any party who does not prevail, and in favor of any party who does prevail, on a motion to augment expert witness information, if the prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the motion.

(l) On motion of any party who has failed to submit expert witness information on the date specified in a demand for that exchange, the court may grant leave to submit that information on a later date. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court shall grant leave to submit tardy expert witness information only if it determines that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party (1) failed to submit that information as the result of mistake, inadvertence, surprise, or excusable neglect, (2) sought that leave promptly after learning of the mistake, inadvertence, surprise, or excusable neglect, and (3) has promptly thereafter served a copy of the proposed expert witness information described in subdivision (f) on all other parties who have appeared in the action. This order shall be conditioned on the moving party making that expert available immediately for a deposition under subdivision (i), and the order may include leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated.

The court may impose a monetary sanction under Section 2023 against any party who does not prevail, and in favor of any party who does prevail, on a motion to submit tardy expert witness information, if prevailing party has engaged in a reasonable and good faith attempt at an informal resolution of any issues presented by the

motion.

- (m) A party may call as a witness at trial an expert not previously designated by that party if: (1) that expert had been designated by another party and has thereafter been deposed pursuant to subdivision (i); or (2) that expert is called as a rebuttal witness to testify to the falsity or nonexistence of any fact used as the foundation for an expert opinion by any witness called by any other party at the trial. However, the court shall not permit that undesignated rebuttal witness to contradict the opinion itself.
- (n) The demand for an exchange of information concerning expert trial witnesses, and any expert witness lists and declarations exchanged shall not be filed with the court. The party demanding the exchange shall retain both the original of the demand with the original proof of service affixed, and the original of all expert witness lists and declarations exchanged in response to the demand until six months after final disposition of the action. At that time, all originals may be destroyed unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.
- SEC. 3. Article 4 (commencing with Section 2037) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure is repealed.
  - SEC. 4. This act shall become operative on July 1, 1987.
- SEC. 5. This act shall become operative only if Assembly Bill No. 169 is enacted.

### **CHAPTER 1337**

An act to amend Section 194.5 of the Code of Civil Procedure, relating to jurors, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 194.5 of the Code of Civil Procedure is amended to read:

- 194.5. (a) A trial jury in civil actions in municipal and justice courts may consist of eight persons in the County of Los Angeles, pursuant to rules adopted by the Judicial Council, as an experimental project from July 1, 1987, until July 1, 1989.
- (b) The Judicial Council shall appoint an advisory committee which shall include at least one judge of each court or courts in which the project will take place, one court administrator from that court or courts, or his or her designee, and one member of the Los Angeles County Bar Association, Trial Lawyers Section, who practices in the municipal or justice courts, to make recommendations regarding the design of the eight person jury experiment. The Judicial Council shall

adopt rules for the implementation of the project, including rules governing the assignment of cases to 8 person juries during the experimental period, and establish procedures for the collection and evaluation of data.

- (c) The Judicial Council shall report to the Legislature no later than January 1, 1990, comparing the performance of 8 and 12 person juries. The comparison shall include, but not be limited to, the following factors:
  - (1) Cross-sectional representation of the community.
- (2) Numbers of verdicts favoring plaintiffs or defendants, and size of awards.
  - (3) Accuracy, consistency, and reliability of awards.
  - (4) Time required for impanelment, trial, and deliberations.
  - (5) Public and private costs of the jury.
- (d) The project courts shall collect and provide to the Judicial Council the data required for a proper evaluation of the experiment.
- 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.
- SEC. 3. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the Judicial Council for the purposes of this act.

#### CHAPTER 1338

An act to amend Sections 32100, 32101, 32320, 32321, 32351, and 32652 of, to add Section 32724 to, and to add and repeal Chapter 8 (commencing with Section 32900) of Division 15.5 of, the Financial Code, relating to energy, and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986]

I am signing Senate Bill No 1146 (with an appropriation reduction) because it provides financial assistance to small businesses for energy efficiency improvements and to purchase equipment for alternative energy conservation and development projects.

I am reducing the \$10 million appropriation to the Energy Extension Service for SAFE-BIDCO to establish a small business energy efficiency improvements loan fund to \$3 million. The \$3 million remaining in this appropriation is consistent with the amount of funds designated in my PVEA expenditure plan for the same purposes, and ensures that adequate funds are available for other high priority programs

With this reduction, I approve Senate Bill No 1146.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The State Energy Resources Conservation and Development Commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

SEC. 2. Section 32100 of the Financial Code is amended to read: 32100. The Legislature finds:

- (a) That there is a national crisis stemming from the importation of conventional energy fuels for use by American citizens and businesses.
- (b) That the President has called upon Americans to reduce the consumption of conventional energy fuels by both conservation and conversion to alternative energy systems.
- (c) That the Legislature has devised and adopted certain measures to encourage the use of alternative energy systems in California homes and businesses by providing tax credits and a State Energy Commission dedicated to energy management.
  - (d) That it is necessary to increase job opportunities in this state.
- (e) That it is appropriate for the state to assist the development of small businesses in the field of alternative energy development both to provide jobs and to ensure the development of a strong and independent alternative energy industry in this state which is characterized by diffused ownership and competition.
- (f) That a significant proportion of conventional energy fuel consumption can be replaced with alternative energy systems installed in business firms in this state.
- (g) That a major impediment to the growth of small business in the alternative energy industry is the inability to secure financing from conventional business capital markets due to lack of experience in this new industry and lack of sufficient collateral for loans.
- (h) That one impediment to businesses considering converting their present consumption of conventional fueled energy to an alternative energy system is the high initial capital cost of such systems and the lack of appropriate financing from conventional sources.
- (i) That a financing, management and technical assistance corporation requires management and staff which is experienced and knowledgeable in private financial and business matters, which skills are not usually gained by or found in employees of the civil service system.
- (j) That providing financial and technical assistance to small businesses manufacturing or marketing products or services for export to other countries is an appropriate means of stabilizing and providing expanded markets for small businesses in California.
- (k) That providing financial assistance to minority-owned businesses to expand the opportunities for the establishment or expansion of minority-owned businesses is an appropriate means of

providing equal opportunity to all of California's citizens.

- SEC. 3. Section 32101 of the Financial Code is amended to read: 32101. The purposes of this division are:
- (a) To provide financing assistance for small businesses in the alternative energy industry.
- (b) To provide financing assistance to small businesses for the purpose of purchasing, installing, replacing, or developing an alternative energy system for use by such business to conserve or replace conventional energy use.
- (c) To provide new employment opportunities for workers in the alternative energy industry.
- (d) To reduce conventional energy consumption by business firms.
  - (e) To promote competition in the alternative energy industry.
- (f) To expand self-employment opportunities for workers in the alternative energy industry.
- (g) To apply the innovation and invention of individuals to the energy shortage problems of this state.
- (h) To encourage the sale for export of alternative energy systems.
- (i) To ensure that business opportunities are available to economically disadvantaged areas and groups in the alternative energy industry.
- (j) To foster increased production capacity in the alternative energy industry, and, therefore, increased preparedness in the event of emergency shortages of conventional fuel supplies.
- (k) To provide technical and management assistance to small businesses which seek financing assistance for alternative energy systems.
- (l) To provide public information and education of energy alternatives for business and residential energy users.
- (m) To provide financial and technical assistance for small businesses manufacturing or marketing products or services for export to other countries.
- (n) To provide financial and technical assistance to expand the opportunities for the establishment or expansion of minority-owned businesses in California.
- SEC. 4. Section 32320 of the Financial Code is amended to read: 32320. The board of directors of the corporation shall consist of seven members, two official and five public directors.
  - SEC. 5. Section 32321 of the Financial Code is amended to read: 32321. (a) The official members of the board shall be:
  - (1) The Secretary of the Business and Transportation Agency.
- (2) One member of the Energy Commission, selected and appointed by the members of the Energy Commission.
  - (b) The public members of the board shall be:
- (1) One member selected and appointed by the Rules Committee;
  - (2) One member selected and appointed by the Speaker; and,

- (3) Three members selected and appointed by the Governor as follows:
- (i) One member with a minimum of three years experience as an officer or member of a labor union;
- (ii) One member with a minimum three years experience as an owner, partner, officer, or employee of an alternative energy business firm, or three years experience as an employee of a private or governmental agency concerned with alternative energy development; and
- (iii) One member with a minimum three years experience as an officer or employee of a financial institution.
- SEC. 6. Section 32351 of the Financial Code is amended to read: 32351. The corporation shall not provide financing assistance to any business firm in this state unless such business firm meets the financial and eligibility criteria for the specific type of financial assistance to be provided by the corporation, including, where appropriate, prior application to a bank or other financial institution for a loan or other financial assistance.
  - SEC. 7. Section 32652 of the Financial Code is amended to read: 32652. The finance officer shall not execute any loan which is not:
- (a) Approved for guarantee by the Small Business Administration, where the minimum amount of such guarantee is not less than 90 percent of the principal amount of such loan;
- (b) Approved for guarantee by any other governmental loan guarantee authority, the minimum amount of such guarantee is not less than 50 percent of the principal amount of such loan;
- (c) Made pursuant to the corporation's participation with the Small Business Administration as a small business investment company or local development company; or
- (d) Less than 16 percent of the total financing package arranged between the corporation and another lender or lenders on behalf of the applicant.
- (e) This section does not apply to loans made pursuant to Section 32724.
  - SEC. 8. Section 32724 is added to the Financial Code, to read:
- 32724. Notwithstanding any other provision of this division, loans or other financing programs undertaken by the corporation in furtherance of the purposes specified in subdivisions (m) and (n) or Section 32101, relating to minority enterprises and export financing, shall be funded from the energy loan fund, or other accounts which the corporation may establish. The board shall promulgate separate loan review procedures and criteria which shall be applicable to loans and other financing programs implemented by the corporation pursuant to this section.
- SEC. 9. Chapter 8 (commencing with Section 32900) is added to Division 15.5 of the Financial Code, to read:

### CHAPTER 8. ENERGY EFFICIENCY IMPROVEMENTS

### Article 1. Purpose

- 32900. (a) Energy costs account for a growing and substantial portion of the operating costs of small businesses in California.
- (b) Expenditures on energy by small businesses reduce profit margins and increase operational difficulties.
- (c) Substantial reductions in small business energy costs can be realized through the installation of energy conservation, management, and other efficiency improvements.
- (d) Small business typically do not have access to financing at rates and terms which make energy efficiency investments cost effective and feasible.
- (e) Providing financing assistance to small businesses to promote energy efficiency investments is consistent with the guidelines for using federal petroleum violation escrow account funds which provide compensation to energy users who were overcharged by oil companies that violated federal oil price control regulations.

### Article 2. Definitions

32905. In addition to the definitions set forth in Article 3 (commencing with Section 32200) and unless the context otherwise requires, the definitions in this article apply throughout this chapter.

32907. "Energy efficiency improvement" means any device, or combination of devices, or modification to the plant, equipment, or process which conserves or reduces the consumption of energy by the applicant through such measures as lighting changes, implementation of load management, or changes in energy facilities reducing the consumption of heat, process heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, or electricity.

32909. "Energy Extension Service" means the Energy Extension Service established in the Governor's office.

32911. "Escrow funds" mean those funds received by the state from the designated petroleum violation escrow funds as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. No. 97-377).

# Article 3. Energy Efficiency Improvements Loan Fund

32920. In addition to other accounts the board may establish, the financial accounts of the corporation shall include an energy efficiency improvements loan fund for the purpose of making loans under this chapter and paying for administrative, marketing, and public information costs and establishing a loan-loss reserve.

32922. The purpose of this article is to authorize the corporation to use the funds in the energy efficiency improvements loan fund for

measures to reduce the energy consumption of qualifying small businesses through the installation of energy conservation, load management, or other devices to improve energy efficiency at facilities owned or operated by the qualifying small business and nonprofit organization.

32924. Escrow funds appropriated to the corporation may only be used to provide for subsidized loans, or loans with a low interest rate, granted pursuant to this article, except that the corporation may deposit escrow funds not yet used for those purposes in interest bearing accounts with accredited financial institutions. The corporation shall deposit interest earnings on those accounts in the general operating account of the corporation and may be used for purposes designated by the board.

32926. The interest earned on any loans made by the corporation pursuant to this article shall be deposited in the energy efficiency improvements loan fund.

32927. No more than two hundred fifty thousand dollars (\$250,000) of money in the energy efficiency improvements loan fund may be used for initial organizational expenses.

32928. No more than 10 percent of the income generated by the fund may be used for project marketing.

32929. The corporation shall designate an officer of the corporation to administer the loan program established by this article. The officer responsible for the program shall report directly to the president of the corporation.

32930. Priority in ranking loan applications shall be given to small businesses purchasing or implementing energy efficiency improvements by considering the following characteristics in descending order of importance:

- (a) It improves energy efficiency utilization or conserves energy at the highest savings-investment ratio, as provided in Section 32648.
- (b) It improves energy utilization efficiency or conserves energy while developing or advancing the state of the art in technology or services available to small businesses and nonprofit organizations.
- 32932. Loans made under this chapter to small businesses shall be at a fixed rate of interest for a term not exceeding five years. The rate of interest shall not be less than five percentage points below the prevailing published New York prime interest rate.

32936. The corporation shall use its best efforts to set interest rates on loans made under this chapter at the point at which the loan makes an investment in energy efficiency improvements cost effective.

32940. Guidelines for approving loan applications shall be developed by the board on or before May 1, 1987. In developing those guidelines, the board shall incorporate the recommendations adopted by the California Energy Commission with respect to technical criteria which are to be applied to projects receiving loans from the corporation pursuant to this chapter. The corporation may contract with the Energy Commission for the purpose of developing

technical guidelines.

32942. Loans shall be approved according to criteria established by a credit committee, chaired by the chief financial officer of the corporation or that officer's designee. The other members of the committee shall be the member of the board appointed by the Energy Commission and the Director of the Energy Extension Service, or their designees.

### Article 4. Small Business Energy Accounting

32952. The Energy Extension Service shall develop a program to assist small business owners in reducing their energy costs by providing technical assistance and information through local chambers of commerce and business organizations.

### Article 5. Reports

32955. The corporation, California Energy Commission, and the Energy Extension Service shall jointly file a report every two years to the Legislature summarizing program activities under this chapter. The first report shall be filed on or before January 1, 1988.

32960. This chapter shall become inoperative on July 1, 1996, and, as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

- SEC. 10. Notwithstanding the provisions of Sections 13340 and 16361 of the Government Code and to the extent permitted by federal law, the sum of eighteen million dollars (\$18,000,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the petroleum violation escrow account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments and federal agency orders, is hereby appropriated to the Controller for disbursement as follows:
- (a) Four million dollars (\$4,000,000) to the State Energy Resources and Development Commission to carry out Section 1 of this act.
- (b) Ten million dollars (\$10,000,000) to the Energy Extension Service of the Office of Planning and Research for disbursement to the State Assistance Fund for Energy California Business and Industrial Development Corporation, to be deposited in the energy efficiency loan fund established under Section 32920 of the Financial Code.
- (c) Four million dollars (\$4,000,000) to the Energy Extension Service to provide small business energy accounting assistance under Section 32952 of the Financial Code.
  - SEC. 11. All moneys 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, shall be deposited in the Federal Trust Fund created pursuant to Section 16360 of the Government Code. Funds deposited in the Federal Trust Fund pursuant to this section shall be accounted for separately within the fund and any interest earned on the account shall accrue to that account.

## CHAPTER 1339

An act to amend Section 41304 of, to amend and repeal Section 51220 of, and to add Section 51854 to, the Education Code, to add Sections 14005 and 14049 to the Corporations Code, to add Section 50515.5 to the Health and Safety Code, to add Sections 25380 and 25381 to, and to add and repeal Chapter 4.9 (commencing with Section 25390) of, the Public Resources Code, to amend Section 10 of Chapter 1235 of the Statutes of 1984, and to repeal Section 13 of Assembly Bill 2926 of the 1985–86 Regular Session, relating to petroleum violation funds, and making an appropriation therefor.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986 ]

I am approving Assembly Bill No 694 (with an appropriation reduction) because it provides Petroleum Violation Escrow Account (PVEA) funds to school districts for air conditioning equipment for year-round schools, to small businesses for low-interest loans and technical assistance to reduce their energy costs, and funds for Native

American community energy services.

I am reducing the \$14,000,000 appropriation for small business loans and technical assistance, commencing with Section 6 and appropriated by Section 13(b)(1), to \$3,000,000 In addition, I am eliminating \$3,500,000 for housing rehabilitation, commencing with Section 13(c), and eliminating \$21,000,000 for local conservation programs, commencing with Chapter 4.9, Section 25390 and appropriated by Section 13(a). These funds duplicate funding in other PVEA bills I am signing for similar purposes.

The remaining \$36,000,000 appropriated in this bill is consistent with the amount of funds designated in my PVEA expenditure plan for the same purposes, and ensures that adequate funds are available for other high priority PVEA funded programs. With this reduction, I approve Assembly Bill No 694.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds and declares that several oil companies have been found, by the United States Department of Energy and federal courts, to have violated petroleum price controls which were in effect from 1973 to 1981. Through law suits, administrative actions, and settlements, the Department of Energy has been gradually recovering the funds found to have been overcharged. The funds are then being transferred to the states, which are required to use them to provide restitution to those most

harmed by the oil overcharges. It appears that at least one major court judgment will require that the funds be expended according to guidelines established by Congress in 1982, in H.R. 631, known as the "Warner Amendment." The Legislature further finds and declares that the expenditures prescribed in this act are consistent with the provisions of H.R. 631 and represent an effective means of providing restitution to those affected by the oil overcharges.

- SEC. 2. Section 41304 of the Education Code is amended to read: 41304. (a) There is appropriated annually from the Driver Training Penalty Assessment Fund to the General Fund in the State Treasury and from the General Fund to the the California Energy Extension Service of the Office of Planning and Research a sum as necessary to establish and maintain a unit for driver instruction within the State Department of Education as set forth in Section 41904.
- (b) In addition, subject to Section 41305, there shall be appropriated from the Driver Training Penalty Assessment Fund to the General Fund, then to the State School Fund each fiscal year, the sum the Superintendent of Public Instruction certifies as necessary to reimburse school districts, county superintendents of schools, the California Youth Authority, and the State Department of Education for the actual cost of instructing pupils in the operation of motor vehicles.

The amount shall not exceed eighty dollars (\$80) per pupil instructed in the laboratory phase of driver education in accordance with the rules and regulations of the State Board of Education.

- (c) Subject to Section 41305, there shall also be appropriated from the Driver Training Penalty Assessment Fund the sum the Superintendent of Public Instruction shall certify as necessary to reimburse school districts, county superintendents of schools, the California Youth Authority, and the State Department of Education for the actual cost of replacing vehicles and simulators used exclusively in the laboratory phase of driver education programs, but the amount shall not exceed three-fourths of that part of the actual cost of instructing pupils in the laboratory phase of driver education during the preceding fiscal year which was: (1) in excess of eighty dollars (\$80) per pupil instructed, and (2) expended by the district, the county superintendent of schools, the California Youth Authority, and the State Department of Education in replacing the vehicles and simulators. Reimbursement for vehicles shall be computed for only that portion of the total mileage used exclusively in the laboratory phase of driver education programs.
- (d) In addition, subject to Section 41305, there shall be provided from the Petroleum Violation Escrow Account to the General Fund, then to the State School Fund each fiscal year the sum the Superintendent of Public Instruction certifies as necessary to reimburse school districts, county superintendents of schools, the California Youth Authority, and the State Department of Education for the costs of fitting automobile driver training vehicles with the

instrumentation required under Section 51854 and to reimburse school districts for the costs of transferring instrumentation providing instructional information on fuel consumption and vehicle fuel efficiency from one automobile driver training vehicle to another under Section 51854.

- (e) In addition, subject to Section 41305, there shall be appropriated from the Petroleum Violation Escrow Account to the Driver Training Penalty Assessment Fund and from the Driver Training Penalty Assessment Fund to the General Fund, then to the Superintendent of Public Instruction each fiscal year the sum the Superintendent of Public Instruction certifies as necessary to reimburse the State Department of Education for the costs of workshops conducted by the department under Section 51854.
- (f) For purposes of computing reimbursement, whenever a school district, a county superintendent of schools, the California Youth Authority, or the State Department of Education replaces a driver training vehicle or simulator purchased by the district with a vehicle or simulator that is a gift or loan, the purchase price of the new or acquired equipment shall be deemed to be the market value of the vehicle or simulator acquired through a gift or loan.

A simulator is any device approved by the State Department of Education to be used in classrooms for purposes of laboratory instruction under simulated driving conditions.

- SEC. 3. Section 51220 of the Education Code is amended to read: 51220. The adopted course of study for grades 7 to 12, inclusive, shall offer courses in the following areas of study:
- (a) English, including knowledge of and appreciation for literature, language, and composition, and the skills of reading, listening, and speaking.
- (b) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; instruction in our American legal system, the operation of the juvenile and adult criminal justice systems, and the rights and duties of citizens under the criminal and civil law and the State and Federal Constitutions; the development of the American economic system including the role of the entrepreneur and labor; man's relations to his human and natural environment; eastern and western cultures and civilizations; human rights issues, with particular attention to the study of the inhumanity of genocide; and contemporary issues.
- (c) Foreign language or languages, beginning not later than grade 7, designed to develop a facility for understanding, speaking, reading, and writing the particular language.
- (d) Physical education, with emphasis given to such physical activities as may be conducive to health and to vigor of body and mind.

- (e) Science, including the physical and biological aspects, with emphasis on basic concepts, theories, and processes of scientific investigation and on man's place in ecological systems, and with appropriate applications of the interrelation and interdependence of the sciences.
- (f) Mathematics, including instruction designed to develop mathematical understandings, operational skills, and insight into problem-solving procedures.
- (g) Fine arts, including art, music, or drama, with emphasis upon development of aesthetic appreciation and the skills of creative expression.
- (h) Applied arts, including instruction in the areas of consumer and homemaking education, industrial arts, general business education, or general agriculture.
- (i) Vocational-technical education designed and conducted for the purpose of preparing youth for gainful employment in such occupations and in such numbers as appropriate to the manpower needs of the state and the community served and relevant to the career desires and needs of the students.
  - (j) Automobile driver education, as follows:
- (1) Automobile driver education, designed to develop a knowledge of the provisions of the Vehicle Code and other laws of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge and attitudes necessary for the safe operation of motor vehicles. A course in automobile driver education shall include education in the safe operation of motorcycles.
- (2) A course in automobile driver education shall also include instruction in vehicular air quality control and inspection, the maintenance and functioning of automobile emission control devices, and the applicable federal and state warranties pertaining thereto, the proper handling of gasoline vapor recovery equipment, and vehicle fuel efficiency techniques. This additional instruction shall be conducted within the regular instructional period.
- (k) Such other studies as may be prescribed by the governing board.
- (l) This section shall remain in effect only until the first of the following occurs:
  - (1) January 1, 1990.
- (2) The repeal of Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code.

On or after January 1, 1990, or upon the repeal of Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code, whichever occurs first, pursuant to Section 9611 of the Government Code, Section 51220 of the Education Code, as amended by Section 2 of Chapter 1222 of the Statutes of 1985, shall have the same force and effect as if this temporary provision had not been enacted.

- SEC. 4. Section 51854 is added to the Education Code, to read: 51854. (a) The State Department of Education shall adopt rules and regulations requiring all automobile driver training vehicles to be fitted with instrumentation providing instructional information on fuel consumption and vehicle fuel efficiency such as fuel efficiency meters or computerized fuel equipment.
- (b) The department shall conduct workshops to provide in-service training to automobile driver training instructors on fuel-efficient driving which shall include, but not be limited to, all of the following instructional techniques:
  - Minimization of braking.
  - (2) Brisk acceleration to high gear.
  - (3) Methods to emphasize deceleration modes.
  - (4) Reduce idling.
- (5) Methods to anticipate stops and to maintain safe distances between vehicles.
  - (6) The use of momentum and gravity to save fuel.
  - (7) Driving at the most fuel-efficient and safe speeds.
  - (8) Smooth steering, turning, acceleration, and braking.
- (9) The use of fuel-efficient driving instrumentation to remind drivers of methods for fuel-efficient driving.
- (c) The Superintendent of Public Instruction shall review claims submitted by school districts for reimbursement for the costs of fitting automobile driver training vehicles with instrumentation providing information on fuel consumption and vehicle fuel efficiency required by subdivision (a) and may approve claims for reimbursement up to three hundred dollars (\$300) per vehicle for the installation of this equipment, including parts and labor. The superintendent may approve claims for reimbursement for the transfer of equipment from one vehicle to another at the reimbursement rates authorized for the replacement of automobile driver training vehicles and simulators. Allowances made to school districts under this subdivision during the first year that the program is in operation shall be allocated by the superintendent from the Petroleum Violation Escrow Account. Allowances made to school districts under this subdivision in subsequent years shall be allocated by the superintendent from the Driver Training Penalty Assessment Fund.
  - SEC. 5. The Legislature finds and declares all of the following:
- (a) Energy costs account for a substantial portion of the operating expenses of small businesses in California.
- (b) Expenditures on energy by small businesses reduce profit margins and increase operational difficulties.
- (c) Substantial reductions in small business energy costs can be realized through the installation of energy conservation and management or other efficiency-improving technologies.
- (d) Inadequate financing and technical assistance resources are available to small businesses in California to install or lease these beneficial technologies.

- (e) There currently exists in California in the Small Business Development Corporations and under the State Assistance Fund for Energy a network of agencies that are experienced in providing financial and technical assistance to small businesses but do not have the resources or authorization to assist with the reduction of energy costs by small businesses.
  - SEC. 6. The California Energy Extension Service of the Office of Planning and Research shall develop a program to accomplish all of the following, which are the purpose of Sections 7 and 8 of this act:
  - (a) To promote the health and growth of California's small businesses by providing financial and technical assistance to reduce energy costs.
  - (b) To authorize and fund the state's existing Small Business Development Corporations to provide this assistance because of their proven experience in the field and established network of contacts throughout the state.
  - SEC. 7. Section 14005 is added to the Corporations Code, to read: 14005. The Department of Commerce shall enter into an agreement with the California Energy Extension service of the Office of Planning and Research to assist small business owners in reducing their energy costs through low interest loans and by providing technical assistance and information through regional development corporations.
  - SEC. 8. Section 14049 is added to the Corporations Code, to read: 14049. Regional Development Corporations may grant energy efficiency improvement loans.
  - SEC. 9. Section 50515.5 is added to the Health and Safety Code, to read:
  - 50515.5. The Department of Housing and Community Development, pursuant to a contract with the State Office of Economic Opportunity, may provide the following energy assistance activities:
  - (a) A housing rehabilitation program to reduce the consumption of energy in farmworker housing.
  - (b) The development or rehabilitation of energy-efficient residential hotels and centers for principal occupation by senior citizens.
  - (c) Energy conservation measures for low-income residential, single-family dwellings.
  - SEC. 10. Section 25380 is added to the Public Resources Code, to read:
  - 25380. (a) The Ridesharing Vanpool Revolving Loan Fund is hereby created in the State Treasury. The fund shall be administered by the commission. The commission shall allocate the funds for the loans to the applicants in accordance with the Department of Transportation's recommendations pursuant to this section. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated without regard to fiscal year to the commission to carry out the purposes of this section.

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- (b) Any person may submit an application to the department for a low or no interest loan from the fund to purchase a vanpool vehicle, as defined by Section 668 of the Vehicle Code. Title to the vehicle shall be retained by the department until the loan is repaid in full.
- (c) The department shall establish a procedure for making vanpool loans to qualified parties. The procedure shall evaluate the party's ability to repay the loan in a timely fashion as well as the need for the van, with highest priority being assigned to routings with no alternative mass transportation. Concurrently with the award of each loan, the department shall require each applicant to comply with subdivision (h) of Section 12804 of the Vehicle Code, Section 34509 of the Vehicle Code, the financial responsibility laws contained in Division 7 (commencing with Section 16000) of the Vehicle Code. and to name the department as a coinsured. The department shall also establish rules concerning nonwork trip use of the vanpool vehicle. Each loan shall cover no more than 80 percent of the cost of the vanpool vehicle, and shall be repaid over a period of time not to exceed 60 months. Once the loan is repaid in full, title to the vehicle shall be delivered to the applicant. Each successful applicant shall be charged, in addition, a loan origination fee sufficient to cover, at a minimum, the department's costs in administering this program.
- (d) The department shall initially make loans available at no interest for the first year of the loan program. Thereafter, the department shall charge a rate of interest for the future disbursements from repaid principle reasonably calculated to keep the fund at a constant annual level after adjustment for inflation. The department may also increase loan origination fees for this purpose.

SEC. 11. Section 25381 is added to the Public Resources Code, to read:

25381. The Legislative Analyst shall report to the Legislature on the status of the Ridesharing Vanpool Revolving Loan Fund created by Section 25380 by March 1, 1989. The Legislative Analyst shall specifically consider whether the loan origination fees are adequate to cover the department's costs of administration of this program and to maintain the long-term stability of the fund. The Legislative Analyst shall make recommendations to the Legislature that will help ensure that an adequate amount of loans can continue to be made for vanpool vehicles.

SEC. 12. Chapter 4.9 (commencing with Section 25390) is added to Division 15 of the Public Resources Code, to read:

#### CHAPTER 4.9. LOCAL ENERGY CONSERVATION PROGRAMS

25390. This chapter shall be known and may be cited as the Local Energy Conservation Programs Act.

25391. The commission may make grants to cities, counties, and districts that apply for assistance in paying the costs of local energy conservation programs which make energy conservation devices available for installation following a door-to-door canvass and energy

efficiency generic audit.

25392. The commission shall develop guidelines for local energy conservation programs. The guidelines shall require that, to be eligible for grants, programs emphasize difficult-to-reach target groups, such as low-income residents, senior citizens, and renters. The guidelines shall also provide that local energy conservation programs which integrate utility programs and reduce or eliminate the cost of the energy conservation devices to the consumer shall be given preference in the award of grants. The grants shall be awarded on a competitive basis.

25393. The granted funds may not be used to pay the cost of the energy conservation devices, including installation, made available under the local energy conservation programs.

25394. Funds received by the commission from appropriations of petroleum violation escrow funds may be expended for the purposes of this chapter.

25395. This chapter 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.

- SEC. 13. Notwithstanding Sections 13340 and 16361 of the Government Code and to the extent permitted by federal law, the sum of forty-one million five hundred thousand dollars (\$41,500,000), subject to Section 14 of this act, is hereby appropriated from funds 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 as follows:
- (a) Twenty-one million dollars (\$21,000,000) to the State Energy Resources Conservation and Development Commission to be distributed as follows:
- (1) Sixteen million five hundred thousand dollars (\$16,500,000) for expenditure for the purposes of Chapter 4.9 (commencing with Section 25390) of Division 15 of the Public Resources Code, except that this appropriation shall be reduced by the amount of any appropriation for these purposes contained in any other act enacted in the 1986 portion of the 1985–86 Regular Session of the Legislature.
- (2) Seven hundred fifty thousand dollars (\$750,000) for allocation to the Superintendent of Public Instruction to fund workshops conducted by the State Department of Education pursuant to subdivision (b) of Section 51854 of the Education Code and for reimbursements pursuant to subdivision (d) of Section 41304 of the Education Code, except that this appropriation shall be reduced by the amount of any appropriation for these purposes contained in any other act enacted in the 1986 portion of the 1985–86 Regular Session of the Legislature.
- (3) One hundred fifty thousand dollars (\$150,000) for allocation to the City of Los Angeles for its Department of Transportation to

conduct a six- to nine-month feasibility study of a high-flow arterial on the segment of Victory Boulevard between Fallbrook and Cahuenga. The study shall evaluate the use of limited access, grade separated intersections, turn lanes and phasing, signal optimization and elimination, median modifications, lane restriping, and other route alterations, as a demonstration project to show the relationship between enhanced traffic flow and the reduction of fuel consumption. The study shall include an analysis of traffic conditions based on average daily traffic, peak hour volumes, traffic signal timing, and field observations.

- (4) Six hundred thousand dollars (\$600,000) for allocation to the City of Los Angeles for its Department of Transportation for use in its Fuel Efficient Traffic Signal Management System, to optimize signals on the segment of Victory Boulevard between Fallbrook and Cahuenga.
- (5) One million dollars (\$1,000,000) for allocation to the State Department of Transportation for purposes of financing a transportation demonstration project to conserve gasoline and diesel fuel by improving transportation flow through more effective utilization of arterial street systems in conjunction with the interstate highway system and a program of event management at high traffic generation sites, located in a geographic area adjacent to a professional football-baseball stadium and at least one major amusement park facility.
- (6) Two million dollars (\$2,000,000) for deposit in the Ridesharing Vanpool Revolving Loan Fund created by Section 25380 of the Public Resources Code.
- (b) Seventeen million dollars (\$17,000,000) to the California Energy Extension Service of the Office of Planning and Research, to be distributed as follows:
- (1) Fourteen million dollars (\$14,000,000) for allocation to the Department of Commerce for the purposes specified in Section 6 of this act.
- (2) Three million dollars (\$3,000,000) for Native American community energy services. The energy service shall provide direct personalized assistance in designing energy-efficient housing and community buildings, renovating existing units, and economic development assistance through the development of renewable energy production facilities and other energy services on Indian lands.
- (c) Three million five hundred thousand dollars (\$3,500,000) to the State Office of Economic Opportunity for the purposes specified in Section 50515.5 of the Health and Safety. Code, as follows:
- (1) One million dollars (\$1,000,000) for purposes of subdivision (a) of that section.
- (2) One million dollars (\$1,000,000) for purposes of subdivision (b) of that section.
- (3) One million five hundred thousand dollars (\$1,500,000) for purposes of subdivision (c) of that section.

- SEC. 15. The Legislature finds and declares that the court judgment in the decision of the United States District Court for the District of Kansas, Case Number MDL-378, dated July 17, 1986, which awarded states a portion of federal petroleum violation escrow account funds, stipulated that each state must fund existing or new low-income programs in a manner that provides low-income consumers with an equitable share of the funds allocated.
- SEC. 16. 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 million dollars (\$30,000,000) is hereby appropriated to the State Energy Resources Conservation and Development Commission for the following purposes:
- (a) For allocation to school districts selected by the State Allocation Board pursuant to this section, for the purchase of air-conditioning equipment and insulation materials, and for the expenses 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 of the Education Code.
- (b) The State Allocation Board shall recommend allocations of 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 school districts located in climates in which the need for air-conditioning and insulation in June, July, and August is greatest, that have the largest number of pupils enrolled in year-round or continuous schools, as referred to in subdivision (a), and that have the greatest degree of overcrowding of pupils in those schools.

This section shall become operative only if Section 13 of AB 2926 is repealed.

- SEC. 17. Section 13 of Assembly Bill 2926 of the 1985-86 Regular Session is repealed.
- SEC. 18. Section 16 of this bill shall become operative only if this bill and AB 2926 are enacted and this bill is enacted last.

#### CHAPTER 1340

An act to add Chapter 7.2 (commencing with Section 25625) and Chapter 7.6 (commencing with Section 25675) to Division 15 of the Public Resources Code, relating to energy resources, and making an appropriation therefor.

> [Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986 ]

I am signing Senate Bill No. 1147 (with an appropriation reduction) because it will provide funds for demonstration projects to determine the technical and economic feasibility of using methanol and biomass-derived fuel to lessen our dependence on

imported oil and to improve air quality by reducing emission. I am reducing the \$7,500,000 apropriation for the Clean Fuels Account to \$5,000,000. by reducing the amounts for demonstration projects for methanol-powered diesel engines and financial assistance to public and private transit operations for methanol-powered transit buses. In addition, I am eliminating the \$6,500,000 in the Clean Fuels Act, which provides a financial incentive for liquid fuels produced from biomass-derived resources.

The remaining \$5,000,000 appropriated in this bill is consistent with the amount of funds designated in my Petroleum Violation Escrow Account (PVEA) expenditure plan for the same purposes, and ensures that adequate funds are available for other high priority PVEA funded programs

With this deletion, I approve Senate Bill No. 1147

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 7.2 (commencing with Section 25625) is added to Division 15 of the Public Resources Code, to read:

### CHAPTER 7.2. CLEAN FUELS ACCOUNT

25625. The Legislature finds and declares all of the following:

- (a) Air pollution in California remains a significant threat to public health and the environment and urban areas are in need of special efforts to reduce harmful emissions.
- (b) That recent studies have found that increasing levels of particulates and other pollutants from diesel engines are a major contributor to visibility and other air pollution problems, including acid deposition.
- (c) That despite efforts to regulate emissions from heavy-duty diesel engines, harmful pollutants from these vehicles have proven difficult to control with current technology, and as a consequence, the implementation of more stringent emission standards may result in adverse effects on performance and fuel economy.
- (d) That state and federal researchers have determined that methanol fuel has demonstrated the potential for significant air quality improvements beyond the levels which can be achieved by conventional gasoline and diesel engines, and that methanol fuel can be produced from a variety of abundant domestic energy sources, including natural gas, coal, and biomass.
  - (e) That reducing dependence on imported petroleum and

increasing the security of transportation fuel supplies are important elements of the state's energy policy.

- (f) That because of the potential environmental and energy security benefits of expanded methanol fuel use, along with the prospect of increased competitiveness of the fuels market, it is consistent with the goal of restitution to energy consumers for the Legislature to appropriate a portion of the state's allocation of petroleum violation escrow funds for methanol demonstration programs and for financial incentives to private industry and local governments to expand methanol fuel use.
- 25626. (a) The commission, in conjunction with the State Air Resources Board, shall carry out a program of technology development and financial assistance to expand the use of methanol fuel as a means of reducing air pollution, assuring the state's energy security, and increasing the competitiveness of fuel markets. The program shall include all of the following:
- (1) A project demonstrating the technological and economic feasibility and environmental impacts of utilizing methanol fuel in heavy-duty diesel engines of 500 horsepower or less, as used by the state's trucking industry.
- (2) A project demonstrating the technological and economic feasibility and environmental impacts of utilizing methanol fuel in heavy-duty diesel engines of 1000 horsepower or more, as used by railroad locomotives and marine vessels.
- (3) Technical and financial assistance for public and private transit operators for the acquisition and operation of new and retrofitted methanol-powered transit buses.
- (4) Technical and financial assistance for vehicle fleet operations of state and local agencies, and private rideshare programs, to underwrite the differential costs of the purchase of flexible fuel vehicles and the establishment of necessary fueling facilities. For purposes of this chapter, "flexible fuel vehicles" means vehicles which can operate on either alcohol fuels or premium unleaded gasoline, or a combination thereof.
- (b) The program undertaken pursuant to this chapter shall be conducted with the maximum feasible financial and technical participation of private industry and other government agencies in order to assure that the risks and benefits of the program are shared with industry and other levels of government.
- 25627. The Clean Fuels Account is hereby created as a separate account in the General Fund.
- 25628. The seven million five hundred thousand dollars (\$7,500,000) appropriated to the commission from the Clean Fuels Account by the act enacting this chapter shall be allocated for purposes of carrying out the program in Section 25626 as follows:
- (a) Two million dollars (\$2,000,000) for technology demonstration programs for methanol-powered heavy-duty diesel engines under paragraphs (1) and (2) of subdivision (a) of Section 25626.

- (b) Three million dollars (\$3,000,000) for financial assistance to public and private transit operators for the acquisition and operation of methanol-powered transit buses under paragraph (3) of subdivision (a) of Section 25626.
- (c) Two million five hundred thousand dollars (\$2,500,000) for financial assistance to state and local agencies, and private rideshare programs, for the purchase of flexible fuel vehicles for fleet operations under paragraph (4) of subdivision (a) of Section 25626.

SEC. 2. Chapter 7.6 (commencing with Section 25675) is added to Division 15 of the Public Resources Code, to read:

### CHAPTER 7.6. CLEAN FUELS ACT

25675. The commission shall establish a grant program which provides a forty cent (\$0.40) per gallon production incentive for liquid fuels fermented in this state from biomass and biomass-derived resources produced in this state. Eligible liquid fuels include, but are not limited to, ethanol, methanol, and vegetable oils. Eligible biomass resources include, but are not limited to, agricultural products and byproducts, forestry products and byproducts, and industrial wastes. The commission shall adopt rules and regulations necessary to implement the program. Prior to determining an applicant eligible for participation in the production incentive program, the commission shall find, among other things, that the production techniques employed will lead to a net increase in the amount of energy available for consumption.

25676. Applicants for a grant under this chapter shall submit an application on a form prescribed by the commission which is

responsible for administration of the program.

- SEC. 3. The Legislature finds and declares that because ethanol and other clean fuels act as displacement fuel for depleting supplies of crude oil, it is consistent with the goal of restitution to energy consumers for the Legislature to appropriate a portion of the state's allocation of petroleum violation escrow funds for an ethanol production incentive to private industry to expand ethanol use.
- SEC. 4. Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of fourteen million dollars (\$14,000,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the petroleum violation escrow account as defined by Section 155 of the Further Continuing Appropriation Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments and federal agency orders, is hereby appropriated as follows:
- (a) Seven million five hundred thousand dollars (\$7,500,000) is transferred to the Clean Fuels Account and is hereby appropriated from the account for expenditure by the State Energy Resources Conservation and Development Commission to carry out Chapter

- 7.2 (commencing with Section 25625) of Division 15 of the Public Resources Code.
- (b) Six million five hundred thousand dollars (\$6,500,000) is appropriated to the State Energy Resources Conservation and Development Commission to carry out Chapter 7.6 (commencing with Section 25675) of Division 15 of the Public Resources Code.

#### CHAPTER 1341

An act relating to energy resources, and making an appropriation therefor.

> [Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

I am approving Senate Bill No. 1145 (with an appropriation reduction) because it will provide financial and technical assistance to California farmers, and in particular,

with provide manicial and technical assistance to Camoria farmers, and in particular, to small family farms, through a farm energy assistance program.

I am deleting the \$2.5 million appropriation to the Energy Technologies Research, Development, and Demonstration Account to carry out demonstration projects, because there are currently sufficient funds available in this account for projects of this nature. The \$5 million remaining in this appropriation is consistent with the amount of funds designated in my PVEA expenditure plan for the same purposes, and ensures that adequate funds are available for other high priority programs.

With this reduction, Lapproprise Senate Bill No. 1145.

With this reduction, I approve Senate Bill No 1145.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Notwithstanding Sections 13340 and 16361 of the Government Code and to the extent permitted by federal law, the sum of seven million five hundred thousand dollars (\$7,500,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the petroleum violation escrow account as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments, is hereby appropriated and transferred in accordance with the following schedule:

- (a) Two million five hundred thousand dollars (\$2,500,000) to the Energy Technologies Research, Development, and Demonstration Account for the use by the State Energy Resources Conservation and Development Commission to carry out demonstration projects, but not research and development, pursuant to Chapter 7.8 (commencing with Section 25680) of Division 15 of the Public Resources Code.
- (b) Five million dollars (\$5,000,000) to the State Energy Resources Conservation and Development Commission for a farm energy assistance program as follows:
  - (1) One million dollars (\$1,000,000) to the commission for

technical assistance for agriculture energy extension services, including, but not limited to, education and support programs on energy conservation practices and the use of alternative energy sources. The commission, in coordination with the Department of Food and Agriculture, shall enter into an agreement with the University of California to provide the services. The university shall attempt to make the service available to all farmers and, in particular, to small family farms.

- (2) One million dollars (\$1,000,000) to the commission for allocation for demonstrations of existing and new energy conservation tillage and harvesting techniques.
- (3) Three million dollars (\$3,000,000) to the commission for a revolving loan fund for loans for the purchase of equipment and services for agriculture energy conservation and development demonstration projects, including, but not limited to, production of methane or ethanol, use of wind, photovoltaics, and other sources of energy for irrigation pumping, application of load management conservation techniques, improvements in water pumping and pressurization techniques, and conservation tillage techniques. The loans shall contain terms providing for a repayment period of not more than seven years and for interest at a rate which is not less than 2 percent below the rate earned by moneys in the Pooled Money Investment Account.
- SEC. 2. The Legislature finds and declares that California's agriculture industry is facing rising energy costs which are adding to the serious financial plight faced by the industry; that the agriculture industry in general and, in particular, small family farms, require assistance to promote energy conservation techniques and to take full advantage of less costly alternative sources of energy; and that the establishment of a state energy assistance program for farmers will help the agriculture industry reduce energy costs and aid California's farmers in their efforts to remain strong and competitive.

### CHAPTER 1342

An act relating to energy assistance, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State Septembe 29, 1986.]

I am approving Senate Bill No 1144 (with an appropriation reduction) because it will enhance the administration of the Low Income Home Energy Assistance Program (LIHEAP) and provide assistance to low-income individuals

I am deleting the \$15 million appropriation to the Energy Crisis Intervention Program (ECIP) and reducing by \$10 million the appropriation to the Home Energy Assistance Program (HEAP) because these programs are of low priority in relation to other alternative uses of PVEA funding. The \$40 million remaining in this appropriation is consistent with the amount of funds designated in my PVEA expenditure plan for the same purposes, and ensures that adequate funds are available for other high priority PVEA funded programs

With this reduction, I approve Senate Bill No 1144.

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 State of California has received a substantial amount of federal Petroleum Violation Escrow Account funding to provide restitution to individuals who were injured as a result of improper oil company overcharges.
- (b) Congressional directives authorizing the expenditure of Petroleum Violation Escrow Account funds emphasize that low-income energy assistance programs should be funded.
- (c) According to a report prepared for the California Energy Commission, the low-income population constitutes up to 15-20 percent of California's citizens, and these citizens suffer energy costs 350 percent greater than higher income households.
- (d) In his recent budget request, the President of the United States requested substantial reductions in federal expenditures for low-income home energy assistance programs on the basis that Petroleum Violation Escrow Account funds will be used for these purposes.
- (e) It is essential that California allocate a substantial portion of Petroleum Violation Escrow Account funds for low-income energy assistance programs to provide restitution to low-income groups who were disproportionately injured by oil overcharges and to ensure that sufficient funds are available to continue home energy assistance programs that are threatened by federal budget reductions.
- SEC. 2. Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of sixty-five million dollars (\$65,000,000) is hereby appropriated 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 or federal agency orders, to the Department of Economic Opportunity for allocation as follows:
- (a) The sum of thirty million dollars (\$30,000,000) shall be allocated for weatherization projects, provided for under subdivision (b) of Section 16367.5 of the Government Code and subdivision (e) of Section 16367.61 of the Government Code, to be allocated as follows:
- (1) Twenty-five million dollars (\$25,000,000) for the existing weatherization program.
- (2) Four million dollars (\$4,000,000) to establish, during the 1987 program year, a new weatherization program to replace and repair

gas and electric units.

- (3) The sum of one million dollars (\$1,000,000) to establish, during the 1987 program year, a maintenance program for previously weatherized homes.
- (b) The sum of fifteen million dollars (\$15,000,000) for the Energy Crisis Intervention Program, provided for under subdivision (c) of Section 16367.5 of the Government Code.
- (c) The sum of twenty million dollars (\$20,000,000) for the Home Energy Assistance Program, provided for under subdivision (e) of Section 16367.5 of the Government Code.

## CHAPTER 1343

An act to add and repeal Chapter 5.4 (commencing with Section 25440) of Division 15 of the Public Resources Code, relating to energy resources; and making an appropriation therefor.

> [Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

I am approving Senate Bill No 880 (with an appropriation reduction) because it will provide financial and technical assistance to local jurisdictions, higher education, and

School districts for energy conservation and development projects

I am reducing the \$9 million appropriation for loans to purchase energy efficient equipment and small power production systems for local jurisdictions to \$4 million The \$40.5 million remaining in this appropriation is consistent with the amount of funds designated in my PVEA expenditure plan for the same purposes, and ensures that adequate funds are available for other high priority programs.

With this reduction, I approve Senate Bill No 880

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 5.4 (commencing with Section 25440) is added to Division 15 of the Public Resources Code, to read:

# CHAPTER 5.4. LOCAL JURISDICTION ENERGY ASSISTANCE

## Article 1. General Provisions

The Legislature finds and declares all of the following:

- (a) Energy costs account for a growing and substantial portion of the operating expenses for local governments, and other local jurisdictions in California.
- (b) Substantial reductions in local jurisdiction energy costs can be the utilization of energy conservation, realized through management, and development techniques.
- (c) Provision of financial assistance to local jurisdictions to reduce energy costs is consistent with the guidelines for using federal petroleum violation escrow funds which provide compensation to energy users who were overcharged by oil companies that violated

federal oil price control regulations.

25440.5. "Local jurisdiction" means any city, county, or regional planning agency, or any combination thereof formed for the joint exercise of any power.

## Article 2. Training and Management Assistance

25441. The commission shall provide financial assistance to local jurisdictions for the purpose of providing staff training and support services, including technical support services, in the fields of planning, design, permitting, conservation, comprehensive energy management, and development of energy and energy resources.

25441.5. Financial assistance provided to local jurisdictions under this article may not exceed 75 percent of the cost of carrying out the activity, unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served at a higher level of state funding.

## Article 3. Energy Project Assistance

- 25442. The commission shall provide loans to local jurisdictions for all of the following purposes:
- (a) Purchase, maintenance, and evaluation of energy efficient equipment for existing and new facilities, including, but not limited to, equipment related to lights, motors, pumps, water and wastewater systems, boilers, heating, and air conditioning.
- (b) Purchase, maintenance, and evaluation of small power production systems, including, but not limited to, wind, cogeneration, photovoltaics, geothermal, and hydroelectric systems.
- (c) Improve the operating efficiency of existing local transportation systems.
- 25442.5. The commission may award financial assistance for project audits, feasibility studies, engineering and design, and legal and financial analysis related to the purposes of Section 25442.
- 25442.7. Loans under this article may not exceed one million dollars (\$1,000,000) for any one local jurisdiction and financial assistance under this article may not exceed 75 percent of the project cost, unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served at a higher loan amount.

Loan repayments shall be made in accordance with a schedule established by the commission. Repayment of loans shall be made in full unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served by negotiating a reduced loan repayment for a project which failed to meet the technical or financial performance criteria through no fault of the local jurisdiction.

25443. Principal and interest payments on loans under this article shall be returned to the commission and shall be used to make

additional loans to local jurisdictions pursuant to Section 25449.2.

# Article 4. Program Design and Advisory Committee

25445. The commission shall design a local jurisdiction energy assistance program for the purpose of providing financial assistance under Article 2 (commencing with Section 25441) and providing loans under Article 3 (commencing with Section 25442) by March 1, 1987, following consideration of recommendations from an advisory committee appointed by the commission under Section 25447. A local jurisdiction's energy assistance program shall be funded through the commission's existing local government assistance programs, except that if a project is not eligible for funding under an existing program, the commission may fund the project under this chapter.

25446. Loans made pursuant to this program shall, at a minimum, be evaluated on all of the following factors:

- (a) Project feasibility.
- (b) Local jurisdiction financial contribution to project.
- (c) Energy savings or energy production potential sufficient to repay the loan in accordance with Section 25442.
  - (d) Availability of other federal or state funds.
  - (e) Potential for project replication in other local jurisdictions.
  - (f) Environmental benefits.
  - (g) Economic development benefits.
- (h) Consistency with California energy policies as reflected in the commission's biennial report.
- 25447. The commission shall appoint an advisory committee consisting of 10 members, as follows:
- (a) Three members of county government appointed from a list of nominees submitted by the County Supervisors Association of California.
- (b) Three members of city governments appointed from a list of nominees submitted by the League of California Cities.
- (c) One member from the Department of Transportation knowledgeable about energy saving transportation.
- (d) Three other members, one of whom is knowledgeable about energy conservation, management, and production, and one of whom is knowledgeable about energy system financing.
- 25447.1. The advisory committee shall make recommendations to the commission under Section 25445, shall meet periodically to review the ongoing administration of the program established pursuant to this chapter, and may include comments and recommendations in the biennial reports to the Legislature required by Section 25449.1.
- 25447.2. Members of the advisory committee shall receive no compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of their duties.

## Article 5. Energy Saving Transportation Program

25448. The Department of Transportation shall award financial assistance to local jurisdictions for the purposes of providing technical assistance and equipment to improve traffic flow efficiency through optimized traffic signal timing and operations.

25448.1. Financial assistance provided under this article may not exceed 75 percent of the cost of carrying out the activity, unless the department determines that the public interest and objectives of this chapter would be better served at a higher level of state funding.

## Article 6. Miscellaneous

- 25449. The commission shall enter into an agreement with the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges for the expenditure of petroleum violation escrow funds to supplement, and not supplant, other available funds to improve energy efficiency at state-supported universities and colleges under their respective jurisdictions by funding projects involving any of the following:
  - (a) Data collection.
  - (b) Establishment of operations and maintenance standards.
  - (c) Staff training.
  - (d) Ongoing energy equipment maintenance.
- (e) Projects involving heating, ventilation, air conditioning, and lighting equipment.
- 25449.1 (a) The California Energy Extension Service of the Office of Planning and Research shall enter into an agreement with the State Department of Education to expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide grants to school districts for training and support services for planning and management of energy conservation and development projects.
- (b) The commission shall enter into an agreement with the State Department of Education to expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide loans to school districts to purchase, maintain, and evaluate energy efficient equipment and small power production systems.
- 25449.2. The commission and the Department of Transportation each shall submit a report to the Legislature by January 1, 1988, and every two years thereafter, summarizing program activities under this chapter.
- 25449.3. The Local Jurisdiction Energy Assistance Account is hereby established as a separate account in the General Fund. All moneys appropriated for purposes of this chapter and all moneys received from local jurisdictions from loan repayments shall be deposited in the account and disbursed by the Controller as

authorized by the commission.

- 25449.4. This chapter shall become inoperative on July 1, 1996, and, as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.
- SEC. 2. Notwithstanding Sections 13340 and 16361 of the Government Code and to the extent permitted by federal law, the sum of forty-five million five hundred thousand dollars (\$45,500,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from the designated petroleum violation escrow funds, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law received by the state from federal oil overcharge funds available pursuant to court judgments and federal agency orders, is hereby appropriated as follows:
- (a) Nineteen million dollars (\$19,000,000) to the State Energy Resources Conservation and Development Commission for the purposes of Chapter 5.4 (commencing with Section 25440) of Division 15 of the Public Resources Code, with ten million dollars (\$10,000,000) to be expended for training and management assistance under Article 2 (commencing with Section 25441) of Chapter 5.4, and nine million dollars (\$9,000,000) to be expended for energy project assistance loans under Article 3 (commencing with Section 25442) of Chapter 5.4.
- (b) Seven million five hundred thousand dollars (\$7,500,000) to the Department of Transportation for expenditure for transportation activities under Article 5 (commencing with Section 25448) of Chapter 5.4.
- (c) Twelve million dollars (\$12,000,000) to the State Energy Resources Conservation and Development Commission for purposes of Section 25449 of the Public Resources Code, to be expended for state-supported university and college facility projects.
- (d) Four million dollars (\$4,000,000) to the California Energy Extension Service of the Office of Planning and Research, to be expended pursuant to subdivision (a) of Section 25449.1 of the Public Resources Code.
- (e) Three million dollars (\$3,000,000) to the State Energy Resources Conservation and Development Commission for the purposes of Chapter 5.4 (commencing with Section 25440) of Division 15 of the Public Resources Code, to be expended pursuant to subdivision (b) of Section 25449.1 of that code.

## CHAPTER 1344

An act to amend Section 19990 of the Government Code, relating to state employees.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 19990 of the Government Code is amended to read:

1990. A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee.

Each appointing power shall determine, subject to approval of the department, those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- (a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage or the private gain of another.
- (b) Using state time, facilities, equipment, or supplies for private gain or advantage.
- (c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.
- (d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.
- (e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.
- (f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.
  - (g) Subject to any other laws, rules, or regulations as pertain

thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

The department shall adopt rules governing the application of this section. The rules shall include provision for notice to employees prior to the determination of proscribed activities and for appeal by employees from such a determination and from its application to an employee. Until the department adopts rules governing the application of this section, as amended in the 1985–86 Regular Session of the Legislature, existing procedures shall remain in full force and effect.

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 1345

An act to amend Section 226.55 of the Civil Code, relating to adoption.

[Approved by Governor September 28, 1986 Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 226.55 of the Civil Code is amended to read: 226.55. The State Department of Social Services, a local public adoption agency, or a licensed private adoption agency shall require all persons filing an application or a petition to adopt a child to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. Those agencies may also secure the full criminal record, if any, of those persons. The record, if any, shall be taken into consideration when evaluating a prospective adoptive parent, and an assessment of the effects of his or her criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court. Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant or petitioner shall be paid by the applicant or petitioner. The adoption agency or the State Department of Social Services may defer, waive, or reduce the fee when its payment would cause economic hardship to the adoptive parents detrimental to the

welfare of the adopted child, when the child has been in the foster care of the adoptive parents for at least one year, or if necessary for the placement of a special-needs child. A special-needs child is 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.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

#### CHAPTER 1346

An act to add Section 226 to the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 226 is added to the Food and Agricultural Code, to read:

- 226. (a) Notwithstanding Section 11044 of the Government Code, the sum of one hundred thousand dollars (\$100,000) is hereby continuously appropriated from the Department of Food and Agriculture Fund in each fiscal year to the department for litigation expenses incurred by the Bureau of Market Enforcement in civil actions undertaken by the bureau and charged by the Attorney General.
- (b) At any time in a given fiscal year that the one hundred thousand dollars (\$100,000) appropriated for litigation costs in subdivision (a) is completely expended, the Department of Food and Agriculture Fund and the General Fund shall share additional litigation costs on a basis of 20 percent paid by the Department of Food and Agriculture Fund and 80 percent paid by the General Fund. These additional funds are to be used only when the bureau or the department is a defendant, or becomes a cross-defendant, in an action relating to market enforcement.
- (c) If a legal action is carried from one fiscal year to the next, the costs incurred in the following year shall not be charged against the one hundred thousand dollars (\$100,000) annually allocated pursuant to subdivision (a) to the bureau, but instead shall continue to be

funded in the following years with 80 percent being paid by the General Fund and 20 percent being paid by the Department of Food and Agriculture Fund.

(d) In civil actions in which the bureau is a party, the prevailing party may be awarded court costs and attorneys fees.

## CHAPTER 1347

An act to amend Sections 3719, 3740, 3761, 3762, and 3774 of, to add and repeal Sections 3755 and 3756 of, and to repeal Section 3743 of, the Business and Professions Code, relating to respiratory therapy, and making an appropriation therefor.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 3719 of the Business and Professions Code is amended to read:

3719. The examining committee shall develop and implement rules and regulations for continuing education within two years of the effective date of this chapter. Continuing education requirements shall not exceed 15 hours every two years.

A successfully completed examination approved by the committee may be submitted by a licensee for continuing education credit. The committee shall determine the hours of credit to be granted for passage of particular examinations.

- SEC. 2. Section 3740 of the Business and Professions Code is amended to read:
- 3740. (a) Except as otherwise provided in this chapter, all applicants for certificates under this chapter shall have a high school diploma or equivalent education, and shall be a graduate of a training program approved by the examining committee.
- (b) All schools, whether situated in this state or not, furnishing courses of study meeting the minimum standard required by this chapter and the regulations of the examining committee adopted pursuant to this chapter, shall be approved by the examining committee and shall be entitled to compel that approval, if approval is denied, by action in any superior court of the State of California. The procedure and power of the court in such an action shall be the same as provided in Section 2174.
- (c) Education programs for respiratory care that are recognized by the Joint Review Committee for Respiratory Therapy Education and approved by the Committee on Allied Health Education and Accreditation of the American Medical Association may be considered approved programs by the committee unless the committee determines otherwise.

- (d) A school shall give the director of a respiratory care program adequate release time to perform his or her administrative duties consistent with the established policies of the educational institution.
- SEC. 2.5. Section 3743 of the Business and Professions Code is repealed.
- SEC. 3. Section 3755 is added to the Business and Professions Code, to read:
- 3755. The committee may take action against any respiratory care practitioner who is charged with unprofessional conduct in administering, attempting to administer, direct or indirect respiratory care. Unprofessional conduct includes, but is not limited to, repeated acts of clearly administering directly or indirectly inappropriate or unsafe respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or monitoring techniques, and violation of any provision of Section 3750. The committee may determine unprofessional conduct involving any and all aspects of respiratory care performed by anyone certified as a respiratory care practitioner. Any person who engages in repeated acts of unprofessional conduct shall be guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars (\$200) nor more than six hundred dollars (\$600) or by imprisonment for a term not less than 60 days nor more than 180 days, or both the fine and imprisonment.

This section shall be operative until January 1, 1989, and on that date is repealed.

- SEC. 4. Section 3756 is added to the Business and Professions Code, to read:
- 3756. (a) A respiratory care practitioner who provides respiratory care may be ordered to undergo a professional competency examination approved by the committee if, after investigation and review by one or more respiratory care practitioner consultants of the committee, there is reasonable cause to believe that the person providing respiratory care is unable or unwilling to practice respiratory care with reasonable skill and patient safety. Reasonable cause shall be determined by the committee and may include, but not limited to, the following:
  - (1) A single incidence of gross negligence.
- (2) A pattern of inappropriate direct or indirect administration of respiratory care protocols, procedures, therapeutic regimens, or diagnostic testing of monitoring techniques.
- (3) An act of incompetence or negligence causing death or serious bodily injury.
  - (4) A pattern of substandard care.
  - (5) Violation of any provision of Section 3750 or 3755.
- (b) The matter shall be presented by the committee's executive officer or designee by way of a written petition detailing the reasonable cause. The petition shall contain all conclusions and facts upon which the presumption of reasonable cause is based. A copy of the petition shall be served on the person who shall have 45 days after

receipt of the copy of the petition to file written opposition to the petition. Service of the petition and any order shall be in accordance with the methods of service authorized by subdivision (c) of Section 11505 of the Government Code.

- (c) The committee shall review the petition and any written opposition from the person who has charges brought against him or her, or the committee may hold a hearing in accordance with the provisions of the Administrative Procedures Act to determine if reasonable cause exists, as specified in subdivision (a). The person who has charges brought against him or her shall have the right to be represented at that hearing by a person of his or her choice. If the committee is satisfied that reasonable cause exists that is considered by the committee as unprofessional conduct, the committee shall issue an order compelling the person who has charges brought against him or her to undergo an examination of professional competency, as measured by community standards. For purposes of this section, "community standards" means the statewide standards of the community of licensees. Failure to comply with the order duly served the person charged shall constitute unprofessional conduct for purposes of disciplinary proceedings and failure to pass the examination shall result in denial, suspension, or revocation of the certificate, license, or registration which shall be determined by the committee in its discretion.
- (d) If the committee proceeds pursuant to the provisions of Sections 3755 and 3756 and the person charged passes the professional competency examination administered, the committee shall be precluded from filing an accusation of incompetency based solely on the circumstances giving rise to the reasonable cause for the examination.
- (e) If the committee determines there is insufficient cause to file an accusation based on the examination results, then all agency records of the proceedings, including the petition and order for the examination, investigative reports, if any, reports of staff or the committee's consultants, and the reports of the examiners, shall be kept confidential and shall not be subject to discovery or subpoena.
- (f) If no further proceedings are conducted to determine the person's fitness to practice during a period of five years from the date of the petition under Section 3756, then the agency shall purge and destroy all records pertaining to the proceeding.

This section shall be operative until January 1, 1989, and on that date is repealed.

- SEC. 5. Section 3761 of the Business and Professions Code is amended to read:
- 3761. (a) No person may represent himself or herself to be a respiratory care practitioner without a certificate granted under this chapter, except as otherwise provided in this chapter.
- (b) No person or corporation shall knowingly employ a person who holds himself or herself out to be a respiratory care practitioner without a certificate granted under this chapter, except as otherwise

provided in this chapter.

SEC. 6. Section 3762 of the Business and Professions Code is amended to read:

3762. Nothing in this chapter is intended to limit, preclude, or otherwise interfere with the practices of other licensed personnel in carrying out authorized and customary duties and functions. Further, nothing in this chapter is intended to limit, preclude, or otherwise interfere with the practice of those personnel who are employed to perform specific pulmonary diagnostic and testing techniques under medical direction.

SEC. 7. Section 3774 of the Business and Professions Code is amended to read:

3774. On or before the birthday of a certified practitioner in every other year, following the initial certification, the examining committee shall mail to each practitioner certified under this chapter, at the latest address furnished by the certified practitioner to the executive officer of the examining committee, a notice stating the amount of the renewal fee and the date on which it is due, and that failure to pay it on or before the due date and submission of evidence of compliance with Article 9 (commencing with Section 3790) will result in expiration of the certificate.

Each license not renewed in accordance with this section shall expire but may within a period of three years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of proof of the applicant's qualifications as may be required by the committee, except that during the three-year period no examination shall be required as a condition for the reinstatement of any expired license which has lapsed solely by reason of nonpayment of the renewal fee.

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 1348

An act to amend Section 22790.2 of the Government Code, relating to employees' health plans.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 22790.2 of the Government Code is amended to read:

22790.2. Notwithstanding Section 10270.5 of the Insurance Code, an employee who is presently a member of a board-approved health benefit plan in existence on January 1, 1985, sponsored by an employee organization which is the exclusive representative pursuant to the State Employer-Employee Relations Act and who terminates his or her membership in an employee organization shall become ineligible for membership in the plan because of his or her termination of membership in the employee organization; however, the employee may continue enrollment in the employee organization health benefit plan until the time that the employee is properly notified by the employee organization of the loss of eligibility. Upon notification of the loss of eligibility, the employee within 60 days may change his or her enrollment to another approved health benefit plan for which he or she is eligible.

#### CHAPTER 1349

An act to amend Section 9390.1 of, to add and repeal Sections 9397 and 9398 of, and to add Section 9399 to, the Welfare and Institutions Code, relating to respite services, and making an appropriation therefor.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 9390.1 of the Welfare and Institutions Code is amended to read:

9390.1. As used in this chapter:

- (a) "Department" means the Department of Aging.
- (b) "Director" means the Director of the Department of Aging.
- (c) "Long-term care" means a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services that address the health, social, and personal needs of individuals who have restricted self-care capabilities. Services shall be designed to recognize the positive capabilities of the individual and maximize the potential for the optimum level of physical, social, and psychological independence in the least restrictive environment, and emphasis shall be placed on seeking alternative services other than institutionalization. Services may be provided by formal or informal support systems and may be continuous or intermittent.

"Long-term care" includes licensed residential care in a community care facility or residential facility for the elderly.

(d) "Community based resources" include, but are not limited to, information and referral services, nutrition programs, home delivered meals, housing assistance, home modifications, special

transportation services, senior companion programs, respite care, adult day health care, multipurpose senior services programs, in-home supportive services, special circumstances, inpatient and outpatient medical rehabilitation programs, home health and independent living training programs, ombudsman services, case management services, and hospice services.

- (e) "Preadmission screening" means personal assessment of an applicant for placement in a skilled or intermediate care facility, prior to admission, to determine the individual's ability to remain in the community with the support of community-based services.
- (f) "Respite care" means temporary or periodic services for frail elderly or functionally impaired persons to relieve persons who are providing care.
- (g) "Provider" means the individual or agency that provides respite care service for the family.
- SEC. 1.5. Section 9390.1 of the Welfare and Institutions Code is amended to read:

9390.1. As used in this chapter:

- (a) "Department" means the Department of Aging.
- (b) "Director" means the Director of the Department of Aging.
- (c) "Long-term care" means a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services that address the health, social, and personal needs of individuals who have restricted self-care capabilities. Services shall be designed to recognize the positive capabilities of the individual and maximize the potential for the optimum level of physical, social, and psychological independence in the least restrictive environment, and emphasis shall be placed on seeking alternative services other than institutionalization. Services may be provided by formal or informal support systems and may be continuous or intermittent.

"Long-term care" includes licensed residential care in a community care facility or residential facility for the elderly.

- (d) "Community based resources" include, but are not limited to, information and referral services, nutrition programs, home delivered meals, housing assistance, home modifications, special transportation services, senior companion programs, respite care, adult day health care, multipurpose senior services programs, in-home supportive services, special circumstances, inpatient and outpatient medical rehabilitation programs, home health and independent living training programs, ombudsman services, case management services, and hospice services.
- (e) "Preadmission screening" means personal assessment of an applicant for placement in a skilled or intermediate care facility, prior to admission, to determine the individual's ability to remain in the community with the support of community-based services and referral to those services.
- (f) "Postadmission screening" means personal assessment of an individual placed in a skilled or intermediate care facility, to assist in

determining the appropriate length of stay in the facility and the individual's ability to return to the community, based upon the level of community-based services available to the individual and referral to those services.

- (g) "Respite care" means temporary or periodic services for frail elderly or functionally impaired persons to relieve persons who are providing care.
- (h) "Provider" means the individual or agency that provides respite care service for the family.
- SEC. 2. Section 9397 is added to the Welfare and Institutions Code, to read:
- 9397. (a) The department shall establish a respite care registry program for frail elderly persons and functionally impaired adults, selecting up to five program sites. In selecting program sites, preference shall be given to linkages programs, independent living centers, and area agencies on aging demonstrating the capability of coordinating services for frail elderly persons and functionally impaired adults. Preference shall also be given to geographical locations in which respite care projects are established pursuant to Senate Bill 173 of the 1985–86 Regular Session of the Legislature, if that bill is enacted. At least one program site selected shall be in northern California, at least one program site selected shall be in southern California, and at least one program site selected shall be in a rural or underserved area. The department shall assure that the contractors have adequate liability insurance.
  - (b) Participating program sites shall do all of the following:
- (1) Establish or utilize existing respite care registries. Respite care registries shall consist of the names, addresses, and telephone numbers of providers, including, but not limited to, individual caregivers, volunteers, adult day health care, social day care, and licensed residential care facilities for the elderly.
- (2) Act as a respite care information and referral agency for prospective respite care recipients, as well as arrange directly for respite services for respite care recipients upon request.
- (3) Submit respite care registry plans to the department. These plans shall be subject to approval by the department based on their consistency with criteria for respite care registries developed by the department.

The criteria shall include, but not be limited to, all of the following:

- (A) Assessment of community resources and community respite care needs.
  - (B) Methodology for surveying client and family needs.
- (C) Outreach program to inform clients about the program and to recruit providers for the registry.
  - (D) Evaluation tools for client families and providers.
- (E) Recordkeeping system for family and care provider utilization.
  - · (F) Monitoring of program effectiveness.
    - (G) Plan for screening providers and matching providers and

clients, including an assessment of the provider's ability or training in caring for individuals with special needs, including, but not limited to, persons with Alzheimer's disease or related disorders.

- (c) This section shall become inoperative on July 1, 1988, and as of January 1, 1989, is repealed unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.
- SEC. 3. Section 9398 is added to the Welfare and Institutions Code, to read:
- 9398. Distribution of appropriated funds shall be subject to the discretion of the department, but in no case shall any program site receive more than ten thousand dollars (\$10,000). The funds may be utilized for costs incurred in establishing and maintaining the respite care registry created pursuant to Section 9397. The costs shall include, but not be limited to, recruitment and screening of respite providers and matching of respite providers to clients. The department may develop or purchase, on a request for proposal basis, provider training materials and distribute those materials to respite care registry program sites.

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 9399 is added to the Welfare and Institutions Code, to read:
- 9399. The department's March 1, 1988, report to the Legislature, pursuant to Section 9395, shall include, in addition to the requirements of Section 9395, an evaluation of the respite care registry program. The evaluation shall include, but not be limited to, the number of clients served and an assessment of family and community needs for respite care services.
- SEC. 5. For the purposes of this act, the sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the Department of Aging without regard to fiscal years.
- SEC. 6. Section 1.5 of this bill incorporates amendments to Section 9390.1 of the Welfare and Institutions Code proposed by both this bill and AB 2684. 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 9390.1 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2684, in which case Section 9390.1 of the Welfare and Institutions Code, as amended by AB 2684, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

## CHAPTER 1350

An act to amend Sections 171b and 626.10 of the Penal Code, relating to dangerous weapons.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 171b of the Penal Code is amended to read: 171b. Any person, except a person who possesses or transports weapons to be used as evidence in a court of law, a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, or a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, who brings or possesses, within any courtroom or building designated as a courthouse or court building in this state, any firearm, deadly weapon described in Section 12020 or 653k, knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands, tear gas weapons, as defined in Sections 12401 and 12402, tasers, or stun guns, as defined in Section 244.5, is guilty of a public offense punishable by imprisonment in the county jail for not more than one year, or in the state prison.

Section 626.10 of the Penal Code is amended to read: SEC. 2. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any such officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, knife having a blade longer than 31/2 inches, folding knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, upon the grounds of, or within, any public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, is guilty of a misdemeanor.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any such officer to assist in making arrests or

preserving the peace while the person is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, or knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any state university, state college, or community college is guilty of a misdemeanor.

- (c) Subdivisions (a) and (b) shall not apply to any person who brings or possesses a knife having a blade longer than  $3\frac{1}{2}$  inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12 or any state university, state college, or community college at the direction of a certificated or classified employee of the school for use in a school-sponsored activity or class.
- (d) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than  $3\frac{1}{2}$  inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, or any state university, state college, or community college for a lawful purpose within the scope of the person's employment.
- (e) Subdivision (b) shall not apply to any person who brings or possesses a knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any state university, state college, or community college, for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.
- (f) Any certificated or classified employee or school peace officer of a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any state university, state college, or community college may seize any of the weapons described in subdivision (b) from the possession of any person upon the grounds of, or within, the school if he knows or has reasonable cause to know the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.
- SEC. 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 1351

An act to amend Sections 1272, 1274, 1418.2, and 1421 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 1272 of the Health and Safety Code is amended to read:

- 1272. (a) There is hereby created the Health Care Advisory Committee which shall assist, advise, and make written recommendations to the director regarding existing and proposed regulations, policies, and administrative practices affecting the delivery of services rendered by skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, general acute care hospitals, acute psychiatric hospitals, special hospitals, psychiatric health facilities, chemical dependency recovery hospitals, home health agencies, and specialty clinics. For these purposes, the committee shall serve as consultants to the director.
- (b) The committee shall consist of the director, or the director's designee, who shall serve as chairman ex officio, and 12 members who shall be appointed by the Governor. Five members shall be public members representing consumers, at least one of whom shall be knowledgeable in long-term care services, one member shall be an ombudsman certified by the Department of Aging, and six members shall be representatives of the health care industry, consisting of one member representing general acute care hospitals, one member representing acute psychiatric hospitals, one member representing chemical dependency recovery hospitals, one member representing home health agencies, one member representing skilled nursing facilities, and one member representing intermediate care facilities for the developmentally disabled, habilitative and nursing, and one of the above members shall be a physician and surgeon and one of the above members shall be a registered nurse currently licensed to practice in this state. The changes and additions in the fields which members represent shall be implemented prospectively only as new members are appointed.
- (c) Committee members shall serve for four-year terms and until the appointment and qualification of their successors. Initial terms of the members of the committee shall expire in the following order: one public member, the certified ombudsman, and one industry member, on July 1, 1986; two public members, the physician and surgeon, and three industry members, on July 1, 1987; two public members and two industry members on July 1, 1988. Upon the expiration of the term of the physician and surgeon, a person who is

- a physician and surgeon and represents one of the fields specified in subdivision (b) shall be appointed. Upon the expiration of one public member's term, on July 1, 1987, and on July 1, 1988, an industry member shall be appointed instead.
- (d) The Governor shall designate the term for which each member is initially appointed pursuant to subdivision (c). Vacancies shall be filled by the Governor for the unexpired term.
- SEC. 2. Section 1274 of the Health and Safety Code is amended to read:
- 1274. The committee shall meet on call of the director but no less than one time per year.
- SEC. 3. Section 1418.2 of the Health and Safety Code is amended to read:
- 1418.2. (a) Every facility licensed pursuant to subdivisions (c), (d), (e), and (g) of Section 1250 and every skilled nursing facility licensed separately under subdivision (a) of Section 1250 shall establish and maintain a resident council. Each council shall include the residents of the health facility, and may include family members of residents, advocates, or ombudsman groups interested in residents of health facilities, and personnel of the health facility. Family members of residents shall be invited to meetings of resident councils.

The council shall meet at regularly scheduled intervals, maintain written minutes, including names of council members present, and have minutes available for review by the state department upon its request. Facility policies on resident councils shall in no way limit the right of residents to meet independently with outside persons or facility personnel as determined solely by the residents of the facility.

Written minutes of regularly scheduled council meetings may include recommendations from the council to the licensee of the health facility which shall be provided to the licensee. The licensee shall provide evidence of review and action on these recommendations to the state department upon its request.

- (b) Any health facility which fails to establish a resident council as prescribed in subdivision (a) shall be subject to the provisions of Section 1280.
- (c) The state department shall, by regulation, specify those circumstances under which a health facility may be exempted from the provisions of subdivisions (a) and (b), including, but not limited to, the following:
- (1) A resident population consisting of a majority of patients with progressively disabling disorders defined in Section 1250.4.
- (2) Facilities with no more than six residents which provide alternate means for residents to actively share in planning and enhancing of life in the facility.
- (3) Other circumstances as determined by the state department. SEC. 4. Section 1421 of the Health and Safety Code is amended to read:
  - 1421. (a) Any duly authorized officer, employee, or agent of the

state department may enter and inspect any long-term health care facility, including, but not limited to, interviewing residents and reviewing records, at any time to enforce any provision of this chapter.

- (b) Patients shall be treated with consideration, respect, and full recognition of dignity during the course of the investigation or inspection.
- (c) Inspections conducted pursuant to complaints filed with the state department shall be conducted in such a manner as to ensure maximum effectiveness while respecting the rights of patients in the facility. No advance notice shall be given of any inspection conducted pursuant to this chapter unless previously and specifically authorized by the director or required by federal law.
- (d) Any public employee giving any advance notice in violation of this section shall be deemed to be in violation of subdivision (t) of Section 19572 of the Government Code and shall be suspended from all duties without pay for a period determined by the director.
- (e) Except as otherwise specified by law, any duly authorized officer, employee, or agent of the state department shall not limit the scope of practice of registered nurses acting under Section 2725 of the Business and Professions Code. Further, these agents shall not prohibit the performing of functions by registered nurses when those nurses are performing under standardized procedures, where their activity is consistent with the scope of nursing practice, as set forth in Section 2725 of the Business and Professions Code.
- 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 1352

An act relating to state government.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. (a) There is hereby established an advisory committee in order to study, report on, and make recommendations concerning, the feasibility of creating a Department of Public Safety. In conducting its study, the advisory committee shall consider the efficiency and cost savings to be gained by reorganizing and consolidating into one department the functions of the various

offices, departments, divisions, and subdivisions of state government which exist primarily for the purpose of providing emergency services, criminal justice planning, criminal justice assistance to local government, and the protection of state offices and property which employ 500 or fewer personnel.

- (b) The committee shall consist of seven members, as follows:
- (1) Four members shall be appointed by the Governor.
- (2) One member shall be appointed by the Speaker of the Assembly.
- (3) One member shall be appointed by the President pro Tempore of the Senate.
- (4) One member shall be the Chief of the California State Police Division, or his or her designee.
- (c) The Youth and Adult Correctional Agency shall provide the advisory committee with the necessary staff support and technical assistance for completion of the study.
- (d) The advisory committee shall report its findings to the Legislature not later than June 30, 1987.
- (e) 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 chaptered prior to July 1, 1987, extends or deletes that date.

### CHAPTER 1353

An act to amend Section 7071.11 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. (a) A copy of the complaint in a civil action commenced by a person claiming against a bond required by this article shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The claim of any employee of the contractor for wages and fringe benefits shall be a preferred claim against the bond. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of three thousand dollars (\$3,000). If any bond which may be required is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims with priority to claims for wages and fringe

benefits. Any action, other than an action to recover fringe benefits, against a bond filed by an active licensee shall be brought within two years after the expiration of the license period or periods for which a bond has been provided, or within two years of the date the license of the active licensee was inactivated by the board, whichever first occurs. A claim to recover fringe benefits shall be brought within six months from the date that the fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the fringe benefit contributions were due.

- (b) When the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, notify the registrar. The notice shall contain, on a form prescribed by the registrar, the name and license number of the contractor, the surety bond number, the amount of payment, the statutory basis upon which the claim is made, and the names of the person or persons to whom payments are made.
- (c) Any judgment or admitted claim against, or good faith payment from, a bond required by this article shall constitute grounds for disciplinary action against the licensee, except in those cases of good faith payment where the licensee has, in writing, timely instructed the surety not to make payment from the bond on his or her account, upon the specific grounds that (1) the claim is opposed by the licensee, and (2) the licensee has, in writing, previously directed to the surety a specific and reasonable basis for his or her opposition to payment. The license may not be reissued or reinstated while any judgment or admitted claim in excess of the amount of the bond remains unsatisfied. Further, the license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for the licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of the licensee while the licensee was subject to disciplinary action under this section. The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8.
  - (d) Legal fees may not be charged against the bond by the board.
- (e) In any case in which a claim is filed against a deposit given in lieu of a bond by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment thereof shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested by Section 96.5 of the Labor Code, conduct hearings to determine whether or not the wages or fringe benefits should be paid to the complainant. Upon a finding by the commissioner that the wages or fringe benefits should be paid to the complainant, the commissioner shall notify the registrar of the findings. The registrar shall not make payment from the deposit on the basis of findings by the commissioner for a period

of 10 days following determination of the findings. If, within the period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the deposit to the complainant.

SEC. 2. This act shall become operative on July 1, 1987.

## CHAPTER 1354

An act to add Section 23399.5 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 23399.5 is added to the Business and Professions Code, to read:

23399.5. No license or permit shall be required for the serving of alcoholic beverages in a limousine by any person operating a limousine service regulated by the Public Utilities Commission; provided there is no extra charge or fee for the alcoholic beverages.

For purposes of this section, there is no extra charge or fee for the alcoholic beverages when the fee charged for the limousine service is the same regardless of whether alcoholic beverages are served.

SEC. 2. This act is not intended to affect existing law prohibiting the sale and service of alcoholic beverages to minors.

#### CHAPTER 1355

An act to amend Sections 990.8 and 6500 of the Government Code, and to amend Sections 32121, 32130, 32316, 32317, 32318, and 32321 of, and to add Section 32130.2 to, the Health and Safety Code, relating to public agencies.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 990.8 of the Government Code is amended to read:

- 990.8. (a) Two or more local public entities, by a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7, may provide insurance authorized by this part or for any other purpose by any one or more of the methods specified in Section 990.4. Where two or more hospital districts have joined together to pool their self-insurance claims or losses, any nonprofit corporation created pursuant to subdivision (p) of Section 32121 of the Health and Safety Code, and affiliated with a hospital district which is a party to the pool may participate in the pool.
- (b) Two or more local public entities having the same governing board may be coinsured under a master policy and the total premium may be prorated among those entities.
- (c) The pooling of self-insured claims or losses among entities as authorized in subdivision (a) of Section 990.4 shall not be considered insurance nor be subject to regulation under the Insurance Code.
- SEC. 1.5. Section 6500 of the Government Code is amended to read:
- 6500. As used in this article, "public agency" includes the federal government or any federal department or agency, this state, another state or any state department or agency, a county, county board of education, city, public corporation, or public district of this state or another state.
- SEC. 2. Section 32121 of the Health and Safety Code is amended to read:
- 32121. Each local hospital district shall have and exercise the following powers:
  - (a) To have and use a corporate seal and alter it at its pleasure.
- (b) To sue and be sued in all courts and places and in all actions and proceedings whatever.
- (c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.
- (d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.
- (e) To establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the district, to receive by gift, devise, or bequest, and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the district.
- (f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, to perform the functions in respect to the legal affairs of the district as the board may direct, and to call upon the district attorney of the county in which

the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for legal advice and assistance.

(g) To employ any officers and employees, including architects and consultants, the board of directors deems necessary to carry on

properly the business of the district.

- (h) To prescribe the duties and powers of the hospital administrator, secretary, and other officers and employees of any hospitals of the district, to establish offices as may be appropriate and to appoint board members or employees to those offices, and to determine the number of, and appoint, all officers and employees and to fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the boards of directors.
- (i) To do any and all things which an individual might do which are necessary for, and to the advantage of, a hospital and a nurses' training school.
- (j) To establish, maintain and operate one or more health facilities at any location within or without the district for the benefit of the district.
- (k) To do any and all other acts and things necessary to carry out this division.
- (l) To acquire, maintain, and operate ambulances or ambulance services within and without the district.
- (m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs, and any other health care provider groups and organizations which are necessary for the maintenance of good physical and mental health in the communities served by the district.
- (n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.
- (o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the hospital district.
- (p) (1) To transfer with or without consideration, any part of its assets to one or more nonprofit corporations to operate and maintain the assets for the benefit of the communities served by the district. The initial members of the board of directors of the nonprofit corporation or corporations shall be approved by the board of directors of the hospital district and shall be residents of the district. This subdivision does not invalidate or affect any transfers made prior to March 1, 1985, pursuant to this subdivision.
- (2) Nothing in this section, including subdivision (j), shall be construed to permit a local hospital district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility which is not located within the boundaries of the hospital district.
  - (q) To contract for bond insurance, letters of credit, remarketing

services, and other forms of credit enhancement and liquidity support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

SEC. 3. Section 32130 of the Health and Safety Code is amended to read:

- 32130. A district may borrow money and incur indebtedness in an amount not to exceed 85 percent of all estimated income and revenue for the current fiscal year, including, but not limited to, tax revenues, operating income, and any other miscellaneous income received by the district, from whatever source derived. The money borrowed and indebtedness incurred under this section shall be repaid within the same fiscal year.
- SEC. 4. Section 32130.2 is added to the Health and Safety Code, to read:
- 32130.2. (a) A district may issue negotiable promissory notes to acquire funds for any district purposes subject to the restrictions and requirements imposed by this subdivision and subdivisions (b), (c), and (d). The maturity of the promissory notes shall not be later than 10 years from the date thereof. The total aggregate amount of the notes outstanding at any one time shall not exceed 85 percent of all estimated income and revenue for the current fiscal year, including, but not limited to, tax revenues, operating income, and any other miscellaneous income of the district. Indebtedness incurred pursuant to any other provision of law shall be disregarded in computing the aggregate amount of notes that may be issued pursuant to this section.
- (b) Negotiable promissory notes may be issued pursuant to this section for any capital outlay facility, equipment, or item which has a useful life equal to, or longer than, the term of the notes, as determined by the board of directors.
- (c) The maximum annual interest rate which may be paid on negotiable promissory notes shall at no time exceed the amount authorized under Section 53531 of the Government Code.
- (d) When the board of directors determines to issue negotiable promissory notes, the board shall give public notice of the decision and enact an ordinance providing for the notes after a public hearing. The ordinance shall be subject to referendum.
- SEC. 5. Section 32316 of the Health and Safety Code is amended to read:
- 32316. By resolution of the board of directors adopted by a vote of four-fifths of the membership of the board, the district may issue bonds of not more than a maximum of 50 percent of the average of the district's gross revenues for the preceding three years, pursuant to Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code, to provide funds for the acquisition, construction, improvement, financing or refinancing of an enterprise, or the refunding of any bonds, notes, loans, or other indebtedness of the district, including, but not limited to, any or all

expenses incidental thereto, or connected therewith, or any combination of two or more of those purposes.

- SEC. 6. Section 32317 of the Health and Safety Code is amended to read:
- 32317. The resolution adopted pursuant to Section 32316 shall include all of the following:
  - (a) The purpose for which the bonds are proposed to be issued.
- (b) The estimated cost of the acquisition, construction, improvement, financing, and refinancing.
  - (c) The principal amount of the bonds.
- (d) The maximum rate of the interest on the bonds, which shall not exceed 12 percent per year, and the frequency of interest payments.
- (e) A statement that the bonds are to be revenue bonds, payable exclusively from the revenues of the enterprise, and that the bonds are not to be secured by the taxing power of the district.
- SEC. 7. Section 32318 of the Health and Safety Code is amended to read:
- 32318. The resolution adopted pursuant to Section 32316 shall be published once a week for two successive weeks in a newspaper of general circulation published in the district, or if there is none, in the newspaper of general circulation published nearest to the district. If there is no newspaper of general circulation published in the district, the resolution shall also be posted in three public places in the district for two succeeding weeks.
- SEC. 8. Section 32321 of the Health and Safety Code is amended to read:
- 32321. (a) Any ordinance subject to the provisions of Section 32320 shall be published after adoption once a week for two successive weeks, commencing within 15 days after adoption, in a newspaper of general circulation published in the district, or if there is none, in the newspaper of general circulation published nearest to the district. If there is no newspaper of general circulation published in the district, the ordinance shall also be posted in three public places in the district for two succeeding weeks.
- (b) The board of directors of the district may introduce and enact an ordinance at any regular or adjourned regular meeting by the approving votes of a majority of all its members. The electors of the district shall have the right to petition for referendum on an ordinance pursuant to Article 2 (commencing with Section 3750) of Chapter 2 of Division 5 of the Elections Code, except that all computations referred to in those sections, and officers of the county mentioned in those sections, shall be construed to refer to comparable computations and officers of the district. For the purpose of the section, the term "electors" means the electors of territory entitled to vote at elections for the members of the board of directors.

## CHAPTER 1356

An act relating to education, and making an appropriation therefor.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. (a) The Superintendent of Public Instruction shall administer a pilot project, for a period not to exceed three years, to integrate the use of videotaped instruction in public high schools in participating school districts. The purpose of the project is to determine the effectiveness of combining videotapes of instruction conducted by a teacher with the instructional materials ordinarily used by that teacher in the subject matter in improving the quality of classroom instruction. The use of videotaped instruction shall be designed to enhance, not to replace, the instruction provided by the classroom teacher.
- (b) In order to accomplish the purposes of this section, the superintendent, with the advice of the Educational Technology Committee, shall, pursuant to the purposes and conditions set forth in this section, provide a grant or grants to, or contract with, one or more qualified public agencies or private nonprofit organizations to administer the pilot project in those school districts approved by the superintendent for participation in the project, and to assess the results of the project. To be qualified for the purposes of this grant or contract, the agency or organization shall demonstrate knowledge of public school curricula and instructional methodologies and materials, the ability to work with high school classroom teachers in a variety of subject matters, and the ability to produce high quality video and audio production using equipment commonly available to school districts in this state.
- (c) The pilot project proposal to be submitted to the superintendent by each applicant agency or organization shall include, but need not be limited to, all of the following:
- (1) A description of the procedure to be used to videotape teacher instruction, using instructional materials selected by the participating teacher. Any resulting videotape may be used only for the classroom purposes of the teacher or teachers participating in its production except pursuant to the written consent of the teacher or teachers.
- (2) A proposal for obtaining from publishers of instructional materials printed and visual materials, that have been transferred to videotape for use by the teachers in this pilot project, that may be used by teachers in conducting the instruction to be videotaped.
- (3) A proposal for the selection of school districts, schools, and teachers for the purposes of this section, with the objective that not

fewer than 30 teachers use videotape instruction presentations developed under this project for up to, but not more than, 25 percent of a semester of instruction, or the equivalent thereof, in a course of study.

- (4) A proposal for the assessment of the effectiveness of the project, including, but not necessarily limited to, the specific objectives of the project, the nature and extent of predicted improvement in pupil learning, and other anticipated results, including changes in teacher instructional and other time allocations. The proposed assessment shall address each of the objectives and anticipated results of the project, and pupil and teacher reaction and other impacts on the instructional process, and shall include a cost-benefit analysis, including the projected costs, feasibility, and educational merits of expanding the videotape instruction to a wider scale. The agency or person conducting the assessment shall have no financial or other special interest in the results of the project.
- (5) An estimate of the costs and appropriate timelines for conducting the pilot project pursuant to the purposes expressed in this section.

(6) Other information as the superintendent may require

pursuant to the operation of the pilot project.

- (d) From funds made available for the purposes of this section, the superintendent shall allocate to school districts participating in the pilot project funding as necessary to ensure that adequate receiver monitors and other appropriate equipment are available in participating classrooms, to reimburse any school district that participates in the project for any fees or charges imposed by a publisher of instructional materials for the printed and visual materials obtained from the publisher pursuant to paragraph (2) of subdivision (c), and to compensate teachers participating in the project for increased time allotted to the project, including videotaping, assessment, and inservice training purposes.
- SEC. 2. The sum of two hundred seventy-five thousand dollars (\$275,000) is hereby reappropriated from Item 6100-181-001 of the Budget Act of 1986 to the Superintendent of Public Instruction without regard to fiscal year for allocation for the purposes of this act, including allocations to school districts pursuant to subdivision (d) of Section 1. A sum of up to twenty-five thousand dollars (\$25,000) may be allotted by the superintendent from that allocation for administrative costs incurred pursuant to Section 1.

adjustments for the amounts otherwise calculated pursuant to paragraph (2) or (3).

- (2) The agency may, by regulation, establish a method of establishing reasonable standard utility allowances based on the size and energy efficiency of each unit.
- (3) The agency may, by regulation, establish base rents for households whose incomes are less than 35 percent of the median income of the county in which the rental housing development is located. However, these base rents shall not exceed 25 percent of 50 percent of the median income of the county in which the rental housing development is located.
- (c) "Assisted unit" means a unit in a rental housing development which is available to, or occupied by, an eligible household at affordable rent as a result of construction and mortgage financing or mortgage financing provided pursuant to this chapter and income in excess of operating costs from nonassisted units in the same rental housing development.
  - (d) "Development costs" includes all of the following:
- (1) The aggregate of all costs incurred in connection with the acquisition of property and the construction or rehabilitation of a rental housing development pursuant to this chapter and includes the cost of all of the following:
  - (A) Land acquisition, whether by purchase or lease.
  - (B) Construction.
- (C) Overhead, including architectural, legal, accounting, and other professional fees incurred in connection with the construction or rehabilitation of the rental housing development.
- (D) Related offsite improvements, including, but not limited to sewers, utilities, and streets, as determined by the agency.
- (E) Necessary and related onsite improvements, as determined by the agency.
- (2) Any additional eligible costs determined by the agency, by regulation, to be related to any of the costs described in paragraph (1), including, but not limited to, local fees and exactions.

"Development costs" does not include profit accruing to a sponsor as a result of the development of property if the profit exceeds 6 percent of costs described in this subdivision, whether that profit is reimbursed or retained as equity in the development.

- (e) "Eligible household" means a senior household which is either a lower income household or a very low income household.
- (f) "Fund" means the Senior Citizens Housing Assistance Fund established pursuant to Section 51470.
- (g) "Mortgage loan" has the same meaning as defined by Section 50086, as applied to rental housing developments.
- (h) "Rental housing development" means a development for eligible households consisting of five or more rental or cooperative units located on one or more sites, five or more units in a limited equity stock cooperative, as defined in Section 33007.5, located on one or more sites, five or more units of congregate rental housing

located on one or more sites, or a residential hotel, as defined by subdivision (b) of Section 50669.5.

- (i) "Senior" means a family in which one member of the household is 60 years of age or older, or a single person who is 60 years of age or older.
- (j) "Syndication" means the sale or resale of all or any portion of a rental housing development to a limited partnership for the purposes of equity syndication.

# Article 3. Housing Program

- 51460. The agency may make, or undertake commitments to make, mortgage loans or loans for development costs, and advances in anticipation of those loans, from the fund, to housing sponsors to finance rental housing developments. The agency shall ensure that each proposed development is financially feasible, including the long-term financial feasibility, and that the sponsor has the capability to develop and operate the development.
- 51461. (a) Not less than 20 percent of the units in each rental housing development which receives financial assistance pursuant to this chapter shall be available on a priority basis to, or occupied by, eligible households. Of this amount, not less than one-half of the units shall be available on a priority basis to, or occupied by, senior citizens who meet the income criteria for very low income eligible households, and the remainder shall be available on a priority basis to, or occupied by, lower income eligible households.
- (b) In addition to the requirements of subdivision (a), not less than 20 percent of the units in each rental housing development which receives financial assistance pursuant to this chapter shall be available on a priority basis to, or occupied by, senior citizens who meet the income criteria for persons and families of low or moderate income.
- (c) In addition to the requirements of subdivisions (a) and (b), the balance of the units in each rental housing development which receives financial assistance pursuant to this chapter shall be available on a priority basis, or occupied by, senior households, unless the agency makes a finding with respect to the market area of the proposed development, that there is an insufficient number of senior households seeking occupancy in the development.
- 51462. (a) Every regulatory agreement required by this section shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the owner and the grantee index to the name of the State of California. Each rental housing development shall be subject to the following requirements and the agreement shall contain at least the following provisions and any other requirements consistent with this chapter, as determined necessary by the agency:

- (1) The legal description and assessor's parcel numbers for the assisted real property which is subject to the regulatory agreement, the name of the owner of record of the real property, the duration of the regulatory agreement upon the assisted real property, and the amount and terms of payments to be provided under this chapter, including the specific items to be covered by those payments.
- (2) A description of the way in which the payments, including those from the assistance account, will be used to provide affordable rents to eligible households occupying assisted units within the rental housing development.
- (3) Projected rent levels for all units, and the number of units to be occupied by eligible households of each income group.
- (4) A provision that failure to operate the rental housing development in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as determined by the agency, and may be the basis for foreclosure or equitable relief, at the option of the agency.
- (5) A requirement for a periodic report to be made at least annually by the housing sponsor to the agency which shall include, at a minimum, information on the fiscal condition of the rental housing development, the maintenance of that development, and the number of units occupied by eligible households.
- (6) Provisions sufficient to ensure that dwelling units in the rental housing development, available to, and occupied by, eligible households and other persons and families of low or moderate income in accordance with this chapter, remain available to, and occupied by, those eligible households and persons and families of low or moderate income for a period of not less than 30 years or the duration of the long-term mortgage financing, whichever is greater.
- (7) A provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor.
- (8) Provisions limiting the distribution of sponsor's earning from excess rental income after payment of all operating, management, and debt service costs to an annual account, to an amount no greater than 6 percent of the sponsor's actual investment, excluding unaccrued liabilities of the sponsor, in the rental housing development.
- (9) A provision authorizing the agency to fix and alter, from time to time, a schedule of rents for the assisted units necessary to provide those residents of the rental housing development with affordable rents. No housing sponsor shall increase the rents for assisted units without the prior permission of the agency which shall be given only if the housing sponsor affirmatively demonstrates to the agency and the agency finds that an increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development. Prior to the time any rent increase is effective, the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the

proposed rent increase. Each tenant shall be provided, upon request, the information submitted to the agency pursuant to this paragraph. If the agency does not act upon a request for a rent increase within 60 days from the date the request is submitted to the agency, that increase shall be deemed approved.

- (10) Provisions necessary for the administration, disbursement, collection, and protection of excess rental income and assistance payments from the rental assistance annuity account established pursuant to Section 51463, including provisions specifying the conditions under which the agency may recover or reallocate all or any part of the excess rental income or the assistance payments for the benefit of eligible households in existing or additional assisted units.
- (11) Provisions governing the recovery and reallocation of rent revenues derived by the sponsor from the assisted-units which are not necessary to defray costs or operation attributable to those units. This rent revenue shall be reallocated by the agency in the same manner as assistance payments pursuant to paragraph (10).
- (12) A provision requiring that if the number of assisted units ever falls below the number agreed to by the housing sponsor, then units which become available for occupancy shall be made available on a priority basis to eligible households, as required by Section 51461, until the number of occupied units equals at least the number specified in the agreement.
- (13) A provision prohibiting the eviction of any survivors of seniors in an eligible household living in an assisted unit.
- (14) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.
- (b) The regulatory agreement shall remain in effect as long as any financing for the rental housing development provided by the agency or any other entity remains outstanding, but not less than 30 years.
- 51462.1. Each security document, including deeds of trust, shall include a provision that failure, as determined by the agency, to comply with the regulatory agreement shall be deemed a violation of the regulatory agreement and shall constitute a breach of the obligation for which the security was given.
- 51462.2. The agency shall ensure that not less than 20 percent of the units assisted pursuant to this chapter are allocated to rural areas, and that all of the assisted units, to the extent that eligible applications are received, are allocated throughout the state according to need as indicated by the Statewide Housing Plan, as determined by the agency.
- 51462.3. Only rental housing developments on which construction or rehabilitation is commenced on or after May 1, 1987, are eligible for assistance under this chapter.
- 51462.5. (a) No rental housing development shall be constructed on real property on which there existed an occupied housing unit, or which safely could have been occupied, as determined by the

- agency, within six months or less time prior to the submission of an application for assistance pursuant to this chapter, unless the applicable local housing element indicates there is a scarcity of land compatible with rental housing use which is vacant or can be redeveloped or recycled to this use, as determined by the agency.
- (b) Any person that is displaced as a result of the construction of a rental housing development pursuant to this chapter is eligible for relocation payments and assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. Every application shall include a description of each occupied and unoccupied structure on the property and, if applicable, shall include a relocation plan detailing the proposed provision of comparable replacement housing which is affordable to the displaced household.
- 51462.6. Loans to nonprofit corporations, limited equity housing cooperatives, local public entities, or a duly constituted governing body of an Indian rancheria or reservation, or any combination thereof, may, at the option of the agency, equal 97 percent of the development costs. All other loans made pursuant to this chapter shall not exceed 80 percent of the development costs.
- 51462.8. The agency shall adopt regulations governing the application and review process including, but not limited to, the contents of the application, the long-term financial feasibility of the development, and the financial, housing, and administrative experience of the sponsor. The agency shall assign weight to those factors, but shall give greater weight to the long-term financial feasibility of the development than to any other factor.
- 51462.9. Loan repayments on loans made pursuant to this chapter shall be structured in a manner that ensures annual repayments of the sums due and payable on any revenue or general obligation bonds issued pursuant to this chapter.
- 51463. (a) The Senior Citizens Housing Annuity Account is hereby established in the State Treasury. The account shall consist of moneys appropriated by the Legislature to the account and excess rental income from the developments. These funds may be utilized by the agency to make commitments from the account to provide annuity payments directly to housing sponsors of rental housing developments to reduce rent levels in assisted units to ensure occupancy by eligible households at affordable rents.
- (b) Notwithstanding Section 51000, all moneys accruing to the account pursuant to this section, including interest earnings, shall be deposited in the account.
- (c) Notwithstanding Section 13340 of the Government Code, all money in the account is continuously appropriated to the agency and shall be utilized for the purposes specified in this section. All interest or other increment resulting from investment of moneys deposited in the account shall be deposited in the account, notwithstanding Section 16305.7 of the Government Code. Except as otherwise provided by this chapter, moneys in the account shall not be subject

to transfer to any other fund or account except the Surplus Money Investment Fund.

- 51464. (a) The agency shall adopt 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 administration of this chapter. Any regulations relating to the issuance of bonds pursuant to Section 51471 shall be approved by the Treasurer prior to their adoption. The regulations shall grant priority in the allocation of funds available for the purposes of this chapter.
- (b) No rental housing development shall be eligible for assistance under this chapter unless it complies with all of the requirements of this chapter and incorporates standards which do not exceed the standards required by local building and housing codes necessary for the health and safety of the residents.
- (c) Priority for funding under this chapter shall be given to rental housing developments that meet at least three of the following criteria, as determined by the agency:
- (1) Those developments which are of the lowest possible cost, taking into consideration the costs of land and materials and the needs of senior persons.
- (2) Those developments which incorporate innovative or energy-efficient design and construction techniques, higher densities, and other standards which do not exceed the standards required by local building and housing codes or necessary for the health and safety of the residents.
- (3) Those developments which are consistent with, and complement the implemention of, a local housing program that preserves and increases the housing supply for persons and families of low or moderate income.
- (4) Those developments for which the housing sponsor, whether public or private, has contributed or received funds, services, or land, including a density bonus or other nonfiscal contributions, for eligible expenditures, including, but not limited to, rent subsidies, site acquisition, development costs, or construction costs.
- (5) Those developments which provide the greatest number of units for eligible households above the minimum percentage, and for the longest period of time above the minimum number of years.
- 51465. The Legislature finds and declares that the mere use of construction and mortgage financing, or mortgage financing, derived from revenue bonds coupled with mere supplemental financial or nonfinancial assistance from public entities, monitoring by the agency and the imposition of the terms of occupancy related to eligible households do not constitute the development, construction, or acquisition of a low-rent housing project subject to Article XXXIV of the California Constitution. In addition, notwithstanding any percentage of eligible households in rental housing developments assisted pursuant to this chapter, because these developments will enhance the aesthetic and economic basis of the community, these developments are not low-rent housing

projects subject to Article XXXIV of the California Constitution.

- 51466. (a) Rental housing developments constructed pursuant to this chapter may be transferred or syndicated if the agency gives prior approval. That approval shall be granted only if the agency determines that the terms and conditions of the transfer or syndication will not reduce or limit any of the requirements of this chapter or the regulations adopted or documents executed pursuant to this chapter. No requirements of the state shall be subordinated to the transfer or syndication agreement. A transfer or syndication shall not result in fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the transfer or syndication.
- (b) The text of subdivision (a) shall be set forth in each regulatory agreement entered into pursuant to this chapter.
- 51467. The regulations adopted by the agency shall include provisions accomplishing all of the following:
- (a) A six-month transition period for a resident to pay incremental increases in market rent for an assisted unit if the household income increases above the limit for lower income households.
- (b) An annual recertification of income of residents in all assisted units. Any resulting rent adjustments resulting from that recertification shall be made only after the residents are given 30 days notice of an opportunity to appeal the recertification.
- (c) If a household is no longer eligible to reside in a unit because the income of the household exceeds the limit for lower income households, the sponsor shall not evict the household, but instead shall ensure that the next available unit is leased to a household whose income level is commensurate with the existing household's former income category.
- 51468. In addition to the other powers and responsibilities provided by this chapter, the agency shall monitor the construction and operation of the rental housing developments constructed pursuant to this chapter in order to ensure compliance with loan conditions, contract obligations, and this chapter and the regulations adopted pursuant to this chapter.

# Article 4. Financing

- 51470. (a) There is in the State Treasury the Senior Citizens Housing Assistance Fund. Notwithstanding Section 51000, all moneys accruing to the fund pursuant to this chapter, including any moneys which the agency receives in repayment or return of loans made from the fund, any interest on those loans, and any other moneys which are made available to the agency for the purposes of this chapter from any other source, shall be deposited in the fund.
- (b) Notwithstanding Section 13340 of the Government Code, all money in the fund is hereby continuously appropriated to the agency and shall be utilized for the purposes of this chapter. All interest or other increment resulting from investment or deposit of moneys in

the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Except as otherwise provided by this chapter, moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

- (c) The agency may transfer any moneys from the fund to pay any expenses incurred by the agency to implement this chapter. However, the total amounts transferred from the fund may not exceed the restrictions imposed by Section 103(c) of Title 26 of the United States Code.
- 51471. (a) In addition to the authorization to issue bonds contained in Section 51350, the agency may, after action of the Housing Bond Credit Committee as provided in Section 51360, issue revenue bonds in the principal amount of two hundred million dollars (\$200,000,000) for financing rental housing developments in accordance with this chapter and for the payment of interest on the bonds of the agency, the establishment of reserves to secure the bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of the bonds.
- (b) The sale of the bonds shall be subject to subdivision (b) of Section 51350.
- (c) The proceeds of the bonds shall be deposited in the fund and utilized for the purposes of this chapter, except that none of the proceeds shall be deposited in the Senior Citizens Housing Annuity Account established pursuant to Section 51463.
- 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 issuance of bonds to finance the construction of rental housing developments as soon as possible, it is necessary for this act to take effect immediately.

#### CHAPTER 1360

An act to amend Sections 2924i, 2957, and 2966 of the Civil Code, relating to real property.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 2924i of the Civil Code is amended to read: 2924i. (a) This section applies to loans secured by a deed of trust or mortgage on real property containing one to four residential units at least one of which at the time the loan is made is or is to be

occupied by the borrower if the loan is for a period in excess of one year and is a balloon payment loan.

- (b) This section shall not apply to (1) open end credit as defined in Regulation Z, whether or not the transaction is otherwise subject to Regulation Z, (2) transactions subject to Section 2956, or (3) loans made for the principal purpose of financing the construction of one or more residential units.
- (c) At least 90 days but not more than 150 days prior to the due date of the final payment on a loan that is subject to this section, the holder of the loan shall deliver or mail by first-class mail, with a certificate of mailing obtained from the United States Postal Service, to the trustor, or his or her successor in interest, at the last known address of that person, a written notice which shall include all of the following:
- (1) A statement of the name and address of the person to whom the final payment is required to be paid.
- (2) The date on or before which the final payment is required to be paid.
- (3) The amount of the final payment, or if the exact amount is unknown, a good faith estimate of the amount thereof, including unpaid principal, interest and any other charges, such amount to be determined assuming timely payment in full of all scheduled installments coming due between the date the notice is prepared and the date when the final payment is due.
- (4) If the borrower has a contractual right to refinance the final payment, a statement to that effect.

If the due date of the final payment of a loan subject to this section is extended prior to the time notice is otherwise required under this subdivision, this notice requirement shall apply only to the due date as extended (or as subsequently extended).

- (d) For purposes of this section:
- (1) A "balloon payment loan" is a loan which provides for a final payment as originally scheduled which is more than twice the amount of any of the immediately preceding six regularly scheduled payments or which contains a call provision; provided, however, that if the call provision is not exercised by the holder of the loan, the existence of the unexercised call provision shall not cause the loan to be deemed to be a balloon payment loan.
- (2) "Call provision" means a loan contract term that provides the holder of the loan with the right to call the loan due and payable either after a specified period has elapsed following closing or after a specified date.
- (3) "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the Federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.), and any interpretation or approval thereof issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

- (e) Failure to provide notice as required by subdivision (a) does not extinguish any obligation of payment by the borrower, except that the due date for any balloon payment shall be the date specified in the balloon payment note, or 90 days from the date of delivery or mailing of the notice required by subdivision (a), or the due date specified in the notice required by subdivision (a), whichever date is later. If the operation of this section acts to extend the term of any note, interest shall continue to accrue for the extended term at the contract rate and payments shall continue to be due at any periodic interval and on any payment schedule specified in the note and shall be credited to principal or interest under the terms of the note. Default in any extended periodic payment shall be considered a default under terms of the note or security instrument.
- (f) (1) The validity of any credit document or of any security document subject to the provisions of this section shall not be invalidated solely because of the failure of any person to comply with this section. However, any person who willfully violates any provision of this section shall be liable in the amount of actual damages suffered by the debtor as the proximate result of the violation, and, if the debtor prevails in any suit to recover that amount, for reasonable attorney's fees.
- (2) No person may be held liable in any action under this section if it is shown by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.
- (g) The provisions of this section shall apply to any note executed on or after January 1, 1984.
  - SEC. 2. Section 2957 of the Civil Code is amended to read:
- 2957. The following definitions shall apply for the purposes of this article:
  - (a) "Arranger of credit" means:
- (1) A person, other than a party to the credit transaction (except as provided in paragraph (2)), who is involved in developing or negotiating credit terms, participates in the completion of the credit documents, and directly or indirectly receives compensation for arrangement of the credit or from any transaction or transfer of the real property which is facilitated by that extension of credit. As used in this paragraph, "arranger of credit" does not apply to an attorney who is representing one of the parties to the credit transaction.
- (2) A party to the transaction who is either a real estate licensee, licensed under provisions of Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, or is an attorney licensed under Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code if neither party to the transaction is represented by an agent who is a real estate licensee. In any transaction in which disclosure is required solely by the provisions of this paragraph, the obligations of this article shall apply only to a real estate licensee or attorney who is a party to the

transaction, and not to any other party.

- (3) An arranger of credit does not include a person acting in the capacity as an escrow in the transaction.
- (4) Persons described in paragraph (2) who are acting in the capacity as an escrowholder in the transaction shall nevertheless be deemed arrangers of credit where such persons act on behalf of a party to the transaction or an agent of such party in the development or negotiation of credit terms. Neither the completion of credit documents in accordance with instructions of a party or his or her agent nor the furnishing of information regarding credit terms to a party or his or her agent shall be considered to be the development or negotiation of credit terms.
- (b) "Balloon payment note" means a note which provides for a final payment as originally scheduled which is more than twice the amount of any of the immediately preceding six regularly scheduled payments or which contains a call provision; provided, however, that if the call provision is not exercised by the holder of the note, the existence of the unexercised call provision shall not cause the note to be deemed to be a balloon payment note.
- (c) "Call provision" means a note contract term that provides the holder of the note with the right to call the note due and payable either after a specified period has elapsed following closing or after a specified date.
- (d) "Credit" means the right granted by a vendor to a purchaser to purchase property and to defer payment therefore.

The credit involved must be subject to a finance charge or payable by written agreement in more than four installments, whether providing for payment of principal and interest, or interest only, not including a downpayment.

- (e) "Credit documents" are those documents which contain the binding credit terms, and include a note or a contract of sale if the contract spells out terms upon which a vendor agrees to provide financing for a purchaser.
- (f) "Purchase" includes acquisition of equitable title by a real property sales contract as defined in Section 2985, or lease with an option to purchase, where the facts demonstrate intent to transfer equitable title.
- (g) "Security documents" include a mortgage, deed of trust, real property sales contract as defined in Section 2985, or lease with an option to purchase, where the facts demonstrate an intent to transfer equitable title.
- (h) "All inclusive trust deed" is an instrument which secures indebtedness owed by the trustor to the beneficiary, which indebtedness includes a debt or debts owed by that beneficiary to the beneficiary of another security document secured by the same property which is senior in priority.
  - SEC. 3. Section 2966 of the Civil Code is amended to read:
- 2966. (a) In a transaction regulated by this article, which includes a balloon payment note when the term for repayment is for

a period in excess of one year, the holder of the note shall, not less than 90 nor more than 150 days before the balloon payment is due, deliver or mail by first-class mail, with a certificate of mailing obtained from the United States Postal Service, to the trustor, or his or her successor in interest, at the last known address of such person a written notice, to include:

- (1) A statement of the name and address of the person to whom the balloon payment is required to be paid.
- (2) The date on or before which the balloon payment was or is required to be paid.
- (3) The amount of the balloon payment, or if its exact amount is unknown a good faith estimate of the amount thereof, including unpaid principal, interest, and any other charges (assuming payment in full of all scheduled installments coming due between the date of the notice and the date when the balloon payment is due).
- (4) A description of the trustor's right, if any, to refinance the balloon payment, including a summary of the actual terms of the refinancing or an estimate or approximation thereof, to the extent known.

If the due date of the balloon payment of a note subject to this subdivision is extended prior to the time notice is otherwise required under this subdivision, this notice requirement shall apply only to the due date as extended (or as subsequently extended).

- (b) Failure to provide notice as required by subdivision (a) does not extinguish any obligation of payment by the trustor, except that the due date for any balloon payment shall be the date specified in the note, or 90 days from the date the delivery or mailing of the notice, or the date specified in the notice, whichever date is later. If the operation of this section acts to extend the term of any such note, interest shall continue to accrue for the extended term at the contract rate and payments shall continue to be due at any periodic interval and on any scheduled payment schedule specified in the note and shall be credited to principal or interest under terms of the note. Default in any extended periodic payment shall be considered a default under terms of the note or security instrument.
- (c) Any failure to comply with the provisions of this section shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.
- (d) Every note subject to the provisions of this section shall include the following statement:

"This note is subject to Section 2966 of the Civil Code, which provides that the holder of this note shall give written notice to the trustor, or his successor in interest, of prescribed information at least 90 and not more than 150 days before any balloon payment is due."

Failure to include this notice shall not invalidate the note.

(e) The provisions of this section shall apply to any note executed on or after July 1, 1983.

### CHAPTER 1361

An act to add Section 30 to, and to amend Section 24049.5 of, the Business and Professions Code, to amend Section 2924b of the Civil Code, to add Section 1666.5 to the Insurance Code, and to amend Sections 6069, 6071, 6366, 6366.1, 6368, 6368.1, 6452, 6455, 6776, 6777, 7154, 8404, 9355, 17299.8. 18681, 18681.6, 18684, 18817.5, 19254, 24447, 25934, 26423, and 32556 of, to add Sections 19276, 30481, and 40188 to, to add Article 4.5 (commencing with Section 9021) to Chapter 5 of Part 3 of Division 2 of, Article 6 (commencing with Section 18700) to Chapter 18 of Part 10 of Division 2 of, Article 2.5 (commencing with Section 41143) to Chapter 7 of Part 20 of Division 2 of, and Article 2.5 (commencing with Section 44186) to Chapter 6 of Part 22 of Division 2 of, to add and repeal Section 18806.1 of, to repeal and add Section 8957 of, and to repeal Section 7151 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 30 is added to the Business and Professions Code, to read:

- 30. (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate (hereinafter referred to as licensing board) shall at the time of issuance or renewal of the license require that any licensee provide its federal employer identification number (if the licensee is a partnership) or his or her social security number (for all others).
- (b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19276 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19276 of the Revenue and Taxation Code.
- (c) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:
  - (1) Licensee's name.
  - (2) Address or addresses of record.
- (3) Federal employer identification number (if the entity is a partnership) or owner's name and social security number (for all others).
  - (4) Type of license.
  - (5) Effective date of license or renewal.
  - (6) Expiration date of license.
  - (7) Whether license is active or inactive, if known.

- (8) Whether license is new or renewal.
- (d) For the purposes of this section:
- (1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
- (2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
- (e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.
- (f) Licensing boards shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible but no later than July 1, 1987. The information shall be furnished at a time which the Franchise Tax Board may require.
- (g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.
- (h) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board.
- (i) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for tax enforcement purposes.
- SEC. 2. Section 24049.5 of the Business and Professions Code is amended to read:
- 24049.5. (a) The State Board of Equalization or the Franchise Tax Board may seize and sell the license of any off-sale or on-sale general licensee who, upon termination of business is delinquent in the payment of any taxes due under the Sales and Use Tax Law, Personal Income Tax Law, or Bank and Corporation Tax Law, respectively. In order for a seizure and sale of a license to be accomplished under this section, the licensee shall have either surrendered the license to the department or failed to pay the annual renewal fee to the department. Immediately upon seizure the State Board of Equalization or Franchise Tax Board shall give written notice by first-class mail to the department and to the licensee of the seizure and of the intention of the board to sell the license. The

seizure and sale shall be in accordance with the provisions of Article 6 (commencing with Section 6796) of Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation Code or Article 4 (commencing with Section 26221) of Chapter 23 of Part 11 of Division 2 of the Revenue and Taxation Code, respectively, and with the provisions of this division. Nothing within these provisions shall be construed to permit the State Board of Equalization or Franchise Tax Board to sell alcoholic beverages.

- (b) For the purposes of this section "termination of business" means the licensee has ceased business operations and has either surrendered the license to the department or failed to pay the annual renewal fee by the date specified in subdivision (b) of Section 24048.1 or subdivision (b) of Section 24048.3.
- (c) The licensee may redeem the license at any time prior to the date of sale of the license by the board or the appropriate reinstatement deadline, whichever occurs first, by conforming to the requirements for reinstatement of a license pursuant to Sections 24048.1 and 24048.3.

The person who purchases the license at the sale may reinstate the license by paying the applicable fees, but the transfer shall be effective only on approval of the department after the purchaser has complied with the requirements for transfer provided in this division.

- (d) Paragraph (1) of subdivision (a) of Section 699.720 of the Code of Civil Procedure shall not be construed to limit the authority of the State Board of Equalization or the Franchise Tax Board to seize and sell licenses pursuant to this section.
  - SEC. 3. Section 2924b of the Civil Code is amended to read:
- (1) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the deed of trust or mortgage is recorded or the recorder's number and shall be in substantially the following form:

"In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded \_\_\_\_\_\_,

19, in Book	page	records of	Coun	ty, (or
filed for record with	recorder's ser	rial numbe	er,	
County) California, ex	ecuted by	as tr	ustor (or mortg	gagor)
in which, is	named as be	eneficiary	(or mortgagee	) and
as	trustee	be	mailed	to
	at _			
Name			Address	
	Sigr	nature		

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

- (2) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:
- (a) Within 10 days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.
- (b) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.
- (c) As used in paragraphs (a) and (b), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to the last address unless the trustee has actual knowledge of it.
- (3) The mortgagee, trustee, or other person authorized to record the notice of default shall do the following:
- (a) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (b) of subdivision (3), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an

instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided the instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided the instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.

- (b) The persons to whom notice shall be mailed under this subdivision are:
- (A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.
- (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to the deed of trust or mortgage being foreclosed.
- (C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B) above, as of the recording date of the notice of default.
- (D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to the deed of trust or mortgage being foreclosed.
- (E) The successor in interest to the vendee or lessee described in subparagraph (D) above, as of the recording date of the notice of default.
- (F) The office of the Controller, Sacramento, California, where, as of the recording date of the notice of default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the notice of default applies.
- (c) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (a) and (b), and addressed to the office of any state taxing agency, Sacramento, California, which has recorded a notice of tax lien prior to the recording date of the notice of default against the real property to which the notice of default applies.
- (d) The mailing of notices in the manner set forth in paragraph (a) shall not impose upon any licensed attorney, agent, or employee

of any person entitled to receive notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the attorney, agent, or employee.

- (4) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of the person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each of these at the same time and in the same manner required as though a separate request therefor had been filed by each of such persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such a request but no address of the person is given therein and if no request for special notice by the trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, the publication to commence within 10 days after the filing of the notice of default. In lieu of publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within that 10 days or at any time before publication is completed.
- (5) Any person required to mail a copy of a notice of default or notice of sale to each trustor or mortgagor pursuant to subdivision (2) or (3) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice addressed to each trustor or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (2) or (3). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that he or she is over the age of 18 years, the date of deposit in the mail, the name and address of the trustor or mortgagor to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.
- (6) No request for a copy of any notice filed for record pursuant to this section, no statement or allegation in any such request, and no record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.

SEC. 3.5. Section 2924b of the Civil Code is amended to read:

(a) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of notice of default thereunder. cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the deed of trust or mortgage is recorded or the recorder's number and shall be in substantially the following form:

"In accordance with made that a copy of an				
of sale under the deed				
19, in Book r	page	records of _	Coun	ity, (or
filed for record with r	ecorder's seri	ial number	·,	
County) California, exe	cuted by	as tru	stor (or mort	gagor)
in which, is	named as be	neficiary (	or mortgage	e) and
as	trustee	be	mailed	to
	at _			·
Name			Address	
NOTICE: A copy of an	y notice of de	efault and	of any notice	of sale
will be sent only to the	address conta	ained <sup>.</sup> in th	is recorded re	equest.
If your address change	s, a new requ	est must be	e recorded.	
-	Sign	ature		·"

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

- (b) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:
- (1) Within 10 days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.
  - (2) At least 20 days before the date of sale, deposit or cause to be

- deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.
- (3) As used in paragraphs (1) and (2), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to the last address unless the trustee has actual knowledge of it.
- (c) The mortgagee, trustee, or other person authorized to record the notice of default shall do the following:
- (1) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (2), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided the instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided the instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.
- (2) The persons to whom notice shall be mailed under this subdivision are:
- (A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.
- (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to the deed of trust or mortgage being foreclosed.
- (C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B), as of the recording date of the notice of default.
  - (D) The vendee of any contract of sale, or the lessee of any lease,

of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to the deed of trust or mortgage being foreclosed.

(E) The successor in interest to the vendee or lessee described in subparagraph (D), as of the recording date of the notice of default.

(F) The office of the Controller, Sacramento, California, where, as of the recording date of the notice of default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the notice of default applies.

- (3) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (1) and (2), and addressed to the office of any state taxing agency, Sacramento, California, which has recorded a notice of tax lien prior to the recording date of the notice of default against the real property to which the notice of default applies.
- (4) The mailing of notices in the manner set forth in paragraph (1) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the attorney, agent, or employee.
- (d) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of the person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each of these at the same time and in the same manner required as though a separate request therefor had been filed by each of those persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such a request but no address of the person is given therein and if no request for special notice by the trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, the publication to commence within 10 days after the filing of the notice of default. In lieu of publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within that 10 days or at any time before publication is completed.
  - (e) Any person required to mail a copy of a notice of default or

notice of sale to each trustor or mortgagor pursuant to subdivision (b) or (c) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice addressed to each trustor or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (b) or (c). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that he or she is over the age of 18 years, the date of deposit in the mail, the name and address of the trustor or mortgagor to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.

- (f) No request for a copy of any notice filed for record pursuant to this section, no statement or allegation in any such request, and no record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.
- SEC. 5. Section 1666.5 is added to the Insurance Code, to read: 1666.5. (a) Notwithstanding any other provision of law, the commissioner shall at the time of issuance or renewal of any license under this chapter or Chapter 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) require that any licensee provide its federal employer identification number (if the licensee is a partnership) or his or her social security number (for all others).
- (b) Any licensee failing to provide the federal identification number or social security number shall be reported by the commissioner to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19276 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19276 of the Revenue and Taxation Code.
- (c) The commissioner shall, upon request of the Franchise Tax Board, furnish to the board all of the following information with respect to every licensee:
  - (1) Licensee's name.
  - (2) Address or addresses of record.
- (3) Federal employer identification number (if the entity is a partnership) or owner's name and social security number (for all others).
  - (4) Type of license.
  - (5) Effective date of license or renewal.
  - (6) Expiration date of license.
  - (7) Whether license is active or inactive, if known.
  - (8) Whether license is new or renewal.

- (d) For the purposes of this section:
- (1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in the insurance business regulated by this code.
- (2) "License" includes a certificate, registration, or any other authorization needed to engage in the insurance business regulated by this code.
- (e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.
- (f) The commissioner shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible, but no later than July 1, 1987. The information shall be furnished at a time which the Franchise Tax Board may require.
- (g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the information furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.
- (h) Any deputy, agent, clerk, officer, or employee of the commissioner, or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board.
- (i) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for tax enforcement purposes.
- SEC. 7. Section 6069 of the Revenue and Taxation Code is amended to read:
- 6069. A seller whose permit has been previously suspended or revoked shall pay the board a fee of fifty dollars (\$50) for the renewal or issuance of a permit.
- SEC. 8. Section 6071 of the Revenue and Taxation Code is amended to read:
- 6071. A person who engages in business as a seller in this state without a permit or permits or after a permit has been suspended or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor punishable as provided in Section 7153.
- SEC. 9. Section 6366 of the Revenue and Taxation Code is amended to read:
- 6366. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption of aircraft sold to persons using such aircraft as common

carriers of persons or property under authority of the laws of this state, of the United States or any foreign government, or sold to any foreign government for use by such government outside of this state, or sold to persons who are not residents of this state and who will not use such aircraft in this state otherwise than in the removal of such aircraft from this state.

For purposes of this section, it shall be rebuttably presumed that a person is not engaged in business as a common carrier of persons or property if the yearly gross receipts of that person from the use of that aircraft in the transportation of persons or property do not exceed 10 percent of the purchase cost of the aircraft to him or her, or twenty-five thousand dollars (\$25,000), whichever is less.

- SEC. 10. Section 6366.1 of the Revenue and Taxation Code is amended to read:
- 6366.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of aircraft which are leased, or are sold to persons for the purpose of leasing, to lessees using such aircraft as common carriers of persons or property under authority of the laws of this state, of the United States or any foreign government, or to any foreign government as lessees for use by such government outside the state, or to persons as lessees who are not residents of this state and who will not use such aircraft in this state otherwise than in the removal of such aircraft from this state.
- (b) 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 tangible personal property sold to an aircraft manufacturer and incorporated into aircraft to be leased by the manufacturer under conditions set forth in subdivision (a) of this section.
- (c) For purposes of this section, it shall be rebuttably presumed that the aircraft is not regularly used in the business of transporting for hire property or persons if the yearly gross receipts of the lessor from the lease of that aircraft to persons using that aircraft as common carriers of property or persons do not exceed 10 percent of the cost of the aircraft to the lessor, or twenty-five thousand dollars (\$25,000), whichever is less.
- SEC. 11. Section 6368 of the Revenue and Taxation Code is amended to read:
- 6368. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:
- (1) The watercraft is for use in interstate or foreign commerce involving the transportation of property or persons for hire.

- (2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.
- (3) The watercraft is functionally used 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.
- (b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars (\$5,000) a year.
- (c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in interstate or foreign commerce involving the transportation for hire of property or persons, if the yearly gross receipts of the person using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to him or her, or twenty-five thousand dollars (\$25,000), whichever is less.
- SEC. 11.5. Section 6368 of the Revenue and Taxation Code is amended to read:
- 6368. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:
- (1) The watercraft is for use in interstate or foreign commerce involving the transportation of property or persons for hire.
- (2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.
- (3) The watercraft is functionally used 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.
- (b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars (\$5,000) a year.
- (c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in interstate or foreign commerce involving the transportation for hire of property or persons, if the yearly gross receipts of the person using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to him or her, or twenty-five thousand dollars (\$25,000), whichever is less.
  - (d) For purposes of this section, it is the intent of the Legislature

that "component part" includes helicopters stationed aboard the watercraft and used primarily in commercial deep sea fishing operations during the six-month period immediately following the delivery of the helicopter to the purchaser and parts used for the repair of those helicopters.

- SEC. 12. Section 6368.1 of the Revenue and Taxation Code is amended to read:
- 6368.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft which are leased, or are sold to persons for the purpose of leasing, and any sales of tangible personal property becoming a component part of such watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:
- (1) The lessee uses the watercraft in interstate and foreign commerce involving the transportation of property or persons for hire.
- (2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.
- (3) The lessee functionally uses the watercraft 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.
- (b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars (\$5,000) a year.
- (c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in the business of transporting for hire property or persons, if the yearly gross receipts of the lessor from the lease of that watercraft to persons using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to the lessor, or twenty-five thousand dollars (\$25,000), whichever is less.
- SEC. 12.5. Section 6368.1 of the Revenue and Taxation Code is amended to read:
- 6368.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft which are leased, or are sold to persons for the purpose of leasing, and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:
  - (1) The lessee uses the watercraft in interstate and foreign

commerce involving the transportation of property or persons for hire.

- (2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.
- (3) The lessee functionally uses the watercraft 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.
- (b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars (\$5,000) a year.
- (c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in interstate or foreign commerce involving the transportation for hire of property or persons, if the yearly gross receipts of the person using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to him or her, or twenty-five thousand dollars (\$25,000), whichever is less.
- (d) For purposes of this section, it is the intent of the Legislature that "component part" includes helicopters stationed aboard the watercraft during deep sea fishing operations and parts used for the repair of those helicopters.
- SEC. 13. Section 6452 of the Revenue and Taxation Code is amended to read:
- 6452. (a) On or before the last day of the month following each quarterly period of three months, a return for the preceding quarterly period shall be filed with the board in such form as the board may prescribe.
- (b) For purposes of the sales tax, a return shall be filed by every seller and also by every person who is liable for the sales tax under this part. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.
- (c) Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.
- SEC. 14. Section 6455 of the Revenue and Taxation Code is amended to read:
- 6455. (a) The board, if it deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of taxes, may require returns and payment of the amount of taxes for quarterly periods other than calendar quarters depending upon the

principal place of business of the seller, retailer or purchaser as the case may be, or for designated periods other than quarterly periods.

- (b) On or before the last day of the month following each designated period, a return for the preceding designated period shall be filed with the board in such form as the board may prescribe.
- (c) Any retailer or other person who fails or refuses to furnish any return required by law to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.
- SEC. 15. Section 6776 of the Revenue and Taxation Code is amended to read:
- 6776. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, constable, or the California State Police and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution and shall be levied within five working days following receipt of the warrant.
- SEC. 15.5. Section 6777 of the Revenue and Taxation Code is amended to read:
- 6777. The board may pay or advance to the sheriff, marshal, constable, or the California State Police, the same fees, commissions, and expenses for services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.
- SEC. 16. Section 7151 of the Revenue and Taxation Code is repealed.
- SEC. 17. Section 7154 of the Revenue and Taxation Code is amended to read:
- 7154. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after the commission of the offense, or within two years after the violation is discovered, whichever is later.
- SEC. 18. Section 8404 of the Revenue and Taxation Code is amended to read:
- 8404. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after the commission of the offense, or within two years after the violation is discovered, whichever is later.
- SEC. 19. Section 8957 of the Revenue and Taxation Code is repealed.
  - SEC. 20. Section 8957 is added to the Revenue and Taxation

Code, to read:

- 8957. (a) Subject to the limitations in subdivisions (b) and (c), the board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a user, vendor, or other person liable for any amount under this part to withhold from those credits or other personal property the amount of any tax, interest, or penalties due from that user, vendor, or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.
- (b) The person served shall continue to withhold pursuant to the Notice of Levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.
- (c) The amount required to be withheld is the lesser of the following:
  - (1) The amount due stated on the notice.
- (2) The amount of each payment due or becoming due to the user, vendor, or other person liable during the period of the levy.
- (d) For the purposes of this section, the term "payments" does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. The term "payments" does include any of the following:
- (1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral or other natural rights.
- (2) Payments or credits due or becoming due periodically as a result of an enforceable obligation to the user, vendor, or other person liable for the tax.
- (3) Any other payments or credits due or becoming due the user, vendor, or other person liable as the result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.
- (e) In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.
- SEC. 21. Article 4.5 (commencing with Section 9021) is added to Chapter 5 of Part 3 of Division 2 of the Revenue and Taxation Code, to read:

# Article 4.5. Successor Withholding and Liability

9021. If any vendor liable for any amount under this part sells out his or her business or stock of goods or quits the business, his or her

successor or assigns shall withhold from the purchase price an amount sufficient to cover that amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

- 9022. (a) If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he or she becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price valued in money.
- (b) (1) Within 60 days after the latest of the dates specified in paragraph (2), the board shall either issue the certificate or mail notice to the purchaser at his or her address as it appears on the records of the board of the amount that must be paid as a condition of issuing the certificate.
- (2) For purposes of paragraph (1), the latest of the following dates shall apply:
- (A) The date the board receives a written request from the purchaser for a certificate.
  - (B) The date of the sale of the business or stock of goods.
- (C) The date the former owner's records are made available for audit.
- (c) Failure of the board to mail the notice referred to in subdivision (b) shall release the purchaser from any further obligation to withhold purchase price under this article. The time within which the obligation of the successor may be enforced shall begin to run at the time the person sells out his or her business or stock of goods or at the time that the determination against the person becomes final, whichever event occurs the later.
- 9023. The certificate may be issued after the payment of all amounts due under this part, according to the records of the board as of the date of the certificate, or after the payment of the amounts is secured to the satisfaction of the board.
- 9024. The obligation of the successor shall be enforced by serving a notice of successor liability on the person. The notice shall be served in the manner prescribed for service of a notice of a deficiency determination. The successor may petition for reconsideration in the manner provided in Article 5 (commencing with Section 8851) of Chapter 4. The notice shall become final and the amount due and payable in the manner provided in that article except that no additional penalty shall apply if not paid when due and payable. This chapter, with respect to the collection of any amount required to be paid under this part, shall apply when the notice becomes final.
- SEC. 22. Section 9355 of the Revenue and Taxation Code is amended to read:
- 9355. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after the commission of the offense, or within two years after the violation is discovered, whichever is later.

- · SEC. 23. Section 17299.8 of the Revenue and Taxation Code is amended to read:
- 17299.8. The Franchise Tax Board may disallow a deduction under this part to an individual or entity for amounts paid as remuneration for personal services if that individual or entity fails to report the payments required under Section 13050 of the Unemployment Insurance Code or Sections 18802 or 18802.2 on the date prescribed therefor (determined with regard to any extension of time for filing).
- SEC. 23.5. Section 18681 of the Revenue and Taxation Code is amended to read:
- 18681. (a) If any taxpayer fails to make and file a return required by this part on or before the due date of the return or the due date as extended by the Franchise Tax Board, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. 5 percent of the tax shall be added to the tax for each month or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed 25 percent of the tax. The penalty so added to the tax shall be due and payable upon notice and demand from the Franchise Tax Board. In the case of a failure to file a return of tax required by this part within 60 days of the date prescribed for filing of that return (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, this penalty shall not be less than the lesser of one hundred dollars (\$100) or 100 percent of the amount of tax required to be shown on the return.
- (b) For purposes of subdivision (a), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.
- (c) This section shall not apply to any failure to pay any estimated tax required by Section 18682.
- SEC. 24. Section 18681.6 of the Revenue and Taxation Code is amended to read:
- 18681.6. (a) In addition to the penalty imposed by Section 18681.1 (relating to failure to file information returns), if any person, or entity fails to report amounts paid as remuneration for personal services as required under Section 13050 of the Unemployment Insurance Code or Section 18802 and 18802.2 on the date prescribed therefor (determined with regard to any extension of time forfiling), that person or entity may be liable for a penalty determined under subdivision (b).
- (b) For purposes of subdivision (a), the amount determined under this subdivision is 11 percent of the unreported amounts paid as remuneration for personal services.
- (c) The penalty imposed by subdivision (a) shall be assessed against that person or entity required to file a return under Section

13050 of the Unemployment Insurance Code or Section 18802 or 18802.2.

- (d) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment of collection of any penalty imposed by subdivision (a).
- SEC. 25. Section 18684 of the Revenue and Taxation Code is amended to read:
- 18684. (a) If any part of any underpayment (as defined by subdivision (d)) of any tax imposed by this part is due to negligence, or intentional disregard of rules or regulations, but without intent to defraud, there shall be added to the tax an amount equal to 5 percent of the underpayment.
- (b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Sections 18686 through 18697—
- (1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and
- (2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).
- (c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.
- (d) For purposes of this section, the term "underpayment" means "deficiency" as defined by Section 18591.1 (except that, for this purpose, the tax shown on a return shall be taken into account only if that return was filed on or before the last day prescribed for the filing of that return, determined with regard to any extension of time for that filing).
- SEC. 26. Article 6 (commencing with Section 18700) is added to Chapter 18 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

## Article 6. Installment Payments of Taxes

18700. The Franchise Tax Board may, in cases of financial hardship, as determined by the Franchise Tax Board, allow a taxpayer to enter into installment payment agreements with the Franchise Tax Board to pay taxes due, plus applicable interest and penalties over the life of the installment period. Failure by the taxpayer to comply fully with the terms of the installment payment agreement shall render the agreement null and void, unless the Franchise Tax Board determines that the failure was due to a reasonable cause, and the total amount of tax, interest, and all penalties shall be immediately due and payable.

SEC. 27. Section 18806.1 is added to the Revenue and Taxation

Code, to read:

- 18806.1. (a) The Franchise Tax Board shall implement a pilot project of withholding on payments to independent contractors doing business with state agencies. The purpose of the pilot project is to withhold income taxes on payments to independent contractors in a manner similar to current withholding on wages.
- (b) The Franchise Tax Board may require the Controller or any officer or department of the state or any agency of the state to withhold an amount, as prescribed in subdivision (c), on all payments made pursuant to a contract between the state and any person other than a corporation, for which the primary purpose is the providing of personal services to the state and for which the total price of the contract exceeds six hundred dollars (\$600). For purposes of this section, "personal services" does not include services rendered as part of a construction contract. The amount withheld shall be transmitted to the Franchise Tax Board at such time and in such a manner as the Franchise Tax Board may require.
- (c) The amount to be withheld shall be 1 percent of each payment under the contract. That percentage is deemed to take into account the trade or business expenses allowable under this part. In lieu of this, the contractor may elect that the amount to be withheld be 3 percent of each payment under the contract less a reasonable allowance for trade or business expenses allowable under this part. The contractor shall demonstrate the reasonableness of the allowance for trade or business expenses to the Franchise Tax Board in such a manner as the Franchise Tax Board may require.
- (d) The Franchise Tax Board shall report to the Legislature on or before January 31, 1991, on all of the following:
- (1) The effect of this project on compliance and enforcement activities in this state.
- (2) Whether the amounts withheld are substantially equivalent to the amounts due under this part resulting from contract payments.
- (3) The administrative feasibility of withholding on payments to independent contractors in a manner similar to withholding on wages.
- (e) The Franchise Tax Board shall develop and publish forms and procedures for reporting and remitting payments made and taxes withheld under this section.
- (f) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.
- SEC. 28. Section 18817.5 of the Revenue and Taxation Code is amended to read:
- 18817.5. (a) Subject to the limitations in subdivisions (b) and (c), the Franchise Tax Board, may, by notice, served personally or by first-class mail, require any person, officer, department of the state, or political subdivision or agency of the state including the Regents of the University of California, a city organized under a freeholder's charter, or a political body not a subdivision or agency

of the state, to withhold the amount of any tax, interest, or penalties due from a taxpayer, or the amount due from an employer or person who has failed to withhold and transmit amounts due pursuant to Section 18815 or Section 18818, from any payments due the taxpayer, employer, or person and from any payments becoming due the taxpayer, employer, or person after receipt of the notice. The amounts withheld shall be transmitted to the Franchise Tax Board at those times as it may designate.

- (b) The effect of a levy made pursuant to subdivision (a) shall be continuous from the date the notice is received until the amount due stated on the notice has been withheld, until the notice has been withdrawn, or until one year after the date the notice is received, whichever occurs first.
- (c) The amount required to be withheld pursuant to a notice issued under subdivision (a) is the lesser of the amount due stated on the notice, or either of the following:
- (1) If the taxpayer, employer, or person is not a natural person, 100 percent of the amount of each payment due or becoming due the taxpayer, employer, or person during the period the levy is in effect as provided in subdivision (b).
- (2) If the taxpayer, employer, or person is a natural person, 25 percent of the amount of each payment due or becoming due the taxpayer, employer, or person during the period the levy is in effect as provided in subdivision (b).
- (d) For purposes of this section, the term "payments" does not include earnings as defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. The term "payments" does include any of the following:
- (1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral, or other natural resource rights.
- (2) Payments or credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.
- (3) Any other payments or credits due or becoming due periodically as a result of an enforceable obligation to the taxpayer, employer, or person.
- SEC. 29. Section 19254 of the Revenue and Taxation Code is amended to read:
- 19254. (a) The Franchise Tax Board, for the purpose of administering its duties under this part, including ascertaining the correctness of any return; making a return where none has been made; determining or collecting the liability of any person in respect of any liability imposed by this part (or the liability at law or in equity of any transferee in respect of such liability); shall have the power to require by demand, that an entity of any kind including, but not limited to, employers, persons, or financial institutions provide information or make available for examination or copying at a

specified time and place, or both, any book, papers, or other data which may be relevant to that purpose. Information which may be required upon demand includes, but is not limited to, any of the following:

- (1) Addresses and telephone numbers of persons designated by the Franchise Tax Board.
- (2) Information contained on Form W-2 (Wage and Tax Statement), Federal Form W-4 (Employee's Withholding Allowance Certificate), or State Form DE-4 (Employee's Withholding Allowance Certificate).
- (b) The Franchise Tax Board may require the attendance of the taxpayer or of any other person having knowledge in the premises and may take testimony and require material proof for its information and administer oaths to carry out the provisions of this part.
- (c) The Franchise Tax Board may issue subpoenas or subpoenas duces tecum, which subpoenas must be signed by any member of the Franchise Tax Board and may be served on any person for any purpose.
- (d) Obedience to subpoenas or subpoenas duces tecum issued in accordance with this section may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.
- SEC. 30. Section 19276 is added to the Revenue and Taxation Code, to read:
- 19276. (a) Notwithstanding any other provision of law, the Franchise Tax Board may require any board, as defined in Section 22 of the Business and Professions Code, and the State Bar, the Department of Real Estate, and the Insurance Commissioner (hereinafter referred to as licensing board) to provide to the Franchise Tax Board the following information with respect to every licensee:
  - (1) Licensee's name.
  - (2) Address or addresses of record.
- (3) Federal employer identification number (if the entity is a partnership) or owner's name and social security number (for all others).
  - (4) Type of license.
  - (5) Effective date of license or renewal.
  - (6) Expiration date of license.
  - (7) Whether license is active or inactive, if known.
  - (8) Whether license is new or renewal.
  - (b) The Franchise Tax Board may do the following:
- (1) Send a notice to any licensee failing to provide the identification number as required by paragraph (1) of subdivision (a) of Section 30 of the Business and Professions Code and paragraph
- (1) of subdivision (a) of Section 1666.5 of the Insurance Code, describing the information that was missing, the penalty associated

with not providing it, and that failure to provide the information within 30 days will result in the assessment of the penalty.

- (2) After 30 days following the issuance of the notice described in paragraph (1), assess a one hundred dollar (\$100) penalty, due and payable upon notice and demand, for any licensee failing to provide either its federal employer identification number (if the licensee is a partnership) or his or her social security number (for all others) as required in Section 30 of the Business and Professions Code and Section 1666.5 of the Insurance Code.
- .(c) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the information furnished to the Franchise Tax Board pursuant to Section 30 of the Business and Professions Code or Section 1666.5 of the Insurance Code shall not be deemed to be a public record and shall not be open to the public for inspection.
- SEC. 32. Section 24447 of the Revenue and Taxation Code is amended to read:
- 24447. The Franchise Tax Board may disallow a deduction under this part to an individual or entity for amounts paid as remuneration for personal services if that individual or entity fails to report the payments required under Section 13050 of the Unemployment Insurance Code or Section 18802 or 18802.2 on the date prescribed therefor (determined with regard to any extension of time for filing).
- SEC. 33. Section 25934 of the Revenue and Taxation Code is amended to read:
- 25934. (a) If any part of any underpayment (as defined in subdivision (d)) of any tax imposed by this part is due to negligence, or intentional disregard of rules or regulations, but without intent to defraud, there shall be added to the tax an amount equal to 5 percent of the underpayment.
- (b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Sections 25901 through 25905—
- (1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and
- (2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).
- (c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.
- (d) For purposes of this section, the term "underpayment" means "deficiency" as defined by Section 18591.1 (except that, for this purpose, the tax shown on a return shall be taken into account only if that return was filed on or before the last day prescribed for the filing of that return, determined with regard to any extension of time

for that filing).

- SEC. 34. Section 26423 of the Revenue and Taxation Code is amended to read:
- 26423. (a) The Franchise Tax Board, for the purpose of administering its duties under this part, including ascertaining the correctness of any return; making a return where none has been made, determining or collecting the liability of any person in respect of any liability imposed by this part (or the liability at law or in equity of any transferee in respect of such liability); shall have the power to require by demand, that an entity of any kind including, but not limited to, employers, persons, or financial institutions provide information or make available for examination or copying at a specified time and place, or both, any books, papers or other data which may be relevant to that purpose.
- (b) The Franchise Tax Board may require the attendance of the taxpayer or of any other person having knowledge in the premises and may take testimony and require material proof for its information and administer oaths to carry out the provisions of this part.
- (c) The Franchise Tax Board may issue subpoenas or subpoenas duces tecum, which subpoenas must be signed by any member of the Franchise Tax Board and may be served on any person for any purpose.
- (d) Obedience to subpoenas or subpoenas duces tecum issued in accordance with this section may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.
- SEC. 35. Section 30481 is added to the Revenue and Taxation Code, to read:
- 30481. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after commission of the offense or within two years after the violation is discovered, whichever is later.
- SEC. 36. Section 32556 of the Revenue and Taxation Code is amended to read:
- 32556. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after the commission of the offense, or within two years after the violation is discovered, whichever is later.
- SEC. 37. Section 40188 is added to the Revenue and Taxation Code, to read:
- 40188. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after commission of the offense or within two years after the violation is discovered, whichever is later.
- SEC. 38. Article 2.5 (commencing with Section 41143) is added to Chapter 7 of Part 20 of Division 2 of the Revenue and Taxation Code, to read:

### Article 2.5. Violations

- 41143. Any person who fails or refuses to file a return or report required to be made or who fails or refuses to furnish a supplemental report or other data required by the board, or who renders a false or fraudulent report is guilty of a misdemeanor and may be punished by a fine not exceeding five hundred dollars (\$500) for each offense.
- 41143.8. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after commission of the offense or within two years after the violation is discovered, whichever is later.
- SEC. 39. Article 2.5 (commencing with Section 44186) is added to Chapter 6 of Part 22 of Division 2 of the Revenue and Taxation Code, to read:

### Article 2.5. Violations

- 44186. Any person who fails or refuses to file a return or report required to be made or who fails or refuses to furnish a supplemental report or other data required by the board, or who renders a false or fraudulent report is guilty of a misdemeanor and may be punished by a fine not exceeding five hundred dollars (\$500) for each offense.
- 44188. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after commission of the offense or within two years after the violation is discovered, whichever is later.
- SEC. 40. (a) The multiagency task force established pursuant to Executive Order D-51-86 (hereinafter referred to as "task force") shall include among its goals and objectives the following:
- (1) To deter tax evasion by maximizing recoveries from blatant tax evaders and violators of cash-pay reporting laws, utilizing all penalties which are available to the taxing and enforcement agencies under existing law.
- (2) To reduce enforcement costs by eliminating duplicative audits and investigations.
- (3) To generate greater voluntary taxpayer compliance and to deter tax and cash-pay violations by publicizing the efforts of the task force.
- (4) To provide opportunities for auditors and investigators from tax and enforcement agencies to become familiar with other agencies' laws and enforcement procedures.
- (5) To concentrate its efforts in investigating and prosecuting violations of cash-pay and tax laws by employers with five or more employees and by individuals who are habitual or willfull violators of those laws.
- (b) In addition to the responsibilities cited in Executive Order D-51-86, the task force shall be empowered to do all of the following:
- (1) Identify areas of blatant violations and noncompliance with tax and cash-pay laws.

- (2) Solicit referrals from the tax and enforcement agencies represented on the task force committee of instances of blatant violations and noncompliance with tax and cash-pay laws.
- (3) Conduct audits, investigations, and referrals for prosecution of violations referred by other agencies and in the identified areas of violations and noncompliance, using all enforcement powers available in existing laws and regulations.
- (4) Establish an advertised telephone "hotline" for referrals from the public.
  - (5) Publicize the activities of the task force.
- (6) Keep the audit and investigative staff of the tax and enforcement agencies represented on the task force committee fully informed of the activities of the task force.
- (7) Develop procedures for improved information sharing among the agencies represented on the task force committee, consistent with restrictions on disclosure of confidential tax information in existing law, for the purpose of improving enforcement.
- (8) Based on the activities of the task force, evaluate the need for any law changes to do any of the following:
  - (A) Eliminate barriers to interagency information sharing.
- (B) Improve agencies' ability to audit, investigate, and prosecute tax and cash-pay violations.
  - (C) Deter violations and improve voluntary compliance.
- (D) Eliminate duplication and improve cooperation among the participating agencies.
- (c) The task force shall report to the Governor, the Senate and Assembly Revenue and Taxation Committees, and the Commission on California State Government Organization and Economy every six months during the period it is in existence, beginning on March 1, 1987, regarding the activities of the task force. The reports shall include, but not be limited to, all of the following:
- (1) The number of cases of blatant violations and noncompliance with tax and cash-pay laws identified, audited or investigated, and referred for prosecution.
  - (2) Actions taken by the task force to publicize its activities.
- (3) Efforts made by the task force to establish an advertised telephone "hotline" for referrals from the public.
- (4) Procedures developed for improved information sharing among the agencies represented on the task force.
- (5) Steps taken by the task force to improve cooperation among participating agencies, reduce duplication of effort, and improve voluntary compliance.
- (6) Recommendations for any law changes needed to accomplish the goals described in paragraph (8) of subdivision (b).
- SEC. 41. (a) On January 15 of each year from 1988 to 1992, inclusive, the State Board of Equalization and the Franchise Tax Board shall submit a report to the Legislature on implementation of the provisions of this act, with the exception of Section 40 of this act (for which separate reporting requirements are set out).

- (b) The revenue and taxation policy committees of each house of the Legislature shall hold a public hearing no later than June 30 of each year from 1988 to 1992, inclusive, on the reports submitted pursuant to subdivision (a).
- (c) The intent of this section is to assure the Legislature the opportunity to oversee the implementation of this act. The intent of the Legislature in enacting this act is to improve enforcement and voluntary compliance with the tax system and cash-pay reporting rules. The intent of the Legislature in enacting this act is not to cause harassment of or undue burden on innocent taxpayers.
- SEC. 42. Section 3.5 of this bill incorporates amendments to Section 2924b of the Civil Code proposed by both this bill and AB 2556. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 2924b of the Civil Code, and (3) this bill is enacted after AB 2556, in which case Section 3 of this bill shall not become operative.
- SEC. 43. Section 11.5 of this bill incorporates amendments to Section 6368 of the Revenue and Taxation Code proposed by both this bill and AB 3868. 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 6368 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 3868, in which case Section 6368 of the Revenue and Taxation Code, as amended by AB 3868, shall remain operative only until the operative date of this bill, at which time Section 11.5 of this bill shall become operative, and Section 11 of this bill shall not become operative.
- SEC. 44. Section 12.5 of this bill incorporates amendments to Section 6368.1 of the Revenue and Taxation Code proposed by both this bill and AB 3868. 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 6368.1 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 3868, in which case Section 6368.1 of the Revenue and Taxation Code, as amended by AB 3868, shall remain operative only until the operative date of this bill, at which time Section 12.5 of this bill shall become operative, and Section 12 of this bill shall not become operative.
- SEC. 45. The amendments to Section 18681 of the Revenue and Taxation Code made by this act shall be applied to returns filed on or after January 1, 1987.
- SEC. 46. 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 1362

An act to amend Section 8880.5 of the Government Code, relating to the Youth Authority, and making an appropriation therefor.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 8880.5 of the Government Code is amended to read:

8880.5. Allocations for Education

The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this chapter. The Controller shall draw warrants on this fund and distribute them quarterly in the following manner, provided that the payments specified in subdivisions (a) to (g), inclusive, shall be equal per capita amounts:

- (a) Payments shall be made directly to public school districts, including county superintendents of schools, serving grades kindergarten through 12, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.
- (b) Payments shall also be made directly to public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined by law.
- (c) Payments shall also be made directly to the Board of Trustees of the California State University on the basis of an amount for each unit of equivalent full-time enrollment. Funds received by the trustees shall be deposited in and expended from the California State University Lottery Education Fund which is hereby created.
- (d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.
- (e) Payments shall also be made directly to the Board of Directors of the Hastings College of the Law on the basis of an amount for each unit of equivalent full-time enrollment.
- (f) Payments shall also be made directly to the California Maritime Academy Board of Governors on the basis of an amount for each unit of equivalent full-time enrollment.
- (g) Payments shall also be made directly to the Youth Authority for educational programs serving grades kindergarten through 12, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.
- (h) No Budget Act or other statutory provision shall direct that payments for public education made pursuant to this chapter be used for purposes and programs (including workload adjustments and maintenance of the level of service) authorized by Chapters 498, 565, and 1302 of the Statutes of 1983, Chapter 97 or 258 of the Statutes of

1984, or Chapter 1 of the Statutes of 1984, Second Extraordinary Session.

- (i) School districts and other agencies receiving funds distributed pursuant to this chapter may at their option utilize funds allocated by this chapter to provide additional funds for those purposes and programs prescribed by subdivision (h) for the purpose of enrichment or expansion.
- (j) As a condition of receiving any moneys pursuant to subdivision (a) or (b), each district and county superintendent of schools shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as a lottery education account.

It is the intent of this chapter that all funds allocated from the California State Lottery Education Fund shall be used exclusively for the education of pupils and students and no funds shall be spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

SEC. 2. The Legislature hereby finds all of the following:

(a) The safety of California is jeopardized by the high rate of unemployment (over 50 percent) among youthful offenders, which contributes to parole failure and the costs of crime.

- (b) Major barriers to employment for youthful offenders under the jurisdiction of the Department of the Youth Authority include lack of work experience, self-esteem and social skills, motivation and discipline, educational proficiency, positive role models and experience with success, job seeking and job keeping skills, and maturity and decisionmaking skills.
- (c) Over 90 percent of youthful offenders are dropouts; only 11 percent return to school upon release on parole.
- (d) Services critically needed by youthful offenders to prepare them to find and keep jobs include vocational assessment, counseling and goal setting (aided by an individual ward employment development plan); training in job seeking and keeping; and job placement with job retention assistance.
- (e) Industry-supported employment preparation and placement services are most likely to aid youthful offenders to find and keep meaningful employment.
- SEC. 3. It is the intention of the Legislature in enacting this act to study the impact on employment performance and parole success of efforts which do all of the following:
- (a) Provide the staff of Youth Authority institutions and camps with skills in vocational counseling concepts and techniques.
  - (b) Augment employability skills training for incarcerated youth.
- (c) Test the results of the industry-supported program, Mobilizing Industry for Youth, conducted by the Industry Education Council of California (IECC), for youthful offenders.
- SEC. 4. The Department of the Youth Authority shall implement a model system of employment preparation and placement services for youthful offenders, consisting of at least all of the following:

- (a) The training of institution and camp staff in vocational assessment, counseling, and goal setting techniques, to aid in the development and implementation of an individual ward employment development plan for youthful offenders under its jurisdiction.
- (b) The seeking of grant funding to augment training in employability skills competencies for all youth under its jurisdiction, for the purpose of increasing the number of youth paroled from institutions who have mastered these competencies.
- (c) In conjunction with the Industry Education Council of California (IECC), the implementation of job placement projects for youthful offenders, adapting the industry-supported program, Mobilizing Industry for Youth, model. These projects shall be funded by grant funds or such other funds as are made available to the department.
- SEC. 5. It is the intention of the Legislature that in developing and implementing an individual ward assessment plan an individual assessment of each ward shall be made, based on individualized prescriptive counseling and goal setting concerning the ward's basic educational functioning, vocational interests and abilities, decisionmaking and communication skills, and work attitude and motivation, with major emphasis on the ward's self-esteem. The individual ward employment plan shall set forth appropriate programmatic components to implement the plan.
- SEC. 6. The Department of the Youth Authority shall evaluate the impact of the system developed pursuant to Section 4 on the job placement, job retention, and parole performance of youthful offenders receiving these services. The report shall specifically comment on the availability and effect of the counseling and goal setting components of the individual ward employment development plan specified in Section 5. It shall submit an interim progress report thereon to the Legislature by July 1, 1988, and a final report by July 1, 1989.
- SEC. 7. The Legislature finds and declares that Section 1 of this act, which amends Section 8880.5 of the Government Code, furthers the purposes of the California State Lottery Act of 1984.
- SEC. 8. Sections 2 to 6, inclusive, of this act shall remain in effect only until January 1, 1990, and are repealed on that date, unless a later enacted statute which is chaptered before January 1, 1990, deletes or extends that date.

An act relating to state financial assistance for the construction of waste water facilities.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Notwithstanding the provisions of any contract between the State Water Resources Control Board and the Humboldt Bay Wastewater Authority, or any other provision of law, including Chapter 347 of the Statutes of 1976, amounts owed by the Humboldt Bay Wastewater Authority to the State Water Resources Control Board for payment of interest on a loan for construction of facilities necessary to prevent water pollution pursuant to Chapter 6 (commencing with Section 13400) of Division 7 of the Water Code shall be considered a grant for the construction of necessary waste water facilities, and the Humboldt Bay Wastewater Authority shall not be required to repay that amount, or any future interest on the loan, to the state. The principal payment on the unamortized portion of the loan need not commence until January 1, 1989.

SEC. 2. The Legislature hereby finds and declares that the provisions of this act are necessary because of special conditions existing within the Humboldt Bay region. The Humboldt Bay area is threatened with a serious water pollution control problem. The Humboldt Bay Wastewater Authority is a joint exercise of powers entity which received state loans to be used to acquire right-of-way and pay other administrative costs of a proposed regional waste water treatment project which was subsequently abandoned in favor of the construction of alternative facilities. The revenue bonds that were to repay the loan were therefore never sold, and the Humboldt Bay Wastewater Authority is presently without a source of funds to repay the loan amounts. The Legislature hereby declares that there is a vital statewide interest in the preservation of the quality of the water of Humboldt Bay, that the bay is an important resource for navigation, commerce, fisheries, recreation, and ecological preservation for all the people of California, and that the provisions of this act are necessary to preserve that interest.

An act to amend Section 26520.1 of the Health and Safety Code, relating to food.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. Section 26520.1 of the Health and Safety Code is amended to read:
- 26520.1. (a) Sulfite compounds shall be deemed unsafe as food additives, as defined in Section 26013, for any of the following uses:
- (1) Sulfite compounds added to any fruit or vegetable which is sold to be consumed in its raw or natural state, whether or not the sulfite compounds are added on the premises of any food facility as defined in Section 27521 or are added to the fruits and vegetables sold to any food facility as defined in Section 27521.
- (2) Sulfite compounds added to any fish or seafood at the wholesale or retail level.
- (b) The prohibitions in this section shall not apply to each of the following:
- (1) Use of sulfite compounds on fruits or vegetables prior to, or as part of, a cooking, fermenting, canning, freezing, drying, bottling, or dehydrating process.
- (2) Use of sulfite compounds on shrimp or lobster at the production level which conforms with the United States Food and Drug Administration's Good Manufacturing Practices or sulfite compounds used on seafood or fish as a preservative in a manufacturing process provided that the application and labeling is in accordance with federal Food and Drug Administration regulations.
  - (c) For purposes of this section, "sulfite compounds" means:
  - (1) Sulphur dioxide.
  - (2) Sodium bisulfite.
  - (3) Sodium metabisulfite.
  - (4) Sodium sulfite.
  - (5) Potassium bisulfite.
  - (6) Potassium metabisulfite.
- (d) This section shall remain in effect only until January 1, 1992, and as of that date is repealed unless a later statute which is enacted before January 1, 1992, extends or deletes 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.

An act to repeal and add Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, relating to marriage, family, and child counselors, and making an appropriation therefor.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. (a) The Legislature intends by this act to move California forward toward having the finest mental health system in the world; and in particular to assure that marriage, family, and child counselors, through enhanced preparation, become a model for all therapeutic professionals in the field.
- (b) In constructing this licensing legislation, it is crucial and essential to recognize the balance between competing and legitimate perspectives. In this respect, this act attempts to achieve the following goals:
- (1) To provide solid and credible professional training while allowing for innovation, individuality, and ever-expanding knowledge of effective therapeutic modalities.
- (2) To encourage breaking new ground while building on traditional and tested values.
- (3) To recognize the identity and distinctive scope of practice of various therapeutic professions, and at the same time seeking to overcome self-created and artificial limitations between these professions.
- (4) To make appropriate accommodations for personal and financial investments made by marriage, family and child therapists in regard to their chosen career, and at the same time seeking to keep the profession viable and evolving as regards its scope of practice and innovative growth.
- (5) To develop a cooperative administrative model as it affects the Board of Behavioral Science Examiners, professional associations, educational institutions, supervisors, licensees, interns, trainees, and the consuming public, working together to create the very best mental health system by intention.
- (6) To assure inclusion of distinct and individual subject areas as academic requirements while encouraging the interpretation and holistic preservation of competency areas across the entire scope of professional education.
- (c) As a model professional licensing standard, it is further the intent of the Legislature to continue to upgrade all other mental health professions and to apply these standards as may be appropriate to those professions.
  - SEC. 2. The Legislature finds and declares that:

- (a) Healthy individuals, healthy families, and healthy relationships are inherently beneficial and crucial to a healthy society, and are our most precious and valuable natural resources. The well-being of the State of California depends greatly upon the healthiness and success of its families, and the State of California values the family, marriage, and healthy human relationships.
- (b) Many California families and many individual Californians are experiencing difficulty and distress, and are in need of wise, competent, caring, compassionate, and effective counseling in order to enable them to grow more insightful and healthy and capable of improving and maintaining healthy family relationships.
- (c) There is a vital public need for competent therapists with a broad range of psychotherapeutic skills who are not necessarily research-oriented, and marriage, family, and child counselors best meet that need. Those therapists provide a crucial support for the well-being of the people and the State of California.
- (d) The State of California therefore licenses persons as marriage, family, and child counselors, in order to make counseling available to families and individuals in need, and to help assure needing families and individuals that persons so licensed are substantially educated toward being able to provide valuable and effective counseling services.
- (e) Because that need was not being otherwise adequately met, the Legislature authorized the California Board of Behavioral Science Examiners to regulate and administer the licensing laws of the marriage, family, and child counseling profession.
- (f) There has recently arisen substantial concern regarding whether the current licensing law and its application and implementation have been effectively operated to assure, as best practicable, the competency of persons holding the marriage, family, and child counseling license.
- (g) Toward addressing that concern, the Board of Behavioral Science Examiners has recently reviewed its operations and is reforming its regulations in an effort to improve the assurance of quality in the education of persons licensed by the board as marriage, family, and child counselors.
- (h) Sufficient changes have occurred since the last major revision of the licensing laws for the marriage, family, and child therapy profession both in the state and condition of our society and in our understanding of healthy human growth, development, and relationships that there is now a major state and public interest in rewriting, reforming, and improving those laws.
- (i) There is also a legitimate concern among the persons who hold the license as marriage, family, and child counselors or therapists that their education, preparation, testing, and licensing be of such rigor that they and other interested parties can be assured of their likely competence and stature as professionals.
- (j) It is also in the public interest to do so in order to provide the public some level of assurance that a person holding such license is

well educated and likely to be able to provide effective assistance.

- (k) It is also in the public interest to do so in order that the profession of marriage, family, and child therapy be credible, both in the eyes of the public who are searching for that counseling, and for other concerned parties (including insurance carriers and prepaid health plans) who need to know that persons holding the license are professionally competent to provide that assistance. Third-party reimbursement for counseling services by the marriage, family, and child therapy profession should be permitted and encouraged. Health maintenance organizations and self-funded plans should recognize and compensate for these essential interventions to relieve distress and to help lest the problems become greater.
- (1) There are a wide array of human problems, symptoms, and needs. Therefore, there needs to be a wide range of competencies, and as well there is much changing of family situations in our rapidly changing society, and discovery of how better to provide effective healthy marriage, family, and child counseling. So it is crucial that any licensing law, its operation and regulation, be tailored to those facts and be innovative, open, and flexible, at the same time providing some quality assurance.
- (m) It must be recognized that a person, a human being, a personality, a relationship, and a family are each and all so unique and complex that they cannot readily be fixed much less should they be thought of or tried to be made uniform. The goal of counseling may be defined as the restoration of health or the development of effective capacities as defined by the individual and his or her own culture (rather than the imposition of culturally limiting notions and values about health).
- (n) It is crucial that the Legislature recognize the centrality and essentiality of the human dimension and qualities of the counseling relationship and enact a licensing law which serves to encourage, support, and nurture those human qualities in the counselors or therapists, instead of one that becomes so overly mechanistic and measurement-oriented, that in training for it, we instead have the effect of lessening those essential human qualities for human interactions that are facilitative and effective and growthful.
- (o) There is a vital public interest in discerning and articulating, to the extent it is practical to do so, how to produce caring, compassionate, competent marriage, family, and child counselors, and therapists.
- (p) It is only more recently that society has begun to recognize and to assess the crucial competencies for a licensed marriage, family, and child counselor. The most effective competency is the ability to facilitate a person's obtaining the assistance he or she needs or wants and is seeking; that ability likely includes the personal qualities of personal presence, integrity, openness, insight, concern, assurance, comfort, encouragement, and invitation. These qualities enable the counselor or therapist to provide a climate within which his or her counselee may grow and become more competent in his

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- or her marriage and family relationships. Licensing laws should encourage the applicants and the institutions which educate and prepare them to attend to the development of those qualities and capacities, instead of negating those qualities in persons seeking to become counselors and therapists.
- (q) A counselor needs to possess and be able to apply knowledge of, and appreciation for, these skills with respect to both individual and family relationships and systems.
- (r) In this uncertain realm the best way to assure the appropriate and sufficient preparation, education, and development of competencies of prospective marriage, family, and child counselors is to build the structure of the licensing law and goals to assess and seek to assure broad minimal competencies agreed upon by practitioners and persons in the field, educators, and other concerned parties. With respect both academic and clinical experience and preparation there is a need to ascertain as best as can be done what are the competencies required to be obtained in the classroom and in the clinic, and what are the minimum competencies and levels thereof which are deemed sufficient to qualify a person to obtain a license and practice marriage, family, and child counseling in California.
- (s) It is neither possible nor wise to have the intention or to prescribe any single theory or system of therapy to the exclusion of others for individuals and families.
- (t) It is desirable in enacting a law and designing assessment means to try for balance between solidity and credibility on the one hand, and diversity, flexibility, innovativeness, and creativity on the other.
- (u) Mental health promotion and mental illness prevention are crucial components of the practice of marriage, family, and child counseling.
- (v) To the greatest extent feasible, licensing laws and regulations should assure the candidate's intellectual, emotional, and experiential qualifications for practice.
- (w) Certainly a person, to become a competent counselor, therefore needs preparation in both academic theory and clinical practice and experience, and therefore his or her education should be part in class and part out.
- (x) Any person seeking to gain a license should have knowledge, experience, and appreciation of all that is crucial to healthy human beings, including, but not limited to, individual health, family relationships, emotions, feelings, somatics, spiritual awareness, and the healthy interrelationship and appropriate integration of them all.
- (y) A marriage, family, and child counselor should have experience (by means of an internship) in seeing and working with families.
- (z) As a model licensing law for all the psychotherapeutic professions, the Legislature finds that there is the highest value in encouraging all applicants for license to themselves partake of the

psychotherapeutic process.

(aa) It is therefore valuable for all institutions providing education and all persons providing supervision seeking to prepare applicants for examination and otherwise qualifying for a license, to encourage all persons who intend to become marriage, family, and child counselors to undergo personal counseling or psychotherapy, individual or group, as may be appropriate.

It is therefore the intention of the Legislature to update and improve the statutes regarding the licensing of marriage, family, and child counselors so as to assure the public and other concerned parties that persons holding this license are, to the extent that can be determined, predicted, and assured via a licensing law qualified, competent, and caring.

SEC. 3. Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code is repealed.

SEC. 4. Chapter 13 (commencing with Section 4980) is added to Division 2 of the Business and Professions Code, to read:

# CHAPTER 13. MARRIAGE, FAMILY AND CHILD COUNSELORS

## Article 1. Regulation

4980. (a) Many California families and many individual Californians are experiencing difficulty and distress, and are in need of wise, competent, caring, compassionate, and effective counseling in order to enable them to improve and maintain healthy family relationships.

Healthy individuals and healthy families and healthy relationships are inherently beneficial and crucial to a healthy society, and are our most precious and valuable natural resource. Marriage, family, and child counselors provide a crucial support for the well-being of the people and the State of California.

(b) No person may for remuneration engage in the practice of marriage, family, and child counseling as defined by Section 4980.02, unless he or she holds a valid license as a marriage, family, and child counselor, or unless he or she is specifically exempted from that requirement, nor may any person advertise himself or herself as performing the services of a marriage, family, child, domestic, or marital consultant, or in any way use these or any similar titles to imply that he or she performs these services without a license as provided by this chapter. Persons licensed under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2, or under Chapter 6.6 (commencing with Section 2900) may engage in such practice or advertise that they practice marriage, family, and child counseling but may not advertise that they hold the marriage, family, and child counselor's license.

4980.01. Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, or the Psychology

Licensing Act.

This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

This chapter shall not apply to an employee of a governmental entity or of a school, college, or university, or of an institution both nonprofit and charitable if his or her practice is performed solely under the supervision of the entity, school, or organization by which he or she is employed, and if he or she performs such functions as part of the position for which he or she is employed.

4980.02. For the purposes of this chapter, the practice of marriage, family, and child counseling shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling.

The applications of marriage, family and child counseling principles and methods includes, but is not limited to, the use of applied pyschotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, and the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships.

A marriage, family, and child counselor may use hypnosis in the course of performing marriage, family, and child counseling provided that he or she can demonstrate experience in the clinical use of hypnosis which satisfies the criteria established by the board. The criteria shall include evidence of (a) coursework in hypnosis from qualified instructors and (b) experience in a clinical setting using hypnosis under the supervision of a physician, dentist, licensed psychologist, or a licensed marriage, family, and child counselor who holds a certificate in hypnosis issued by the board.

- 4980.03. (a) "Board," as used in this chapter, means the Board of Behavioral Science Examiners.
- (b) "Intern," as used in this chapter, means an unlicensed person who has earned his or her master's or doctor's degree qualifying him or her for licensure and is registered with the board.
- (c) "Trainee," as used in this chapter, means one who is enrolled in a master's or doctor's degree program, as specified in Section 4980.40.
- (d) "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations

communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

4980.07. The board shall administer the provisions of this chapter.

4980.10. A person engages in the practice of marriage, family, and child counseling who performs or offers to perform or holds himself or herself out as able to perform such a service for remuneration in any form, including donations.

4980.30. Except as otherwise provided herein, a person desiring to practice and to advertise the performance of marriage, family, and child counseling services shall apply to the board for a license and shall pay the license fee required by this chapter.

4980.34. It is the intent of the Legislature that the board employ its resources for each and all of the following functions:

- (a) The licensing of marriage, family, and child counselors, clinical social workers, and eductional psychologists.
- (b) The development and administration of written and oral licensing examinations and examination procedures consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.
- (c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.
  - (d) Consumer education.
- 4980.35. (a) The Legislature acknowledges that the basic obligation to provide a complete and accurate application for a marriage, family, and child counseling license lies with the applicant. At the same time, the Legislature recognizes that an effort should be made by the board to assure that persons who enter degree programs and supervisorial training settings that meet the requirements of this chapter are enabled to discern the requirements for licensing and to take the examination when they have completed their educational and experience requirements.
- (b) In order that the board, the educational institutions, and the supervisors who monitor the education and experience of applicants for licensure may develop greater cooperation, the board shall do all of the following:
- (1) Apply a portion of its limited resources specifically to the task of communicating information about its activities, the requirements and qualifications for licensure, and the practice of marriage, family, and child counseling to the relevant educational institutions, supervisors, professional associations, applicants, trainees, interns, and the consuming public.
- (2) Develop policies and procedures to assist educational institutions in meeting curricula requirements of Section 4980.40 and any regulations promulgated pursuant to that section, so that those educational institutions may better provide assurance to their

students that the curriculum offered to fulfill the educational requirements for licensure will meet those requirements at the time of the student's application for licensure.

- (3) Notify applicants in the application procedure when applications are incomplete, inaccurate, or deficient, and inform applicants of any remediation, reconsideration, or appeal procedures that may be applicable.
- (4) Undertake, or cause to be undertaken, a comprehensive review, in consultation with educational institutions, professional associations, supervisors, interns, and trainees, of the supervision of interns and trainees, which shall include, but not be limited to, the following, and shall, no later than July 1, 1988, propose regulations regarding the supervision of interns and trainees which may include, but not be limited to, the following:
  - (A) Supervisor qualifications.
  - (B) Continuing education requirements of supervisors.
  - (C) Registration or licensing of supervisors, or both.
  - (D) Responsibilities of supervisors in general.
- (E) The board's authority in cases of noncompliance or negligence by supervisors.
- (F) The intern's and trainee's need for guidance in selecting well-balanced and high quality professional training opportunities within his or her community.
- (G) The role of the supervisor in advising and encouraging his or her intern or trainee regarding the necessity or value and appropriateness of the intern or trainee engaging in personal psychotherapy, so as to enable such intern or trainee to become a more competent marriage, family, and child counselor.
- 4980.37. In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage, family, and child counselors, a degree program which meets the educational qualifications for licensure shall include all of the following:
- (a) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.
- (b) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.
- (c) Train students specifically in the application of marriage and family relationship counseling principles and methods.
- (d) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.
- (e) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.
- (f) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage, family, and

child counselors.

- (g) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.
- 4980.38. (a) Each educational institution preparing applicants to qualify for licensing shall notify each of its students by means of its public documents or otherwise in writing that its degree program is designed to meet the requirement of Section 4980.37 and shall certify to the board that it has so notified its students.
- (b) In addition to all the other requirements for licensure, each applicant shall submit to the board a certification by the chief academic officer, or his or her designee, of the applicant's educational institution that the applicant has fulfilled the requirements enumerated in Sections 4980.37 and 4980.40.

4980.40. To qualify for a license an applicant shall have all the following qualifications:

(a) Applicants applying for licensure on or after January 1, 1988, shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, counseling with an emphasis in marriage, family, and child counseling, or social work with an emphasis in clinical social work, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency, as determined by the board, or approved by the Superintendent of Public Instruction, pursuant to subdivision (b) of Section 94310 of the Education Code. In order to qualify for licensure, pursuant to this subdivision, any doctor's or master's degree program shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment.

The coursework shall, include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage, family, and child counseling, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their affect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and

geropsychology.

(4) A variety of approaches to the treatment of children.

The board may, by regulation, further define the content requirements of required courses specified in this sudivision.

- (b) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions and healthy functioning and health promotion and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage, family, and child counselor.
- (1) Supervised practicum hours, as specified in this subdivision, shall be evaluated, accepted, and credited as hours for trainee experience by the board.
- (2) Educational institutions and trainees are encouraged to design the practica to include marriage, family, and child counseling experience in low-income and multicultural mental health settings.

(3) The practicum hours shall be considered as part of the 48

semester or 72 quarter unit requirement.

- (c) As an alternative to meeting the qualifications specified in subdivision (a), the board shall accept as equivalent degrees, those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.
- (d) All applicants shall, in addition, complete the coursework or training specified in Section 4980.41.
  - (e) All applicants shall be at least 18 years of age.
- (f) All applicants shall have at least two years' experience, in interpersonal relationships, marriage, family, and child counseling and psychotherapy under the supervision of a licensed marriage, family, and child counselor, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry, or the equivalent as determined by the board.
- (1) All experience shall be at all times under the supervision of the supervisor who shall, with the person being supervised, be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for the compliance of all laws, rules, and regulations governing the practice of marriage, family, and child counseling.
- (2) Supervision shall include at least one hour of direct supervision for each week of experience claimed.
- (3) Any person supervising another pursuant to this subdivision shall have been licensed or certified for at least two years prior to acting as a supervisor, except this requirement shall not affect any supervisorial relationship in existence on December 31, 1983.

- (4) The supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of his or her undertaking individual or group counseling or psychotherapy as appropriate, and insofar as it is deemed appropriate and is desired by the applicant, the supervisor shall seek to assist the applicant in obtaining such counseling or psychotherapy at a reasonable cost.
- (5) The board may prescribe by regulation such other qualifications for supervisors as it deems appropriate.
- (g) The applicant shall pass a written examination and an oral examination conducted by the board or their designees.
- (h) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (i) Applicants applying for licensure on or before December 31, 1987, shall possess all of the qualifications specified in subdivisions (e) to (h), inclusive, and shall possess a doctor's or master's degree in marriage, family, and child counseling, social work, clinical psychology, counseling, counseling psychology, child development and family studies, or a degree determined by the board to be equivalent, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency as determined by the board.
- (j) Persons who commenced graduate study, as defined in Section 4980.40, on or before December 31, 1987, shall be governed by subdivisions (i) and (k) of this section only if they apply and qualify for internship registration or licensure examination within five years of their starting such graduate study or by December 31, 1987, whichever is later.
- (k) For applicants applying for a license pursuant to subdivisions (i) and (j), the board may make a determination that an applicant's master's or doctor's degree is an equivalent degree if it finds that the degree was issued upon completion of a course of academic study primarily designed to train persons as a marriage, family, and child counselor. The course of study completed by the applicant shall contain not less than 30 semester or 45 quarter units of coursework as follows: (1) human biological, psychological, and social development, (2) human sexuality, (3) psychopathology, (4) cross-cultural mores and values, (5) theories of marriage, family, and child counseling, (6) professional ethics and law, (7) human communication, (8) research methodology, (9) theories and applications of psychological testing, and (10) not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, family, and child relationship dysfunctions. The applicant shall submit to the board satisfactory written verification by the chief academic officer of the accredited or approved school, or by an authorized designee, that the applicant has successfully completed courses, including the practicum required by the board. The verification shall include, but need not be limited to.

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descriptions of the completed courses. The board may request further written verification of course content and academic experience to determine that the applicant's training and experience is equivalent to the course of instruction required by this section.

- 4980.41. All applicants for licensure shall complete the following coursework or training in order to be eligible to sit for the licensing examinations:
- (a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors, which shall include, but not be limited to, the following areas of study:
- (1) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession's scope of practice.
- (2) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage, family, and child counseling, including family law.
- (3) The current legal patterns and trends in the mental health profession.
- (4) The psychotherapist/patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.
- (5) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirements contained in Section 4980.40.

- (b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 or any regulations promulgated thereunder.
- (c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.
- (d) Except for persons who have started graduate study prior to January 1, 1986, a master's or doctor's degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified in Section 25.5 and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.
- 4980.42. (a) Experience for the purpose of satisfying subdivision (f) of Section 4980.40 shall include supervised marriage, family, and child counseling, and up to one-third of the hours may include receiving direct supervision and other professional enrichment activities.
  - (b) "Professional enrichment activities," for the purposes of this

section, may include group or individual psychotherapy received by an applicant as a requirement for licensure. This psychotherapy may include up to 100 hours taken as a trainee or intern and each of such hours shall be triple-counted toward the professional experience requirement.

- (c) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and at least strongly advising and encouraging, its students to undertake personal psychotherapy as appropriate, and insofar as it is deemed appropriate and is desired by the applicant, the educational institution shall seek to assist the applicant in locating that psychotherapy and at a reasonably low cost.
- (d) The board shall also make recommendations regarding similar provisions for other psychotherapeutic professions under its auspices after study and consultation with those professions.
- 4980.43. (a) For all applicants, a minimum of two calendar years of supervised experience is required, which experience shall consist of 3,000 hours obtained over a period of not less than 104 weeks. Not less than 1,500 hours of experience shall be gained subsequent to the receipt of the master's or doctor's degree. No hours of experience may be gained prior to becoming a trainee.
- (b) Experience as specified in Section 4980.40 may be gained as a trainee in the following settings: a governmental entity, a school, college, or university, a nonprofit and charitable corporation, or a licensed health facility, if the experience is gained by the trainee solely as part of the position for which he or she is employed.
- (c) Experience as specified in Section 4980.40 may be gained as an intern as specified in subdivision (b), or when employed in a private practice setting. Employment in a private practice setting shall not commence until the applicant has been registered as an intern. An intern employed in a private practice setting shall not pay his or her employer for supervision and shall receive fair remuneration from his or her employer.
- (d) All interns shall register with the board in order to be credited for postdegree hours of experience gained toward licensure, regardless of the setting where those hours are to be gained. Except as provided in subdivision (e), all postdegree hours shall be gained as a registered intern.
- (e) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration, within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.
- (f) Trainees and interns shall not receive any remuneration from patients or clients, and shall only be paid by their employer.
- (g) Trainees and interns shall only perform services at the place where their employer regularly conducts business, and shall have no proprietary interest in that business.
  - 4980.44. An unlicensed marriage, family, and child counselor

intern employed under the provision of this chapter shall:

- (a) Have earned at least a master's degree as specified in Section 4980.40.
- (b) Be registered with the board prior to the intern performing any duties.
- (c) File for renewal of registration annually for a maximum of five years after initial registration with the board.
- r(d) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage, family, and child counselor, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry, whichever is applicable. Continued employment as an unlicensed marriage, family, and child counselor intern after six years shall cease unless the requirements of subdivision (g) of Section 4980.40 are met.
- 4980.45. (a) A licensed professional in private practice who is a marriage, family and child counselor, a psychologist, a clinical social worker, or a physician certified in psychiatry may supervise or employ, at any one time, no more than two unlicensed marriage, family and child counselor registered interns.
- (b) A licensed professional in a private practice who is a marriage, family and child counselor, psychologist, clinical social worker, or physician specializing in psychiatry shall, within 30 days of the employment or termination of an intern, notify the board of the employment or termination of employment of the intern. The notice shall include the name of the intern.
- 4980.50. Every applicant who meets the educational and experience requirements and applies for a license as a marriage, family, and child counselor shall be examined by the board. The examination shall be as set forth in subdivision (g) of 4980.40. The examination shall be given at least twice a year at the time and place and under supervision as the board may determine. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

The board shall retain all written examinations for at least one year following the date of the examination. The board shall keep an accurate record of all oral examinations for at least one year following the date of examination.

An applicant who has qualified pursuant to the provisions of this chapter shall be issued a license as a marriage, family, and child counselor in the form as the board may deem appropriate.

- 4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examination and, if he or she passes that examination, to begin practice.
- (b) In order to continuously improve the competence of licensed marriage, family, and child counselors and as a model for all

psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

4980.55. As a model for all therapeutic professions, and to acknowledge respect and regard for the consuming public, all marriage, family, and child counselors are encouraged to provide to each client, at an appropriate time and within the context of the psychotherapeutic relationship, an accurate and informative statement of the therapist's experience, education, specialities, professional orientation, and any other information deemed appropriate by the licensee.

4980.60. The board may adopt those rules and regulations as may be necessary to enable it to carry into effect the provisions of this chapter. The adoption, amendment, or repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

The board may, by rules or regulations, adopt, amend, or repeal rules of advertising and professional conduct appropriate to the establishment and maintenance of a high standard of integrity in the profession, provided such rules or regulations are not inconsistent with Section 4982. Every person who holds a license to practice marriage, family, and child counseling shall be governed by such rules of professional conduct.

4980.70. Except as provided by Section 159.5, the board may employ whatever additional personnel is necessary to carry out the

provisions of this chapter.

- 4980.80. The board may issue a license to any person who, at the time of application, holds a valid license issued by a board of marriage counselor examiners or corresponding authority of any state, provided, in its opinion, the requirements for that licensure are substantially the equivalent of this chapter, and upon payment of the fees specified. Issuance of the license is further conditioned upon the person's completion of the following coursework or training:
- (a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors which shall include areas of study as specified in Section 4980.41.
- (b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.
- (c) A minimum of 10 contact hours of training or coursework in human sexuality, as specified in Section 25, and any regulations promulgated thereunder.
- (d) A minimum of 10 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified in Section 25.5, and any regulations promulgated thereunder.
- (e) With respect to human sexuality and alcoholism and other chemical substance dependency, the board may accept training or coursework acquired out of state.

- 4980.90. With respect to those persons who are not licensed in another state, the board may allow any person to be examined who, in its opinion, has met the education and experience requirements for licensure while residing outside of California, or education outside California and experience within California, that are substantially the equivalent of this chapter provided that:
- (a) He or she has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.
- (b) He or she has completed a two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors which shall include areas of study as specified in Section 4980.41.
- (c) He or she has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.
- (d) He or she has completed a minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25, and any regulations promulgated thereunder.
- (e) He or she has completed a minimum of 10 contact hours of training or coursework in alcoholism and other chemical substance dependency a specified in Section 25.5, and any regulations promulgated thereunder.
- (f) With respect to human sexuality and alcoholism and other chemical substance dependency, the board may accept training or coursework acquired out of state.
- 4981. This article applies to licenses to engage in the business of marriage, family, and child counseling, and does not apply to the licenses provided for in Article 5 (commencing with Section 4986) except that the board shall have all powers provided in this article not inconsistent with this chapter.

# Article 2. Denial, Suspension, and Revocation

- 4982. The board may refuse to issue an intern registration or a license, or may suspend or revoke the license or intern registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:
- (a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. 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, or duties of a

licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration 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 Section 1203.4 of the Penal Code allowing any such person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

- (b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.
- (c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4211, or of any alcoholic beverage to the extent, or in such manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that such use impairs the ability of such person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage, family, and child counseling services.
- (d) Gross negligence or incompetence in the performance of marriage, family, and child counseling.
- (e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.
- (f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.
- (g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.
- (h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.
- (i) Intentionally or recklessly causing physical or emotional harm to any client.
- (j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a

licensee or registrant.

- (k) Engaging in sexual relations with a client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage, family, and child counselor.
- (1) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any trainee or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.
- (m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.
- (n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.
- (o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).
- (p) Advertising in a manner which is false, misleading, or deceptive.
- (q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.
- (r) Any conduct in the supervision of any intern or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.
- 4982.2. (a) The board may place a license or registration on probation under the following circumstances:
- (1) In lieu of, or in addition to, any order of the board suspending or revoking the license or registration of any licensee or intern.
- (2) Upon the issuance of a license to an individual who has been guilty of unprofessional conduct, but who had otherwise completed all education and training and experience required for licensure.
- (3) As a condition upon the reissuance or reinstatement of any licensure which has been suspended or revoked by the board.
  - (b) The board may adopt regulations establishing a monitoring

program to ensure compliance with any terms or conditions of probation imposed by the board pursuant to subdivision (a). The cost of probation or monitoring may be ordered to be paid by the licensee, registrant, or applicant.

- (c) The board, in its discretion, may require any licensee or registrant who has been placed on probation, or whose license or registration has been suspended, to obtain additional professional training, and to pass an examination upon completion of that training, and to pay any necessary examination fee. The examination may be written, oral, or a practical or clinical examination.
- (d) One year after the date of revocation of a license or registration under this chapter, application may be made to the board for reinstatement. The board may accept or reject an application for reinstatement and may require an examination for reinstatement. The board shall not consider any application for reinstatement if the applicant is under criminal probation or parole at that time.
- 4982.25. The board may deny, suspend, or revoke an application for any license or registration issued under this chapter for any of the following:
- (a) The revocation, suspension, or other disciplinary action imposed by another state on a license, certificate, or registration issued by that state to practice marriage counseling or marriage, family, and child counseling, issued by that state to a licensee, shall constitute grounds for the disciplinary action for unprofessional conduct against the licensee or registrant in this state. A certified copy of the decision or judgment of the other state shall be conclusive evidence of that action.
- (b) The revocation, suspension, or other disciplinary action by the State Psychology Examining Committee, or equivalent action in another state of any other state, of a license or certificate to practice psychology issued by this state or another state to a licensee or registrant, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.
- (c) The revocation, suspension, or other discipline by the board of a license or certificate to practice as a clinical social worker or educational psychologist to a licensee shall also constitute grounds for disciplinary action for unprofessional conduct against such licensee or registrant under this chapter.
- 4982.3. The proceedings conducted under this article shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

### Article 3. Penalties

4983. Any person who violates any of the provisions of this chapter is guilty of 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.

4983.1. In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the board, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

### Article 4. Revenue

4984. Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board in a manner as to best distribute the renewal work throughout each year.

To renew an unexpired license, the holder thereof, on or before the expiration date of the license, shall apply for a renewal on a form prescribed by the board, and pay a two-year renewal fee prescribed by the board.

4984.1. A license which has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter.

Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided for in Section 4984 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

- 4984.2. A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.
- 4984.3. A revoked license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee shall, as a condition precedent to its reinstatement, pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at

the time of its revocation.

- 4984.4. A license which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the licensee may apply for and obtain a new license if:
- (a) No fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension.
- (b) He or she pays all of the fees which would be required of him or her if he or she were then applying for a license for the first time and passes the licensing examination.
- 4984.5. The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Science Examiners Fund.
- 4984.6. (a) The Behavioral Science Examiners Fund is continuously appropriated, without regard to fiscal years, to the Board of Behavioral Science Examiners for carrying out and enforcing the provisions of this chapter.
- (b) The board shall keep such records as will reasonably ensure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.
- (c) Surpluses, if any, may be used in such a way so as to bear a reasonable relation to the revenue derived from each category, and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.
- 4984.7. The amount of the fees prescribed by the provisions of this chapter which relate to licensing of persons to engage in the business of marriage, family and child counseling is that fixed by the following schedule:
- (a) The fee for applications for original licensure received on or after July 1, 1986, shall be eighty dollars (\$80). The fee for applications for original licensure received on or after January 1, 1987, shall be one hundred dollars (\$100).
- (b) For those persons renewing their licenses on or after July 1, 1986, the renewal fee shall be forty dollars (\$40). For those persons renewing their licenses on or after January 1, 1987, the renewal fee shall be sixty dollars (\$60).
- (c) The delinquency fee shall be ten dollars (\$10). For those persons failing to renew their licenses in a timely manner on or after July 1, 1986, the delinquency fee shall be twenty-five dollars (\$25). Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.
- (d) For those persons registering as interns on or after July 1, 1986, the registration fee shall be twenty-five dollars (\$25). For those persons registering as interns on or after January 1, 1987, the

registration fee shall be thirty dollars (\$30).

- (e) For those persons renewing their registration as an intern on or after July 1, 1986, the renewal fee shall be fifteen dollars (\$15). For those persons renewing their registration as an intern on or after January 1, 1987, the renewal fee shall be twenty-five dollars (\$25).
  - (f) The examination fee shall be thirty dollars (\$30).
- (g) Persons failing the examination may apply for reexamination and each application shall be accompanied by a reexamination fee in the amount of thirty dollars (\$30). Persons failing to appear for the reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

# Article 5. Licensed Educational Psychologists

- 4986. Persons licensed under this article by the board may practice pursuant to this article.
- 4986.10. A licensed educational psychologist shall be authorized to perform any of the following professional functions pertaining to academic learning processes or the educational system or both:
- (a) Educational evaluation, diagnosis, and test interpretation limited to assessment of academic ability, learning patterns, achievement, motivation, and personality factors directly related to academic learning problems.
- (b) Counseling services for children or adults for amelioration of academic learning problems.
- (c) Educational consultation, research, and direct educational services.
- 4986.20. A person who desires a license under this article shall meet all of the following qualifications:
- (a) He or she shall possess at least a master's degree in psychology, educational psychology, school psychology, or counseling and guidance, or a degree deemed equivalent by the board under regulations duly adopted under this article. Such degree or training shall be obtained from educational institutions approved by the board according to the regulations duly adopted under this article.
  - (b) He or she shall be at least 18 years of age.
- (c) He or she shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (d) He or she shall have successfully completed 60 semester hours of postgraduate work devoted to pupil personnel services or have experience deemed equivalent by the board in regulations duly adopted under this chapter.
- (e) He or she shall furnish proof of three years of full-time experience as a credentialed school psychologist in the public schools or experience which the board deems equivalent. If the applicant provides proof of having completed one year's internship working full time as a school psychologist intern in the public schools in an accredited internship program, one year's experience shall be credited toward this requirement.

- (f) He or she shall furnish written statements from two sponsors having personal knowledge of his or her professional competence. These statements shall include a description of the applicant's functioning and evaluation of his or her professional competencies. The sponsor of this applicant shall be qualified to be a licensed educational psychologist under this article.
- (g) He or she shall be examined by the board with respect to the professional functions authorized by this article.
- (h) He or she shall have at least one year of supervised professional experience in an accredited school psychology program, or under the direction of a licensed psychologist, or such suitable alternative experience as determined by the board in regulations duly adopted under this chapter.
- 4986.30. The board may, in its discretion, provide for a continuing education program in connection with the professional functions and courses described in this article.
- 4986.40. The board shall issue an educational psychologist license to all applicants who meet the requirements of this article and who pay the board the fees required by this chapter.
- 4986.41. (a) An applicant who has failed the examination may apply for reexamination upon payment of a fee of twenty dollars (\$20) if he or she applies within the 12-month period subsequent to failure of the examination.
- (b) For persons applying for reexamination under the terms of this section on or after January 1, 1987, the reexamination fee shall be thirty dollars (\$30) for each application. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.
- 4986.50. It is unlawful for any person to use any title or letters which imply that he or she is a licensed educational psychologist unless at the time of so doing he or she holds a valid, unexpired and unrevoked license issued under this article.
- 4986.60. The provisions of Sections 4984 to 4984.40, inclusive, shall apply to this article.
- 4986.70. The board may refuse to issue a license, or may suspend or revoke the license of any licensee if he or she has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include:
- (a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist, the record of conviction being conclusive evidence thereof.
  - (b) Securing a license by fraud or deceit practiced on the board.
- (c) Using any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any hypnotic drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public and to an extent that such action impairs his or her ability to perform his or her work as a licensed educational psychologist with safety to the public.

- (d) Improper advertising.
- (e) Violating or conspiring to violate the terms of this article.
- (f) Committing a dishonest or fraudulent act as a licensed educational psychologist resulting in substantial injury to another.
- 4986.80. The amount of the fees prescribed by the provisions of this chapter which relate to the licensing of educational psychologists is that fixed by the following schedule:
- (a) The application fee and renewal fee shall be fixed by the board in an amount which does not exceed one hundred fifty dollars (\$150) but is sufficient to support the functions of the board which relate to the licensing of educational psychologists.
- (b) The delinquency fee shall be twenty-five dollars (\$25). Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.
- (c) Persons applying for an original license after July 1, 1986, shall pay an application fee of one hundred dollars (\$100).
- (d) Persons applying for renewal of their license after July 1, 1986, shall pay a fee of fifty dollars (\$50). Persons applying for renewal of their license after January 1, 1987, shall pay a fee of sixty dollars (\$60).
- 4986.81. Any person who violates any of the provisions of this article is guilty of a misdemeanor.
- 4986.90. In addition to other proceedings provided for in this article, whenever any person has engaged, or is about to engage in any acts or practices which constitute, or will constitute, an offense against this article, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining that conduct on application of the board, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

4987. The board may, by rules or regulations, adopt, amend or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession, provided those rules or regulations are not inconsistent with Section 4986.70. Every person licensed under this article shall be governed by those rules of professional conduct.

# Article 6. Marriage, Family, and Child Counseling Corporations

4987.5. A marriage, family, and child counseling corporation is a corporation which is registered with the Board of Behavioral Science Examiners and has a currently effective certificate of registration from the board pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this

article. Subject to all applicable statutes, rules and regulations, such marriage, family, and child counseling corporation is entitled to practice marriage, family, and child counseling. With respect to a marriage, family, and child counseling corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Science Examiners.

4987.6. An applicant for registration as a marriage, family, and child counseling corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation. The board may provide forms of application. If the board finds that the corporation is duly organized and existing pursuant to the General Corporation Law, that, except as provided in Section 13403 of the Corporations Code, each officer, director, shareholder and each employee who will render professional services is a licensed person as defined in the Moscone-Knox Professional Corporation Act, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of the board, the board shall, upon payment of the registration fee in such amount as it may determine, issue a certificate of registration. The application shall be signed and verified by an officer of the corporation.

4987.7. Each marriage, family, and child counseling corporation shall file with the board, annually and at such other times as the board may require, a report containing such information pertaining to qualification and compliance with the statutes, rules and regulations of the board as the board may determine. The fee for filing such a report shall be fixed by the board. All reports shall be signed and verified by an officer of the corporation.

4987.8. The name of a marriage, family, and child counseling corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders and shall include one or more of the words "marriage," "family" and "child" together with either of the words "counseling" or "counselor" and wording or abbreviations denoting corporate existence.

4987.9. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a marriage, family, and child counseling corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

4988. The income of a marriage, family, and child counseling corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of such shareholder or his or her shares in the marriage, family, and child counseling corporation.

4988.1. A marriage, family, and child counseling corporation shall not do or fail to do any act the doing of which or the failure to do

which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license under Section 4980.50. The board shall have the same powers of suspension, revocation and discipline against a marriage, family, and child counseling corporation as are now or hereafter authorized by Section 4982, or by any other similar statute against individual licensees, provided, however, that proceedings against a marriage, family, and child counseling corporation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

4988.2. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a marriage, family, and child counseling corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such rules and regulations may provide, and (b) that a marriage, family, and child counseling corporation as a condition of obtaining a certificate pursuant to the Moscone-Knox Professional Corporation Act and this article shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

- SEC. 5. The Legislature, by enacting this act, recognizes the importance and necessity of assuring, insofar as possible, that those persons applying to be licensed as marriage, family, and child counselors be trained and educated specifically in marriage, family, and child counseling, marital and family therapy, and marital and family systems approaches to treatment.
- 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.

An act relating to state internal service funds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

- SECTION 1. The sum of fourteen million eight hundred fifty-eight thousand dollars (\$14,858,000) is hereby appropriated from the General Fund to the Controller to pay the United States Treasury for the claim for reimbursement of accumulated surpluses in state internal service funds to satisfy an audit disallowance filed by the Federal Inspector General, Department of Health and Human Services for Region IX, entitled "Accumulated Surplus in California Internal Service Funds." This amount shall be allocated in accordance with the following schedule:
- (a) Ten million three hundred forty-seven thousand dollars (\$10,347,000) for payment of claims of excessive balances in the Service Revolving Fund of the Department of General Services.
- (b) Three hundred fifty-six thousand dollars (\$356,000) for payment of claims of excessive balances in the Prison Industries Revolving Fund.
- (c) One million one hundred seventy-nine thousand dollars (\$1,179,000) for payment of claims of excessive balances in the Stephen P. Teale Data Center Revolving Fund.
- (d) Two million nine hundred forty-three thousand dollars (\$2,943,000) for payment of claims of excessive balances in the Health and Welfare Data Center Revolving Fund.
- (e) Thirty-three thousand dollars (\$33,000) for payment of claims of excessive balances in the Agriculture Building Fund of the Department of Food and Agriculture.
- SEC. 2. The Controller shall arrange to collect from the various funds included in Section 1 the amounts paid from the General Fund to satisfy the audit disallowance for that fund and the amounts so collected shall be deposited in the General Fund.
- SEC. 3. The Department of Finance by executive order may loan from the General Fund to the various funds included in Section 1, an amount not to exceed the amount identified in the audit disallowance. However, any loan made shall only be for the purpose of providing funds which are needed for cash-flow purposes and shall be repaid by December 31, 1987.
- SEC. 4. The Department of Finance shall establish a task force which includes representatives from the department, the Controller, the Auditor General, the State and Consumer Services Agency, the Health and Welfare Agency, and the Business, Transportation and

Housing Agency. This task force shall do both of the following:

(a) Review the accounting procedures now in use by the various internal service funds and recommend changes which will bring them into compliance with generally accepted accounting principles and federal rules and regulations.

(b) Work with federal officials to seek changes in existing federal rules and regulations which will bring them into compliance with generally accepted accounting principles and prevailing practices.

The task force shall file a report with the Legislature no later than January 11, 1987, which outlines the proposed changes to overcome the problems cited in the audit report and any problems found during the task force review.

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 settle the federal Health and Human Services audit disallowance and avoid any undue delays in negotiating allowable indirect overhead rates and thereby expedite the billings to the federal government and receipt of federal funds by the state, it is necessary for this act to take effect immediately.

#### CHAPTER 1367

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

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. (a) The sum of three hundred eighteen thousand dollars (\$318,000) is hereby appropriated from the General Fund to the State Department of Health Services for the purposes set forth in subdivision (b). These funds shall be available for expenditure for one fiscal year subsequent to the fiscal year in which they are appropriated.

(b) The State Department of Health Services may allocate the funds appropriated in subdivision (a) to the County of Mono, as a state subvention for the support of its county hospital. The allocation and expenditure of the funds shall conform to the following

requirements:

(1) The allocation of funds each fiscal year shall be made through a standard agreement between the County of Mono and the State Department of Health Services after the State Department of Health Services and the Department of Finance receive and approve an application from the County of Mono, in a form and in accordance with specifications determined by the State Department of Health Services. The agreement shall provide for reports of expenditures, progress reports, and such other terms and conditions as the State Department of Health Services may deem necessary.

- (2) The funds may be expended by the county for the operating costs of its county hospital or for any construction, remodeling renovation, or equipment costs necessary to comply with local, state, or federal licensing and certification requirements or necessary to maintain or increase hospital revenues to ensure financial solvency.
- (3) No funds shall be allocated by the State Department of Health Services in any year unless and until the county has budgeted sufficient county funds to enable it to receive its maximum allocation of County Health Services Funds under Sections 16702 and 16704 of the Welfare and Institutions Code.
- (4) No funds shall be allocated by the State Department of Health Services in the second fiscal year subsequent to the fiscal year of the appropriation unless and until the department has received and approved a long-range plan for the county hospital to increase operating revenues and to eliminate the need for future special appropriations.
- (c) This act shall not impact the eligibility of Mono County for a special needs and priorities award pursuant to Section 16707 of the Welfare and Institutions Code during the 1987–88 fiscal year.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessary are:

In order to make certain funds available for county health services as soon as possible, it is necessary for this act to take effect immediately.

#### CHAPTER 1368

An act to amend Sections 331, 332, 711, 713, 1002, 3055, 3081, 3203, 3242, 3280, 3300, 3510, 3806, 4006, 4031, 4033, 4751, and 7149 of, to amend, repeal, and add Section 3031 of, and to repeal and add Section 5653 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 331 of the Fish and Game Code is amended to read:

331. The commission may determine and fix the area or areas, the

seasons and hours, the bag and possession limit, and the sex and total number of antelope (Antilocapra americana) that may be taken under regulations which the commission may prescribe from time to time. Only a resident of the State of California possessing a valid hunting license and over the age of 16 years, who has not taken an antelope under these provisions during the 10 years immediately preceding, may obtain a license for the taking of antelope. Only one license may be issued to any one individual in any 10-year period.

A license may be issued upon payment of a fee of fifty-five dollars (\$55), as adjusted under Section 713. The fee shall be deposited in the Fish and Game Preservation Fund and shall be expended, in addition to money budgeted for salaries of persons in the department, for the expense of enforcing this section and the processing of applications.

SEC. 2. Section 332 of the Fish and Game Code is amended to read:

332. The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the number of elk that may be taken under rules and regulations which the commission may prescribe from time to time. The commission may not authorize the taking of tule elk until the total statewide population of those mammals exceeds 2,000, or it is determined by the Legislature, pursuant to the reports required by Section 3951, that suitable areas cannot be found in California to accommodate such a population in a healthy condition. Only a resident of the State of California over the age of 16 years and possessing a valid hunting license may obtain a license for the taking of elk.

A license may be issued upon payment of a fee of one hundred sixty-five dollars (\$165), as adjusted under Section 713. The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended in addition to money budgeted for salaries of the department, for the expense of enforcing the provisions of this section and the processing of the applications.

- SEC. 3. Section 711 of the Fish and Game Code is amended to read:
- 711. It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:
- (a) The costs of nongame fish and wildlife programs and free hunting and fishing license programs shall be provided annually in the Budget Act by appropriating money from the General Fund and sources other than the Fish and Game Preservation Fund to the department for these purposes.
- (b) The costs of commercial fishing programs shall be provided solely out of revenues from commercial fishing taxes, license fees, and other revenues, and from reimbursements and federal funds received for commercial fishing programs.
- (c) The costs of hunting and sportfishing programs shall be provided solely out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and

sportfishing programs. These revenues shall not be used to support commercial fishing programs, free hunting and fishing license

programs, or nongame fish and wildlife programs.

(d) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 713. However, a substantial increase in the aggregate of hunting and sportfishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 713 may not be used to accommodate a substantial increase in the aggregate of hunting and sportfishing programs.

For purposes of this article, "substantial increase" means an increase in excess of 5 percent of the Fish and Game Preservation Fund portion of the department's current year support budget, excluding cost-of-living increases provided for salaries, staff benefits, and operating expenses.

- SEC. 4. Section 713 of the Fish and Game Code is amended to read:
- 713. (a) Not later than August 1 of each year, the Department of Finance shall submit to the department a factor which reflects changes in an inflationary index developed by the Department of Finance, calculated by comparing the department's cost of salaries, staff benefits, operating expenses, and other insubstantial costs paid from the Fish and Game Preservation Fund in the fiscal year ending on June 30 of that same year with those costs in the 1985–86 fiscal year, unless a different base year is specified in another section of this code.
- (b) The factor shall be multiplied by the individual base fee for each license, stamp, permit, or tag. The product shall be rounded to the nearest twenty-five cents (\$0.25), and the resulting amount shall be the fee for any license year beginning on or after January 1 of the next succeeding calendar year for any license, stamp, permit, or tag which is adjusted under this section pursuant to other provisions of this code.
- SEC. 5. Section 1002 of the Fish and Game Code is amended to read:
- 1002. The department may issue permits, subject to restrictions and regulations which the commission deems desirable, to take or possess, in any part of the state, for scientific, educational, or propagation purposes, mammals, birds and the nests and eggs thereof, fish, amphibia, reptiles, or any other form of plant or animal life.

The base fee for the permits is fifteen dollars (\$15), as adjusted under Section 713, per year, except that a permit without fee may be issued for either of the following:

- (a) Authorizing only the banding of birds and the exhibition of live or dead wildlife specimens by public zoological gardens, scientific, or educational institutions.
  - (b) To students regularly enrolled in commercial fishing classes in

a school operating under the jurisdiction of the State Board of Education or in commercial fishing classes in a community college and to faculty members of those schools or a community college when conducting regularly enrolled classes in commercial fishing. Any permit issued under this subdivision shall apply only when the students are under the direct supervision of the instructor approved by the school or community college to teach the class. All fish taken shall be taken in accordance with state law except that Sections 7850 and 7880 to 7890, inclusive, shall not apply to persons or equipment operating under this subdivision. All fish taken under authority of a permit issued under this subdivision may be sold only to a person licensed pursuant to Section 8040 or donated to a charitable institution. All funds received from the sale of the fish shall be used solely for the support of the commercial fishing classes.

A special student permit may be issued pursuant to this section, on the payment of a base fee of eight dollars (\$8), as adjusted under Section 713, to any student in a school of collegiate level who is required by an instructor in wildlife research in the school to collect specimens used in laboratory work in the school under supervision and in connection with a course in wildlife research or in the conduct of wildlife investigations and studies on behalf of the public.

The license year for permits issued pursuant to this section is the calendar year or any part thereof. It is not necessary for the possessor of the permit to have a sportfishing or hunting license to pursue the scientific collecting of any fish, reptile, aquatic animal or plant, bird, or mammal in this state.

Nothing in this section authorizes any act which violates Section 597 of the Penal Code.

A permit under this section does not authorize the taking of fish or mammals from the ocean waters of this state which are within the boundaries of any city if the city has filed with the department an objection to the taking.

- SEC. 6. Section 3031 of the Fish and Game Code is amended to read:
- 3031. A hunting license, granting the privilege to take birds and mammals, shall be issued:
- (a) To any resident of this state, over the age of 16 years, upon the payment of a fee of eighteen dollars (\$18).
- (b) To any resident of this state, under the age of 16 years, upon the payment of a fee of four dollars (\$4).
- (c) To any person not a resident of this state, upon the payment of a fee of fifty-nine dollars (\$59).
- (d) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting those birds, upon the payment of a fee of eight dollars (\$8).
- (e) To any person not a resident of this state, valid only at an organizational field trial under Section 3510, upon the payment of a

fee of fifteen dollars (\$15).

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. 7. Section 3031 is added to the Fish and Game Code, to read: 3031. (a) A hunting license, granting the privilege to take birds and mammals, shall be issued:
- (1) To any resident of this state, over the age of 16 years, upon the payment of a base fee of seventeen dollars (\$17), as adjusted under Section 713.
- (2) To any resident of this state, under the age of 16 years, upon the payment of a base fee of four dollars (\$4), as adjusted under Section 713.
- (3) To any person not a resident of this state, upon the payment of a base fee of fifty-nine dollars (\$59), as adjusted under Section 713.
- (4) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting those birds, upon the payment of a base fee of eight dollars (\$8), as adjusted under Section 713.
- (5) To any person not a resident of this state, valid only at an organizational field trial under Section 3510, upon the payment of a base fee of fifteen dollars (\$15), as adjusted under Section 713.
- (b) The adjustment of the base fees under Section 713 which are specified in subdivisions (a) to (d), inclusive, of this section, shall be applicable to the hunting license years beginning on and after July 1, 1988.
  - (c) This section shall become operative on July 1, 1987.
- SEC. 8. Section 3055 of the Fish and Game Code is amended to read:
- 3055. Persons who apply for a resident hunting license and qualify for the license through the issuance of a certificate of competence in hunter safety, principles of conservation, and sportsmanship as provided by this article, shall obtain a hunter safety instruction validation stamp. The hunter safety instruction validation stamp shall be issued by license agents for a base fee of two dollars (\$2), as adjusted under Section 713, in the same manner as resident hunting licenses. However, the compensation provided in Section 1055 shall not be paid to the license agent for the sale of the stamp. The validation stamp shall be affixed to the certificate of competence.
- SEC. 9. Section 3081 of the Fish and Game Code is amended to read:
- 3081. It is unlawful to possess deer, elk, bear, or antelope meat except as follows:
- (a) During the open season where taken and for 15 days following the last day when those mammals may be legally taken in the area where taken.

- (b) At any time if marked pursuant to regulations established by the commission. The commission shall make the regulations, and may fix a fee for marking the meat.
- SEC. 10. Section 3203 of the Fish and Game Code is amended to read:
- 3203. The department shall issue a class 1 domesticated game breeder's license upon the payment of a base fee of eight dollars (\$8), as adjusted under Section 713, a class 2 domesticated game breeder's license upon the payment of a base fee of forty dollars (\$40), as adjusted under Section 713, and a class 3 domesticated game breeder's license upon the payment of a fee set by the commission to help cover the costs of administration.
- SEC. 11. Section 3242 of the Fish and Game Code is amended to read:
- 3242. A commercial hunting club license shall be issued to any person upon the payment of a base fee of one hundred sixty-five dollars (\$165), as adjusted under Section 713.
- SEC. 12. Section 3280 of the Fish and Game Code is amended to read:
- 3280. The commission may prescribe regulations authorizing the department to issue a licensed pheasant club license, to include an investigation to the satisfaction of the department that a tract is suitable for the purposes of a licensed pheasant club and that the establishment of the club will not conflict with the public interest.

The base license fees shall be two hundred dollars (\$200), as adjusted under Section 713, for a pheasant club of over 500 acres and one hundred fifty dollars (\$150), as adjusted under Section 713, for a pheasant club of 500 acres or less.

The license shall be issued for a term of one year from June 1, or if issued after the beginning of that period, for the remainder of the period.

The commission may transfer a license without any additional fee to land owned or controlled by the licensee, other than that land specified in the original application, but which is located in the same county as the original land, if it is satisfied, after investigation, that the new land is suitable for the purposes of the license and the transfer is not in conflict with the public interest.

- SEC. 13. Section 3300 of the Fish and Game Code is amended to read:
- 3300. It is unlawful for any person to engage in the raising and releasing, or the releasing, of domesticated migratory game birds for shooting by persons who pay for that privilege, unless the person has a revocable nontransferable license issued by the department. The licenses may be issued annually by the department and shall be valid from July 1 through the following June 30, upon payment of a base fee of eighty dollars (\$80), as adjusted under Section 713.

Any bird of a species included in the definition of migratory game birds, as defined in Section 3500, which has been held live in captivity is a "domesticated migratory game bird" for purposes of this section, except such a bird that has been released from captivity and any control before attaining six weeks of age.

SEC. 14. Section 3510 of the Fish and Game Code is amended to read:

3510. Legally acquired domestically reared game birds, coturnix quail, and bobwhite quail may be used for, and taken during, the training of hunting dogs and field trials if the person taking the birds has a valid hunting license and a dog training or organizational field trial permit issued by the department pursuant to regulations of the commission.

Whenever those birds are used for field trials held by organizations operating under the auspices of the American Kennel Club, the American Field Dog Stud Book, or other organization which, in the opinion of the commission, is a bona fide hunting dog organization, the birds may be taken if the organization conducting the field trial has a permit for the taking issued by the department and if each individual that shoots the birds has a valid hunting license.

The base fee for dog training permits is two dollars (\$2), as adjusted under Section 713, per year for each individual permit and ten dollars (\$10), as adjusted under Section 713, per year for each organizational permit. Applications for the permits shall be made to the department. The organizational permit shall allow each member of the organization, or the persons designated by the organization to do the shooting at a field trial, to take birds under this section.

Persons conducting dog training individually at places and times other than official club functions shall have an individual permit.

The department may require that any birds so used be marked to distinguish them from other game birds and the carcass of pheasant or chukar taken shall be tagged with a seal as provided for in Sections 3206 and 3207.

The department may designate in the permit, the time, place, and dates where the training of dogs or field trials may be held.

The release and taking of exotic nonresident game birds subject to Sections 3515 and 3516 may be pursuant to this section if authorized by the commission. Dog training and organizational field trial permits shall be issued on a calendar year basis.

Permits issued under this section shall be restricted to dog clubs, trainers, and dog owners. The commission may revoke permits upon determination of any violation of this code.

SEC. 15. Section 3806 of the Fish and Game Code is amended to read:

3806. In order to aid in relieving widespread waterfowl depredation of agricultural crops, the department may issue licenses under regulations which the commission may prescribe to permit the feeding of migratory game birds. The commission may prescribe an annual fee for the license.

SEC. 16. Section 4006 of the Fish and Game Code is amended to read:

4006. A trapping license shall be issued as follows:

- (a) To any resident of this state over the age of 16 years upon payment of a base fee of forty-five dollars (\$45), as adjusted under Section 713.
- (b) To any resident of this state under the age of 16 years upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section 713.
- (c) To any person not a resident of this state upon payment of a base fee of two hundred twenty-five dollars (\$225), as adjusted under Section 713.

A license shall not be issued to a nonresident if the state in which he or she resides does not provide for issuance of a nonresident trapping license.

- SEC. 17. Section 4031 of the Fish and Game Code is amended to read:
- 4031. A revocable fur dealer license shall be issued to any person upon payment of a base fee of seventy dollars (\$70), as adjusted under Section 713.
- SEC. 18. Section 4033 of the Fish and Game Code is amended to read:
- 4033. A revocable fur agent license shall be issued to any person who is employed by a licensed fur dealer upon payment of a base fee of thirty-five dollars (\$35), as adjusted under Section 713.
- SEC. 19. Section 4751 of the Fish and Game Code is amended to read:
- 4751. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section 713, for each bear tag.
- (b) Any nonresident of this state, 12 years of age or over, who possesses a valid California hunting license, may procure the number of bear license tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the base fee of one hundred five dollars (\$105), as adjusted under Section 713, for each bear tag.
- SEC. 20. Section 5653 of the Fish and Game Code, as amended by Secton 23 of Chapter 1463 of the Statutes of 1985, is repealed.
- SEC. 21. Section 5653 of the Fish and Game Code, as amended by Section 23.5 of Chapter 1463 of the Statutes of 1985, is repealed.
- SEC. 22. Section 5653 of the Fish and Game Code, as amended by Section 23.6 of Chapter 1463 of the Statutes of 1985, is repealed.
- SEC. 23. Section 5653 is added to the Fish and Game Code, to read:
- 5653. (a) Before any person uses any vacuum or suction dredge equipment in any river, stream or lake of this state, the person shall submit an application for a permit for a dredge to the department, specifying the type and size of equipment to be used and other information as the department may require.

- (b) The department may designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges which may be used, and the time of year when those dredges may be used. If the department determines that the operation will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time which is not authorized by the permit, or if any person conducts the operation without securing the permit, the person is guilty of a misdemeanor.
- (c) The department shall issue a permit upon the payment of a base fee of ten dollars (\$10), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars (\$130), as adjusted under Section 713, when the department deems an onsite investigation is necessary.
- (d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, which are closed to the use of vacuum or suction dredges.
- SEC. 24. Section 7149 of the Fish and Game Code is amended to read:
- 7149. (a) A sportfishing license granting the privilege to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit shall be issued to any of the following:
- (1) A resident of this state, over the age of 16 years, upon payment during the 1987 calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a fee of eighteen dollars (\$18), or upon the payment during a calendar year beginning on or after January 1, 1988, of the base fee of sixteen dollars and seventy-five cents (\$16.75), as adjusted under Section 713.
- (2) A nonresident, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of forty-five dollars (\$45), as adjusted under Section 713.
- (3) A resident or nonresident, over the age of 16 years, for one designated day, upon payment of the base fee of five dollars (\$5) as adjusted under Section 713. Notwithstanding Section 1053, more than one single day license issued for different days may be issued to or possessed by a person at one time.
- (b) A sport ocean fishing license granting the licensee to take any fish from ocean waters of this state for purposes other than profit shall be issued to a resident of this state, over the age of 16 years, for the period of a calendar year, or if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of ten dollars (\$10), as adjusted under Section 713.
- (c) A sport ocean fin fishing license granting the privilege to take only fin fish from the ocean waters of this state for purposes other than profit shall be issued to a person over the age of 16 years for one

designated day, upon the payment for a designated day in the license year beginning on January 1 of the base fee of three dollars and fifty cents (\$3.50), as adjusted under Section 713.

(d) For the purposes of this section, the adjustment under Section 713 shall be calculated and added to the base fees to establish the fees paid for licenses issued in the license years beginning on and after January 1, 1988, in accordance with Section 713.

(e) California sportfishing license stamps shall be sold by license agents in the same manner as sportfishing licenses, and no compensation shall be paid to the license agent for sale of the stamps except as provided in Section 1055.

# **CHAPTER 1369**

An act to relating to juvenile court law.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. (a) The Legislature finds that many minors who have been adjudged wards of the juvenile court under subdivision (a) of Section 601 of the Welfare and Institutions Code, and have been found to have violated a related dispositional order of the court, have a greater propensity to become involved in crimes, either as a victim or as a perpetrator. Consequently, the Legislature finds that it is necessary to establish a pilot program in one county to assess the effectiveness of court-ordered secure detention for up to five days for the benefit of the minor. It is the intent of the Legislature in authorizing this pilot program that resources currently being utilized for the minors described in this subdivision shall not be curtailed.

(b) The Department of the Youth Authority shall establish a pilot program in Contra Costa, Orange, or San Diego County, to study the effectiveness of court-ordered secure detention for up to five days on specified minors who have been adjudged to be wards of the juvenile court on the basis of noncriminal conduct, upon the adoption of a resolution by the board of supervisors of the county agreeing to participate in the program.

The pilot program shall operate for three years and shall be evaluated annually by the Department of the Youth Authority. The evaluation shall include data comparing the number of crimes committed by or on minors in that county described in subdivision (a) measured before the operation of the pilot program and after each year's operation of the pilot program. The program shall be deemed to be successful if the number of crimes committed by or on those minors is reduced 10 percent after the first year of the program, and 20 percent and 30 percent for the second and third

years, respectively.

If the pilot program fails to achieve the stated crime reduction rate in any of the three years, then the pilot program shall be deemed to have failed and shall not continue.

The Department of the Youth Authority shall report the results of its evaluation within six months following the first year of the pilot program's operation to the Joint Legislative Budget Committee and the appropriate policy committees of the Assembly and the Senate.

- (c) Under the pilot program established pursuant to this section, a minor taken into custody upon the ground that he or she is a person described in Section 601 of the Welfare and Institutions Code, or adjudged to be a ward of the juvenile court solely upon that ground, may be held in a secure facility, other than a facility in which adults are held in secure custody, for up to 72 hours, excluding nonjudicial days, pending a hearing under paragraph (2) of subdivision (d), where the minor has been declared a ward of the court under subdivision (a) of Section 601 of the Welfare and Institutions Code and is alleged to have violated a related dispositional order, if, within 24 hours, excluding nonjudicial days, a probable cause hearing is held under paragraph (1) of subdivision (d).
- (d) Under the pilot program established pursuant to this section where a minor who has been declared a ward of the juvenile court pursuant to subdivision (a) of Section 601 of the Welfare and Institutions Code is alleged to have violated a related dispositional order of the court and the minor is detained in a secure facility by the probation officer pending the outcome of proceedings on a supplemental petition, the court shall do the following:
- (1) Within 24 hours of the initial detention, excluding nonjudicial days, the court shall hold a hearing to determine whether probable cause exists that the minor has violated a dispositional order of the juvenile court subsequent to being declared a ward of the court. At the hearing, the court shall examine the circumstances relating to the allegation of the probation officer that the minor has violated the dispositional order, and if it finds that there is probable cause to believe that the minor has violated the order, the court may order the continued detention of the minor in a secure facility, pending the hearing required by paragraph (2).
- (2) Within 72 hours of the initial detention, excluding nonjudicial days, the court shall hold a hearing on the supplemental petition to determine whether the minor has violated a dispositional order of the juvenile court subsequent to being declared a ward of the court. Prior to and during the hearing, the minor shall have, in addition to any other rights required by the state and federal constitutional guarantees of due process of law, all of the following rights:
- (A) The right to have the charges against the minor in writing served upon him or her a reasonable time before the hearing.
  - (B) The right to a hearing before the court.
- (C) The right to an explanation of the nature and consequences of the proceeding.

- (D) The right to legal counsel and, if indigent, the right to have counsel appointed by the court.
  - (E) The right to confront witnesses.
  - (F) The right to present witnesses.
  - (G) The right to have a transcript or record of the proceedings.
  - (H) The right of appeal to an appropriate court.

At the conclusion of the hearing required by paragraph (2), the court shall make its findings and shall, prior to any order for the continued secure detention of the minor under subdivision (e), consider whether referral of the minor to a nonsecure facility or program for treatment would be appropriate for the needs of the minor and the community. Continued secure detention of the minor may be ordered by the court only upon a finding by the court that services appropriate for the needs of the minor are available and can be delivered to the minor during the period of confinement. However, continued secure detention may not be ordered solely upon a finding by the court that no nonsecure facility or program is available.

- (e) Under the pilot program established pursuant to this section, where a minor has been adjudged a ward of the juvenile court under subdivision (a) of Section 601 of the Welfare and Institutions Code and a supplemental petition alleging the violation of a related dispositional order has been sustained at a hearing described in paragraph (2) of subdivision (d), the court may order that the minor shall be detained in a secure juvenile facility for a period not to exceed five days, for any of the following purposes:
- (1) For the protection of the minor, where the court finds that the minor must be securely detained for his or her safety.
- (2) For the evaluation of the minor's need for counseling, medical, or other remedial services.
- (3) For arrangement of the referral of the minor to obtain remedial services from public or private agencies in the community.
- (4) For delivery of short-term remedial services to the minor while in the secure facility.

Prior to making an order for the secure detention of the minor under this subdivision, the court shall consider whether referral of the minor to a nonsecure facility or program where treatment can be provided would be appropriate for the needs of the minor and the community. Continued secure detention may be ordered only upon a finding by the court that services appropriate for the needs of the minor are available and can be delivered to the minor during the period of confinement. However, continued secure detention may not be ordered solely upon a finding by the court that no nonsecure facility or program is available.

If the minor is held under this subdivision in a secure facility operated by the probation department, the probation officer shall deliver or arrange for delivery of services to the minor in accordance with the purpose for which the minor was detained. Additionally, the probation officer shall record the purposes for which the minor was

securely detained and shall keep a record of the efforts made to evaluate the minor, arrange for referral to remedial services, or deliver short-term remedial services during detention, as the case may be.

A minor may not be placed in secure detention under this subdivision for more than two 5-day periods during any 12 months.

#### CHAPTER 1370

An act to amend Sections 7006 and 7017 of the Civil Code, relating to parent and child.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 7006 of the Civil Code is amended to read: 7006. (a) A child, the child's natural mother, or a man presumed to be the child's father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:

- (1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.
- (2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.
- (b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.
- (c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. Such an action shall be consolidated with a proceeding pursuant to subdivision (b) of Section 7017. The parental rights of the alleged natural father shall be determined as set forth in subdivision (d) of Section 7017.
  - (d) Except as to cases coming within the provisions of Section 621

of the Evidence Code, a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7004, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. Such an action shall be brought within 30 days after the man is served as prescribed in subdivision (f) of Section 7017 with a notice that he is or could be the father of the child or the birth of the child, whichever is later. The commencement of the action shall suspend any pending proceeding in connection with the adoption of the child until a judgment in the action is final.

- (e) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.
- (f) An action under this section may be brought before the birth of the child.
- (g) The district attorney may also bring an action under this section in any case in which he or she believes that the interests of justice will be served thereby.
  - SEC. 1.5. Section 7006 of the Civil Code is amended to read:
- 7006. (a) A child, the child's natural mother, or a man presumed to be the child's father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:
- (1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.
- (2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.
- (b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.
- (c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. Such an action shall be consolidated with a proceeding pursuant to subdivision (b) of Section 7017. The parental rights of the alleged natural father shall be determined as set forth in subdivision (d) of Section 7017.
  - (d) Except as to cases coming within the provisions of Section 621

of the Evidence Code, a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7004, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. Such an action shall be brought within 30 days after the man is served as prescribed in subdivision (f) of Section 7017 with a notice that he is or could be the father of the child or the birth of the child, whichever is later. The commencement of the action shall suspend any pending proceeding in connection with the adoption of the child until a judgment in the action is final.

- (e) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.
- (f) An action under this section may be brought before the birth of the child.
- (g) The district attorney may also, at his or her discretion, bring an action under this section in any case in which the district attorney believes it to be appropriate.
  - SEC. 2. Section 7017 of the Civil Code is amended to read:
- 7017. (a) (1) If a mother relinquishes for or consents to or proposes to relinquish for or consent to the adoption of a child who has (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221) of Title 2 of Part 3 of Division 1 of the Civil Code, unless the father's relationship to the child has been previously terminated or determined by a court not to exist or the father has voluntarily relinquished or consented to the adoption of the child.
- (2) If a father relinquishes or consents to or proposes to relinquish a child for adoption, the mother shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221) of Title 2 of Part 3 of Division 1 of the Civil Code, unless the mother's relationship to the child has been previously terminated by a court or the mother has voluntarily relinquished or consented to the adoption of the child.
- (b) If a mother relinquishes for, consents to, or proposes to relinquish for or consent to the adoption of a child who does not have (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an adoption proceeding and the alleged father, if any, has not, in writing, denied paternity, waived his right to notice, voluntarily relinquished or consented to the adoption, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the superior court to terminate the parental rights of the father, unless the father's relationship to the

- child has been previously terminated or determined not to exist by a court, or unless the father has been served as prescribed in subdivision (f) with a written notice alleging that he is or could be the natural father of the child to be adopted or placed for adoption and has failed to bring an action for the purpose of declaring the existence of the father and child relationship pursuant to subdivision (c) of Section 7006 within 30 days of service of the notice or the birth of the child, whichever is later.
- (c) In an effort to identify the natural father, the court shall cause inquiry to be made of the mother and any other appropriate person by the State Department of Social Services, a licensed county adoption agency, or the licensed adoption agency to which the child is to be relinquished, or in the case of a stepparent adoption, at the option of the board of supervisors, a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department. The inquiry shall include the following: whether the mother was married at the time of conception of the child or at any time thereafter; whether the mother was cohabiting with a man at the time of conception or birth of the child; whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared his possible paternity of the child. The department or the licensed adoption agency shall report the findings to the court.
- (d) (1) If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with subdivision (f), unless he has been served with a written notice alleging that he is or could be the natural father of the child to be adopted, or placed or relinquished for adoption and has failed to bring an action pursuant to subdivision (c) of Section 7006 to declare the existence of the father and child relationship within 30 days of serving the notice or the birth of the child, whichever is later. If any of them fails to appear or, if appearing, fails to claim parental rights, his parental rights with reference to the child shall be terminated.
- (2) If the natural father or a man representing himself to be the natural father claims parental rights, the court shall determine if he is the father. The court shall then determine if it is in the best interest of the child that the father retain his parental rights, or that an adoption of the child be allowed to proceed. The court, in making that determination, may consider all relevant evidence, including the efforts made by the father to obtain custody, the age and prior placement of the child, and the effects of a change of placement on the child. If the court finds that it is in the best interest of the child that the father should be allowed to retain his parental rights, it shall order that his consent is necessary for an adoption. If the court finds

that the man claiming parental rights is not the father, or that if he is the father it is in the child's best interest that an adoption be allowed to proceed, it shall order that that person's consent is not required for an adoption; such a finding terminates all parental rights and responsibilities with respect to the child. Section 4600 does not apply to this proceeding. Nothing in this section changes the rights of a presumed father.

- (e) If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child.
- (f) Notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the provisions of the Code of Civil Procedure for the service of process in a civil action in this state, provided that publication or posting of the notice of the proceeding shall not be required. Proof of giving the notice shall be filed with the court before the petition is heard. However, if a person identified as the natural father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained, the court may issue an order dispensing with notice to that person.
- (g) Any order requiring or dispensing with a father's consent for the adoption of a child may be appealed from in the same manner as an order of the juvenile court declaring a person to be a ward of the juvenile court.
- SEC. 3. Section 1.5 of this bill incorporates amendments to Section 7006 of the Civil Code proposed by both this bill and SB 1751. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 7006 of the Civil Code, and (3) this bill is enacted after SB 1751, in which case Section 1 of this bill shall not become operative.

#### CHAPTER 1371

An act to amend Section 3940 of the Business and Professions Code, relating to nursing home administrators, and making an appropriation therefor.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 3940 of the Business and Professions Code is amended to read:

3940. The fees prescribed by this chapter shall be set by the board at not more than the amounts shown in the following schedule:

- (a) The application and examination fee shall be not more than seventy dollars (\$70).
- (b) The fee for an initial license shall be not more than one hundred fifty dollars (\$150) prior to July 1, 1989, and not more than two hundred dollars (\$200) on and after July 1, 1989.
- (c) The active license renewal fee shall be not more than one hundred fifty dollars (\$150) prior to July 1, 1989, and not more than two hundred dollars (\$200) on and after July 1, 1989.
- (d) The license renewal delinquency fee shall be not more than twenty-five dollars (\$25).
- (e) The reapplication and reexamination fee shall be not more than seventy dollars (\$70).
- (f) The administrator-in-training permit fee shall be not more than one hundred dollars (\$100).
- (g) The duplicate license fee shall be not more than ten dollars (\$10).
- (h) The inactive license renewal fee shall be not more than one hundred ninety dollars (\$190).
- (i) The biennial fee for approval of a continuing education provider shall be not more than one hundred fifty dollars (\$150).
- (j) The biennial fee for approval of a continuing education course shall be not more than fifteen dollars (\$15).
- (k) The preceptor training and certification fee shall be not more than twenty-five dollars (\$25) for each three-year period.

The board shall fix the fees, within the limits prescribed in this section, in such amounts as it determines are reasonably necessary to provide sufficient funds to carry out the purpose of this chapter.

# CHAPTER 1372

An act to amend Sections 1268.310 and 1268.330 of, and to add Sections 1268.311, 1268.350, and 1268.360 to, the Code of Civil Procedure, relating to eminent domain.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1268.310 of the Code of Civil Procedure is amended to read:

1268.310. The compensation awarded in the proceeding shall draw interest, computed as prescribed by Section 1268.350, from the earliest of the following dates:

- (a) The date of entry of judgment.
- (b) The date the plaintiff takes possession of the property.
- (c) The date after which the plaintiff is authorized to take possession of the property as stated in an order for possession.

- SEC. 2. Section 1268.311 is added to the Code of Civil Procedure, to read:
- 1268.311. In any inverse condemnation proceeding in which interest is awarded, the interest shall be computed as prescribed by Section 1268.350.
- SEC. 3. Section 1268.330 of the Code of Civil Procedure is amended to read:

1268.330. If, after the date that interest begins to accrue, the defendant:

- (a) Continues in actual possession of the property, the value of that possession shall be offset against the interest. For the purpose of this section, the value of possession of the property shall be presumed to be the rate of interest calculated as prescribed by Section 1268.350 on the compensation awarded. This presumption is one affecting the burden of proof.
- (b) Receives rents or other income from the property attributable to the period after interest begins to accrue, the net amount of these rents and other income shall be offset against the interest.
- SEC. 4. Section 1268.350 is added to the Code of Civil Procedure, to read:

1268.350. (a) As used in this section:

- (1) "Apportionment rate" means the apportionment rate calculated by the Controller as the rate of earnings by the Surplus Money Investment Fund for each six-month period.
- (2) "Six-month period" means the period from January 1 to June 30 and the period from July 1 to December 31.
- (b) The rate of interest payable under this article for each six-month period, or fraction thereof, for which interest is due, shall be the apportionment rate for the immediately preceding six-month period.
- (c) Each district office of the Department of Transportation shall quote the apportionment rate to any person upon request.
- SEC. 5. Section 1268.360 is added to the Code of Civil Procedure, to read:

1268.360. The interest payable for each six-month period shall draw interest, computed as prescribed by Section 1268.350, in each succeeding six-month period for which interest is due.

# CHAPTER 1373

An act to amend Sections 13750, 13751, 13753, 13800, 13802, 13803, and 13805 of, and to add Sections 13712 and 13750.5 to, the Water Code, relating to water quality.

[Approved by Governor September 26, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 13712 is added to the Water Code, to read: 13712. "Monitoring well" as used in this chapter, means any artificial excavation by any method for the purpose of monitoring fluctuations in groundwater levels, quality of underground waters, or the concentration of contaminants in underground waters.

SEC. 2. Section 13750 of the Water Code is amended to read:

13750. Every person who hereafter intends to dig, bore, or drill a water well, cathodic protection well, or monitoring well, or who intends to deepen or reperforate any such well, or to abandon or destroy any such well, shall file with the department a notice of intent to engage in such construction, alteration, destruction, or abandonment prior to commencing such construction, alteration, provided. abandonment; that destruction. or construction, alteration, destruction, or abandonment must be accomplished immediately in order to prevent damage to persons or property due to the loss of an existing water supply, such notice shall be filed with the department as soon as possible thereafter, but in any event not more than five days after commencement of such construction, alteration, destruction, or abandonment or repair.

The report shall be made on forms furnished by the department and shall contain such information as the department may require, including, but not limited to, all of the following:

- (a) A description of the well site sufficiently exact to permit location and identification of the well.
  - (b) The proposed date of construction of the well.
  - (c) The use for which the well is intended.
  - (d) The work to be done and a description of type of construction.
  - (e) In event of late filing, the reasons therefor.

SEC. 2.5. Section 13750.5 is added to the Water Code, to read:

13750.5. No person shall undertake to dig, bore, or drill a water well, cathodic protection well, or monitoring well, or to deepen or reperforate any water well, cathodic protection well, or monitoring well, or to abandon or destroy any water well, cathodic protection well, or monitoring well, unless the person responsible for that construction, alteration, destruction, or abandonment possesses a C-57 Water Well Contractor's License.

SEC. 3. Section 13751 of the Water Code is amended to read: 13751. Every person who digs, bores or drills a water well,

cathodic protection well, or a monitoring well, or abandons or destroys any such well, or who deepens or reperforates any such well, shall file with the department a report of completion of such well within 30 days after its construction or alteration has been completed.

The report shall be made on forms furnished by the department and shall contain such information as the department may require, including, but not limited to, all of the following:

- (a) A description of the well site sufficiently exact to permit location and identification of the well.
  - (b) A detailed log of the well.
  - (c) A description of type of construction.
  - (d) The details of perforation.
- (e) The methods used for sealing off surface or contaminated waters.
- (f) Methods for preventing contaminated waters of one aquifer to mix with another aquifer.
  - (g) The signature of the well driller.
  - SEC. 5. Section 13753 of the Water Code is amended to read:
- 13753. Every person who hereafter converts, for use as a water well, cathodic protection well, or monitoring well, any oil or gas well originally constructed under the jurisdiction of the Department of Conservation pursuant to Article 4 (commencing with Section 3200) of Chapter 1 of Division 3 of the Public Resources Code, shall comply with all provisions of this chapter.
  - SEC. 6. Section 13800 of the Water Code is amended to read:
- 13800. The department, after such studies and investigations pursuant to Section 231 as it finds necessary, on determining that water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction standards are needed in an area to protect the quality of water used or which may be used for any beneficial use, shall so report to the appropriate regional water quality control board and to the State Department of Health Services. The report shall contain such recommended standards for water well and cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction as, in the department's opinion, are necessary to protect the quality of any affected water.
- SEC. 7. Section 13802 of the Water Code is amended to read: 13802. If the regional board finds that standards of water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction are needed in any area to protect the quality of water used, or which may be used, for any beneficial use, it shall determine the area to be involved and so report to each affected county and city in the area. The report shall also contain any well standards which have been recommended by the department.
  - SEC. 8. Section 13803 of the Water Code is amended to read: 13803. Each such affected county and city shall, within 120 days

of receipt of the report, adopt an ordinance establishing standards of water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction for the area designated by the regional board. Prior to adoption of the ordinance each affected county and city shall consult with all interested parties, including licensed well drillers. A copy of the ordinance shall be sent to the regional board on its adoption and the regional board shall transmit the ordinance to the department for its review and comments.

SEC. 9. Section 13805 of the Water Code is amended to read:

13805. If a county or city fails to adopt an ordinance establishing water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction standards within 120 days of receipt of the regional board's report of its determination and those standards are necessary pursuant to Section 13802, or fails to adopt or modify those well standards in the manner determined as necessary by the regional board pursuant to Section 13804 within 90 days of receipt of the regional board's report, the regional board shall adopt standards for water well, cathodic protection well, and monitoring well construction, maintenance, abandonment, and destruction for the area. The regional board well standards shall take effect 30 days from the date of their adoption by the regional board and shall be enforced by the city or county and have the same force and effect as if adopted as a county or city ordinance.

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 1374

An act to amend Section 15630 of the Welfare and Institutions Code, relating to elder abuse.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) Any dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment,

either has actual knowledge that a dependent adult has been the victim of physical abuse, or observes a physical injury to a dependent adult under circumstances that are consistent with physical abuse, where the dependent adult's statements, or in the case of persons who have developmental disabilities, their statements or other corroborating evidence, indicate that abuse has occurred, shall report the known or suspected instance of physical abuse to the county adult protective services agency, or a local law enforcement agency immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within 36 hours.

- (b) Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that other types of dependent abuse have been inflicted upon a dependent adult or that his or her emotional well-being is endangered in any other way, may report such known or suspected instance of abuse to an adult protective services agency or local law enforcement agency.
- (c) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of abuse of a dependent adult, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.
- (d) The reporting duties under this section are individual, and, no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with the provisions of this chapter.
- (e) (1) An adult protective services agency shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case and to any public agency given responsibility for investigation in that jurisdiction of cases of dependent adult abuse, every known or suspected instance of dependent adult abuse. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision.
- (2) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse involving physical abuse or neglect determines, pursuant to its investigation, that such abuse is being committed by a health care practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a

person purporting to be such a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately report this information to the appropriate licensing agency. The licensing agency shall investigate the report in light of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this paragraph shall remain confidential and shall not be disclosed. The State Department of Social Services shall develop a statewide report form for the transmittal of this information from local welfare departments to the appropriate licensing agency.

- (3) A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for the investigation of cases of dependent adult abuse every known or suspected instance of abuse of a dependent adult. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.
- SEC. 1.5. 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 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) (1) 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.

(2) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse involving physical abuse or neglect determines, pursuant to its investigation, that such abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be such a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately report this information to the appropriate licensing

- agency. The licensing agency shall investigate the report in light of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this paragraph shall remain confidential and shall not be disclosed.
- (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. 2. Section 1.5 of this bill incorporates amendments to Section 15630 of the Welfare and Institutions Code proposed by both this bill and AB 3988. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 1987, (2) each bill amends Section 15630 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 3988, in which case Section 15630 of the Welfare and Institutions Code, as amended by AB 3988, 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. 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 1375

An act to add Section 12532 to the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. A primary responsibility of the Department of Food and Agriculture's inspection services is to assure the maximum public health protection from potentially hazardous chemicals. Integral with the assurance of health and safety is the public's right to know the sources and disposition of potentially hazardous products. It is the intent of the Legislature that the department provide for regular public disclosure regarding unprocessed agricultural foods which have been found to contain illegal pesticide residues.

- SEC. 2. Section 12532 is added to the Food and Agricultural Code, to read:
- 12532. (a) The director shall continuously interpret the results of the residue monitoring program in order to assess its general effectiveness at preventing public exposure to illegal pesticide residues.
- (b) The director shall release to the public, on an annual basis, comprehensive summaries of the results of the pesticide residue monitoring program. The director shall disclose information regarding the disposition of products found to contain illegal

pesticide residue levels.

- (c) The director shall identify in his or her reports the specific county where unprocessed agricultural foods have been discovered to contain illegal pesticide residue levels, the specific commodity, and the county where the commodity was produced.
- (d) The director shall file copies of all data sheets for over tolerances with the commissioner for the county where the unprocessed agricultural foods have been grown.
- (e) The director shall include in the reports, in addition to the specific commodity affected, the pesticide identified for each illegal residue found.

# CHAPTER 1376

An act to add and repeal Section 1597.055 of the Health and Safety Code, relating to child day care facilities.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. The Legislature finds and declares that readily accessible, high quality child care is of the utmost importance to the people of California.

The Legislature also finds and declares that there currently exists a shortage of qualified child care professionals and that this act is an attempt to help alleviate this problem while at the same time maintaining the highest standard of excellence possible.

It is the intent of the Legislature that this act be a three-year pilot project and will therefore only be in effect until January 1, 1990, and be limited in application to those regional occupation programs which are accredited by the Western Association of Schools and Colleges.

- SEC. 2. Regional occupation programs that participate in the pilot project shall submit to the State Department of Education all of the following information:
- (a) The number of students enrolled in the regional occupational programs.
- (b) The number of students successfully completing the six units of college credit work.
- (c) The number of students transferring to community colleges, student demographics and characteristics, articulation agreements, and academic standards applied.
  - (d) The number of students hired as teachers.

The State Department of Education shall compile the data and submit an interim evaluation report to the Legislature by January 1, 1989. A final evaluation report shall be submitted to the Legislature

by December 31, 1989.

- SEC. 3. The State Department of Education shall collect the following information, to the extent the information is available, related to participants in the pilot project:
- (a) The number of individuals who received child care training through regional occupation programs and subsequently became fully qualified child care teachers.
- (b) The salaries paid to individuals with regional occupation program training versus salaries paid to fully qualified teachers.

(c) The number of additional children who received child care services by individuals with regional occupation program training.

The evaluation report shall assess whether the pilot program achieved its goals of significantly increasing the availability of, and improving the retention of, qualified child care professionals. It shall also contain recommendations on whether the pilot project's alternative educational training should be continued, modified, or terminated.

- SEC. 4. Section 1597.055 is added to the Health and Safety Code, immediately following Section 1597.05, to read:
- 1597.055. (a) Notwithstanding any other educational requirements, a person may be hired as a teacher in a day care center if he or she satisfies all of the following conditions:
  - (1) Is 18 years of age or older.
- (2) Possesses a regional occupation program certificate of training in child care occupations issued by a regional occupational program which is accredited by the Western Association of Schools and Colleges as of January 1, 1987.
- (3) Has completed at least 95 hours of classroom instruction in child care and development and child care occupations and at least 150 hours in supervised field experience in a licensed day care center or comparable group child care program.
- (b) Subsequent to being hired pursuant to subdivision (a), a teacher shall make satisfactory progress towards meeting the educational requirement for a fully qualified teacher, as specified in departmental regulations. For purposes of this section, "satisfactory progress" shall mean completion, with passing grades, of a minimum of two units each semester or the equivalent number of units each quarter until the educational requirement is satisfied. Six of the required semester or equivalent number of quarter units of early childhood education from an accredited university or college shall be completed during the next two consecutive regular semesters or equivalent quarters.
- (c) A teacher hired pursuant to this section shall not be exempt from satisfying any other noneducation requirements imposed by law on teachers in day care centers and shall have on-site supervision by a fully qualified teacher until six of the units specified in subdivision (b) are completed.
- (d) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which

is enacted before January 1, 1990, deletes or extends that date.

# CHAPTER 1377

An act to add Article 3.5 (commencing with Section 1798.175) to Chapter 6 of Part 1 of Division 2.5 of the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Article 3.5 (commencing with Section 1798.175) is added to Chapter 6 of Part 1 of Division 2.5 of the Health and Safety Code, to read:

# Article 3.5. Use of "Emergency"

- 1798.175. (a) No person or public agency shall advertise itself as, or hold itself out as, providing emergency medical services, by using in its name or advertising the word "emergency," or any derivation thereof, or any words which suggest that it is staffed and equipped to provide emergency medical services, unless the person or public agency satisfies one of the following requirements:
- (1) Is a general acute care hospital providing approved standby, basic, or comprehensive emergency medical services regulated by this chapter.
  - (2) Meets all of the following minimum standards:
- (A) Emergency services are available in the facility seven days a week, 24 hours a day.
- (B) Has equipment, medication, and personnel experienced in the provision of services needed to treat life-, limb-, or function-threatening conditions.
- (C) Diagnostic radiology and clinical laboratory services are provided by persons on duty or on call and available when needed.
- (D) At least one physician who is trained and experienced in the provision of emergency medical care who is on duty or on call so as to be immediately available to the facility.
- (E) Medical records document the name of each patient who seeks care, as well as the disposition of each patient upon discharge.
- (F) A roster of speciality physicians who are available for referral, consultation, and speciality services is maintained and available.
- (G) Policies and procedures define the scope and conduct of treatment provided, including procedures for the management of specific types of emergencies.
- (H) The quality and appropriateness of emergency services are evaluated at least annually as part of a quality assurance program.

- (I) Provides information to the public that describes the capabilities of the facility, including the scope of services provided, the manner in which the facility complies with the requirements of this section pertaining to the availability and qualifications of personnel or services, and the manner in which the facility cooperates with the patient's primary care physician in followup care.
- (J) Clearly identifies the responsible professional or professionals and the legal owner or owners of the facility in its promotion, advertising, and solicitations.
- (K) Transfer agreements are in effect at all times with one or more general acute care hospitals which provide basic or comprehensive emergency medical services wherein patients requiring more definitive care will be expeditiously transferred and receive prompt hospital care. Reasonable care shall be exercised to determine whether an emergency requiring more definitive care exists and the person seeking emergency care shall be assisted in obtaining these services, including transportation services, in every way reasonable under the circumstances.
- (b) Nothing in this article shall be construed to require the licensing or certification of any person or public agency meeting the minimum standards of paragraph (2) of subdivision (a), nor to exempt from licensure those health facilities covered by paragraph (1) of subdivision (a).
  - (c) Nothing in this article shall be construed to:
- (1) Prohibit a physician in private practice, an outpatient department of a general acute care hospital whether located on or off the premises of the hospital, or other entity authorized to offer medical services from advertising itself as, or otherwise holding itself out as, providing urgent, immediate, or prompt medical services, or from using in its name or advertising the words "urgent," "prompt," "immediate," any derivative thereof, or other words which suggest that it is staffed and equipped to provide urgent, prompt, or immediate medical services.
- (2) Prohibit prehospital emergency medical care personnel certified pursuant to, or any state or local agencies established pursuant to, this division, or any emergency vehicle operating within the emergency medical services system from using the word "emergency" in the title, classification, or designation of the personnel, agency, or vehicle.
- (d) Any person or public agency using the word "emergency" or any derivation thereof in its name or advertising on January 1, 1987, but which would be prohibited from using the word or derivation thereof by this article, shall have until January 1, 1988, to comply with this article.
- SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,

changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

# CHAPTER 1378

An act to amend Sections 35400, 35401, 35401.5, and 35701 of, and to add Section 35401.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 35400 of the Vehicle Code is amended to read:

- 35400. (a) No vehicle shall exceed a length of 40 feet.
- (b) This section does not apply to any of the following:
- (1) A vehicle used in a combination of vehicles when the excess length is caused by auxiliary parts, equipment, or machinery not used as space to carry any part of the load, except that the combination of vehicles shall not exceed the length provided for combination vehicles.
- (2) A vehicle when the excess length is caused by any parts necessary to comply with the fender and mudguard regulations of this code.
- (3) An articulated bus or articulated trolley coach which does not exceed a length of 60 feet.
- (4) A semitrailer while being towed by a motor truck or truck tractor, if the distance from the kingpin to the rearmost axle of the semitrailer does not exceed 40 feet for semitrailers having two or more axles, or 38 feet for semitrailers having one axle if the semitrailer does not, exclusive of attachments, extend forward of the rear of the cab of the motor truck or truck tractor.
- (5) A bus when the excess length is caused by the projection of a front safety bumper or a rear safety bumper, or both. The safety bumper shall not cause the length of the vehicle to exceed the maximum legal limit by more than one foot in the front and one foot in the rear. For the purposes of this chapter, "safety bumper" means any device which is fitted on an existing bumper or which replaces the bumper and is constructed, treated, or manufactured to absorb energy upon impact.
- (6) A bus when the excess length is caused by a device, located in front of the front axle, for lifting wheelchairs into the bus. That device shall not cause the length of the bus to be extended by more than 18 inches, inclusive of any front safety bumper.
- (7) A bus when the excess length is caused by a device attached to the rear of the bus designed and used exclusively for the transporting of bicycles. This device may be up to 10 feet in length,

if the device, along with any other device permitted pursuant to this section, does not cause the total length of the bus, including any device, to exceed 50 feet.

- (c) The Legislature, by increasing the maximum permissible kingpin to rearmost axle distance to 40 feet effective January 1, 1987, as provided in paragraph (4) of subdivision (b), does not intend this action to be considered a precedent for any future increases in truck size and length limitations.
- SEC. 2. Section 35401 of the Vehicle Code is amended to read: 35401. (a) Except as provided in subdivisions (b) and (c), no combination of vehicles coupled together, including any attachments thereto, shall exceed a total length of 65 feet.
- (b) A combination of vehicles coupled together, including any attachments thereto, which consists of a truck tractor, a semitrailer, and a trailer, shall not exceed a total length of 75 feet, provided that the length of neither the semitrailer nor the trailer in such combination of vehicles exceeds 28 feet 6 inches.
- (c) Any city or county may, by ordinance, prohibit a combination of vehicles of a total length in excess of 60 feet upon highways under its respective jurisdiction. The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.
- (d) Any city or county, upon a determination that a highway or portion of highway under its jurisdiction cannot, in consideration of public safety, sustain the operation of trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400, may, by ordinance, establish lesser distances consistent with the maximum distances that the highway or highway portion can sustain, except that a city or county shall not restrict the kingpin to rearmost axle measurement to less than 38 feet on those highways or highway portions. Any city or county considering the adoption of an ordinance shall consider, but not be limited to consideration of, all of the following:
- (1) A comparison of the operating characteristics of the vehicles to be limited as compared to operating characteristics of other vehicles regulated by this code.
  - (2) Actual traffic volume.
  - (3) Frequency of accidents.
  - (4) Any other relevant data.

In addition, the city or county may appoint an advisory committee consisting of local representatives of those interests which are likely to be affected and shall consider the recommendations of the advisory committee in adopting the ordinance. The ordinance shall not be effective until appropriate signs are erected indicating the highways or highway portions affected by the ordinance.

This subdivision shall only become operative upon the adoption of

an enabling ordinance by a city or county.

(e) Whenever in the judgment of the Department of

Transportation, any state highway cannot, in consideration of public safety, sustain the operation of trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400, the director, in consultation with the Department of the California Highway Patrol, shall compile data on total traffic volume, frequency of use by vehicles covered by this subdivision, accidents involving these vehicles, and other relevant data to assess whether these vehicles are a threat to public safety and should be excluded from the highway or highway segment. The study containing the conclusions and recommendations of the director shall be submitted to the Secretary of the Business, Transportation and Housing Agency. Unless otherwise notified by the secretary, the director shall hold public hearings in accordance with the procedures set forth in Article 3 (commencing with Section 35650) of Chapter 5 for the purpose of determining the maximum kingpin to rear axle length, which shall be not less than 38 feet, that the highway or highway segment can sustain without unreasonable threat to the safety of the public. Upon the basis of the findings, the Director of Transportation shall declare in writing the maximum kingpin to rear axle lengths which can be maintained with safety upon the highway. Following the declaration of maximum lengths as provided by this subdivision, the Department of Transportation shall erect suitable signs at each end of the affected portion of the highway and at any other points that the Department of Transportation deems necessary to give adequate notice of the length limits. The Department of Transportation, in consultation with the Department of the California Highway Patrol, shall compile traffic volume. geometric, and other relevant data to assess the maximum kingpin to rearmost axle distance of vehicle combinations appropriate for those state highways, or portion of highways, affected by this section. that cannot safely accommodate trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400. On or before January 1, 1988, the department shall erect suitable signs appropriately restricting truck travel on those highways, or portions thereof, and report its findings and recommendations to the Legislature.

SEC. 3. Section 35401.1 is added to the Vehicle Code, to read:

35401.1. A combination of vehicles operated pursuant to Section 35400 or 35401 with a kingpin to rearmost axle measurement of greater than 38 feet but not more than 40 feet may be operated on those highways under the jurisdiction of local authorities only where it is deemed to be safe by the owner of the vehicle or the person operating the vehicle and where its operation is not specifically prohibited by local ordinance pursuant to subdivision (d) of Section 35401.

SEC. 4. Section 35401.5 of the Vehicle Code is amended to read: 35401.5. (a) A combination of vehicles consisting of a truck tractor and semitrailer, or of a truck tractor, semitrailer, and trailer, is not subject to the limitations of Sections 35400 and 35401, when

- operating on the National System of Interstate and Defense Highways or when using those portions of federal-aid primary highways or federal-aid urban system highways that have been qualified by the United States Secretary of Transportation for that use, or when using routes appropriately identified by the Department of Transportation or local authorities as provided in subdivision (c) or (d), if all of the following conditions are met:
- (1) The length of the semitrailer in exclusive combination with a truck tractor does not exceed 48 feet. For purposes of this paragraph, a motor truck used in combination with a semitrailer, when that combination of vehicles is engaged solely in the transportation of motor vehicles, is considered to be a truck tractor.
- (2) Neither the length of the semitrailer nor the length of the trailer when simultaneously in combination with a truck tractor exceeds 28 feet 6 inches.
- (b) Subdivisions (b), (c), (d), and (e) of Section 35402 do not apply to combinations of vehicles operated subject to the exemptions provided by this section.
- (c) Combinations of vehicles operated pursuant to subdivision (a) may also use highways not specified in subdivision (a) which provide reasonable access to facilities for purposes limited to fuel, food, lodging, and repair when that access is consistent with the safe operation of the combinations of vehicles and when the facility is within one-half road mile of identified points of ingress and egress to or from highways specified in subdivision (a) for use by those combinations of vehicles.
- (d) The Department of Transportation or local authorities may, in consideration of public safety and preservation of the highway, issue special permits for combinations of vehicles operated pursuant to subdivision (a) for terminal access pursuant to Sections 35780 and 35795. In lieu of issuing a permit, the Department of Transportation or local authorities with respect to highways under their jurisdiction may provide signing as necessary to indicate the use of specific routes as terminal access routes. For purposes of this subdivision, "terminal" means a facility at which freight is consolidated to be shipped or where full load consignments may be offloaded or at which the vehicle combinations are regularly maintained, stored, or manufactured. This subdivision does not provide for the issuance of permits to operate combinations of vehicles on highways, or portions of highway, subject to the limitations of subdivision (d) of Section 35401.
- (e) Nothing in subdivision (c) or (d) authorizes state or local agencies to require permits of terminal operators or to charge terminal operators fees for the purpose of attaining access for vehicles described in this section.
- (f) Notwithstanding subdivision (d), the limitations of access specified in that subdivision do not apply to licensed carriers of household goods when directly enroute to or from a point of loading or unloading of household goods, if travel on highways other than

those specified in subdivision (a) is necessary and incidental to the shipment of the household goods.

- SEC. 5. Section 35701 of the Vehicle Code is amended to read: 35701. (a) Any city, or county for a residence district, may, by ordinance, prohibit the use of a street by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit, except with respect to any vehicle which is subject to Sections 1031 to 1036, inclusive, of the Public Utilities Code.
- (b) The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.
- (c) No ordinance adopted pursuant to this section after November 10, 1969, shall apply to any state highway which is included in the National System of Interstate and Defense Highways, except an ordinance which has been approved by a two-thirds vote of the California Transportation Commission.

# CHAPTER 1379

An act to add Sections 12.5, 125.9, and 125.95 to the Business and Professions Code, relating to consumer affairs.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

- SECTION 1. Section 12.5 is added to the Business and Professions Code, to read:
- 12.5. Whenever in any provision of this code authority is granted to issue a citation for a violation of any provision of this code, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to any provision of this code.
- SEC. 2. Section 125.9 is added to the Business and Professions Code, to read:
- 125.9. (a) Except with respect to persons regulated under Chapter 8 (commencing with Section 6850), Chapter 11 (commencing with Section 7500), Chapter 11.5 (commencing with Section 7512), and Chapter 11.6 (commencing with Section 7590) of Division 3, or a person holding a license specified in paragraph (1), (6), or (7) of subdivision (b) of Section 9941, any board, bureau, or commission within the department, other than the State Board of Cosmetology and the State Board of Dental Examiners, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission

where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

- (b) The system shall contain the following provisions:
- (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
- (2) Where appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.
- (3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed two thousand five hundred dollars (\$2,500) for each inspection or each investigation made with respect to the violation. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to such factors as the gravity of the violation, the good faith of the licensee, and the history of previous violations.
- (4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
  - (c) The system may contain the following provisions:
- (1) A citation may be issued without the assessment of an administrative fine.
- (2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.
- (d) Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.
- (e) This section does not apply to any board, bureau, or commission within the department with existing authority to establish, by regulation, a system for the issuance, to a licensee, of a citation which may include an order of abatement or an order to pay an administrative fine, even if the system of citation does not affect or apply to all activities engaged in by a licensee. Nothing in this section expands or limits that authority.
- (f) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or

commission.

SEC. 2. Section 125.95 is added to the Business and Professions Code, to read:

125.95. Any board, bureau, or commission within the department may, in addition to the citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of a citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act.

#### CHAPTER 1380

An act to add Section 22524.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 22524.5 is added to the Vehicle Code, to read:

- 22524.5. (a) Any insurer that is responsible for coverage for ordinary and reasonable towing and storage charges under an automobile insurance policy to an insured or on behalf of an insured to a valid claimant, is liable for those charges to the person performing those services when a vehicle is towed and stored as a result of an accident or stolen recovery. The insurer may discharge the obligation by making payment to the person performing the towing and storage services or to the insured or on behalf of the insured to the claimant.
- (b) Any insured or claimant who has received payment, which includes towing and storage charges, from an insurer for a loss relating to a vehicle is liable for those charges to the person performing those services.

#### CHAPTER 1381

An act to add Section 1021.9 to the Code of Civil Procedure, relating to property.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1021.9 is added to the Code of Civil Procedure, to read:

1021.9. In any action to recover damages to personal or real property resulting from trespassing on lands either under cultivation or intended or used for the raising of livestock, the prevailing plaintiff shall be entitled to reasonable attorney's fees in addition to other costs, and in addition to any liability for damages imposed by law.

#### CHAPTER 1382

An act to amend Section 1646 of, to add Section 1646.11 to, and to add Article 2.8 (commencing with Section 1647) to Chapter 4 of Division 2 of, the Business and Professions Code, relating to dentistry.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 1646 of the Business and Professions Code is amended to read:

1646. "General anesthesia," as used in this article, means a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

SEC. 2. Section 1646.11 is added to the Business and Professions Code. to read:

1646.11. The board shall require a permittee to complete approved courses of study related to general anesthesia not to exceed 15 hours in duration as a condition of renewal of a permit.

SEC. 3. Article 2.8 (commencing with Section 1647) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

# Article 2.8. Use of Conscious Sedation

- 1647. (a) The Legislature finds and declares that a commendable patient safety record has been maintained in the past by dentists and those other qualified providers of anesthesia services who, pursuant to a dentist's authorization, administer patient sedation, and that the increasing number of pharmaceuticals and techniques used to administer them for patient sedation require additional regulation to maintain patient safety in the future.
  - (b) The Legislature further finds and declares all of the following:
- (1) That previous laws enacted in 1980 contained separate and distinct definitions for general anesthesia and the state of consciousness.
- (2) That in dental practice, there is a continuum of sedation used which cannot be adequately defined in terms of consciousness and general anesthesia.
- (3) That the administration of sedation through this continuum results in different states of consciousness that may or may not be predictable in every instance.
- (4) That in most instances, the level of sedation will result in a predictable level of consciousness during the entire time of sedation.
- (c) The Legislature further finds and declares that the educational standards presently required for general anesthesia should be required when the degree of sedation in the continuum of sedation is such that there is a reasonable possibility that loss of consciousness may result, even if unintended. These degrees of sedation have been referred to as "deep conscious sedation" and "light general anesthesia" in dental literature. However, achieving the degree of sedation commonly referred to as "light conscious sedation," where a margin of safety exists wide enough to render unintended loss of consciousness unlikely, requires educational standards appropriate to the administration of the resulting predictable level of consciousness.
- 1647.1. (a) As used in this article, "conscious sedation" means a minimally depressed level of consciousness produced by a pharmacologic or nonpharmacologic method, or a combination thereof, that retains the patient's ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation and verbal command.

"Conscious sedation" does not include conditions resulting from the administration of oral medications or the administration of a mixture of nitrous oxide and oxygen, whether administered alone or in combination with each other.

- (b) The drugs and techniques used in conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely.
- (c) For the very young or handicapped individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness for that individual should be maintained.

#### CHAPTER 1383

An act to amend Section 65583 of the Government Code, relating to homeless persons.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. The Legislature finds and declares that there exists in the state a severe crisis caused by the lack of any available shelter for a significant segment of California's population. The "homeless" are estimated to number as many as 100,000, and are composed largely of veterans, women, families with children, the mentally ill, and unemployed adults.

The crisis of homelessness has many causes, which include a severe shortage of low-cost housing, unemployment, the absence of an adequate support system for the mentally ill, and the failure to properly administer and carry out the intent of public assistance programs.

The Legislature finds and declares that this act will assist in addressing the profound problems encountered by homeless persons.

- SEC. 2. Section 65583 of the Government Code is amended to read:
- 65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:
- (a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:
- (1) Analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.
- (2) Analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.
- (3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment,

and an analysis of the relationship of zoning and public facilities and services to these sites.

- (4) Analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.
- (5) Analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
- (6) Analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.
- (7) Analysis of opportunities for energy conservation with respect to residential development.
- (b) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, improvement, and development of housing.

It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the identified existing housing needs, but should establish the maximum number of housing units that can be constructed, rehabilitated, and conserved over a five-year time frame.

- (c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:
- (1) Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, emergency shelters and transitional housing in order to meet the community's housing goals as identified in subdivision (b).
- (2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.
- (3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and

development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.

The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

- SEC. 3. The amendments to paragraph (1) of subdivision (c) of Section 65583 of the Government Code made by the act adding this section during the 1986 Regular Session of the Legislature shall require an identification of sites for emergency shelters and transitional housing by January 1, 1988, or by the next periodic review of a housing element pursuant to Section 65588 of the Government Code, whichever is later, in order to give local governments adequate time to plan for, and to assist in the development of, housing for homeless persons, if it is determined that there is a need for emergency shelter pursuant to paragraph (6) of subdivision (a) of Section 65583 of the Government Code.
- SEC. 4 Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

## CHAPTER 1384

An act relating to the federal Central Valley Project.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 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 Central Valley Project was originally conceived as a state project. The project was planned and designed by the state, and was authorized by the State Legislature in 1933 (Chapter 1042 of the Statutes of 1933).
- (b) The state was unable to construct the project during the Great Depression, and thus turned to the federal government for

assistance. The project was authorized as a federal project in 1935 and again in 1937.

- (c) In 1936, the state and the federal government entered into two memorandums of understanding which specified that the state would operate and maintain the project following presentation to the United States of assurances of payment satisfactory to the United States.
- (d) California has found it difficult to resolve its internal water conflicts in large part because of conflicts with the federal Central Valley Project over areas of origin protection, fisheries protection, regulatory control, salinity control in the delta, and protection of San Francisco Bay.
- (e) There may be net advantages to the state if the federal Central Valley Project is operated by the state.
- (f) Several units of the federal Central Valley Project currently are operated by local districts, and the United States Bureau of Reclamation is looking for ways to allow other projects to be operated locally.
- (g) Seventy-five percent of federal reclamation projects are operated by state or local agencies, and 12 ½ percent of federal reclamation projects are jointly operated by the federal government and nonfederal government agencies.
- SEC. 2. The Director of Water Resources is hereby authorized to enter into negotiations with the United States Bureau of Reclamation in order for the state to own or operate part or all of the federal Central Valley Project.
- SEC. 3. The Director of Water Resources shall report to the Legislature during the department's annual budget hearings from 1987 to 1997, inclusive, on the status of the negotiations specified in Section 2.

### CHAPTER 1385

An act to amend Sections 2920, 2924b, 2924c, 2924g, and 2924h of the Civil Code, relating to real property.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. Section 2920 of the Civil Code is amended to read: 2920. (a) A mortgage is a contract by which specific property is hypothecated for the performance of an act, without the necessity of a change of possession.
- (b) For purposes of Sections 2924 to 2924h, inclusive, "mortgage" also means any security device or instrument, other than a deed of trust, that confers a power of sale affecting real property, to be

exercised after breach of the obligation so secured, including a real property sales contract, as defined in Section 2985, which contains such a provision.

SEC. 2. Section 2924b of the Civil Code is amended to read:

2924b. (a) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the deed of trust or mortgage is recorded or the recorder's number and shall be in substantially the following form:

		Section 2924b			
made that a	copy of any	y notice of de	efault and a	copy of any	notice
of sale under	the deed	of trust (or	mortgage)	recorded	<del></del> ,
19, in Book	р	age	records of _	Coun	ity, (or
filed for reco	ord with re	ecorder's seri	al number		
County) Cali	fornia, exe	cuted by	as trus	stor (or mort	gagor)
in which	, is r	named as be	neficiary (d	or mortgagee	and
	as	trustee	be	mailed	to
		at _			
	Name			Address	
NOTICE: A	copy of any	y notice of de	efault and o	f any notice	of sale
will be sent of	only to the	address cont	ained in thi	s recorded re	equest.
If your addre	ss changes	, a new requ	est must be	recorded.	-
-	_	Sign	ature		"
		_			

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

- (b) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:
- (1) Within 10 days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address

designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.

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- (2) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.
- (3) As used in paragraphs (1) and (2), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to the last address unless the trustee has actual knowledge of it.
- (c) The mortgagee, trustee, or other person authorized to record the notice of default shall do the following:
- (1) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (2), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided the instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided the instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.
- (2) The persons to whom notice shall be mailed under this subdivision are:
- (A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.
- (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to the deed of trust or mortgage being foreclosed.

- (C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B), as of the recording date of the notice of default.
- (D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to the deed of trust or mortgage being foreclosed.

(E) The successor in interest to the vendee or lessee described in subparagraph (D), as of the recording date of the notice of default.

(F) The Office of the State Controller, Sacramento, California, where, as of the recording date of the notice of default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the notice of default applies.

(3) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (1) and (2).

(4) The mailing of notices in the manner set forth in paragraph (1) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the

attorney, agent, or employee.

(d) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of the person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each of these at the same time and in the same manner required as though a separate request therefor had been filed by each of those persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such a request but no address of the person is given therein and if no request for special notice by the trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, the publication to commence within 10 days after the filing of the notice of default. In lieu of publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within that 10 days or at any time before publication is completed.

- (e) Any person required to mail a copy of a notice of default or notice of sale to each trustor or mortgagor pursuant to subdivision (b) or (c) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice addressed to each trustor or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (b) or (c). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that he or she is over the age of 18 years, the date of deposit in the mail, the name and address of the trustor or mortgagor to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.
- (f) No request for a copy of any notice filed for record pursuant to this section, no statement or allegation in any such request, and no record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.

SEC. 2.5. Section 2924b of the Civil Code is amended to read:

(a) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of notice of default thereunder. cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the deed of trust or mortgage is recorded or the recorder's number and shall be in substantially the following form:

"In accordance	e with Sect	ion 2924b,	Civil Code	, request is he	reby
made that a cop	y of any no	tice of def	fault and a	copy of any n	otice
of sale under th	e deed of	trust (or n	nortgage) i	ecorded	<del></del> ,
19, in Book	page	r	ecords of _	County	, (or
filed for record					
County) Californ					
in which					
	as tr	rustee	be `	mailed	to
		at			
N	lame		A	ddress	

NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

Signature	,
Signature	

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

- (b) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:
- (1) Within 10 days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.
- (2) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.
- (3) As used in paragraphs (1) and (2), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to the last address unless the trustee has actual knowledge of it.
- (c) The mortgagee, trustee, or other person authorized to record the notice of default shall do the following:
- (1) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (2), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided the instrument is recorded in the

office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided the instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.

- (2) The persons to whom notice shall be mailed under this subdivision are:
- (A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.
- (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to the deed of trust or mortgage being foreclosed.
- (C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B), as of the recording date of the notice of default.
- (D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to the deed of trust or mortgage being foreclosed.
- (E) The successor in interest to the vendee or lessee described in subparagraph (D), as of the recording date of the notice of default.
- (F) The Office of the Controller, Sacramento, California, where, as of the recording date of the notice of default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the notice of default applies.
- (3) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (1) and (2), and addressed to the office of any state taxing agency, Sacramento, California, which has recorded a notice of tax lien prior to the recording date of the notice of default against the real property to which the notice of default applies.
- (4) The mailing of notices in the manner set forth in paragraph (1) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the attorney, agent, or employee.
  - (d) Any deed of trust or mortgage with power of sale hereafter

executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of the person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each of these at the same time and in the same manner required as though a separate request therefor had been filed by each of these persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such a request but no address of the person is given therein and if no request for special notice by the trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated. the publication to commence within 10 days after the filing of the notice of default. In lieu of publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within that 10 days or at any time before publication is completed.

- (e) Any person required to mail a copy of a notice of default or notice of sale to each trustor or mortgagor pursuant to subdivision (b) or (c) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice addressed to each trustor or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (b) or (c). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that he or she is over the age of 18 years, the date of deposit in the mail, the name and address of the trustor or mortgagor to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.
- (f) No request for a copy of any notice filed for record pursuant to this section, no statement or allegation in any such request, and no record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.
  - SEC. 3. Section 2924c of the Civil Code is amended to read:
- 2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason

of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes. assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within the period specified in subdivision (e), if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including reasonable costs and expenses, subject to subdivision (c), which are actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to subdivision (d)), other than the portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. This section does not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the Public Utilities Code.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, that person may request the beneficiary or the mortgagee or their successors in interest to cause to be executed and recorded a notice of rescission which rescinds the declaration of default and demand for sale and upon receipt of a written request the beneficiary or mortgagee or their successors in interest shall cause to be executed and recorded a notice of rescission. The request to execute and record a notice of rescission shall be directed to the person whose name and address is set forth in the notice required by subdivision (b). The beneficiary, or the mortgagee or their successors in interest, shall cause the notice of rescission to be recorded within 30 days of the receipt of the written request.

No charge, except for the recording fee, shall be made for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is $\_$	as of	
		(Date)

and will increase until your account becomes current. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

(Name of beneficiary or mortgagee)		
	(Mailing address)	
	(Telephone)	

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior

to the conclusion of the foreclosure.

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Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein-shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (c) of Section 2924b shall

- (2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.
- (c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by Section 2924 to 2924i, inclusive, postponement upon the written request of the trustor pursuant to Section 2924g made to either the beneficiary or trustee not to exceed fifty dollars (\$50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.
- (d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed two hundred dollars (\$200) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars (\$50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars (\$50,000) up to and including one hundred fifty thousand dollars (\$150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars

(\$150,000) up to and including five hundred thousand dollars (\$500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars (\$500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein.

(e) Reinstatement of a monetary default under the terms of an obligation secured by a deed of trust, or mortgage may be made at any time within the period commencing with the date of recordation of the notice of default until five business days prior to the date of sale set forth in the initial recorded notice of sale.

In the event the sale does not take place on the date set forth in the initial recorded notice of sale or a subsequent recorded notice of sale is required to be given, the right of reinstatement shall be revived as of the date of recordation of the subsequent notice of sale, and shall continue from such date until five business days prior to the date of sale set forth in the subsequently recorded notice of sale.

In the event the date of sale is postponed on the date of sale set forth in either an initial or any subsequent notice of sale, or is postponed on the date declared for sale at an immediately preceding postponement of sale, and, the postponement is for a period which exceeds five business days from the date set forth in the notice of sale, or declared at the time of postponement, then the right of reinstatement is revived as of the date of postponement and shall continue from such date until five business days prior to the date of sale declared at the time of the postponement.

Nothing contained herein shall give rise to a right of reinstatement during the period of five business days prior to the date of sale, whether the date of sale is noticed in a notice of sale or declared at a postponement of sale.

Pursuant to the terms of this subdivision, no beneficiary, trustee, mortgagee, their agents or successors shall be liable in any manner to a trustor, mortgagor, their agents or successors for the failure to allow a reinstatement of the obligation secured by a deed of trust or mortgage during the period of five business days prior to the sale of the security property, and no such right of reinstatement during this period is created hereby. Any right of reinstatement created hereby is terminated five business days prior to the date of sale set forth in the initial date of sale, and is revived only as prescribed herein and only as of the date set forth herein.

As used in this subdivision, the term "business day" has the same meaning as specified in Section 9.

SEC. 4. Section 2924g of the Civil Code is amended to read:

2924g. (a) All sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where the property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

The sale shall commence at the time and location specified in the

notice of sale. Any postponement shall be announced at the time and location specified in the notice of sale for commencement of the sale or pursuant to paragraph (1) of subdivision (c).

If the sale of more than one parcel of real property has been scheduled for the same time and location by the same trustee, (1) any postponement of any of the sales shall be announced at the time published in the notice of sale, (2) the first sale shall commence at the time published in the notice of sale or immediately after the announcement of any postponement, and (3) each subsequent sale shall take place as soon as possible after the preceding sale has been completed.

(b) When the property consists of several known lots or parcels they shall be sold separately unless the deed of trust or mortgage provides otherwise. When a portion of the property is claimed by a third person, who requires it to be sold separately, the portion subject to the claim may be thus sold. The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when the property consists of several known lots or parcels which may be sold to advantage separately, and the trustee shall follow that direction. After sufficient property has been sold to satisfy the indebtedness no more can be sold.

If the property under power of sale is in two or more counties the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion thereof is located.

(c) (1) There may be a postponement of the sale proceedings at any time prior to the completion of the sale thereof at the discretion of the trustee, upon instruction by the beneficiary to the trustee that the sale proceedings be postponed, or upon the written request of the trustor, provided the reason for the request is to permit the trustor to obtain cash sufficient to satisfy the obligation or bid at the sale and the written request identifies the source from which the funds are being obtained. The trustor shall be entitled to make one request for postponement under this paragraph and any postponement made at the request of the trustor shall be for a period not to exceed one business day.

There may be a maximum of three postponements of the sale proceedings pursuant to this subdivision. In the event that the sale proceedings are postponed three times, the scheduling of any further sale proceedings shall be preceded by the giving of a new notice of sale in the manner prescribed by Section 2924f. A postponement made upon the request of the trustor shall not be deemed a postponement for purposes of this paragraph.

(2) The trustee shall postpone the sale upon the order of any court of competent jurisdiction, or where stayed by operation of law, or by the mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee. Any postponement pursuant to this paragraph shall not be a

postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision nor shall a postponement resulting from the prohibition upon a sale within seven days from the expiration of an injunction, restraining order, or stay as provided in subdivision (d) be deemed a postponement for purposes of this subdivision.

- (d) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. Such a public declaration of postponement shall also set forth the new date, time, and place of sale and the place of sale shall be the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given. However, the sale shall be conducted no sooner than seven days after the earlier of (1) dismissal of the action or (2) expiration or termination of the injunction, restraining order, or stay (which required postponement of the sale), whether by entry of an order by a court of competent jurisdiction, operation of law, or otherwise, unless the injunction, restraining order, or subsequent order expressly directs the conduct of the sale within that seven-day period. If the sale had been scheduled to occur, but this subdivision precludes its conduct during that seven-day period, a new notice of postponement shall be given if the sale had been scheduled to occur during that seven-day period. The trustee shall maintain records of each postponement and the reason therefor.
  - SEC. 6. Section 2924h of the Civil Code is amended to read:
- 2924h. (a) Each and every bid made by a bidder at a trustee's sale under a power of sale contained in a deed of trust or mortgage shall be deemed to be an irrevocable offer by that bidder to purchase the property being sold by the trustee under the power of sale for the amount of the bid. Any second or subsequent bid by the same bidder or any other bidder for a higher amount shall be a cancellation of the prior bid.
- (b) At the trustee's sale the trustee shall have the right (1) to require every bidder to show evidence of the bidder's ability to deposit with the trustee the full amount of his final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee prior to and as a condition to the recognizing of the bid, and to conditionally accept and hold these amounts for the duration of the sale, and (2) to require the last and highest bidder to deposit, if not deposited previously, the full amount of the bidder's final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in

this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee, immediately prior to the completion of the sale, the completion of the sale being so announced by the fall of the hammer or in other customary manner. The present beneficiary of the deed of trust under foreclosure shall have the right to offset his or her bid(s) only to the extent of the total amount due the beneficiary including the trustee's fees and expenses.

In the event the trustee accepts a check drawn by a credit union or a savings and loan association pursuant to this subdivision or a cash equivalent designated in the notice of sale, the trustee may withhold the issuance of the trustee's deed to the successful bidder submitting the check drawn by a state or federal credit union or savings and loan association or the cash equivalent until funds become available to the payee or endorsee as a matter of right.

(c) If the trustee has not required the last and highest bidder to deposit the cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee in the manner set forth in paragraph (2) of subdivision (b), the trustee shall complete the sale. If the last and highest bidder then fails to deliver to the trustee, when demanded, the amount of his final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee, that bidder shall be liable to the trustee for all damages which the trustee may sustain by the refusal to deliver to the trustee the amount of the final bid, including any court costs and reasonable attorneys' fees.

If the last and highest bidder willfully fails to deliver to the trustee the amount of his final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the notice of sale as acceptable to the trustee, or if the last and highest bidder cancels an instrument submitted to the trustee as a cash equivalent, that bidder shall be guilty of a misdemeanor punishable by a fine of not more than two thousand five hundred dollars (\$2,500).

- (d) Any postponement or discontinuance of the sale proceedings shall be a cancellation of the last bid.
- (e) In the event that this section conflicts with any other statute, then this section shall prevail.
  - (f) It shall be unlawful for any person, acting alone or in concert

with others, (1) to offer to or accept from another any consideration of any type not to bid, or (2) to fix or restrain bidding in any manner, at a sale of property conducted pursuant to a power of sale in a deed of trust or mortgage. In addition to any other remedies, any person committing any act declared unlawful by this subdivision or any act which would operate as a fraud or deceit upon any beneficiary, trustor, or junior lienor shall, upon conviction, be fined not more than ten thousand dollars (\$10,000) or imprisoned in the county jail for not more than one year, or be punished by both that fine and imprisonment.

- SEC. 7. Section 2.5 of this bill incorporates amendments to Section 2924b of the Civil Code proposed by both this bill and AB 3060. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 2924b of the Civil Code, and (3) this bill is enacted after AB 3060, in which case Section 2 of this bill shall not become operative.
- 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 1386

An act relating to museums, and making an appropriation therefor.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. The Legislature finds and declares there exists a need for a state repository dedicated to the interpretation of the diverse contributions of Latin Americans to the history and culture of California and of the nation.
- SEC. 2. (a) The California Museum of Science and Industry shall prepare a study on the development of a California Museum of Latino History which will preserve, collect, and display examples of Latin American contributions to the arts, science, religion, education, literature, entertainment, politics, sports, and the history of California and to the nation. The California Museum of Science and Industry may prepare the study with existing staff or may contract for the preparation of the study. The California Museum of Science and Industry, in the preparation of the study, shall take into consideration any existing studies already prepared on the development of the museum. The study also shall specifically address

the state costs and program consequences of alternative methods of state participation in a Latino History Museum; such alternative methods of state participation to be considered shall include those found with the Afro-American Museum and the Japanese-American Museum.

- (b) The study shall be completed and submitted to the Legislature on or before June 30, 1987.
- SEC. 3. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the California Museum of Science and Industry for the study required by Section 2 of this act.

## CHAPTER 1387

An act to add Sections 15364.73 and 15364.74 to, and to repeal and add Chapter 1.5 (commencing with Section 15364.1) of Part 6.7 of Division 3 of Title 2 of, the Government Code, relating to international trade.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. Chapter 1.5 (commencing with Section 15364.1) of Part 6.7 of Division 3 of Title 2 of the Government Code is repealed. SEC. 2. Chapter 1.5 (commencing with Section 15364.1) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

## Chapter 1.5. California State World Trade Commission

- 15364.1. (a) The Legislature finds and declares that the expansion of international trade is vital to the overall growth of California's economy. The Legislature further finds and declares that current state efforts to develop relations with foreign countries are insufficient for effective coordination and mobilization of the resources necessary to promote economic growth and international trade.
- (b) In order to encourage international trade and development, there is created in the Governor's office a California State World Trade Commission, which shall be a corporation subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code). It shall be comprised of leading representatives of California government and private industry, and shall address policies that affect California's ability to trade internationally, and provide research in international trade that can be utilized by the commission in developing and implementing effective and aggressive marketing strategies. "Commission" as used in this

chapter, means the California State World Trade Commission. "International trade" as used in this chapter, consists of the export and import of agricultural, mineral, and manufacturing products, business services, and banking.

(c) In addition, the commission may create an advisory council comprised of commission-appointed private industry leaders and representatives of the executive and legislative branches of state government. They shall have the responsibility of assisting and advising the commission. Advisory council members shall receive travel and other expenses equal to those of state employees when on authorized commission business.

15364.2. (a) The commission shall consist of 11 members as follows:

- (1) Seven appointees of the Governor.
- (2) Two appointees of the Speaker of the Assembly.
- (3) Two appointees of the Senate President pro Tempore.

The Governor, the Lieutenant Governor, and the Secretary of State shall serve as nonvoting ex officio commission members. In addition, the President pro Tempore of the Senate shall appoint a Senator, and the Speaker of the Assembly shall appoint an Assembly Member to serve as nonvoting, ex officio members of the commission.

- (b) The members of the commission shall be appointed within 60 days of the effective date of this chapter.
- (c) Of the initial appointments to the commission by the Governor, the first four shall be for a term of three years, and the next three for a term of two years. Initial appointments to the commission by the Speaker of the Assembly and the President pro Tempore of the Senate shall be for a term of two years. Thereafter, all appointments shall be for a term of two years. A term shall expire on December 31.
- (d) If a vacancy occurs, a replacement shall be named by the initial appointing authority to fill the unexpired term.

Commissioners shall receive travel and other expenses equal to those of state employees and shall receive a per diem of one hundred dollars (\$100) when on commission business.

- (e) All appointees to the commission shall be professionally active in international trade or international economic development, and shall reflect the state's diverse geographic, economic, and cultural makeup.
- (f) The commission shall be chaired by an appointee of the Governor.
- (g) Upon the appointment of the first seven members, the commission may commence formal action pursuant to this chapter.

15364.3. The commission shall do all of the following:

- (a) Hire a director who has experience in international trade and trade law, knowledge of government and research techniques, and other qualifications as the commission deems necessary.
  - (b) Develop and adopt bylaws consistent with this chapter.

- (c) Establish the salaries of the director and other staff. 15364.5. The director shall do all of the following:
- (a) Carry out the management directives of the commission.
- (b) Manage and disburse all funds and maintain records.
- (c) Direct all staff, which includes, but is not limited to, the responsibility to hire and dismiss employees.
- 15364.6. The commission shall serve as the primary state agency responsible for coordination of activities to expand international trade for the State of California. Within this statutory authority, the commission may perform all of the following functions:
- (a) Provide information and assistance to help California business people market their products abroad.
- (b) Represent or assist in representing the interests of California-based companies in foreign market transactions through trade delegations, missions, marts, seminars, and additionally appropriate promotional tools.
- (c) Work to influence state, federal, and international trade policies that affect California's ability to compete in world markets.
- (d) Represent California's interests in the enforcement of United States and international trade laws.
- (e) Conduct public hearings on trade-related issues of importance to California business.
- (f) Administer programs designed to increase the availability of funds used to finance the overseas sales of California products.
- (g) Provide assistance, where appropriate, in promoting and encouraging cultural development, international tourism, and reverse investment.
- (h) Serve as the official representative of the State of California to foreign governments and representatives.
- (i) Establish one or more offices in California and in foreign countries, if appropriate and economically feasible, and serve as a clearinghouse for inquiries from foreign businesses and governments and provide them with introductions to California businesses and agriculture.
- (j) Secure funding of the commission's programs and activities from federal, state, local, and private sources in addition to fees charged for services and published materials.
- 15364.7. The commission shall prepare and submit to the Governor and to the Legislature a biennial report on January 15, 1987, and on January 15 of every other year thereafter. The report shall include, but not be limited to, all of the following:
- (a) A description of the commission's activities within the two-year reporting period.
  - (b) Information and data on relevant trade patterns and trends.
- (c) Analyses of major trade issues affecting California's trade performance and an assessment of significant foreign and domestic trade barriers that inhibit the expansion of California's exports.
- (d) An action agenda for the next two years, including priorities for research, program expansion, state or federal advocacy, or any

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other activities that would enhance California's international trade position.

15364.8. (a) There is hereby established the California State World Trade Commission Fund in the State Treasury, moneys for which shall be appropriated in the annual Budget Act. The fund shall consist also of private sector moneys as may be made available; federal funds, when available; state funds; and fees for services rendered, if levied.

The Controller shall disburse such moneys as is available in the fund, upon the request of the commission.

- (b) The commission shall submit an annual budget, for inclusion in the Governor's Budget, showing funding from all sources.
- (c) The commission shall have access to information and reports developed and maintained by state offices and departments pursuant to the State Records Management Act (Chapter 5 (commencing with Section 14740) of Part 5.5).
- SEC. 3. Section 15364.73 is added to the Government Code, to read:

15364.73. Whereas the Commission California on Government Organization and Economy was established in 1962 to review the management and operation of state funded activities and recommend ways to operate more efficiently and effectively, it is the intent of the Legislature that this commission shall conduct a review. and make recommendations to the Governor and the Legislature by May 1, 1987, regarding how best to provide state level administration and coordination of planned overseas offices, including the advisability of placing the administration of overseas offices within a specified state department or agency, creating a new office within the Governor's office, or any other mechanism which would facilitate the operations and coordination of these offices at the state level. The commission as part of its study may review how other comparable states with overseas offices provide state level administration and coordination.

SEC. 4. Section 15364.74 is added to the Government Code, to

- (a) The Governor shall designate an individual whose primary responsibilities shall be:
  - (1) To oversee and coordinate the activities of all overseas offices.
  - (2) To keep the Governor informed of these activities.
- (3) To act as a liaison to all state departments, commissions, or agencies which have specified international trade, investment, or tourism functions which impact on the activities of the overseas offices.
- (b) The individual designated pursuant to subdivision (a) shall meet all the following qualifications:
  - (1) Be knowledgeable of state government operations.
- (2) Be familiar with the various state government agencies, departments, and programs which have international trade, investment, or tourism components.

- (3) Have private sector experience in international business development.
- (c) Beginning November 1, 1987, and annually thereafter, the individual in the Governor's office designated to coordinate the operations of overseas offices shall report to the Legislature on the activities and expenditures of the overseas offices and make recommendations for present and future offices, including recommendations for the funding of these offices. In addition, this individual shall respond in a timely fashion to requests by the Legislature for information on specific activities and expenditures of the overseas offices.

## CHAPTER 1388

An act to amend Sections 15815, 25351.3, 53589, and 76006 of, and to add Sections 15849.1, 15849.2, and 15849.3 to, and to add Article 9 (commencing with Section 26400.50) to Chapter 14 of Part 2 of Division 2 of Title 3 of, the Government Code, and to amend Sections 140260, 140261, and 140262 of, and to repeal Sections 140263, 140264, 140265, 140266, 140267, 140268 of, the Public Utilities Code, relating to public agencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 15815 of the Government Code is amended to read:

- 15815. (a) The plans and specifications for any public building constructed pursuant to this part shall be prepared by the Department of General Services, and the board shall reimburse the department for the costs of its services from the funds available for that purpose. Any public building constructed under this part shall be constructed in accordance with the State Contract Act.
- (b) Subdivision (a) does not apply to any public building constructed by, or on behalf of, the board for lease-purchase by the board to, or in connection with, a contract between the board and any of the following entities:
- (1) The Regents of the University of California, if the public building is constructed under Article 1 (commencing with Section 10500) of Chapter 2.1 of Part 2 of Division 2 of the Public Contract Code.
- (2) The Trustees of the California State University, if the public building is constructed under Chapter 2.5 (commencing with Section 10700) of Part 2 of Division 2 of the Public Contract Code.
  - (3) A community college district, if the building is constructed

under Article 47 (commencing with Section 20650) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.

- SEC. 1.2. Section 15849.1 is added to the Government Code, to read:
- 15849.1. An amount not to exceed the amount of unsold bonds which the board has by resolution authorized to be sold for the purposes of carrying out this part is hereby appropriated from the General Fund to the Director of Finance, who may direct that any portion of that amount shall be deposited into a special account in the Public Building Construction Fund, to be used for the construction of public buildings to be financed pursuant to this part, as authorized by the Legislature. Any amounts made available from the General Fund under this section to the board shall be repaid by the board to the General Fund from the proceeds received from the sale of bonds sold for the purpose of financing the public buildings. These amounts shall be repaid to the General Fund with interest at the rate which the Treasurer certifies would have been earned on those amounts if invested in the Surplus Money Investment Fund.
- SEC. 1.4. Section 15849.2 is added to the Government Code, to read:
- 15849.2. In order to more fully secure the bonds authorized to be issued pursuant to this part, when during any fiscal year any appropriation is made to a state agency which has leased or otherwise contracted with the board for a public building financed by revenue bonds, notes, or other obligations issued by the board, the state agency shall allocate from the first lawfully available funds so appropriated that amount necessary to pay in full all amounts which are anticipated to become due and payable during the fiscal year under the lease or contract.
- SEC. 1.6. Section 15849.3 is added to the Government Code, to read:
- 15849.3. Notwithstanding any provision of this part to the contrary, the board may from time to time issue its bonds, notes, or other obligations pursuant to an indenture which may contain terms and conditions authorized by this part for resolutions of the board authorizing the issuance of its bonds, notes, or other obligations.
- SEC. 2. Section 25351.3 of the Government Code is amended to read:
- 25351.3. In addition to its other powers and duties, the board of supervisors may do any or all of the following:
- (a) Acquire land for and construct, lease, sublease, build, furnish, refurnish, or repair buildings for justice, municipal, or superior courts and for convention and exhibition halls, trade and industrial centers, auditoriums, opera houses, music halls and centers, motion picture and television museums, and related facilities used for public assembly purposes for the use, benefit and enjoyment of the public, including offstreet parking places for motor vehicles, ways of ingress and egress, and any other facilities and improvements necessary or convenient for their use.

(b) Acquire land and construct buildings, structures and facilities thereon, in whole or in part, with county funds or it may, by contract or lease with any nonprofit association or corporation, provide for the acquisition of land or the construction of buildings, structures and facilities, or all or any part thereof, for public assembly purposes.

upon the terms the board may determine.

- (c) Lease, pursuant to Section 25371, any real property owned by the county and available for public assembly purposes to any person, firm, corporation, or nonprofit association or corporation for public assembly purposes, with the person, firm, corporation, or nonprofit association or corporation to lease the real property, as improved, back to the county for use for the purposes stated in the lease. Any lease authorized by the board under this subdivision, except leases for justice, municipal, or superior courts, which may be entered into without advertising for bids, shall be awarded to the lowest responsible bidder after public competitive bidding conducted in the manner determined by the board. Notice inviting bids shall be published pursuant to Section 6066 in a newspaper as the board may direct.
- (d) Enter into a lease or sublease, without advertising for bids therefor, of buildings, structures, and facilities or any of them with any nonprofit association or corporation which agrees to use the buildings, structures, and facilities so leased to it for the public assembly purposes for which they were or are to be built; or contract, without advertising, for bids with any nonprofit association or corporation for the maintenance, operation, and management of the buildings, structures, and facilities, or any part thereof used for public assembly purposes, including the scheduling and promotion of events therein, for a specified term, not to exceed 40 years, upon terms and conditions as may be agreed upon. The leases, subleases, or contracts shall provide that, at least annually, there shall be paid to the county the net revenue, if any, from the operation and use of the facilities, remaining after the payment of expenses and costs, if any, for maintenance, operation or management, interest, and principal payments upon loans to the nonprofit corporation or association for purposes of maintenance, operation, or management, and any other expenses, and after providing maintenance and operation reserves. The lease, sublease, or contract shall also provide that, upon its expiration, all of the assets of the nonprofit association or corporation after payment or discharge of its indebtedness and liabilities shall be transferred to the county.
- (e) If the county has a population in excess of 4,000,000, without advertising for bids therefor, grant any real property owned by the county, or lease, for a term not to exceed 99 years, any real property owned by the county, to any city, district, or other public entity for any of the above public assembly purposes, without consideration, except the agreement of the grantee or lessee to use the real property for the public assembly purposes specified, and upon terms and conditions which may be agreed upon by the board and the

grantee or lessee.

The amendment to this section enacted by Chapter 755 of the Statutes of 1963 shall not be construed to affect or modify the duty of any county or board of supervisors to provide adequate quarters for courts but is intended to provide an alternative method of financing the acquisition of property and buildings for use for courthouse purposes.

SEC. 2.5. Article 9 (commencing with Section 26400.50) is added to Chapter 14 of Part 2 of Division 2 of Title 3 of the Government Code, to read:

## Article 9. Revenue Bonds for County Airports

26400.50. This article applies only to the County of Orange and the County of Sacramento and is in addition to any other authority contained in this chapter.

26400.51. The board of supervisors may issue bonds pursuant to this chapter for the purpose of financing the acquisition, construction, maintenance, operation, improvement, and development of property, real and personal, including, but not limited to, buildings, grounds, facilities, utilities, and structures necessary or convenient for the promotion or accommodation of air commerce and air navigation. These improvements, together with any existing or future airport facilities of the county, as the board of supervisors may determine, may be designated as a project for purposes of this chapter, and in that event Section 26400.4 does not apply to the issuance of bonds under this chapter.

26400.52. Bonds may be issued pursuant to this article under terms and conditions that the board of supervisors determines to be reasonable and without compliance with Section 26338, 26343, 26361, 26362, or 26389. These bonds may bear interest at such rate or rates and be made payable at such times as the board of supervisors may determine, except that the maximum rate of interest payable shall not exceed the maximum rate permitted for bonds of the county by Section 53531 or any other applicable provision of law. In the case of bonds bearing a variable interest rate, the variable rate shall not on any day exceed the maximum rate permitted for bonds of the county on that day by Section 53531 or any other applicable provision of law, except that the variable interest rate may on any day exceed that maximum rate if the interest paid on the bonds from their date of issuance to that day does not exceed the total interest which would have been permitted to be paid on the bonds if the bonds had borne interest at all times from the date of issuance to that day at the maximum rate permitted by Section 53531 or any other applicable provision of law.

Bonds issued pursuant to this article may be sold at public or private sale at not less than 95 percent of the aggregate principal amount of the bonds being sold.

26400.53. Notwithstanding the first two sentences of Section

26307, nothing in this chapter requires the board of supervisors to pledge for the payment of any bonds issued pursuant to this article any real or personal property other than the revenues and other income received from the operation of or arising from the project, which shall be pledged to the payment of the bonds.

Notwithstanding the fourth sentence of Section 26360 or Section 26397, the board of supervisors may provide in the resolution or indenture authorizing the issuance of the bonds that any revenues and other income received from the operation of or arising from the project and remaining after provision has been made for the payment of the principal of and interest on the bonds, the creation of any reserves, and the payment of necessary and reasonable maintenance and operation costs of the project, including, but not limited to, the reasonable expenses of management, repair, and other expenses necessary to maintain and preserve the project in good repair and working order, may be used, subject to any limiting covenants in the resolution or indenture, for any lawful purpose of the county.

The board may also provide in the resolution or indenture authorizing issuance of the bonds that provisions for the payment of reasonable and necessary costs of operation and maintenance for the project may be made prior to providing for the payment of the bonds and any reserves therefor.

SEC. 3. Section 53589 of the Government Code is amended to read:

53589. This article provides a complete, additional, and alternative method for doing the things authorized by this article and shall be regarded as supplemental and additional to the powers conferred by any other laws. The issuance of bonds and the entering into any credit reimbursement or other agreement under this article does not need to comply with the requirements of any other law applicable to the local agency or the issuance of bonds or the incurring of indebtedness, except that bonds which were subject to investigations, reports, and approval or certification by the Treasurer pursuant to the District Securities Investigation Law of 1965, Chapter 2.5 (commencing with Section 58750) of Division 2 of Title 6, and the Districts Securities Law, Chapter 1 (commencing with Section 20000) of Division 10 of the Water Code prior to the adoption of this article shall continue to be subject to the investigations, reports, and approval or certification.

SEC. 4. Section 76006 of the Government Code is amended to read:

76006. (a) Notwithstanding any other provision of law, to assist the County of Santa Clara or the County of San Diego in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary to the operation of the courts, the board of supervisors of the County of Santa Clara or the County of San Diego, respectively, operative upon the adoption of a resolution stating that the provisions of this

section and the assessments provided for in Section 76000 are necessary to the establishment of adequate courtroom facilities in the county, may establish in the county treasury a Courthouse Temporary Construction Fund.

The county treasurer shall place all assessment amounts collected pursuant to Section 76000 in the fund.

- (b) In addition to observing the increased bail amounts as established by the court pursuant to paragraph (1) of subdivision (a) of Section 76000, each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents (\$1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer. These payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.
- (c) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund together with any interest earned thereon shall be payable only for courtroom construction as authorized in subdivision (a).
- (d) Deposits to the fund in accordance with subdivisions (a) and (b) shall continue through and including either (1) the 20th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings or public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs made by the county to finance construction provided for in this section, whichever time shall be longer.
- SEC. 5. Section 140260 of the Public Utilities Code is amended to read:
- 140260. (a) The board of supervisors, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, shall seek authorization to issue bonds payable solely from the proceeds of the tax and shall publish, prior to the submission of the proposition specified in subdivision (b), an initial expenditure plan to be developed pursuant to Section 140256.
- (b) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

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- SEC. 6. Section 140261 of the Public Utilities Code is amended to read:
- 140261. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the authority at any time, and from time to time, payable solely from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax.
- (b) The pledge of retail transactions and use taxes to the limited tax bonds authorized under this article shall have priority over the use of any of the taxes for "pay-as-you-go" financing, except to the extent that that priority is expressly restricted in the resolution authorizing for the issuance of the bonds.
- (c) The maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax for a period of not more than 10 years.

SEC. 7. Section 140262 of the Public Utilities Code is amended to read:

- 140262. (a) Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the authority by a two-thirds vote of all members of the authority.
- (b) The authority 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 purposes set forth in the ordinance adopted pursuant to Section 140252, which shall constitute an "enterprise" within the meaning of Section 54309 of the Government Code. Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code and the limitations on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code do not apply to the issuance and sale of bonds pursuant to this chapter. Instead, the authority shall authorize the issuance of bonds by resolution, which

shall specify all of the following:

- (1) The purposes for which the bonds are to be issued.
- (2) The maximum principal amount of the bonds.
- (3) The maximum term for the bonds.
- (4) The maximum rate of interest to be payable upon the bonds. This rate shall not exceed the maximum rate permitted by Section 53531 of the Government Code or any other applicable provision of law. In the case of bonds bearing a variable interest rate, the variable rate shall on no day exceed the maximum rate permitted on that day by Section 53531 of the Government Code or any other applicable provision of law. However, the variable interest rate so permitted may on any day exceed that maximum rate if the interest paid on the bonds from the date of their original issuance to that day does not exceed the total interest which would have been permitted to have been paid on the bonds if the bonds had borne interest at all times from the date of issuance to that day at the maximum rate permitted from time to time by Section 53531 of the Government Code or any other applicable provision of law.
- (5) The maximum discount on the sale of the bonds. The bonds shall not be sold at less than 95 percent of the principal amount in the manner determined by the authority.
- (c) Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of the bonds authorized has been issued. The full amount of bonds may be divided into two or more series with different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.
  - SEC. 8. Section 140263 of the Public Utilities Code is repealed.
  - SEC. 9. Section 140264 of the Public Utilities Code is repealed.
  - SEC. 10. Section 140265 of the Public Utilities Code is repealed. SEC. 11. Section 140266 of the Public Utilities Code is repealed.
  - SEC. 12. Section 140267 of the Public Utilities Code is repealed.
  - SEC. 13. Section 140268 of the Public Utilities Code is repealed.
- SEC. 14. The Legislature finds and declares that among the political subdivisions which own and operate the 10 largest airports in California measured by enplaned passengers, only Orange County and Sacramento County do not have specific authorization to issue revenue bonds under charter provisions or other special legislation. For this reason, the Legislature finds and determines that a general law cannot be made applicable and that special legislation is necessary to enable these counties to finance airport improvements which are urgently needed to protect the health and safety of the public and to improve the welfare and convenience of the people of these counties and adjacent communities.
- SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify, as soon as possible, procedural requirements contained in a recently enacted provision which was part of an alternative method for local agencies to refinance their outstanding indebtedness, in order to clarify the powers of boards of supervisors to finance the construction and repair of buildings for justice, municipal, and superior courts so that the financing of those facilities will not be unduly delayed, in order to clarify the contracting requirements for energy efficiency projects financed and constructed for institutions of public higher education and to provide for interim borrowing and other fiscal matters under the State Building Construction Act of 1955, to authorize the issuance of revenue bonds for purposes of certain county-owned airports, and in order to revise the taxing and bonding authority under the Santa Clara County Commuter Relief Act so that necessary improvements for highway transportation purposes may be accomplished without delay, it is necessary that this act take effect immediately.

## CHAPTER 1389

An act to amend Section 26400.52 of, and to add Chapter 11 (commencing with Section 5900) to Division 6 of Title 1 of, the Government Code, and to add Section 12875 to the Public Utilities Code, relating to public financing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Chapter 11 (commencing with Section 5900) is added to Division 6 of Title 1 of the Government Code, to read:

## CHAPTER 11. PUBLIC FINANCING

5900. The Legislature finds and declares all of the following:

- (a) The ability of the state and local governments to issue bonds is essential to their ability to finance public improvements and other projects and programs which serve important public purposes and have major social and economic consequences to the people of California.
- (b) The exemption of interest on these bonds from federal income taxation has been a major feature of this financing, reducing interest costs to the state and local government issuers and enhancing the marketability of the bonds.
- (c) Proposed federal tax legislation would substantially curtail the purposes for, and conditions under which, bonds may be issued with interest exempt from federal income taxation, with the result that in order to provide financing for those purposes or under those conditions state and local governments will in some instances be

- required, or elect, to issue bonds which bear interest not exempt from federal income taxation. These bonds often have different terms and structural features and are sold and traded in a different market than bonds the interest on which is exempt from federal income taxation.
- (d) The state and local governments have the power to issue bonds bearing interest subject to federal income taxation, but the state and local governments may lack clear authority to structure this financing for the applicable market or otherwise to achieve the lowest effective borrowing cost or terms most suitable to the state or local government issuer, the project, or the financing program.
- 5901. It is the intent of the Legislature that state and local governments be provided with the powers and flexibility necessary and appropriate for them to access the market for bonds which bear interest subject to federal income taxation.
- 5902. As used in this chapter, the following words and terms shall have the following meanings, unless the context otherwise indicates or requires another or different meaning or intent:
- (a) "Bonds" means bonds, notes, warrants, bond anticipation notes, commercial paper, or other evidences of indebtedness, or lease, installment purchase, or other agreements or certificates of participation therein.
- (b) "Legislative body" means the governing body or board of the state or local government.
- (c) "State or local government" means the state, any department, agency, board, commission, or authority of the state, or any city, city and county, county, public district, public corporation, authority, agency, board, commission, or other public entity.
- 5903. If, prior to issuing any bonds, the legislative body determines that the interest payable on the bonds to be issued by the state or local government will be subject to federal income taxation under the law in existence on the date of issuance or pending on the date of issuance with an effective date preceding the date of issuance, then notwithstanding any other provision of law, the ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of the bonds may provide for any of the following:
- (a) The bonds shall be in such denominations, in such form, either bearer or registered, and payable at such place or places, either within or without the United States, at such time or times, in lawful money of the United States of America, with such terms of redemption, and at such interest rate or rates, either fixed or variable, including methods of determining such rate or rates if variable, as the legislative body shall determine.
- (b) The bonds shall be sold at public or private sale, in such manner and place or places, either within or without the United States, and at such price or prices, above or below par, as the legislative body shall determine.
  - (c) In connection with, or incidental to, the sale and issuance of

the bonds, the state or local government may offer, sell, and issue warrants for additional bonds, as well as issue additional bonds pursuant to these warrants on terms consistent with this chapter, and may enter into any contracts which the legislative body determines to be necessary or appropriate to place the obligation of the state or local government, as represented by the bonds and the contract or contracts, in whole or in part on the interest rate, cash flow, or other basis desired by the legislative body, including, without limitation, contracts commonly known as interest rate swap agreements, forward payment conversion agreements, futures, or contracts providing for payments based on levels of or changes in interest rates, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, options, puts or calls to hedge payment, rate, spread, or similar exposure. These contracts or arrangements may also be entered into by state or local governments in connection with, or incidental to, entering into any agreement which secures bonds, including bonds issued by private entities. These contracts and arrangements shall be made upon the terms and conditions established by the legislative body, after giving due consideration for the creditworthiness of the counterparties, where applicable, including any rating by a nationally recognized rating agency or any other criteria as may be appropriate. In addition, these contracts and arrangements may be made only if the bonds are rated in one of the three highest rating categories by two nationally recognized rating agencies, and if there has been receipt, from any rating agency rating the bonds, of written evidence that the contract or agreement will not adversely affect the rating.

- (d) In connection with, or incidental to, the sale and issuance of the bonds, or entering into any of the contracts or arrangements referred to in subdivision (c), the state or local government may enter into such credit enhancement or liquidity agreements, with such payment, interest rate, security, default, remedy, and other terms and conditions as the legislative body shall determine.
- (e) Proceeds of the bonds and any moneys set aside or pledged to secure payment of the bonds, or any of the contracts entered into pursuant to subdivision (c), may be invested in securities or obligations described in the ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of the bonds.
- 5904. The state or a local government may take any actions, and enter into any agreements, necessary or appropriate to register or qualify the bonds described in Section 5903 for offer and sale under the federal or any state's or nation's securities laws and to comply with those laws.
- 5905. One or more state or local governments may cause to be formed, and may acquire all, but not less than all, of the voting stock in, one or more corporations, not chartered by a state or federal agency as a depository institution, but organized for the purpose of undertaking financing programs approved by each legislative body

and found by each legislative body to be of benefit to the state or local government.

5906. Any bonds issued by a state or local government pursuant to this chapter, or otherwise, and the purchasers thereof, shall be exempt from the usury provisions of Section 1 of Article XV of the California Constitution. This section creates and authorizes a class of purchasers pursuant to Section 1 of Article XV of the California Constitution.

5907. This chapter shall not affect bonds approved by the voters of the state or local government issuer prior to the effective date of this chapter, to the extent that this chapter is inconsistent with the measure authorizing those bonds.

5908. The authority conferred by this chapter includes the authority to enter into any and all contracts incident to the exercise of the authority conferred by this chapter, including, without limitation, contracts for the performance of professional services.

SEC. 2. Section 26400.52 of the Government Code, as added by Assembly Bill 2749, as enacted during the 1986 portion of the 1985–86 Regular Session, is amended to read:

26400.52. Bonds may be issued pursuant to this article under terms and conditions that the board of supervisors determines to be reasonable and without compliance with Section 26338, 26343, 26361, 26362, or 26389. Notwithstanding the noncompliance with Section 26361, the lease of all or any portion or portions of the project or of any lands, improvements, concessions, facilities, or other property comprising a part of the project, is subject to Article 8 (commencing with Section 25520) of Chapter 5. These bonds may bear interest at such rate or rates and be made payable at such times as the board of supervisors may determine, except that the maximum rate of interest payable shall not exceed the maximum rate permitted for bonds of the county by Section 53531 or any other applicable provision of law. In the case of bonds bearing a variable interest rate, the variable rate shall not on any day exceed the maximum rate permitted for bonds of the county on that day by Section 53531 or any other applicable provision of law, except that the variable interest rate may on any day exceed that maximum rate if the interest paid on the bonds from their date of issuance to that day does not exceed the total interest which would have been permitted to be paid on the bonds if the bonds had borne interest at all times from the date of issuance to that day at the maximum rate permitted by Section 53531 or any other applicable provision of law.

Bonds issued pursuant to this article may be sold at public or private sale at not less than 95 percent of the aggregate principal amount of the bonds being sold.

SEC. 3. Section 12875 is added to the Public Utilities Code, to read:

12875. Notwithstanding any other provision of law, a district which has owned and operated a water distribution or sewage disposal system for at least eight years and which has a population of

250,000 or more 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 district 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, after giving due consideration for the creditworthiness of the counter parties, where applicable, including any rating by a nationally recognized agency or such other criteria as may be appropriate. The contracts may be made upon the terms and conditions established by the board. 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.

SEC. 4. Section 2 of this act shall become operative only if AB 2749 is enacted during the 1986 portion of the 1985–86 regular session, and adds Section 26400.52 to 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:

If federal legislation is enacted which makes interest on bonds issued by governmental entities subject to federal taxation, in order to provide the state and local governments with the necessary flexibility for successful financing of public programs, as soon as possible, it is necessary that this act go into immediate effect. In addition, in order to provide certain municipal utility districts with the authority and flexibility for successful financing of public programs by entering into interest rate swap and other similar agreements, which are currently available to investor-owned utilities, as soon as possible, it is necessary that this act go into immediate effect.

## CHAPTER 1390

An act to amend Sections 25281, 25284.5, 25285, 25286, 25287, and 25299 of, and to add Sections 25283.1, 25299.01, 25299.02, 25299.03, and 25299.04 to, the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 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.

- (1) "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 and stores motor vehicle fuel which is used only to propel vehicles used primarily for agricultural purposes.
- (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 25283.1 is added to the Health and Safety Code, to read:
- 25283.1. This chapter does not prohibit any county from entering into a joint powers agreement with other counties for the purposes of enforcing this chapter
- SEC. 4. Section 25284.5 of the Health and Safety Code is amended to read:
- 25284.5. (a) Notwithstanding Section 25284, a local agency may instead issue an interim permit if the local agency does not issue or refuses to issue the permit application submitted pursuant to Section 25286 within 30 days after the local agency receives the permit application. If an interim permit is issued, the local agency shall, on or before March 1, 1986, approve, modify and approve, or disapprove the monitoring program proposed in the permit application.
- (b) (1) Within six months after the local agency approves the monitoring system proposed in the application, the owner or operator of the underground storage tank for which the interim permit has been issued shall install the approved monitoring system.
- (2) A tank owner or operator is not in violation of this subdivision if all of the following conditions occur:
- (A) The tank owner or operator has a permit to operate an underground tank, which permit specifies a monitoring alternative requiring the installation of equipment.
  - (B) The tank owner or operator has a binding agreement, which

is acceptable to the local agency, for the installation of the equipment required under subparagraph (A) or the tank owner or operator demonstrates to the local agency that he or she is making a good faith effort to enter into such an agreement.

- (C) The installation of the equipment required under subparagraph (A) is completed within a reasonable period of time, as determined by the local agency, but not later than January 1, 1989.
- (D) The tank owner or operator utilizes daily gauging and inventory reconciliation.
- (E) The tank owner or operator performs, or causes to be performed, a precision test on the tank at least once every 12 months or as provided in Section 25284.7.
- (F) The tank owner or operator utilizes leak detection devices for pressurized piping systems, as required by Section 25292.
- (c) The local agency shall, on or before September 1, 1986, either issue a permit pursuant to Section 25284 to the owner or operator of an underground storage tank granted an interim permit pursuant to this section, if the approved monitoring system has been installed and the tank is otherwise in compliance with this chapter, or the local agency shall, on or before that date, refuse to issue the permit if the monitoring system has not been installed or if the tank is not otherwise in compliance with this chapter.
- (d) During the period from the date of issuance of the interim permit until the permit is issued or refused, the interim permitholder shall not be held to be in violation of Sections 25284, 25291, and 25292.
- (e) Any owner or operator who, before March 1, 1986, submitted an application for a permit or who inquired as to whether the local agency was prepared to receive an application for a permit, but who has not received a permit solely because of the local agency's failure to act upon, or explicit refusal to receive, the permit application, shall not be held in violation of this section.
- SEC. 5. Section 25285 of the Health and Safety Code is amended to read:
- 25285. A permit to operate issued by the local agency pursuant to Section 25284 shall be effective for five years. A local agency shall not issue or renew a permit to operate an underground storage tank if the local agency inspects the tank and determines that the tank does not comply with this chapter. A local agency shall not issue or renew a permit to operate an underground storage tank to any person who has not paid the fee and surcharge required by Section 25287.
- SEC. 6. Section 25286 of the Health and Safety Code is amended to read:
- 25286. (a) An application for a permit to operate an underground storage tank, or for renewal of the permit, shall be made, by the owner, on a standardized form prepared by the board and provided by the local agency and shall be accompanied by the appropriate fee, as specified in Section 25287. As a condition of any permit to operate an underground storage tank, the permittee shall notify the local agency, within the period determined by the local

agency, of any changes in the usage of the underground storage tank, including the storage of new hazardous substances, changes in monitoring procedures, and if there has been any unauthorized release from the underground storage tank, as specified in Section 25294 or 25295.

- (b) (1) On or before 60 days after the effective date of the act amending this section during the 1986 portion of the 1985–86 Regular Session of the Legislature, the board shall make a finding concerning the estimated costs of using the SWEEPS for storing the permit application information required in subdivision (c) as compared to the board's costs to provide the same information storage system. The board shall select the information storage system which is the most cost-effective and shall notify all local agencies of this determination not later than 30 days after making these findings. If the board selects the SWEEPS, the board shall comply with paragraph (3) and, if the board selects its own system, the board shall comply with paragraph (4).
- (2) Consistent with the board's determination made pursuant to paragraph (1), the local agencies shall provide either the California Association of Environmental Health Administrators or the board with copies of the completed permit applications, using an industry standard computer readable magnetic tape, or any other format acceptable to the California Association of Environmental Health Administrators or the board, as appropriate.
- (3) If the SWEEPS is selected by the board, the board shall enter into a contract with the California Association of Environmental Health Administrators for the SWEEPS, and reimburse the association, upon appropriation by the Legislature, for any costs determined by the board to have been necessary and incurred pursuant to this section, including programming, training, maintenance, actual data processing expenditures, and any incidental costs of the operation of the SWEEPS related to the permitting of underground storage tanks. The permit application information required in subdivision (c) shall be stored in the SWEEPS. The California Association of Environmental Health Administrators shall submit to the board a quarterly report, including any information required by the board concerning permit application data. Each local agency shall provide the California Association of Environmental Health Administrators with a copy of the completed permit application within 30 days after taking final action on the application.
- (4) If the board selects its own system, the board shall store the permit application information required in subdivision (c) for the purpose of managing and appropriately cross-referencing and indexing information concerning underground storage tanks. Each local agency shall provide the board with a copy of the completed permit application within 30 days after taking final action on the application.
  - (c) The application form shall include, but not be limited to,

requests for the following information:

- (1) A description of the construction of the underground storage tank or tanks.
- (2) A list of all the hazardous substances which are or will be stored in the underground storage tank or tanks, specifying the hazardous substances for each underground storage tank.
- (3) A description of the monitoring program for the underground storage tank or tanks.
- (4) The name and address of the person, firm, or corporation which owns the underground storage tank or tanks and, if different, the name and address of the person who operates the underground storage tank or tanks.
- (5) The address of the facility at which the underground storage tank or tanks are located.
  - (6) The name of the person making the application.
- (7) The name and 24-hour phone number of the contact person in the event of an emergency involving the facility.
- (8) If the owner or operator of the underground storage tank is a public agency, the application shall include the name of the supervisor of the division, section, or office which operates the tank.
- (d) If a permittee stores in an underground storage tank or tanks a hazardous substance which is not listed in the application, as required by paragraph (2) of subdivision (c), the permittee shall apply for a new or amended permit within 30 days after commencing the storage of that hazardous substance.
- SEC. 7. Section 25287 of the Health and Safety Code is amended to read:
- 25287. (a) A fee shall be paid to the local agency by each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. The governing body of the county, or a city which assumes enforcement jurisdiction, shall establish the amount of the fees at a level sufficient to pay the necessary and reasonable costs incurred by the local agency 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 state or local government 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 and the costs of the local agency in collecting the surcharge. The local agency may retain 6 percent of any surcharge collected for costs incurred in its collection. The 6 percent of the surcharge retained by the local agency is the local agency's sole source of reimbursement for the cost of collecting the surcharge. The local agency shall transmit all remaining surcharge revenue collected by the local agency to the board within 45 days after receipt pursuant to subdivision (a). The surcharge shall be 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) If a local agency does not transmit the surcharge for a particular permit application to the board, the local agency shall pay the California Association of Environmental Health Administrators or the board for any costs associated with processing that application incurred by the SWEEPS or the board's own system.
- SEC. 8. 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 by the local agency 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 state or local government 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 and the costs of the local agency in collecting the surcharges. The local agency may retain 6 percent of any surcharge collected for costs incurred in its collection. The 6 percent of the surcharge retained by the local agency is the local agency's sole source of reimbursement for the cost of collecting the surcharge. The local agency shall transmit all remaining surcharge revenue collected by the local agency to the board within 45 days after receipt pursuant to subdivision (a). The surcharge shall be 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).
- (d) If a local agency does not transmit the surcharge for a particular permit application to the board, the local agency shall pay the California Association of Environmental Health Administrators or the board for any costs associated with processing that application incurred by the SWEEPS or the board's own system.
  - SEC. 9. Section 25299 of the Health and Safety Code is amended

to read:

- 25299. (a) Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for any of the following:
- (1) Operates an underground storage tank which has not been issued a permit.
- (2) Fails to monitor the underground storage tank, as required by the permit.
  - (3) Fails to maintain records, as required by Section 25286.
- (4) Fails to report an unauthorized release, as required by Sections 25294 and 25295.
- (5) Fails to properly close an underground storage tank, as required by Section 25298.
- (b) Any owner of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for any of the following:
  - (1) Failure to obtain a permit as specified by this chapter.
- (2) Failure to repair an underground tank in accordance with the provisions of this chapter.
- (3) Abandonment or improper closure of any underground tank subject to the provisions of this chapter.
- (4) Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank.
- (c) Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000) or more than ten thousand dollars (\$10,000), or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.
- (d) In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.
- (e) Each civil penalty or criminal fine imposed pursuant to this section for any separate violation shall be separate, and in addition to, any other civil penalty or criminal fine imposed pursuant to this section or any other provision of law, and shall be paid to the treasury of the local agency or state, whichever is represented by the office of the city attorney, district attorney, or Attorney General bringing the action.
- (f) In addition to the state and any city or county implementing this chapter pursuant to Section 25283, a city or county specified in subdivision (a) of Section 25299.1 may also levy and collect penalties under this section.

SEC. 10. Section 25299.10 is added to the Health and Safety Code, to read:

25299.01. When any person has engaged in, is engaged in, or is about to engage in any acts or practices which violate this chapter, or any rule, regulation, permit, standard, requirement, or order issued, adopted, or executed pursuant to this chapter, the city attorney of the city in which the acts or practices occur, occurred, or will occur, the district attorney of the county in which the acts or practices occur, occurred, or will occur, or the Attorney General may apply to the superior court for any order enjoining these acts or practices, or for an order directing compliance. The court may grant a permanent or temporary injunction, restraining order, or other order.

SEC. 11. Section 25299.02 is added to the Health and Safety Code, to read:

25299.02. Every civil action brought under this chapter shall be brought by the city attorney, the district attorney, or the Attorney General in the name of the people of the State of California, and any actions relating to the same violations may be joined or consolidated.

SEC. 12. Section 25299.03 is added to the Health and Safety Code, to read:

25299.03. Any civil action brought pursuant to this chapter shall be brought in the county in which the violation occurred, the county in which the principal office of the defendant is located, or the county in which the Attorney General has an office nearest to the county in which the principal office of the defendants, or any of them, in this state is located.

SEC. 13. Section 25299.04 is added to the Health and Safety Code, to read:

25299.04. 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 state of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued or that the remedy at law is inadequate. The temporary restraining order, preliminary injunction, or permanent injunction shall be issued without these allegations and without this proof.

SEC. 14. Section 2 of this bill incorporates amendments to Section 25281 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 or before January 1, 1987, but this bill becomes operative first, (2) each bill amends Section 25281 of the Health and Safety Code, and (3) this bill is enacted after AB 3570, in which case Section 25281 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 3570, at which time Section 2 of this bill shall become operative.

SEC. 15. Section 8 of this bill incorporates amendments to Section

25287 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 or before January 1, 1987, but this bill becomes operative first, (2) each bill amends Section 25287 of the Health and Safety Code, and (3) this bill is enacted after AB 3570, in which case Section 25287 of the Health and Safety Code, as amended by Section 7 of this bill, shall remain operative only until the operative date of AB 3570, at which time Section 8 of this bill shall become operative.

- SEC. 16. 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) and if 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 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. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to changes in the existing underground storage tank program, which protects public health and safety and the environment, it is necessary that this act take effect immediately.

#### CHAPTER 1391

An act to amend Section 7071.6 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

- SECTION 1. Section 7071.6 of the Business and Professions Code is amended to read:
- 7071.6. (a) Except as provided in Section 7071.8 and subdivision (b), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, that the applicant file or have on file a contractor's bond in the sum of five thousand dollars (\$5,000). No bond shall be required of a holder of an inactive license during the period the license is inactive.
- (b) Notwithstanding subdivision (a), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license for the license classification of swimming pool

contractor, that the applicant file or have on file a contractor's bond in the sum of ten thousand dollars (\$10,000). No bond shall be required of a holder of an inactive license during the period the license is inactive.

- (c) Notwithstanding any other provision of the law to the contrary, the board shall require, as a condition to the continued maintenance of any active license, that the holder of a license file, or have on file, on and after January 1, 1980, a contractor's bond in the sum of five thousand dollars (\$5,000); provided, that the holder of a license for the classification of swimming pool contractor file, or have on file, a contractor's bond in the sum of ten thousand dollars (\$10,000).
- (d) Notwithstanding any other provision of the law to the contrary, the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, or employee based on a recorded and unsatisfied judgment from a court of law or on an unsatisfied final arbitration award in the five years preceding the application, file or have on file a contractor's bond or other security sufficient to guarantee payment of an amount equal to the unsatisfied judgment or judgments, to a maximum of fifty thousand dollars (\$50,000). The applicant shall provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied judgment or final arbitration award, to satisfy a debt. This section applies only with respect to an unsatisfied judgment or arbitration award which is substantially related to the qualifications. functions, or duties of the license being applied for. If the applicant shows proof of satisfaction of the judgment, this requirement does not apply. This section shall not apply to an applicant for issuance, reinstatement, reactivation, or renewal where an unsatisfied iudgment has been discharged in a bankruptcy proceeding. The bond shall be on file for a minimum of one year or until such time as a satisfaction of all debts is made. Proof of the satisfaction of a debt shall be provided to the registrar. Failure to provide the bond or a copy of any accord, as required by this subdivision, shall be grounds to deny the issuance, reinstatement, reactivation, or renewal of a license.

The board shall include on the license application for issuance, reinstatement, reactivation, or renewal, a statement, to be made under penalty of perjury, as to whether there are any such recorded and unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, or the applicant's employees.

(e) Falsification of any application for the issuance, reinstatement, reactivation, or renewal of a license is a cause for disciplinary action.

SEC. 2. This act shall become operative on July 1, 1987.

### **CHAPTER 1392**

An act to amend Sections 6046 and 6046.5 of, and to add Sections 6046.6 and 6061 to, the Business and Professions Code, and to repeal Section 94360 of the Education Code, relating to the State Bar of California.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 6046 of the Business and Professions Code is amended to read:

6046. The board may establish an examining committee having the power:

- (a) To examine all applicants for admission to practice law.
- (b) To administer the requirements for admission to practice law.
- (c) To certify to the Supreme Court for admission those applicants who fulfill the requirements provided in this chapter.

The examining committee shall be comprised of 16 members, 10 of whom shall be members of the State Bar or judges of courts of record in this state and six of whom shall be public members who have never been members of the State Bar or admitted to practice before any court in the United States. At least one of the attorney members shall have been admitted to practice law in this state within three years from the date of their appointment to the examining committee.

- SEC. 2. Section 6046.5 of the Business and Professions Code is amended to read:
- 6046.5. Two of the nonattorney members of the examining committee shall be appointed by the Senate Rules Committee, two of the nonattorney members shall be appointed by the Speaker of the Assembly, and two of the nonattorney members shall be appointed by the Governor. They shall serve for a term of four years, except that of the initial nonattorney members so appointed, two shall serve for two years and four shall serve for four years, as shall be determined by lot. The nonattorney members shall have the same rights, powers, and privileges as any attorney member except that such a member shall not participate in the drafting of questions submitted to applicants on the State Bar entrance examination.
- SEC. 3. Section 6046.6 is added to the Business and Professions Code, to read:
- 6046.6. (a) The examining committee shall conduct a study and prepare a report on the necessity and practicability of requiring applicants for admission to practice law to be certified as possessing minimum courtroom or trial capabilities. The report shall be submitted to the Legislature on or before September 30, 1987.
  - (b) The examining committee shall not alter the bar examination

in a manner that requires the substantial modification of the training or preparation required for passage of the examination, except after giving two years' notice of that change. This requirement does not apply to a change in the bar examination that is applicable only at the option of the applicant.

- (c) The examining committee shall communicate and cooperate with the Law School Education Committee Council.
- (d) Scaling may be used on the bar examination for the purpose of maintaining an examination of uniform difficulty from year to year.
- SEC. 4. Section 6061 is added to the Business and Professions Code, to read:
- 6061. Any law school that is not accredited by the examining committee of the State Bar shall provide every student with a disclosure statement, subsequent to the payment of any application fee but prior to the payment of any registration fee, containing all of the following information:
- (a) The school is not accredited. However, in addition, if the school has been approved by other agencies, that fact may be so stated.
- (b) Where the school has not been in operation for 10 years, the assets and liabilities of the school. However, if the school has had prior affiliation with another school that has been in operation more than 10 years, has been under the control of another school that has been in operation more than 10 years, or has been a successor to a school in operation more than 10 years, the requirements of this subdivision are not applicable.
- (c) The number and percentage of students who have taken and who have passed the first-year law student's examination and the final bar examination in the previous five years, or since the establishment of the school, whichever time is less, which shall include only those students who have been certified by the school to take the examinations. This subdivision does not apply to correspondence schools.
- (d) The number of legal volumes in the library. This subdivision does not apply to correspondence schools.
- (e) The educational background, qualifications and experience of the faculty, and whether or not the faculty members and administrators (e.g., the dean) are members of the California State Bar.
- (f) The ratio of faculty to students for the previous five years or since the establishment of the school, whichever time is less. This subdivision does not apply to correspondence schools.
- (g) Whether or not the school has applied for accreditation, and if so, the date of application and whether or not that application has been withdrawn, is currently pending, or has been finally denied. The school need only disclose information relating to applications made in the previous five years.
  - (h) That the education provided by the school may not satisfy

requirements of other states for the practice of law. Applicants should inquire regarding those requirements, if any, to the state in which they may wish to practice.

The disclosure statement required by this section shall be signed by each student, who shall receive as a receipt a copy of his or her signed disclosure statement. If any school does not comply with these requirements, it shall make a full refund of all fees paid by students.

Subject to approval by the board, the examining committee may adopt such reasonable rules and regulations as are necessary for the purpose of ensuring compliance with this section.

- SEC. 5. Section 94360 of the Education Code is repealed.
- SEC. 6. The Chairpersons and Vice Chairpersons of the Senate and Assembly Committees on Judiciary may employ, at a reasonable cost, a consultant to conduct a one-year review of studies concerning the bar examination conducted by the Committee of Bar Examiners and to recommend additional studies relating to all of the following:
- (a) The necessity and practicality of requiring applicants for admission to the practice of law to be certified as possessing practical lawyering skills.
- (b) Bar examination passage rates for the past five years in California and in the other states.
- (c) California Bar examination passage rates with respect to (1) accredited and unaccredited law schools, (2) men and women, and (3) minorities and Caucasians, including any proposed remedies for disparate passage rates.
- (d) The impact of the performance section of the examination on passage rates.
- (e) Delays between successful completion of the bar examination and admission to the practice of law because of character investigations.
- (f) The number of protests submitted to the examining committee regarding bar examination scores and the disposition of those protests.
- (g) The passage rate of the multistate portion of the bar examination in California and the other states for which information is available.

The compensation of the consultant shall be paid by the State Bar.

#### CHAPTER 1393

An act to amend Section 14672 of the Government Code, and to amend Sections 2039, 2045.4, 6050, and 6105 of, and to add Section 7014 to, the Penal Code, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 14672 of the Government Code is amended to read:

14672. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections, may let to the City of Vacaville for a public purpose, for a period not to exceed 20 years, real property which belongs to the state and which is retained by the state primarily to provide a peripheral buffer area, or zone, between real property upon which is located the medical facility and adjacent real property, where the director deems such letting is in the best interests of the state. The lease provided for by this section may be renewed, upon its expiration, for an additional period not to exceed 20 years.

SEC. 1.5. Section 2039 of the Penal Code is amended to read:

2039. The Governor, upon recommendation of the Director of Corrections and in accordance with Section 6050, shall appoint a superintendent for the Deuel Vocational Institution. The director shall appoint, subject to civil service, such officers and employees as may be necessary.

SEC. 2. Section 2045.4 of the Penal Code is amended to read:

2045.4. The Governor, upon recommendation of the Director of Corrections and in accordance with Section 6050, shall appoint a superintendent for the California Training Facility. The director shall appoint, subject to civil service, such officers and employees as may be necessary.

SEC. 3. Section 6050 of the Penal Code is amended to read:

6050. The Governor, upon recommendation of the director, and with the advice and consent of the Senate, shall appoint the wardens and superintendents of the various state prisons. Each warden and superintendent shall be subject to removal by the director. If the director removes the warden or superintendent his or her action shall be final. The superintendents and wardens shall be exempt from civil service.

The Department of Personnel Administration shall fix the compensation of the wardens and superintendents of the state prisons.

SEC. 4. Section 6105 of the Penal Code is amended to read:

- 6105. The Governor, upon recommendation of the Director of Corrections and in accordance with Section 6050, shall appoint a superintendent for the medical facility. The director shall appoint, subject to civil service, such officers and employees as may be necessary.
  - SEC. 5. Section 7014 is added to the Penal Code, to read:
- 7014. The Joint Legislative Prison Committee shall be reimbursed, from funds appropriated to the Department of Corrections for support, for costs, as agreed to by the Department of Corrections, incurred by the committee in reviewing environmental assessment studies pursuant to this chapter. The chairperson of the committee shall certify the costs to the Controller who shall, upon receipt of the certification, transfer funds from the unencumbered balance of funds appropriated to the Department of Corrections for support. The funds shall be transferred to the contingent fund of the Legislature which was used to pay the costs incurred in reviewing the environmental studies.
- SEC. 6. The Department of Corrections is authorized to pay to Otay Water District, in Improvement District Seven an improvement fee of up to three thousand dollars (\$3,000) per acre at the Richard J. Donovan Correctional Facility at Rock Mountain. In no event is the department authorized to pay an improvement fee of more than one million dollars (\$1,000,000).
- SEC. 6.5. (a) The Department of Corrections shall perform site suitability studies, evaluate the feasibility of, and prepare an Environmental Impact Report for, constructing a women's facility of up to 2,000 beds in Madera County.
- (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 a report on the feasibility study and a summary of the Environmental Impact Report to the Joint Legislative Budget Committee and the Joint Legislative Committee on Prison Construction as soon as the report or summary is completed, but no later than October 1, 1987.
- SEC. 7. The Department of Corrections may transfer from any funds available to the department the sum of up to forty thousand dollars (\$40,000) for the following purposes:
- (a) For salaries for up to two police officers for up to two years for the City of Ione, an amount not to exceed thirty thousand dollars (\$30,000).
- (b) For the Amador County Unified School District, an amount not to exceed ten thousand dollars (\$10,000).

Pursuant to Section 1 of Chapter 957 of the Statutes of 1983, as amended by Section 7 of Chapter 931 of the Statutes of 1985, the funds transferred under this section shall be used for purposes as necessary to mitigate the negative impact on the community created during the construction of the prison in Amador County.

SEC. 8. (a) Notwithstanding any other provision of law and

pursuant to Section 7001 of the Penal Code, the Department of Corrections may construct and occupy a minimum security, work-based camp facility in Modoc County.

- (b) Work performed by inmates housed in the camp established in Modoc County shall be consistent with the provisions of Section 1 of Chapter 956 of the Statutes of 1983, as amended at the 1985–86 Regular Session of the Legislature.
- SEC. 9. The Department of Corrections shall perform site suitability studies and evaluate the feasibility of constructing a correctional facility in Imperial County and report its findings to the Legislature. 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 facility, the size of the proposed facility, and the work programs to be used at the proposed facility.
- SEC. 10. The Department of Corrections shall perform site suitability studies and evaluate the feasibility of constructing a correctional facility in Western Kern County and report its findings to the Legislature. 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 facility, the size of the proposed facility, and the work programs to be used at the proposed facility.
- SEC. 11. Notwithstanding any other provision of law, Provision 6 of Items 5240-311-723 of the Budget Act of 1983 (Chapter 324 of the Statutes of 1983) shall have no force and effect.
- SEC. 12. Notwithstanding any other provision of law, Provision 12 of Item 5240-301-723 of the Budget Act of 1982 (Chapter 326 of the Statutes of 1982) shall have no force and effect.
- SEC. 13. The sum of nine million seven hundred two thousand dollars (\$9,702,000) is appropriated to the Department of Corrections as follows:
- (a) There is hereby appropriated from the 1984 Prison Construction Fund to the Department of Corrections the sum of one million six hundred ninety-three thousand dollars (\$1,693,000) for the Northern California Women's Facility in San Joaquin County, to be allocated, as follows:
- (1) 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 ......

(2) For design and construction costs associated with road widening and curbs and gutters installation

\$1,500,000

\$ 193,000

- (b) There is hereby appropriated from the 1984 Prison Construction Fund to the Department of Corrections, the sum of five hundred thousand dollars (\$500,000) for site suitability studies, feasibility evaluation, and environmental impact report preparation in Madera County.
- (c) There is hereby appropriated to the Department of Corrections from the 1986 Prison Construction Fund, the sum of four million dollars (\$4,000,000) for construction of a minimum security, work-based facility in Modoc County.

Funds appropriated under this section 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, long lead and equipment items.

- (d) There is hereby appropriated from the 1986 Prison Construction Fund to the Department of the Youth Authority the sum of five hundred thousand dollars (\$500,000) for expanded vocational/educational program space.
- (e) To carry out the provisions of Section 9 of this act, the sum of five hundred thousand dollars (\$500,000) is hereby appropriated from the 1986 Prison Construction Fund to the Department of Corrections.
- (f) To carry out the provisions of Section 10 of this act, the sum of five hundred thousand dollars (\$500,000) is hereby appropriated from the 1986 Prison Construction Fund to the Department of Corrections.
- (g) There is hereby appropriated to the Department of Corrections from the 1986 Prison Construction Fund the sum of one million nine thousand dollars (\$1,009,000), for costs associated with the County of San Diego Road Improvements Agreement for the relocation of an existing 20-inch waterline owned by the Otay Water District located within the access roads to the Richard J. Donovan Correctional Facility at Rock Mountain.
- (h) There is hereby appropriated to the Department of Corrections from the 1986 Prison Construction Fund the sum of one million dollars (\$1,000,000) for the purposes specified in Section 6.
- SEC. 14. If any provisions of this act or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect any other provisions or application of the act which can be given effect without the invalid provisions or applications and, to this end, the provisions of this act are severable.
- SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The 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 of this act are essential to permit the state to deal with this immediate and current crisis.

#### CHAPTER 1394

An act to amend Section 5008.4 of the Public Resources Code, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 5008.4 of the Public Resources Code is amended to read:

5008.4. Moneys deposited in the State Parks and Recreation Fund pursuant to Section 1463.02 of the Penal Code are available, when appropriated by the Legislature, only for the following purposes:

(a) The payment of refunds of fines and forfeitures determined by the Controller to have been erroneously deposited in the fund, subject to approval by the State Board of Control prior to payment.

- (b) The training of department employees in the Ranger/Lifeguard classification, including, but not limited to, resource management and protection, law enforcement, interpretation, first aid, cardiopulmonary resuscitation and medical technical training, subject to all of the following:
- (1) Reimbursement for training under the section shall not exceed the reimbursement rates of the Commission on Peace Officer Standards and Training, but reimbursements for salaries may be up to 100 percent of actual costs.
- (2) Reimbursements for salaries shall be allocated to the assigned work locations of the employees receiving training to be used for salary or overtime payments for rangers and lifeguards assigned to those work locations.
- (3) Expenditures under this subdivision in any fiscal year shall not exceed 90 percent of the moneys on deposit on June 30 of the preceding fiscal year.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may be applicable for the 1986–87 fiscal year, thereby facilitating needed training of state park personnel in the Ranger/Lifeguard classification at the earliest possible time, it is necessary that this act take effect immediately.

### CHAPTER 1395

An act to add Section 418.4 to the Streets and Highways Code, relating to state highways, and making an appropriation therefor.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 418.4 is added to the Streets and Highways Code, to read:

418.4. In recognition of the fact that increased motor vehicle traffic uses Madera Road and Olsen Road in the City of Simi Valley to traverse between Routes 118 and 23, the department may pay up to ten thousand dollars (\$10,000) annually to the city for the added costs of maintenance and operation of those two roads. The payment shall be made from funds appropriated to the department for the maintenance of state highways.

This section shall become inoperative upon the department certifying that construction is complete on the 1985 State Transportation Improvement Program project on Route 23 in Ventura County which provides the freeway-to-freeway connection with Route 118.

#### CHAPTER 1396

An act to amend Sections 10010.1, 12823.1, and 16482.1 of, and to add Sections 11509, 14403, 14403.3, and 14403.5 to, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 10010.1 of the Public Utilities Code, as amended by Chapter 479 of the Statutes of 1986, 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 public utility shall give, by mail, in person, or by posting in a conspicuous location at the premises, a notice of termination of service, at least 48 hours prior to termination.

- (c) Every notice of termination of service pursuant to subdivision (a) 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. 2. Section 11509 is added to the Public Utilities Code, to read:
- 11509. "Electricity district" means a municipal utility district formed under this division that furnishes electricity to more than 100,000 customers.
- SEC. 3. Section 12823.1 of the Public Utilities Code, as amended by Chapter 479 of the Statutes of 1986, 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, by mail, in person, or by posting in a conspicuous location at the premises, a notice of termination of service, at least 48 hours prior to termination.
- (c) Every notice of termination of service pursuant to subdivision (a) 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 14403 is added to the Public Utilities Code, to read:
- 14403. Before the board adopts any change in rates and charges for commodities or services furnished by an electricity district intended to increase or decrease revenues, the general manager shall file with the board a report and recommendation on the proposed changes in writing. Within 90 days, but not less than 30 days after the report is filed, except when unanticipated events cause a sudden and significant change in the electricity district's financial condition requiring an immediate response, the board shall hold a hearing on the report and recommendation. Notice of the time and place of the hearing shall be published within the district pursuant to Section 6063 of the Government Code, except that, in the case of an unanticipated event requiring an immediate response, notice may be given pursuant to Section 6063a of the Government Code.
- SEC. 5. Section 14403.3 is added to the Public Utilities Code, to read:
- 14403.3. The report and recommendation of the general manager of an electricity district filed pursuant to Section 14403 shall include all of the following:
- (a) The most recent annual report submitted pursuant to Section 11938.
- (b) A statement of sales volumes by customer types for the preceding two years and estimates of sales volumes for the two years following.
- (c) A statement of sources and disposition of funds for the preceding two years and estimates of sources and dispositions of funds for the two years following, whether or not the rate change does occur.
- (d) A statement of capital expenditures anticipated during the next two years following.
- (e) In sufficient detail to permit an assessment of the need for any proposed changes, a statement of each category of expense for the preceding two years, and estimates of each category of expense for the two years following.
- (f) Other information as the general manager believes will explain or justify the proposed rate change.
- (g) The basis for the allocation of the overall revenues among the various types of customers of the electricity district.
- SEC. 6. Section 14403.5 is added to the Public Utilities Code, to read:
  - 14403.5. At the hearing held pursuant to Section 14403, the board shall do both of the following:
  - (a) Permit any member of the public who has given 10 days advance written notice to present nonduplicative testimony on the proposed rate change or on any alternatives.
  - (b) Consider any report and recommendations submitted in writing by any member of the public on alternatives to the rate

changes proposed by the general manager.

- SEC. 7. Section 16482.1 of the Public Utilities Code, as amended by Chapter 479 of the Statutes of 1986, 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 personal contact, at least 48 hours prior to any termination of service, except that, whenever telephone or personal contact cannot be accomplished, the district shall give, by mail, in person, or by posting in a conspicuous location at the premises, a notice of termination of service, at least 48 hours prior to termination.
- (c) Every notice of termination of service pursuant to subdivision (a) 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. 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 1397

An act to add Title 1.3A (commencing with Section 1748.10) and Title 1.3B (commencing with Section 1748.20) to Part 4 of, and Article 10.5 (commencing with Section 1810.20) to Chapter 1 of Title 2 of Part 4 of, Division 3 of, the Civil Code, relating to financial transactions.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. (a) The Legislature finds and declares that the consumer is not advised uniformly at the time of advertisement inviting a person to apply for the issuance of a credit card of the more significant attributes associated with credit cards so as to encourage comparison of the cost of using one credit card over another credit card. The Legislature further finds and declares it is beneficial to the consumer to receive disclosure of selected costs associated with credit cards offered by credit card issuers so as to encourage consumers to ask about the attributes of credit card agreements which will affect their cost of credit and to foster competition among credit card issuers.
- (b) It is the intent of the Legislature to provide consumers with a simple and direct means for comparing the most significant attributes of credit cards through disclosure of the selected attributes associated with credit card agreements in a simple and clear format. The Legislature further finds and declares that this will benefit consumers by encouraging comparison of credit card terms which affect the consumer's cost of credit when using a credit card while not unreasonably burdening credit card issuers with hypertechnical disclosure requirements.
- SEC. 2. Title 1.3A (commencing with Section 1748.10) is added to Part 4 of Division 3 of the Civil Code, to read:

#### TITLE 1.3A. CREDIT CARD DISCLOSURE

- 1748.10. This act shall be known and may be cited as the "Areias-Robbins Credit Card Full Disclosure Act Of 1986."
- 1748.11. (a) Any application form or preapproved written solicitation for an open-end credit card account to be used for personal, family, or household purposes which is mailed on or after October 1, 1987, to a consumer residing in this state by or on behalf of a creditor, whether or not the creditor is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the creditor, shall contain or be accompanied by either of the following disclosures:
  - (1) A disclosure of each of the following, if applicable:
- (A) Any periodic rate or rates that may be applied to the account, expressed as an annual percentage rate or rates. If the account is subject to a variable rate, the creditor may instead either disclose the rate as of a specific date and indicate that the rate may vary, or identify the index and any amount or percentage added to, or subtracted from, that index and used to determine the rate. For purposes of this section, that amount or percentage shall be referred to as the "spread."
- (B) Any membership or participation fee that may be imposed for availability of a credit card account, expressed as an annualized amount
- (C) Any per transaction fee that may be imposed on purchases, expressed as an amount or as a percentage of the transaction, as applicable.
- (D) If the creditor provides a period during which the consumer may repay the full balance reflected on a billing statement which is attributable to purchases of goods or services from the creditor or from merchants participating in the credit card plan, without the imposition of additional finance charges, the creditor shall either disclose the number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the consumer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the "free period" or "free-ride period." If the creditor does not provide such a period for purchases, the disclosure shall so indicate.
- (2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z.
- (b) A creditor need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall not be construed in any way as a standard by which to determine whether a creditor who elects not to use such a chart has provided the required disclosures in a manner which

satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the creditor, or if the creditor presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

# THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE AREIAS-ROBBINS CREDIT CARD FULL DISCLOSURE ACT OF 1986

# INTEREST RATES, FEES, AND FREE-RIDE PERIOD FOR PURCHASES UNDER THIS CREDIT CARD ACCOUNT

ANNUAL PERCENTAGE RATE (1)	VARIABLE RATE INDEX AND SPREAD (2)	ANNUALIZED MEMBERSHIP OR PARTICI- PATION FEE	TRANS- ACTION FEE	FREE-RIDE PERIOD (3)

- (1) For fixed interest rates. If variable rate, creditor may elect to disclose a rate as of a specified date and indicate that the rate may vary.
- (2) For variable interest rates. If fixed rate, creditor may eliminate the column, leave the column blank, or indicate "No" or "None" or "Does not apply."
- (3) For example, "30 days" or "Yes, if full payment is received by next billing date" or "Yes, if full new balance is paid by due date."
- (c) For purposes of this section, "Regulation Z" has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. Sec. 226.1 et seq.). For the purposes of this section, "open-end credit card account" does not include an account accessed by a device described in paragraph (2) of subdivision (a) of Section 1747.02.
- (d) Nothing in this section shall be deemed or construed to prohibit a creditor from disclosing additional terms, conditions, or

information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section.

- (e) If a creditor is required under federal law to make any disclosure of the terms applicable to a credit card account in connection with application forms or solicitations, the creditor shall be deemed to have complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the creditor complies with the federal disclosure requirement. For example, in lieu of complying with the requirements of paragraph (1) of subdivision (a), a creditor has the option of disclosing the specific terms required to be disclosed in an advertisement under Regulation Z, if the application forms or solicitations constitute advertisements in which specific terms must be disclosed under Regulation Z.
- (f) If for any reason the requirements of this section do not apply equally to creditors located in this state and creditors not located in this state, then the requirements applicable to creditors located in this state shall automatically be reduced to the extent necessary to establish equal requirements for both categories of creditors, until it is otherwise determined by a court of law in a proceeding to which the creditor located in this state is a party.

(g) All application forms for an open-end credit card account distributed in this state on or after October 1, 1987, other than by mail, shall contain a statement in substantially the following form:

"If you wish to receive disclosure of the terms of this credit card, pursuant to the Areias-Robbins Credit Card Full Disclosure Act of 1986, check here and return to the address on this application."

A box shall be printed in or next to this statement for placement of such a checkmark.

However, this subdivision does not apply if the application contains the disclosures provided for in this title.

- (h) This title does not apply to any application form or written advertisement or an open-end credit card account where the credit to be extended will be secured by a lien on real or personal property or both real and personal property.
- (i) This title does not apply to any person who is subject to Article 10.5 (commencing with Sec. 1810.20) of Chapter 1 of Title 2.
- SEC. 3. Title 1.3B (commencing with Section 1748.20) is added to Part 4 of Division 3 of the Civil Code, to read:

#### TITLE 1.3B. CHARGE CARD DISCLOSURES

1748.20. This title may be cited as the "Areias-Robbins Charge Card Full Disclosure Act of 1986."

1748.21. For the purposes of this title:

(a) "Charge card" means any card, plate, or other credit device pursuant to which the charge card issuer extends credit to the charge cardholder, primarily for personal, family, or household purposes

- where (1) the credit extended does not subject the charge cardholder to a finance charge and (2) the charge cardholder cannot automatically access credit that is repayable in installments.
- (b) "Charge cardholder" means the person to whom a charge card is issued.
- (c) "Charge card issuer" means any person that issues a charge card or that person's agent with respect to the card.
- 1748.22. (a) On and after October 1, 1987, issuers of charge cards shall clearly and conspicuously disclose in any charge card application form or preapproved written solicitation for a charge card mailed to a consumer who resides in this state to apply for a charge card, whether or not the charge card issuer is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the charge card issuer, the following information:
- (1) Any fee or charge assessed for or which may be assessed for the issuance or renewal of the charge card, expressed as an annualized amount. The fee or charge required to be disclosed pursuant to this paragraph shall be denominated as an "annual fee."
- (2) The charge card does not permit the charge cardholder to defer payment of charges incurred by the use of the charge card upon receipt of a periodic statement of charges from the charge card issuer.
- (3) Any fee that may be assessed for an extension of credit to a charge cardholder where the extension of credit is made by the charge card issuer, and is not a credit sale and where the charge cardholder receives the extension of credit in the form of cash or where the charge cardholder obtains the extension of credit through the use of a preprinted check, draft, or similar credit device provided by the charge card issuer to obtain an extension of credit. This fee shall be denominated as a "cash advance fee" in the disclosure required by this paragraph.
- (b) A charge card issuer shall be conclusively presumed to have complied with the disclosure requirements of subdivision (a) if the table set out in subdivision (b) of Section 1748.11 is completed with the applicable terms offered by the charge card issuer in a clear and conspicuous manner and the completed table in subdivision (b) of Section 1748.11 is then provided to the person invited to apply for the charge card as a part of or in material which accompanies the charge card application or written advertisement which invites a person to apply for a charge card.

The charge card issuer shall include as part of table set out in subdivision (b) of Section 1748.11 the following sentences in the boxes or in a footnote outside of the boxes that relate to the interest rate disclosure: "This is a charge card which does not permit the charge cardholder to pay for purchases made using this charge card in installments. All charges made by a person to whom the charge card is issued are due and payable upon the receipt of a periodic statement of charges by the charge cardholder."

The inclusion or exclusion of an expiration date with table set out in subdivision (b) of Section 1748.11 or the use of footnotes in the boxes of the table to set out the information required to be disclosed by this section outside of the boxes of the table set out in subdivision (b) of Section 1748.11 shall not affect the conclusive presumption of compliance pursuant to this subdivision. If a charge card issuer does not offer or require one of the selected attributes of credit cards in the table set out in subdivision (b) of Section 1748.11 the charge card issuer shall employ the phrase in the appropriate box or in the appropriate footnote "Not offered" or "Not required" or a substantially similar phrase without losing the conclusive presumption of compliance with the requirements of subdivision (a). If one of the selected attributes of charge cards required to be disclosed pursuant to subdivision (a) is not applicable to the charge card issuer, the charge card issuer may employ in the appropriate box or in the appropriate footnote outside of the box in the table set out in subdivision (b) of Section 1748.11 the phrase "Not applicable" or a substantially similar phrase without losing the conclusive presumption of compliance with the requirements of subdivision (a).

- (c) Nothing in this section shall be deemed or construed to prohibit a charge card issuer from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section by subdivision (a) or in connection with the disclosure provided in subdivision (b), in conjunction with the disclosures required by this section.
- (d) If the charge card issuer offers to the charge cardholder any program or service under which the charge cardholder may elect to access open-end credit, the charge card issuer shall provide to the charge cardholder, before the charge cardholder has the right to access that credit, the initial disclosure statement required by Regulation Z, as defined in subdivision (c) of Section 1748.10.
- (e) All charge card application forms distributed in this state on or after October 1, 1987, other than by mail, shall contain a statement in substantially the following form:

"If you wish to receive disclosure of the terms of this credit card, pursuant to the Areias-Robbins Charge Card Full Disclosure Act of 1986, check here and return to the address on this application."

A box shall be printed in or next to this statement for placing such a checkmark.

However, this subdivision does not apply if the application contains the disclosures provided for in this title.

SEC. 4. Article 10.5 (commencing with Section 1810.20) is added to Chapter 1 of Title 2 of Part 4 of Division 3 of the Civil Code, to read:

## Article 10.5. Retail Installment Account Credit Card Periodic Rate Disclosures

- 1810.20. This article shall be known and may be cited as the "Areias-Robbins Retail Installment Account Full Disclosure Act of 1986."
- 1810.21. (a) Any application form or preapproved written solicitation for a credit card issued in connection with a retail installment account which is mailed on or after October 1, 1987, to a retail buyer residing in this state by or on behalf of a retail seller, whether or not the retail seller is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the retail seller, shall contain or be accompanied by either of the following disclosures:
  - (1) A disclosure of each of the following, if applicable:
- (A) Any periodic rate or rates that will be used to determine the finance charge imposed on the balance due under the terms of a retail installment account, expressed as an annual percentage rate or rates.
- (B) Any membership or participation fee that will be imposed for availability of a retail installment account in connection with which a credit card is issued expressed as an annualized amount.
- (C) If the retail seller provides a period during which the retail buyer may repay the full balance reflected on a billing statement which is attributable to purchases of goods or services from the retail seller without the imposition of additional finance charges, the retail seller shall either disclose the minimum number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the retail buyer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the "free period" or "free-ride period." If the retail seller does not provide such a period for purchases, the disclosure shall so indicate.
- (2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z (12 C.F.R. 226.6).
- (b) In the event that an unsolicited application form is mailed or otherwise delivered to retail buyers in more than one state, the requirements of subdivision (a) shall be satisfied if on the application form or the soliciting material there is a notice that credit terms may vary from state to state and which provides either the disclosures required by subdivision (a) or an address or phone number for the customer to use to obtain the disclosure. The notice shall be in boldface type no smaller than the largest type used in the narrative portion, excluding headlines, of the material soliciting the application. Any person responding to the notice shall be given the disclosures required by subdivision (a).

(c) A retail seller need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall not be construed in any way as a standard by which to determine whether a retail seller who elects not to use the chart has provided the required disclosures in a manner which satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the retail seller, or if the retail seller presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

# THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE AREIAS-ROBBINS RETAIL INSTALLMENT ACCOUNT FULL DISCLOSURE ACT OF 1986

CREDIT CARD TERMS VARY AMONG RETAIL SELLERS — SELECTED TERMS FOR PURCHASES UNDER THIS RETAIL INSTALLMENT ACCOUNT : ARE SET OUT BELOW

PERIODIC RATES (as APRs)	ANNUAL FEES	FREE-RIDE PERIOD
,	, .	

- (d) For purpose of this section, "Regulation Z" has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. Sec. 226.1 et seq.).
- (e) Nothing in this section shall be deemed or construed to prohibit a retail seller from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section. Notwithstanding subdivision (g) of Section 1748.11, a retail seller that complies with the requirements of Section 1748.11 shall be deemed to have complied with the requirements of this section.
- (f) If a retail seller is required under federal law to make any disclosure of the terms applicable to a retail installment account in

connection with application forms or solicitations, the retail seller shall be deemed to have complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the retail seller complies with the federal disclosure requirement.

(g) If the disclosure required by this section does not otherwise appear on an application form or an accompanying retail installment agreement distributed in this state on or after October 1, 1987, other than by mail, the application form shall include a statement in substantially the following form:

"If you wish to receive disclosure of the terms of this retail installment account, pursuant to the Areias-Robbins Retail Installment Account Full Disclosure Act of 1986, check here and return to the address on this form."

A box shall be printed in or next to this statement for placing such a checkmark.

- (h) This article does not apply to (1) any application form or preapproved written solicitation for a retail installment account credit card where the credit to be extended will be secured by a lien on real or personal property, or both real and personal property, (2) any application form or written solicitation which invites a person or persons to apply for a retail installment account credit card and which is included as part of a catalog which is sent to one or more persons by a creditor in order to facilitate a credit sale of goods offered in the catalog, (3) any advertisement which does not invite, directly or indirectly, an application for a retail installment account credit card, and (4) any application form or written advertisement included in a magazine, newspaper, or other publication distributed in more than one state by someone other than the creditor.
- SEC. 5. In construing the terms of this act, this act shall be construed reasonably for the purpose of encouraging simplified comparison of the selected attributes of credit cards and retail installment accounts disclosed pursuant to Sections 1748.10 and 1810.21 of the Civil Code and shall not be construed in an overly technical manner.
- SEC. 6. In enacting this act it is the intent of the Legislature that the terms of any solicitation for an application for an open-end credit card account which does not include a specific expiration date or a statement that the terms are subject to change shall be deemed to be superseded by the terms of a subsequent solicitation for such an account by the creditor or retail seller if the recipient of the earlier solicitation has not yet applied for the account, whether or not that person has actual knowledge of that change in terms.
- SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 8. 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 1398

An act to amend Sections 116.7, 134, and 135 of the Code of Civil Procedure, to repeal Sections 71344 and 71345 of the Government Code, and to amend Section 1305 of the Penal Code, relating to courts.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 116.7 of the Code of Civil Procedure is amended to read:

116.7. Sessions of the small claims court may be scheduled at any time and on any day, including Saturdays, but excluding other judicial holidays. They may also be scheduled at any public building within the judicial district, including places outside the courthouse. Each small claims division of a municipal court with four or more judicial officers shall conduct at least one night session or Saturday session per month.

For purposes of the night or Saturday session requirement of this section, the term "session" shall include, but not be limited to, a proceeding conducted by a member of the State Bar acting as a mediator or referee.

- SEC. 2. Section 134 of the Code of Civil Procedure, as added by Chapter 1450 of the Statutes of 1985, is amended to read:
- 134. (a) The courts shall be closed for the transaction of judicial business on judicial holidays, except for the following purposes:
- (1) To give, upon their request, instructions to a jury when deliberating on their verdict.
  - (2) To receive a verdict or discharge a jury.
- (3) For the conduct of arraignments and the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature.
- (4) For the conduct of Saturday small claims court sessions pursuant to Section 116.7.
- (b) Injunctions and writs of prohibition may be issued and served on any day.
- SEC. 3. Section 135 of the Code of Civil Procedure, as added by Chapter 1450 of the Statutes of 1985, is amended to read:
  - 135. Every full day designated as a holiday by Section 6700 of the

Government Code, except September 9, known as "Admission Day," is a judicial holiday. If such a judicial holiday falls on a Saturday or a Sunday, the Judicial Council may designate an alternative day for observance of the holiday. Every Saturday and the day after Thanksgiving is a judicial holiday. Officers and employees of the courts shall observe only the judicial holidays established pursuant to this section.

SEC. 4. Section 71344 of the Government Code is repealed.

SEC. 5. Section 71345 of the Government Code is repealed.

SEC. 6. Section 1305 of the Penal Code is amended to read:

1305. (a) If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his or her presence in court is lawfully required, or to surrender himself or herself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the undertaking of bail, or the money deposited instead of bail, as the case may be, must thereupon be declared forfeited, and, if the amount of the forfeiture exceeds two hundred dollars (\$200), the clerk of the court shall, promptly upon entering the fact of such failure to appear in the minutes, mail notice of the forfeiture to the surety on the bond or depositor of money instead of bond, and shall execute a certificate of such mailing and place it in the court's file in the case. If the surety is an authorized corporate surety insurer, and if the bond has plainly printed or stamped thereon the address of its principal office, such notice shall be mailed to such surety at such address, and mailing to the bail agent or solicitor who posted the bond shall not constitute compliance with this section; the clerk shall at the same time send a copy of such notice to the bail agent or solicitor who posted the bond. If the clerk fails to mail such notice within 30 days after such entry, the surety or depositor shall be released from all obligations under the bond.

But if at any time within 180 days after such entry in the minutes or, if mailing of notice of forfeiture is required, within 180 days after mailing such notice of forfeiture, the defendant appears, and satisfactorily excuse the defendant's neglect or show to the satisfaction of the court that the absence of the defendant was not with the connivance of the bail, the court shall, under terms as may be just and that are equal with respect to all forms of pretrial release, direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately. The court may order the bail reinstated and the defendant released again on the same bond after notice to the bail. provided that the bail has not surrendered the defendant. If at any time within 180 days after such entry in the minutes or mailing as the case may be, the bail should surrender the defendant to the court or to custody, the court shall under terms as may be just direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately.

If within 180 days after such entry in the minutes or mailing as the

case may be, it is made to appear to the satisfaction of the court that the defendant is dead or is otherwise permanently unable to appear in court due to illness, insanity, or detention by civil or military authorities, and that the absence of the defendant was not with the connivance of the bail, the court shall, under terms as may be just and that are equal with respect to all forms of pretrial release, direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately. If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is temporarily disabled by reason of illness, insanity, or detention by civil or military authorities and is therefore unable to appear in court at any time during the remainder of such 180 days, and that the absence of the defendant has not been with the connivance of the bail, then the period of time during which the disability continues shall not be deemed part of such 180 days. Upon a finding by the court that a reasonable period of time is necessary in order to return the defendant to court upon the termination of the disability, then such period of time, as fixed by the court, shall not be deemed part of such 180 days.

Unless waived by the district attorney or other prosecuting attorney, no order discharging the forfeiture of the undertaking or deposit shall be made without notice by the bail to the district attorney or prosecuting attorney, who may request a hearing within 10 days after receipt of the notice. The court shall then set the date, time, and place of hearing and give notice to the district attorney or prosecuting attorney and to the bail.

- (b) If, without sufficient excuse, the defendant neglects to appear for arraignment, trial, judgment, or upon any other occasion when his or her presence in court is lawfully required, or to surrender himself or herself in execution of the judgment, but the court has reason to believe that sufficient excuse may exist for his or her neglect to appear or surrender himself or herself, the court may continue the case for such period as it deems reasonable to enable the defendant to appear without ordering a forfeiture of bail or issuing a bench warrant.
- SEC. 7. Sections 1 to 5, inclusive, of this act shall become operative on January 1, 1989.
- SEC. 8. 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 1399

An act to amend Sections 99247, 99268.8, 99268.9, and 99270.2 of, and to add Section 99268.12 to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 99247 of the Public Utilities Code is amended to read:

99247. For purposes of Section 99246, and as used elsewhere in this article:

- (a) "Operating cost" means all costs in the operating expense object classes exclusive of the costs in the depreciation and amortization expense object class of the uniform system of accounts and records adopted by the Controller pursuant to Section 99243, and exclusive of all subsidies for commuter rail services operated under the jurisdiction of the Interstate Commerce Commission and of all direct costs for providing charter services, and exclusive of all vehicle lease costs.
- (b) "Operating cost per passenger" means the operating cost divided by the total passengers.
- (c) "Operating cost per vehicle service hour" means the operating cost divided by the vehicle service hours.
- (d) "Passengers per vehicle service hour" means the total passengers divided by the vehicle service hours.
- (e) "Passengers per vehicle service mile" means the total passengers divided by the vehicle service miles.
- (f) "Total passengers" means the number of boarding passengers, whether revenue producing or not, carried by the public transportation system.
- (g) "Transit vehicle" means a vehicle, including, but not limited to, one operated on rails or tracks, which is used for public transportation services funded, in whole or in part, under this chapter.
- (h) "Vehicle service hours" means the total number of hours that each transit vehicle is in revenue service, including layover time.
- (i) "Vehicle service miles" means the total number of miles that each transit vehicle is in revenue service.
- (j) "Vehicle service hours per employee" means the vehicle service hours divided by the number of employees employed in connection with the public transportation system, based on the assumption that 2,000 person-hours of work in one year constitute one employee. The count of employees shall also include those individuals employed by the operator which provide services to the agency of the operator responsible for the operation of the public

transportation system even though not employed in that agency.

SEC. 2. Section 99268.8 of the Public Utilities Code is amended to read:

99268.8. The required ratios of fare revenues to operating cost prescribed by this article shall not apply to an extension of public transportation services until two years after the end of the fiscal year in which the extension of services was put into operation. As used in this section, "extension of public transportation services" includes additions of geographical areas or route miles, or improvements in service frequency or hours of service greater than 25 percent of the route total, or the addition of new days of service, and for transit service claimants also includes the addition of a new type of service, such as van. taxi, or bus.

Within 90 days after the end of the first year of implementation, the operator shall submit to the transportation planning agency, the county transportation commission, or the San Diego Metropolitan Transit Development Board having jurisdiction over it, a report on the extension of public transportation services, including, but not limited to, the area served, the revenues generated, and the cost to provide the extended services.

SEC. 3. Section 99268.9 of the Public Utilities Code is amended to read:

99268.9. (a) Except as otherwise provided in subdivision (b), if an operator was allocated funds under this article during a fiscal year in which it did not maintain the required ratio of fare revenues to operating cost, the operator's eligibility to receive moneys from the local transportation fund and allocations pursuant to Sections 99313.3 and 99314.3 shall be reduced during a subsequent penalty year by the amount of the difference between the required fare revenues and the actual fare revenues for the fiscal year that the required ratio was not maintained. The penalty year shall be the fiscal year that begins one year after the end of the fiscal year during which the required ratio was not maintained.

An operator subject to this subdivision shall demonstrate to the transportation planning agency, the county transportation commission, or the San Diego Metropolitan Transit Development Board how it will achieve the required ratio of fare revenues during any penalty year.

(b) The first fiscal year for which an operator does not maintain the required ratio of fare revenues to operating cost is deemed a grace year, and shall not result in any penalty nor loss of eligibility for funds under this article.

SEC. 4. Section 99268.12 is added to the Public Utilities Code, to read:

99268.12. (a) Notwithstanding Sections 99268.2 and 99268.3, the transportation planning agency or the county transportation commission may set the required ratio of fare revenue to operating cost at not less than three-twentieths for an operator in a county with a population of 500,000 or less and serving an urbanized area where

funds may be allocated under Article 8 (commencing with Section 99400). Prior to setting the required ratio, the transportation planning agency or the county transportation commission shall make findings specifying the reasons for its action.

SEC. 5. Section 99270.2 of the Public Utilities Code is amended to read:

99270.2. If an operator serves an area that was first designated as an urbanized area in the 1980 or a subsequent federal census, the transportation planning agency or the county transportation commission may grant the operator time, but not more than five years from July 1 of the year following the year of the census, to meet the ratio of fare revenues to operating cost required of an operator serving an urbanized area.

SEC. 6. Sections 1 to 5, inclusive, of this act shall become operative on July 1, 1987.

## **CHAPTER 1400**

An act to add and repeal Chapter 8.8 (commencing with Section 8740) of Division 1 of Title 2 of the Government Code, relating to international trade.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. Chapter 8.8 (commencing with Section 8740) is added to Division 1 of Title 2 of the Government Code, to read:

# CHAPTER 8.8. CALIFORNIA-MEXICO TRADE AFFAIRS

8740. The Legislature finds and declares all of the following:

- (a) California shares a unique and special relationship with its southern neighbor, Mexico. In recent years, the two societies have become increasingly interdependent, economically, culturally, and socially.
- (b) Although trade flows between Mexico and California generated three billion five hundred million dollars (\$3,500,000,000), and tourism also accounted for substantial revenues, the economic disparity with Mexico has affected the development of California's relationship with Mexico and has adversely affected the California border communities in particular.
- (c) In addition, the emergence of binational metropolitan areas has taxed the resources of both Mexico and California and has led to a number of problems in the areas of hazardous waste disposal, air and water quality, transportation, economic development, employment and public health.

- (d) Furthermore, state agencies and state policies have not generally been reflective of the "new bilateralism" that has developed between Mexico and California.
- (e) In recognition of this situation, it is in the interest of the State of California to engage in a thorough reevaluation and examination of its relationship with Mexico, including the role and activities of the Office of California-Mexico Affairs to determine what changes in policies and programs would be most beneficial to the furtherance of this relationship.
- 8741. There is hereby established within the Office of California-Mexico Affairs the California State Task Force on California-Mexico Relations which shall do, but not be limited to, all of the following:
- (a) Examine the areas for expanded trade relations, including "in-bond" industries.
- (b) Explore new economic investments and linkages especially in the area of high technology.
- (c) Consider the framework for a state action plan regarding border problems.
- (d) Explore ways to expand links between state government and educational institutions with expertise in binational relations.
- (e) Reexamine the role and activities of the Office of California-Mexico Affairs to determine how it may be strengthened and interact more effectively with other state government agencies and departments.
- (f) Review innovative programs and activities of other border states which would enhance our relationship with Mexico and which may be replicated in California.
- (g) Explore ways to establish better communications between the governments of California and Mexico.
- (h) Explore ways to develop closer ties with the educational, medical, cultural, and business communities of California and Mexico.
- (i) Determine the need for, and functions of, a California State Office in Mexico.
- 8742. (a) The task force shall be composed of leading representatives of the public and private sectors, including businesspersons, educators, and state and local government officials. The task force shall include all of the following:
  - (1) The Director of the Office of California-Mexico Affairs.
- (2) Seven appointees of the Governor, one of whom shall be appointed by the Governor as chairperson of the task force.
  - (3) Three appointees of the Senate Rules Committee.
  - (4) Three appointees of the Speaker of the Assembly.
- (5) The Chairperson of the Assembly Committee on Intergovernmental Relations.
- (b) The members of the task force, except members who are also Members of the Legislature, shall receive travel and other expenses equal to those of other state employees while on official business.

- (c) The chairperson of the task force shall be responsible for determining the frequency of meetings, organization of committees, a work plan for the task force and any other organizational items which contribute to the effective operation of the task force in completing its assignments, including, if deemed appropriate by the chairperson, the hiring of an outside consultant on a contract basis for the purpose of preparing the report for the task force.
- 8743. The task force shall report its findings and recommendations to the Governor, Lieutenant Governor, Senate Rules Committee, and the Speaker of the Assembly no later than June 30, 1987.
- 8744. The Office of California-Mexico Affairs shall provide support assistance that may be needed by the task force in completing its assignment, including providing information and research on specific issues before the task force.

The Senate Office of Research and the Assembly Office of Research may offer assistance on specific issues if deemed appropriate by the chair of the task force.

- 8745. This chapter shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.
- SEC. 2. The Office of California-Mexico Affairs shall provide the funding necessary to implement this act.

### CHAPTER 1401

An act to amend Sections 51010.5, 51012.3, 51013.5, 51014, 51014.5, 51014.6, and 51018 of the Government Code, relating to pipeline safety.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 51010.5 of the Government Code is amended to read:

51010.5. As used in this chapter, the following definitions apply:

- (a) "Pipeline" includes every intrastate pipeline, including a common carrier pipeline, used for the transportation of hazardous liquid substances or highly volatile liquid substances, but does not include any of the following:
- (1) An interstate pipeline subject to Part 195 of Title 49 of the Code of Federal Regulations.
- (2) A pipeline for the transportation of a hazardous liquid substance in a gaseous state.
  - (3) A pipeline for the transportation of a hazardous liquid

substance by gravity.

- (4) A pipeline for the transportation of a hazardous liquid substance that operates at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.
- (5) A pipeline for the transportation of a hazardous liquid substance in those parts of an onshore pipeline system located in a rural area that transports crude oil from a treating facility or production storage facility to a tank farm, pipeline terminal, or transmission line.
- (6) A pipeline for the transportation of a hazardous liquid substance offshore located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream.
- (7) A pipeline, including a flow line, for the transportation of a hazardous liquid substance through an onshore production, refining, or manufacturing facility, including a storage or in-plant piping system associated with that facility.
- (8) Transportation of a hazardous liquid substance by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids between those modes of transportation.
- (b) "Flow line" means a pipeline which transports hazardous liquid substances from the well head to a treating facility or production storage facility.
- (c) "Hydrostatic testing" means the application of internal pressure above the normal or maximum operating pressure to a segment of pipeline, under no-flow conditions for a fixed period of time, utilizing a liquid test medium.
- (d) "Local agency" means a city, county, or fire protection district.
- (e) "Rural area" means a location which lies outside the limits of any incorporated or unincorporated city or city and county, or other residential or commercial area, such as a subdivision, a business, a shopping center, or a community development.
- SEC. 2. Section 51012.3 of the Government Code is amended to read:
- 51012.3. (a) Every operator of a pipeline shall conform the pipeline to the federal regulations in Subparts A to F, inclusive, of Part 195 of Title 49 of the Code of Federal Regulations, as those regulations may be hereafter amended, in accordance with the following schedule:
- (1) On or before July 1, 1984, the pipeline operator shall meet the requirements of subsection (c) of Section 195.401 of Title 49 of the Code of Federal Regulations, but those requirements shall apply only to a pipeline constructed after January 1, 1984.
- (2) On or before January 1, 1985, the pipeline operator shall meet the requirements of Section 195.402 of Title 49 of the Code of Federal

Regulations. Operators of intrastate pipelines subject to federal regulation under Amendment 195-33 to Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985—50 F.R. 15895 et seq.), shall meet the requirements of Section 195.402 of Title 49 of the Code of Federal Regulations on or before April 23, 1987.

- (3) The pipeline operator shall meet the cathodic protection requirements of subdivision (a) of Section 195.414 of Title 49 of the Code of Federal Regulations as follows:
- (A) On or before October 21, 1986, 25 percent of the required cathodic protection shall be installed.
- (B) On or before October 21, 1987, 50 percent of the required cathodic protection shall be installed.
- (C) On or before October 19, 1988, all required cathodic protection shall be installed.
- (4) Operators of intrastate pipelines subject to federal regulation under Amendment 195-33 of Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985—50 F.R. 15895 et seq.), shall meet the requirements of Section 195.414 (a), (b), and (c) of Title 49 of the Code of Federal Regulations.
- (b) For purposes of applying the federal regulations of Part 195 of Title 49 of the Code of Federal Regulations, the word "Secretary," when it appears in the federal regulations, means the "State Fire Marshal."
- SEC. 3. Section 51013.5 of the Government Code is amended to read:
- 51013.5. (a) Every newly constructed pipeline, existing pipeline or part of a pipeline system that has been relocated or replaced, and every pipeline constructed before January 1, 1983, that transports a hazardous liquid substance or highly volatile liquid substance, shall be tested in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations.
- (b) Every pipeline not provided with properly sized automatic pressure relief devices or properly designed pressure limiting devices shall be hydrostatically tested annually.
- (c) Every pipeline over 10 years of age and not provided with effective cathodic protection shall be hydrostatically tested every three years.
- (d) Every pipeline over 10 years of age and provided with effective cathodic protection shall be hydrostatically tested every five years.
- (e) Every pipeline without evidence of compliance with the hydrostatic test requirements of Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations, and the pipelines specified in subdivisions (c) and (d) which have not been hydrostatically tested at least once since January 1, 1982, shall be brought into compliance by January 1, 1985. Every intrastate pipeline subject to federal regulation under

Amendment 195-33 of Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985—50 F.R. 15895 et seq.), which has not been hydrostatically tested at least once since January 1, 1985, shall be brought into compliance on or before January 1, 1988.

- (f) In addition to the requirements of subdivisions (a) to (e), inclusive, the State Fire Marshal may require any pipeline subject to this chapter to be subjected to a pressure test, at any time, in the interest of public safety.
- (g) Other test methods may be approved by the State Fire Marshal on an individual basis.
- SEC. 4. Section 51014 of the Government Code is amended to read:
- 51014. (a) The pressure tests required by subdivisions (b), (c), and (d) of Section 51013.5 shall be conducted in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations, except that an additional four-hour leak test, as specified in subsection (c) of Section 195.302 of Title 49 of the Code of Federal Regulations, shall not be required under subdivision (b), (c), or (d) of Section 51013.5. The State Fire Marshal may authorize the use of liquid petroleum having a flashpoint over 140 degrees Fahrenheit or 60 degrees Centigrade as the test medium. Pressure tests performed under subdivisions (b), (c), and (d) of Section 51013.5 shall not show an hourly change for each section of the pipeline under test at the time in excess of either 10 gallons or the sum of one gallon and an amount computed at a rate in gallons per mile equivalent to one-tenth of the nominal internal diameter of the pipe in inches.
- (b) Test pressure shall be at least 125 percent of the actual pipeline operating pressure.
- SEC. 4.5. Section 51014.5 of the Government Code is amended to read:
- 51014.5. (a) When hydrostatic testing is required by Section 51013.5, the test results shall be certified by an independent testing firm or person who is selected from a list, provided by the State Fire Marshal, of independent testing firms or persons approved annually by the State Fire Marshal. The State Fire Marshal may charge a fee for consideration and approval of an independent testing firm or person pursuant to this subdivision, not to exceed the reasonable costs of that consideration and approval.
- (b) The results of the tests required by Section 51013.5 shall be submitted by the independent testing firm or person within 30 days after completion of the test to the local agency having jurisdiction and to the State Fire Marshal, who may review the results. The report shall show all of the following information:
  - (1) The date of the test.
- (2) A description of the pipeline tested including a map of suitable scale showing the route of the pipeline.
  - (3) The results of the test.

- (4) Any other test information that may be specifically requested by the State Fire Marshal or by the local agency having jurisdiction.
- (c) The State Fire Marshal, the authorized agents of the State Fire Marshal, or local agencies shall not supervise, control, or otherwise direct the testing.
- SEC. 5. Section 51014.6 of the Government Code is amended to read:
- 51014.6. (a) Effective January 1, 1987, no person, other than the pipeline operator, shall do any of the following with respect to any pipeline easement:
- (1) Build, erect, or create a structure or improvement within the pipeline easement or permit the building, erection, or creation thereof.
- (2) Build, erect, or create a structure, fence, wall, or obstruction adjacent to any pipeline easement which would prevent complete and unimpaired surface access to the easement, or permit the building, erection, or creation thereof.
- (b) No shrubbery or shielding shall be installed on the pipeline easement which would impair aerial observation of the pipeline easement. This subdivision does not prevent the revegetation of any landscape disturbed within a pipeline easement as a result of constructing the pipeline and does not prevent the holder of the underlying fee interest or the holder's tenant from planting and harvesting seasonal agricultural crops on a pipeline easement.
- (c) This section does not prohibit a pipeline operator from performing any necessary activities within a pipeline easement, including, but not limited to, the construction, replacement, relocation, repair, or operation of the pipeline.
- SEC. 6. Section 51018 of the Government Code is amended to read:
- 51018. (a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported to the State Fire Marshal and the local agency or fire department having jurisdiction.
- (b) For purposes of this section, "rupture" includes every unintentional liquid leak, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil leak in any in-plant piping system, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).
- (c) This section does not preempt any other applicable federal or state reporting requirement.
- SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act 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 1402

An act to amend Sections 11004, 11008.13, 11008.14, 11008.15, 11018, 11157, 11158, 11257.5, 11267, 11308, 11450, and 14005.8 of, and to add Section 11476.6 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 11004 of the Welfare and Institutions Code is amended to read:

- 11004. The provisions of this code relative to public social services for which state grants-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and apply for such public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.
- (a) Any applicant for, or recipient or payee of, such public social services shall be informed as to the provisions of eligibility and his or her responsibility for reporting facts material to a correct determination of eligibility and grant.
- (b) Any applicant for, or recipient or payee of, such public social services shall be responsible for reporting accurately and completely within his or her competence those facts required of him or her pursuant to subdivision (a) and to report promptly any changes in those facts.
- (c) Current and future grants payable to an assistance unit may be reduced because of prior overpayments to an extent consistent with federal law. In every case, grant payments shall be reduced to a level no lower than 90 percent of the grant, when added to the family's liquid resources and income, appropriate to families in similar conditions to the assistance unit being adjusted. If permitted by federal law, grant payments to be adjusted because of prior overpayments caused by agency errors shall be reduced to a level no lower than 95 percent of the grant when added to the family's liquid resources and net income, appropriate to families in similar conditions to the assistance unit being adjusted. As used in this subdivision, "income" means gross income, and "net income" means gross income minus the otherwise applicable standard work expense and dependent care disregards.

- (d) No determination of ineligibility shall be made retrospectively so as to result in an assessment of an overpayment in circumstances where there is a failure on the part of an applicant or recipient to perform an act constituting a condition of eligibility, if the failure is caused by an error made by a state agency or a county welfare department, and if the amount of the grant received by the applicant or recipient would not have been different had the act been performed.
- (e) Prior to effectuating any reduction of current grants to recover past overpayments, the recipient shall be advised of the proposed reduction and of his or her entitlement to a hearing on the propriety of the reduction.
- (f) If the department determines after a hearing that an overpayment has occurred, the county providing the public social services shall seek to recover in accordance with subdivision (c) the full amount of the overpayment to the assistance unit, including any amount paid while the hearing process was pending, if required in order to conform to federal law or regulation. Such adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.
- (g) If the individual is no longer receiving aid under Chapter 2 (commencing with Section 11200) recovery of overpayments received under that chapter shall not be attempted where the outstanding overpayments are less than thirty-five dollars (\$35). Where the overpayment amounts owed are thirty-five dollars (\$35) or more, reasonable cost-effective efforts at collection shall be implemented. Reasonable efforts shall include notification of the amount of the overpayment and that repayment is required. The department shall define reasonable cost-effective collection methods. In cases involving fraud, every effort shall be made to collect the overpayments regardless of the amount.
- (h) If the individual responsible for the overpayment to the assistance unit is no longer eligible for public social services or if he or she becomes a member of another assistance unit, recoupment of overpayments shall be made against the individual or his or her present assistance unit, or both, to the extent consistent with the provisions of federal law.
- (i) Where an overpayment has been made to an assistance unit which is no longer receiving public social services, recovery shall be made by appropriate action under state law against the income or resources of the individual responsible for the overpayment or against the family.
- (j) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of public social services, where the case record of such person has been destroyed after the expiration of the four-year retention period pursuant to Section 10851.
  - (k) When an underpayment or denial of public social service

occurs and as a result the applicant or recipient does not receive the amount to which he or she is entitled, the county shall provide public social services equal to the full amount of the underpayment unless prohibited by federal law.

Any corrective payments made pursuant to this subdivision shall be disregarded in determining the income of the family and shall be disregarded in determining the resources of the family in the month the corrective payment is made and in the following month.

- (1) This subdivision shall be applicable only to applicants, recipients and payees under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9. Any suits to recover overpayments described in subdivision (f) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates such duty to the district attorney by ordinance or resolution.
- SEC. 1.5. Section 11008.13 of the Welfare and Institutions Code is amended to read:
- 11008.13. To the same extent as required by federal law, and as otherwise consistent with other provisions of this chapter:
- (a) The income and resources of a sponsor and his or her spouse shall be deemed as the income and resources of an alien who is an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200).
- (b) Any alien applicant or recipient, whose sponsor is a public or private agency, shall be ineligible for aid under Chapter 2 (commencing with Section 11200) during the period of three years after his or her entry into the United States. However, this ineligibility shall cease when it is determined that the sponsoring agency no longer exists or is unable to meet the alien's needs.
- (c) As a condition of eligibility, any individual who is an alien, during the period of three years after entry into the United States, shall be required to provide any information and documentation with respect to his or her sponsor as may be necessary in order to make any determination required under this section.
- (d) If it is determined that as a result of a sponsor's failure to provide correct information an overpayment has been made to an alien, the alien and his or her sponsor shall be jointly and severally liable for repayments. Any such overpayment which is not repaid by the alien or sponsor shall be subject to recoupment pursuant to the provision of Section 11004.

The provisions of this section shall not apply to any alien who is:

- (1) Admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of Section 203(a) (7) of the Immigration and Nationality Act.
- (2) Admitted to the United States as a result of the application, after March 31, 1980, of the provisions of Section 207(c) (1) of that act.
- (3) Paroled into the United States as a refugee under Section 212(d) (5) of that act.
- (4) Granted political asylum by the Attorney General under Section 208 of that act.

(5) A Cuban or Haitian entrant as defined in Section 501 (e) of the Refugee Education Assistance Act of 1980.

This section shall be applied to all applicants for, and recipients of, aid under Chapter 2, (commencing with Section 11200), regardless of whether federal financial participation is available for the family.

SEC. 2. Section 11008.14 of the Welfare and Institutions Code is amended to read:

11008.14. To the same extent as required by federal law, the income of the natural or adoptive parent, and the spouse of the natural or adoptive parent, and the sibling of an eligible child, living in the same home with an eligible child shall be considered available, in addition to the income of an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200), for purposes of eligibility determination and grant computation. In the case of a parent or legal guardian of a minor who is also the parent of an eligible child, the income of the parent or guardian shall be considered available to the minor parent and eligible child to the same extent that income to a stepparent is considered available to an assistance unit, consistent with federal law.

This section shall be applied to all applicants for, and recipients of, aid under Chapter 2, (commencing with Section 11200), regardless of whether federal financial participation is available for the family.

SEC. 3. Section 11008.15 of the Welfare and Institutions Code is amended to read:

11008.15. Notwithstanding Sections 11008.14 and 11267, the department shall exercise the options of disregarding earned income of a dependent child derived from participation in the Job Training Partnership Act of 1982 (PL 97-300) and of a dependent child who is a full-time student pursuant to the Deficit Reduction Act of 1984 (PL 98-369).

SEC. 3.5. Section 11008.18 is added to the Welfare and Institutions Code, to read:

11008.18. The department shall implement the state option in Section 402(a) (36) of the federal Social Security Act (42 U.S.C. Sec. 602(a) (36)) and as that statute may hereinafter be amended, which provides that the value of support assistance or maintenance assistance, or both, provided in the form of any in-kind income on the basis of need to, or on behalf of, a family by all entities described in Section 402(a) (36) of the federal Social Security Act (42 U.S.C. Sec. 602(a) (36)) and as that statute may hereinafter be amended shall be disregarded as income.

SEC. 3.7. Section 11018 of the Welfare and Institutions Code is amended to read:

11018. Notwithstanding Section 11008, in computing the amount of income available to support a recipient, the first thirty dollars (\$30) per calendar quarter of any small nonrecurring gifts shall be exempt.

This section does not apply to recipients under Chapter 3 (commencing with Section 12000).

- SEC. 4. Section 11157 of the Welfare and Institutions Code is amended to read:
- 11157. Notwithstanding Section 11008, all lump-sum income received by an applicant or recipient shall be regarded as income in the month received except nonrecurring lump-sum social insurance payments, which social insurance payments shall include but are not limited to social security income, railroad retirement benefits, veteran's benefits, workman's compensation, and disability insurance.

To the extent required, as a condition for receipt of federal funds, by federal law, lump-sum payments of income, as defined by federal law, received by an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200) shall be considered income in the month received and the family shall be ineligible for aid for the number of months that equals the sum of all income received during such month less all applicable income disregards divided by the standard of need applicable to the family under Section 11452, with any remainder to be considered as income received in the first month following the period of ineligibility, should the family again request aid. The period of ineligibility shall be shortened in all circumstances in which federal financial participation would be available for aid paid to the family during that period.

- SEC. 5. Section 11158 of the Welfare and Institutions Code is amended to read:
- 11158. The Legislature recognizes that certain property and rights owned by a recipient, including a recipient of aid to families with dependent children, are of negligible value in enabling the recipient to meet his or her present needs, and should not be classified as available resources of the recipient. It is the purpose of this section to designate such property and rights.

Resources available to a recipient, including a recipient of aid to families with dependent children shall not include all of the following:

- (a) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code or Section 8775 of the Health and Safety Code.
- (b) Money or securities placed in an irrevocable trust created by a deposit in an insured savings institution made by one person of his or her own money in his or her own name as trustee for a funeral director to provide payment for funeral services rendered by the funeral director upon the depositor's death.
- (c) Life or burial insurance purchased specifically for funeral, cremation, or interment expense, which is placed in an irrevocable trust or which has no loan or surrender value available to the recipient.
- (d) Securities issued by a licensed cemetery authority which by their terms are convertible only into payment for funeral, cremation, or interment expenses.

For the purposes of evaluating the personal property of a recipient, interment plots as defined in Section 7022 of the Health and Safety Code shall be deemed to have no value.

SEC. 6. Section 11257.5 of the Welfare and Institutions Code is amended to read:

11257.5. Notwithstanding the property limitations in subdivision (a) of Section 11257, a family may retain, for nine months, real property if the family is making a good faith effort to sell the real property. However, any aid payable to the family for the nine-month period shall be conditioned upon the sale. At the time of the sale any aid payments made during the nine-month period shall be considered overpayments to the extent they would not have been made had the sale occurred at the beginning of the nine-month period. Notwithstanding Section 11004 overpayments shall be recouped from the proceeds of the sale. If the real property has not been sold at the end of the nine-month period, the family shall be ineligible for aid if the combined net value of the real and personal property owned by the family exceeds the one thousand dollar (\$1,000) limitation in Section 11257.

Notwithstanding Section 11007 as a condition to the granting of aid pursuant to this section, the family shall grant the county a lien upon the real property as security for the aid to be paid. The lien shall be used to recoup any overpayments incurred pursuant to this section. Notwithstanding any other provision of law, the lien shall not be enforceable by the sale of the secured property by the county. The lien of the county shall be paid upon the sale of the property.

The department shall define good faith effort in regulation.

SEC. 7. Section 11267 of the Welfare and Institutions Code is amended to read:

11267. To the extent permitted by federal law and regulations, no child or family is eligible to receive aid under this chapter if the total gross income, exclusive of grant payment, prior to any deductions available to such child or family exceeds 185 percent of the minimum basic standard of adequate care applicable to such child or family.

SEC. 8. Section 11308 of the Welfare and Institutions Code is amended to read:

11308. (a) Upon notification by the Employment Development Department that, pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code, an individual registered pursuant to Section 11310 has been found to have failed or refused to appear for appraisal, to accept employment, or to otherwise participate in a work incentive program, the county department shall apply the following sanctions:

(1) For the first such occurrence, the individual shall be deregistered for three payment-months.

(2) For the second and each subsequent occurrence, the individual shall be deregistered for six payment-months.

- (b) During the sanction period specified in subdivision (a), the following sanctions shall also apply:
- (1) If such individual is a caretaker relative receiving aid under this chapter, his or her needs shall not be taken into account in determining the family's need for assistance, and assistance in the form of protective or vendor payments shall be provided to the remaining members of the assistance unit to the extent required by federal law.
- (2) If the parent who is the principal wage earner makes such refusal, assistance to the family shall be denied.
- (3) If such individual is the only dependent child in the family, assistance for the family shall be denied.
- (4) If such individual is one of several dependent children in the family, assistance for such child shall be denied and his or her needs shall not be taken into account in determining the family's need for assistance.
- (c) If an individual is a volunteer registrant and a recipient of aid under this chapter and has failed or refused to participate in the work incentive program without good cause, the sanctions specified in subdivision (a) shall apply, but the sanctions specified in subdivision (b) shall not apply.
- (d) For the purposes of this section, the term "principal wage earner" shall be defined as the parent who earns the greatest amount of income during the two-year period immediately preceding application for benefits.
- (e) The sanctions provided by this section shall become effective on the first day of the first payment-month that the sanctioned individual's needs are removed from aid under this chapter.
- (f) In the event the provisions of this section conflict with federal law, the department shall adopt regulations to conform state regulations to federal law.
- SEC. 9. Section 11450 of the Welfare and Institutions Code is amended to read:
- 11450. (a) For each needy family which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1	\$ 258
2	424
3	526
4	625
5	713
6	802
7	880
8	959
9	1,036
10 or more	1,114

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

- (b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother in the amount which would otherwise be paid to one person as specified in subdivision (a) from the date of verification of pregnancy if the mother, and child if born, would have qualified for aid under this chapter.
- (c) The amount of seventy dollars (\$70) per month shall be paid to pregnant mothers qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants and Children program. If such payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.
- (d) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which when added to the child's income is equal to the rate specified in Section 11461,

- 11462, 11462.1, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.
- (e) (1) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars (\$10) by the number of recipients in the family who are eligible for assistance.
- (2) After a family has used all available liquid resources, both exempt and nonexempt, the family shall also be entitled to receive an allowance for nonrecurring special needs caused by sudden and unusual circumstances beyond the control of the needy family. These nonrecurring special needs shall only be granted for replacement of clothing and household equipment and for emergency housing needs. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all nonrecurring special needs for a family shall not exceed six hundred dollars (\$600) per event.
- (3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.
- (4) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.
- (f) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 9.5. Section 11476.6 is added to the Welfare and Institutions Code, to read:

data revealing the range and median time periods by which notification of the receipt of child support payments collected on behalf of a family receiving aid under this chapter is made to the local welfare department. The data shall contain the number and percentage of cases in which the payments described herein are conveyed within the time period prescribed by federal law. By April 1, 1987, the department shall submit to the appropriate policy and fiscal committees of each house of the Legislature a report detailing and analyzing the data received from the district attorneys and explaining whatever failure to satisfy the time limits imposed by the federal law is revealed by the data. The report shall also include an

estimate of the time by which an accounting of the amounts of child support received and paid to families pursuant to this section can be provided on a monthly basis to those families.

SEC. 10. Section 14005.8 of the Welfare and Institutions Code is amended to read:

14005.8. To the extent required by federal law, families who have at any time ceased to receive public assistance under the Aid to Families with Dependent Children program solely due to the expiration of the provision which permits thirty dollars (\$30) plus one-third of an individual's income to be disregarded when determining eligibility shall remain eligible for health care services under Section 14005.1 for a period of nine months.

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 1403**

An act to add Sections 207.1 and 207.2 to the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 207.1 is added to the Health and Safety Code, to read:

- 207.1. (a) Any person who willfully sells, keeps for sale, or offers for sale any food, drug, device, or cosmetic knowing, after a written notice from either (1) a manufacturer, wholesaler, distributor, or importer, or (2) the department or a local health officer that the product linked to an outbreak of illness, injury, or product tampering is being ordered removed from sale by the department pursuant to Section 207, shall, upon conviction, be punished by a fine of not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both a fine and imprisonment.
- (b) If a second or subsequent violation is committed after a previous conviction under this section has become final, the person shall be punished by a fine of not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment in the state prison, or by

both a fine and imprisonment.

- (c) Notwithstanding any other provision of law, the court may suspend the minimum fines provided for in this section if it determines that there are circumstances in mitigation and the court states on the record its reasons for suspending the minimum fine.
- SEC. 2. Section 207.2 is added to the Health and Safety Code, to read:
- 207.2. Whenever any person violates any provision of Section 207.1, the court may, as a condition of probation, order the defendant to pay, in lieu of any fine, any expenses, both direct and indirect, incurred by a local health department or the State Department of Health Services in monitoring compliance with the order pursuant to Section 207, including, but not limited to, the costs of conducting inspections and imposing embargoes. The total costs payable to the State Department of Health Services and local health entities collectively imposed pursuant to this section shall not exceed the maximum fine for the offense of which the defendant is convicted.

Any amount collected under this section shall be paid into the treasury of the local entity incurring the expenses or, if to reimburse costs of the State Department of Health Services, into the General Fund.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

### CHAPTER 1404

An act to amend Section 7163 of, and to add Section 7167.5 to, the Business and Professions Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 7163 of the Business and Professions Code is amended to read:

7163. (a) No contract for home improvement shall be enforceable against the buyer if the obtaining of a loan for all or a portion of the contract price is a condition precedent to the contract or if the contractor provides financing, or in any manner assists the buyer to obtain a loan or refers the buyer to any person who may loan or arrange a loan for all or a portion of the contract price unless all of the following requirements are satisfied:

(1) The third party, if any, agrees to make the loan.

- (2) The buyer agrees to accept the loan or financing.
- (3) The buyer does not rescind the loan or financing transaction, within the period prescribed for rescission, pursuant to the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) or Regulation Z, if applicable.
- (b) Until the requirements of paragraphs (1), (2), and (3) of subdivision (a) are satisfied, it shall be unlawful for the contractor to do any of the following:
- (1) Deliver any property or perform any services other than obtaining building permits or other similar services preliminary to the commencement of the home improvement for which no mechanic's lien can be claimed.
- (2) Represent in any manner that the contract is enforceable or that the buyer has any obligation thereunder.

Any violation of this subdivision shall render the contract unenforceable.

- (c) If the contract is unenforceable pursuant to subdivision (a) or subdivision (b), the contractor shall immediately and without condition return all money, property, and other consideration given by the buyer. If the buyer gave any property as consideration and the contractor does not or cannot return it for whatever reason, the contractor shall immediately return the fair market value of the property or its value as designated in the contract, whichever is greater. Nothing herein shall prohibit a contractor from receiving a downpayment otherwise permitted by law provided the contractor returns the downpayment as herein required if the contract is unenforceable pursuant to subdivision (a) or (b).
- (d) (1) Except as provided in paragraph (2), the buyer may retain without obligation in law or equity any services or property provided pursuant to a contract which is unenforceable pursuant to subdivision (a) or subdivision (b).
- (2) If the contractor has delivered any property to the buyer pursuant to a contract which is unenforceable pursuant to subdivision (a) or subdivision (b), the buyer shall make the property available to the contractor for return provided that all of the following requirements are satisfied:
- (A) The property can be practically returned to the contractor without causing any damage to the buyer.
- (B) The contractor, at the contractor's expense, first returns to the buyer any money, property, and other consideration taken by the contractor provided that the property is returned in the condition that it was in immediately prior to its taking. If applicable, the contractor shall also, at its expense, reinstall any property taken in the manner in which the property had been installed prior to its taking.
- (C) The contractor, at the contractor's expense, picks up the property within 60 days of the execution of the contract.
- (e) For the purpose of this section, "home improvement" means "home improvement" as defined in Section 7151 and also includes

swimming pools subject to Section 7167. Goods are included within the definition notwithstanding whether they are to be attached to real property or to be so affixed to real property as to become a part thereof whether or not severable therefrom.

- (f) The rights and remedies provided the buyer under this section are nonexclusive and cumulative to all other rights and remedies under other laws.
- (g) Any waiver of this section shall be deemed contrary to public policy and shall be void and unenforceable. However, the buyer may waive subdivisions (a) and (b) to the extent that the contract is executed in connection with the making of emergency repairs or services which are necessary for the immediate protection of persons or real or personal property. The buyer's waiver for emergency repairs or services shall be in a dated written statement that describes the emergency, states that the contractor has informed the buyer of subdivisions (a) and (b) and that the buyer waives those provisions, and is signed by each owner of the property. Waivers made on printed forms are void and unenforceable.
- SEC. 2. Section 7167.5 is added to the Business and Professions Code, to read:
- 7167.5. The requirements of this section may be substituted for the requirements of paragraphs (1), (2), and (3) of subdivision (a) of Section 7163 if a swimming pool contract is to be financed by a third-party lender and if all the following conditions are met:
- (a) The lender has agreed, in writing, to provide financing to the buyer for the maximum estimated construction cost of the swimming pool.
- (b) The lender has provided the buyer a written copy of the terms and conditions of the loan for the maximum estimated construction cost of the swimming pool, including the following terms disclosed in the manner required by the federal Truth in Lending Act and Regulation Z: the annual percentage rate, the finance charge, the amount financed, the total number of payments, the payment schedule, and a description of the security interest to be taken by the lender
  - (c) The lender has agreed in writing to the following:
- (1) To offer to loan the maximum estimated construction cost on the terms and conditions disclosed pursuant to subdivision (b).
- (2) If the construction cost of the swimming pool is determined after the completion of excavation to be less than the maximum estimated construction cost, to offer to loan the lesser amount needed to complete the construction of the swimming pool on the same security as, and at an annual percentage rate and monthly payment amount not to exceed, that disclosed in subdivision (b).

The lender's written agreement shall state the duration of the offer, which shall not be less than 15 days following the completion of the excavation of the swimming pool.

(d) The buyer acknowledges receipt of the writings required by subdivisions (a), (b), and (c) and, no sooner than three business days

after receiving all of these writings, requests on the form prescribed in subdivision (e) that the contractor begin performance of the swimming pool contract prior to the expiration of any rescission period applicable to the loan.

(e) The request of a buyer, described in subdivision (d), shall be set forth on a document separate and apart from the swimming pool contract and shall contain the following notice in at least 10-point type unless otherwise stated:

# "NOTICE

Under the law, this contract is not enforceable until:

- (1) A third party agrees to make a loan to finance the construction cost of the swimming pool;
  - (2) You agree to accept the loan; and
- (3) You do not cancel the loan within the period prescribed for cancellation under the federal Truth in Lending Act or Regulation Z (usually three business days after the loan is consummated).

Until the cancellation period is over, the contractor cannot deliver any materials or perform any services except preliminary services for which no mechanic's lien can be claimed.

However, as an alternative to the above, you can ask the contractor to start work and deliver materials before the cancellation period on the loan is over if all of the following have occurred:

- (1) The lender has agreed, in writing, to provide you with financing for up to the maximum estimated construction cost of the swimming pool.
- (2) The lender has provided you with a written copy of the terms and conditions of a loan for the maximum estimated cost, including the annual percentage rate, the finance charge, the amount financed, the total of payments, the payment schedule, and a description of the security interest to be taken by the lender.
- (3) The lender has agreed in writing to offer these terms and conditions for a period not less than 15 days following completion of the excavation of the swimming pool.
- (4) Three business days have passed since you received the writing mentioned in paragraphs (1), (2), and (3), and you then sign a copy of this form to request that the contractor begin construction of the swimming pool before the cancellation period on your loan is over.

The first day you can sign the request for the contractor to begin construction of the swimming pool is

(contractor to insert third business day after buyer receives writings described in subdivisions (a), (b), and (c))

If you sign this request, the contractor will be permitted to immediately begin performance of the contract, and if the contractor is not paid in accordance with the terms of the contract, he or she may file a lien against your property for the value of the

labor and materials provided. [This paragraph shall be printed in 12-point type.]

# REQUEST

I/we request that the contractor immediately start construction of the swimming pool.

Date Buyer(s)"

- (f) The contractor shall provide the buyer a copy of the buyer's signed request at the time of signature.
- (g) This section applies to each buyer who signs the swimming pool contract or the promissory note, other evidence of indebtedness, or security instrument incident to the loan for swimming pool construction.
- (h) For the purpose of this section, "business day" has the meaning provided in Section 9 of the Civil Code.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify, at the earliest possible time, the services that may be rendered for emergency repairs for home improvements and to remove the uncertainty as to when swimming pool construction may commence, it is necessary that this act go into immediate effect.

### CHAPTER 1405

An act to add Article 1.6 (commencing with Section 235) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to the California Nutrition Monitoring Development Act of 1986, and making an appropriation therefor.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. (a) The Legislature finds and declares that it is in the state's economic interest and in the interest of the public's health to monitor nutrition factors which affect the productivity and well-being of California's citizens. There is longstanding evidence that poor diet and nutrition contribute profoundly to problems of infant mortality, growth and development, frailty in the elderly, the employability of adults, and the welfare of low-income families. Furthermore, it has become increasingly apparent that diet relates to both optimal health and to the prevention of chronic diseases such

as heart disease, cancer, diabetes and osteoporosis.

- (b) The Legislature recognizes that improvements in nutrition are most quickly achieved through organized food and nutrition programs. Both public and private programs require a continuing return of information about the people served, the services provided, and nutrition changes as they occur in order to direct and redirect the services effectively. Although data is collected by a number of programs, there is currently no organized system for state or local government to monitor nutritional and dietary status, related health and economic factors, and the operation of programs which are intended to improve nutritional health and the quality of the food supply.
- (c) The Legislature realizes that determining the magnitude, severity, and causes of undernutrition and food shortages is necessary in California, with particular attention being paid to the operations of government food assistance programs and private sector food banks, pantries, and meal programs.
- (d) The Legislature concurs with findings of previous legislative, administrative, and private bodies regarding the need for ongoing and organized nutrition monitoring. It is the purpose of this act to identify the extent and location of existing, useable nutrition monitoring data and to recommend a mechanism to provide regular reports on this topic.
- (e) It is the intent of the Legislature to determine the feasibility of establishing a prototype nutrition monitoring system, which would publish regular reports on the nutritional status of California's population, on the nutritional quality and healthfulness of its food supply, and the state's ability to deliver food and nutrition services, and would provide information to operate cost-effective services and to target funds where most needed.
- SEC. 2. Article 1.6 (commencing with Section 235) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:
- 235. This article shall be known and may be cited as the "California Nutrition Monitoring Development Act of 1986."
- 236. The Legislature declares that the purposes of this article are to determine the availability and types of nutrition monitoring information that is currently available in specified federal, state and local government programs and in selected private sector programs; to determine what additional information is needed to help legislators, state and local agencies and nongovernment users, to operate cost-effective services and to target funds where most needed; and to assess the feasibility of establishing a prototype state-local data system that will provide regular reports on the: nutritional status and nutrition related health problems of California's population, dietary intake and food consumption patterns, nutrition education information, including knowledge and attitude regarding nutrition, quality and healthfulness of the food supply, nutrition programs and service availability, including

population served, service statistics, frequency and periodicals of data collection and types of reports, related socioeconomic factors, and on the state's ability to provide for food and nutrition services where needed.

- 237. (a) The State Department of Health Services shall assess the availability and adequacy of existing state and local food and nutrition data systems. All state departments and agencies which are required to provide data pursuant to this article are encouraged to participate to the fullest extent possible in all aspects of this program and to make their data available to counties upon request.
- (b) The state departments from which existing data shall be provided for project purposes shall include the State Departments of Health Services, Aging, Education, and Social Services. Upon request of the State Department of Health Services, these departments shall existing nutrition-related data collection provide documentation, and reports, including, but not limited to, the following programs: (1) In the Department of Aging: Congregate Nutrition Services, Home Delivered Nutrition Services and the Brown Bag Network. (2) In the State Department of Education: National School Lunch Program, the National School Breakfast Program, the Child Care Food Program, the Special Milk Program, the Nutrition Education and Training Program and the various commodities programs. (3) In the State Department of Health Services: Special Supplemental Food Program for Women, Infants and Children (WIC), the Comprehensive Perinatal Care Program, the Genetics Disease Program, the Child Health and Disability Prevention Program, California Children's Services, County Health Services, Primary Health Services Development, Indian Health Program, Medical Care Services (Medi-Cal), Adult Health, and Vital Statistics. (4) In the State Department of Social Services: the Food Stamp Program.
- (c) The state department may require, with the exception of the University of California, any other state agency, department, board, or commission to provide existing nutrition related data, as described in this article. The state department may request the University of California to provide this data in the case of the University of California Cooperative Extension Program, the Home Economics Program and the Expanded Food and Nutrition Education Program. Additionally, other programs in local government and the private sector, such as local public health and social services departments, food banks, pantries, and meal programs, voluntary health organizations, and charitable social service agencies shall be encouraged to provide available nutrition monitoring information.
- 238. (a) The state department shall conduct a survey of state agencies and of counterpart local and private sector programs which now collect or use nutrition data or both. The state department shall determine user needs for and applications of data, the adequacy of existing data systems, the costs compared to benefits of collecting this information, and recommendations about future data needs.

- (b) The state department shall assess the degree to which data is available to monitor the California Model Standards for Nutrition Services (guidelines for local health departments), the 1990 Nutrition Objectives for the Nation (national health priorities), the nutrition surveillance programs of the United States Centers for Disease Control (prenatal and pediatric surveillance and behavioral risk factors survey related to chronic diseases) and other similar public health objectives.
- (c) The state department shall outline a process for developing a prototype state-local nutrition monitoring system. The prototype system shall be scientifically sound and, insofar as is practicable, compatible with those employed by the United States Department of Agriculture, the United States Department of Health and Human Services, the National Public Health Reporting System, and recommendations by other recognized authorities. The state department shall review existing or proposed systems such as the Statewide Environmental and Evaluation Program System (SWEEPS) and the Nutrition Management Information and Surveillance System (Nutri-MISS) respectively for their applicability to this purpose.
- 239. The state department shall analyze the results of the California Nutrition Monitoring Development Act of 1986 in a report to the Governor and the Legislature. Where feasible and appropriate, other reports on nutritional status within the state department shall be consolidated into one nutritional monitoring report. This report shall include all of the following components:
- (a) The types of data to be collected and reported on shall include, but are not limited, to the data described in Section 236 for purposes of carrying out this article.
- (b) Based upon the findings of subdivision (a), the state department shall identify those areas in which existing data is meeting user needs, areas in which users have identified deficiencies or inefficiencies, and areas in which data collection efforts are not occurring. The state department shall recommend specifications for a suitable data system using microcomputer technology where feasible. The system shall involve state and local government agencies and the private sector.
- (c) Using the data collected in subdivisions (a) and (b), the state department shall identify options for providing data of the type and timeliness needed by local users.
- (d) The state department shall submit its report and recommendations to the Governor and the Legislature no later than January 1, 1988.
- 240. The state department, using applicable state procedures, may contract for any of the services required by this article, in which case the contractor or contractors shall have demonstrated expertise in the fields of nutrition monitoring and epidemiology, nutrition program operations, and community organization.
  - SEC. 3. There is hereby appropriated from the General Fund to

the State Department of Health Services the sum of one hundred fifty thousand dollars (\$150,000) for purposes of carrying out the California Nutrition Monitoring Development Act of 1986, as contained in Article 1.6 (commencing with Section 235) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code. An amount not to exceed twenty thousand dollars (\$20,000) of the appropriation may be used, where necessary as determined by the state department, to compensate state agencies or departments for the additional cost of data collection, processing, and special programming. The remainder of this appropriation shall be used for data collection, interpretation, analysis, and evaluation of available statewide and local data.

# **CHAPTER 1406**

An act to amend Sections 14038, 14060, and 14066 of the Government Code, and to amend Section 524 of the Public Utilities Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 14038 of the Government Code is amended to read:

14038. (a) The department may purchase, sell, and, lease rail passenger cars and locomotives and other self-propelled rail vehicles.

- (b) The department may acquire, lease, design, construct, and improve track lines and related facilities, and the department may contract with the private sector for the design, improvement, or construction of track lines and related facilities. If a railroad corporation refuses to allow improvements to tracks and related facilities, the Public Utilities Commission shall, within 60 days after application by the department, order the institution of those improvements, if it finds that the improvements are necessary to the safety of the railroad corporation's employees, passengers, customers, and the public, and the operating efficiency of the service for which they are requested.
- (c) All purchases authorized by this section shall be made in accordance with Article 2 (commencing with Section 14790) of Chapter 6 of Part 5.5 of Division 3 of Title 2, except that the department shall perform the tasks set forth therein for the Department of General Services.
- (d) Any facility or equipment acquired or improved by any entity with funds made available to it pursuant to this section shall become the property of that entity at the time and under the conditions as

are agreed upon by the department in the agreement that makes the funds available to the entity. Section 14780 does not apply to any agreement entered into pursuant to this section.

- (e) The department shall deposit in the Passenger Equipment Acquisition Fund, for expenditure pursuant to Section 14066, the net proceeds from the sale of rail passenger cars and locomotives and other self-propelled rail vehicles.
- SEC. 2. Section 14060 of the Government Code is amended to read:

14060. The following definitions apply to this article:

- (a) "Equipment" means rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats.
- (b) "Equipment obligations" means notes, equipment trust certificates, or other obligations, including grant anticipation notes, issued by the department pursuant to this article to finance the acquisition of equipment.
- (c) "Grant anticipation notes" means notes issued by the department in anticipation of the receipt of funds from the federal or a local government as the proceeds of grants or participation funding for which funds have been appropriated and committed to the department for equipment acquisition.
- (d) "Passenger commute rail capital improvements" includes, but is not limited to, crossings, stations, parking facilities, trackwork, maintenance facilities, and other similar facilities.
- SEC. 3. Section 14066 of the Government Code is amended to read:
- 14066. (a) The Passenger Equipment Acquisition Fund is hereby created in the State Treasury. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated to the department to pay the principal of, interest on, and redemption premium, if any, on equipment obligations, to pay all costs of issuance and sale of equipment obligations, to purchase new and rehabilitate existing equipment, and for passenger commute rail capital improvements.
- (b) The net proceeds derived from the sale and leaseback of equipment made pursuant to this article shall be deposited in the fund.
- SEC. 4. Section 524 of the Public Utilities Code is amended to read:
- 524. (a) Any common carrier may issue free or reduced rate passenger transportation to the proprietors and employees of newspapers and magazines and the members of their immediate families in exchange for advertising of equal or greater value in that media, subject to reasonable restrictions that the commission may impose.
- (b) The San Francisco-San Jose commute rail service may issue free or reduced rate passenger transportation to the proprietors and employees of the broadcast news media in exchange for advertising of equal or greater value in those media, subject to reasonable

restrictions that the commission may impose. On or before January 1, 1989, the Department of Transportation shall review and assess the effectiveness and cost of any advertising program effectuated through exchanges made pursuant to this subdivision.

(c) Passenger stage corporations may issue free or reduced rate passenger transportation to any of their commission agents.

#### CHAPTER 1407

An act to amend Section 13127 of the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 13127 of the Food and Agricultural Code is amended to read:

- 13127. (a) Not later than December 31, 1985, the department shall identify 200 pesticide active ingredients which the department determines have the most significant data gaps, widespread use, and which are suspected to be hazardous to people. Not later than 30 days after the report issued pursuant to Section 13125, the department shall notify each registrant of a pesticide product containing any of the identified 200 pesticide active ingredients of the applicable data gap required to be filled pursuant to this section.
- (b) Not later than December 31, 1985, the department shall also adopt a timetable for the filling of all data gaps on all pesticide active ingredients, other than those identified by the department pursuant to subdivision (a), which are currently registered or licensed in California. The department shall notify registrants of the applicable data gaps and the scheduled time to initiate and complete studies as provided in the timetable.
- (c) (1) Not later than September 1, 1986, the department shall determine whether a test has been initiated to fill each of the data gaps for each pesticide active ingredient identified in subdivision (a). If no test has been initiated, the department shall fill data gaps in accordance with procedures provided in subparagraph (B) of paragraph (2) of subdivision (c) of Section 136a of Title 7 of the United States Code. In order to carry out this section, the director has the same authority to require information from registrants of active pesticide ingredients that the administrator of the Environmental Protection Agency has pursuant to subparagraph (B) of paragraph (2) of subdivision (c) of Section 136a of Title 7 of the United States Code. On or before July 1, 1986, the director shall, by regulation, prescribe procedures for resolving disputes or funding the filling of data gaps. The procedures may include mediation and arbitration.

The arbitration procedures, insofar as practical, shall be consistent with the federal act, or otherwise shall be in accordance with the commercial arbitration rules established by the American Arbitration Association. The procedures shall be established so as to resolve any dispute within the timetable established in subdivision (a) of Section 13127.

- (2) The department shall also obtain the data which is identified in subdivision (b), according to the timetable and procedures specified in this section.
- (d) (1) Not later than March 1, 1987, the director shall again determine whether tests have been initiated to fill each of the data gaps for each pesticide active ingredient identified in subdivision (a). If the tests have not been initiated or if, having been initiated, the tests are not completed within a reasonable time not to exceed four years, the director shall obtain the required test results. The director may utilize assessments charged to those registrants of the active ingredient for which the data gaps exist in amounts necessary to cover the department's expenses in filling the data gaps. Any assessments shall be made pursuant to Section 12824 of the Food and Agricultural Code. The director may also request an appropriation to be used in combination with assessments to obtain the required test results. The director shall initiate the tests as soon as possible, and the tests shall be completed within a reasonable time, not to exceed four years after initiation.

The director shall furnish not less than 30 days' public notice of any proposed action under this paragraph, stating the reasons therefor and allowing public comment thereon. Copies of this notice and final decision shall be provided to the appropriate committees of the Legislature.

- (2) The director shall monitor compliance with the timetable established pursuant to subdivision (b) of Section 13127. If the director determines that tests are not initiated or completed according to the timetable, the director shall obtain the required test results as provided in paragraph (1).
- (e) (1) This section does not apply to any product which the director determines has limited use or that substantial economic hardship would result to users due to unavailability of the product and there is not significant exposure to the public or workers and the product is otherwise in compliance with federal law.
- (2) The director may not, pursuant to this subdivision, exempt all pesticide products containing the same pesticide active ingredient unless it is determined that the pesticide active ingredient has only limited use, there is insignificant exposure to workers or the public, and the products are otherwise in compliance with federal law. Any exemption issued pursuant to this paragraph shall expire at the end of three years after it is issued.
- (f) (1) Whenever the director exercises the authority provided in paragraph (1) of subdivision (e), he or she shall give public notice of the action stating the reasons for exempting the pesticide product

from the data requirements of this article. Copies of this notice shall be provided to the appropriate policy committees of the Legislature.

(2) Whenever the director acts pursuant to paragraph (2) of subdivision (e), the director shall furnish not less than 30 days' public notice of the proposed action, stating the reasons for exempting the pesticide product from the data requirements of this article and allowing public comment thereon. Copies of the notice and the final decision shall be provided to the appropriate policy committees of the Legislature.

# CHAPTER 1408

An act to amend Sections 4701, and 7006 of the Civil Code, and to amend Sections 11350.1, 11475.1, and 11484 of the Welfare and Institutions Code, relating to actions and proceedings.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 4701 of the Civil Code, as amended by Section 3.4 of Chapter 1069 of the Statutes of 1985, is amended to read:

- 4701. (a) (1) On and after January 1, 1987, in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court shall order either parent or both parents to assign to an assigned payee, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child, unless the parent ordered to pay support demonstrates to the satisfaction of the court that the support payments ordered will be made. This demonstration may include proof of timely payment of previously ordered support for the minor children subject to the action. The wage assignment shall be ordered at the time of trial or entry of a judgment establishing child support, other than a temporary order pending trial. The order shall operate as an assignment and shall be binding upon any existing or future employer of the obligated parent upon whom a copy of the order is served. Any such order of assignment may be modified at any time by the court, or in the case of an arrearage, revoked as provided in subdivision (b).
- (2) Notwithstanding paragraph (1), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to an assigned payee that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support,

maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the obligated parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

- (b) (1) Notwithstanding subdivision (a), in any proceeding after January 1, 1987, where the court has ordered either or both parents to pay any amount for the support of a minor child, that order shall contain a provision assigning the wages of the obligor to the assigned payee. Any order for the modification of child support entered after January 1, 1987, which does not otherwise contain a provision for wage assignment, shall also contain a provision assigning the wages of an obligor to the assigned payee. All provisions for wage assignment required pursuant to this subdivision shall be effective only upon an application signed under penalty of perjury by the assigned payee that the obligor is in arrears in payment in a sum equal to the amount of support payable for one month. Upon receipt of the application, the court shall issue, without notice to the obligor, an order requiring the obligor to assign to the payee that portion of the salary or wages of the obligor due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the obligor ordered to pay support upon whom a copy of the order is served.
- (2) In cases in which the order for child support does not contain a provision for wage assignment, the application shall state that the assigned payee has given the obligor a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the application. The written notice of intent to seek a wage assignment required by this paragraph may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of the application with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The obligor may at any time waive the written notice required by this subdivision.
- (3) The assigned payee shall notify the employer of the obligor, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to the district attorney, the parent to whom support has been ordered to be paid shall notify the court and the district attorney, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or district attorney is unable to deliver payments under the assignment for a period of six months due to the failure of the individual to whom

support has been ordered to be paid to notify the employer or district attorney of a change of address, the employer or district attorney shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

- (4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.
- (5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the obligor, together with a written statement of the obligor's rights under the law to move to quash the assignment. The Judicial Council shall adopt a form for the statement.
- (6) An obligor alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the obligor of notice of the assignment order by his or her employer if the obligor states under oath that there is an error in the amount of current or overdue support, that the alleged obligor is not the obligor from whom support is due, or that the amount to be withheld exceeds that allowable under federal law in subsection (b) Section 1673 of Title 15 of the United States Code, to the extent that the amount required to be withheld exceeds the limits specified in federal law. The obligor may also move to quash the assignment if he or she states under oath that a default in payment in a sum equal to the amount of support payable for one month has not occurred. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the obligor of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion. If a finding of an error in the amount of overdue support results in an amount due which is less than one month's support, the assignment of wages shall be quashed accordingly. However, if a finding of an error in the amount of overdue support results in an amount in excess of one month's support, such a finding in the amount of overdue support shall not affect the assignment of that portion of the obligor's wages withheld to pay for current support. A finding of an error in the amount of current support subject to withholding does not affect the assignment of that portion of the obligor's wages withheld to pay overdue support.
- (7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. The employer shall send the amounts withheld to the assigned payee within 10 days of the date the obligor is paid. An employer who willfully fails to withhold and forward support pursuant to a currently valid order

- entered and served upon the employer pursuant to this section is liable to the assigned payee for the amount of support not withheld, forwarded, or otherwise paid to the assigned payee. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.
- (8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.
- (9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the obligor has been given notice of the order of assignment and the fact that the obligor may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to enter the order for the assignment.
- (10) Upon a notice of motion by the obligor, the court shall terminate an order of assignment entered pursuant to this subdivision if past due support has been paid in full and if one of the following conditions exists: (A) The employer or district attorney has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or district attorney of a change of address; or (B) The death or emancipation of the child to whom support is owed; or (C) The assignment has continued for 24 months after payment in full of any past due support. However, if the assignment was pursuant to a second or subsequent application, it shall not be terminated unless, upon a petition by the parent ordered to pay support, the court determines that there is good cause to terminate the assignment.
- (11) The amounts withheld under this subdivision shall include both current support and payments towards the liquidation of arrearages. However, priority shall be given to the current support obligation.
- (c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar (\$1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.
- (d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation. The state agency or the local agency designated to enforce child support obligations, as required by federal law, shall allow employers to simplify the process of wage withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one court order in a consolidated check.
  - (e) Orders for wage assignment required or authorized by this

- section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.
- (f) No employer shall use any assignment authorized by this section as grounds refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars (\$500).
- (g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.
- (h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).
- (i) Nothing in this section limits the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.
- (j) This section applies to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.
- (k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the

moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(l) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the district attorney for those purposes, or in any case in which a district attorney so requests, the court shall issue an order for a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b), but a finding of error in the amount of the arrearage is not sufficient in and of itself to quash the wage assignment for that portion of the obligor's wages withheld to pay current support.

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

- (m) As used in this section, "assigned payee" means either the person to whom support has been ordered to have been paid or the district attorney, designated by the court to receive the payment. For the purposes of this section, the district attorney shall be the assigned payee for all cases in which an application for services has been filed under Title IV-D of the Social Security Act.
- (n) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.
  - (o) This section shall become operative on January 1, 1987.
  - SEC. 2. Section 7006 of the Civil Code is amended to read:
- 7006. (a) A child, the child's natural mother, or a man presumed to be the child's father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:
- (1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.
- (2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a

party.

- (b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.
- (c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. The commencement of such an action shall suspend any pending proceeding in connection with the adoption of such child, including a proceeding pursuant to subdivision (b) of Section 7017, until a judgment in the action is final.
- (d) Except as to cases coming within the provisions of Section 621 of the Evidence Code, a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7004, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. Such an action shall be brought within 30 days after the man is served as prescribed in subdivision (f) of Section 7017 with a notice that he is or could be the father of such child or the birth of the child, whichever is later. The commencement of such an action shall suspend any pending proceeding in connection with the adoption of the child until a judgment in the action is final.
- (e) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.
- (f) An action under this section may be brought before the birth of the child.
- (g) The district attorney may also, at his or her discretion, bring an action under this section in any case in which the district attorney believes it to be appropriate.
  - SEC. 3. Section 7006 of the Civil Code is amended to read:
- 7006. (a) A child, the child's natural mother, or a man presumed to be the child's father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:
- (1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.
- (2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph.(1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another

man may be determined in the same action, if he has been made a party.

- (b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.
- (c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. Such an action shall be consolidated with a proceeding pursuant to subdivision (b) of Section 7017. The parental rights of the alleged natural father shall be determined as set forth in subdivision (d) of Section 7017.
- (d) Except as to cases coming within the provisions of Section 621 of the Evidence Code, a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7004, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. Such an action shall be brought within 30 days after the man is served as prescribed in subdivision (f) of Section 7017 with a notice that he is or could be the father of the child or the birth of the child, whichever is later. The commencement of the action shall suspend any pending proceeding in connection with the adoption of the child until a judgment in the action is final.
- (e) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.
- (f) An action under this section may be brought before the birth of the child.
- (g) The district attorney may also, at his or her discretion, bring an action under this section in any case in which the district attorney believes it to be appropriate.
- SEC. 4. Section 11350.1 of the Welfare and Institutions Code is amended to read:
- 11350.1. Notwithstanding any other statute, in any action brought by the district attorney for child support of a minor child or children, the action may be prosecuted in the name of the county on behalf of the child, children or caretaker parent. The mother shall not be a necessary party in the action but may be subpoenaed as a witness. In an action under this section there shall be no joinder of actions, or coordination of actions, or cross-complaints, and the issues shall be limited strictly to the question of paternity, if applicable, and child support. A final determination of parentage may be made in any such action as an incident to obtaining an order for support. An action for

support or paternity pursuant to this section shall not be delayed or stayed because of the pendency of any other action between the parties.

In any action to enforce a spousal support order the action may be pled in the name of the county in the same manner as an action to establish a child support obligation. The same restrictions on joinder of actions, coordination of actions, and cross-complaints, and delay because of the pendency of any other action as relates to actions to establish a child support obligation shall also apply to actions to enforce a spousal support order. Nothing herein contained shall be construed to prevent the parties from bringing an independent action under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) or otherwise, and litigating the issue of support. In such event, the court in those proceedings shall make an independent determination on the issue of support which shall supersede the support order made pursuant to this section.

SEC. 5. Section 11475.1 of the Welfare and Institutions Code is amended to read:

(a) Each county shall maintain a single organizational 11475.1. unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. To the extent required by federal law, actions brought by the district attorney to establish or enforce support obligations in all cases, other than paternity cases or those cases involving complex issues, shall be completed within the following time limits: (1) 90 percent of the actions shall be completed within three months from the date of service; (2) 98 percent of the actions shall be completed within six months from the date of service; and (3) 100 percent of the actions shall be completed within 12 months from the date of service. As used in this section, "service" means the service of process required by law for the particular proceeding. This responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear

and simple language prescribed by the Director of Social Services, that child and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

In any action for child support brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

The district attorney shall file a motion for an order for temporary support within the following time limits:

- (1) If the defendant is the mother, a presumed father under subdivision (a) of Section 7004 of the Civil Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.
- (2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section prohibits the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

As used in this subdivision, "complex issues" means issues arising in the following types of cases: (1) any case which could directly result in a person's incarceration; (2) any case involving the right to jury trial; and (3) any case so deemed by a commissioner, a referee, or a superior court judge.

(b) As used in this article, "enforcing obligations" includes, but is not limited to, (1) the use of all interception and notification systems

operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations and (2) the obtaining by the district attorney of an initial order for child support, by civil or criminal process, without regard to whether the child is receiving public assistance.

- (c) As used in this section "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.
- (d) The district attorney is the public agency responsible for administering wage withholding for the purposes of Title IV-D of the Social Security Act.
- SEC. 6. Section 11484 of the Welfare and Institutions Code is amended to read:
- 11484. If aid has been applied for or granted to a child of parents who are divorced or legally separated, or who are engaged in a divorce or separate maintenance action which is pending, or there has been an action to determine parentage, the district attorney may apply to the superior court in that action, either by notice of motion or order to show cause, to determine any of the following:
  - (1) Why an order of support for the child should not be entered.
- (2) Why the amount of support previously ordered should not be increased.
- (3) Why the parent should not be held in contempt for his or her failure to comply with any order of support previously entered.
- SEC. 7. Section 3 of this bill incorporates amendments to Section 7006 of the Civil Code proposed by both this bill and SB 903. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 7006 of the Civil Code, and (3) this bill is enacted after SB 903, in which case Section 2 of this bill shall not become operative.
- SEC. 8. 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 1409**

An act to amend Section 4701 of the Civil Code, relating to support.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 4701 of the Civil Code, as amended by Section 3.4 of Chapter 1069 of the Statutes of 1985, is amended to read:

- 4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the district attorney designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.
- (b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding after January 1, 1987, where the court has ordered either or both parents to pay any amount for the support of a minor child, that order shall contain a provision assigning the wages of the obligor to the assigned payee. Any order for the modification of child support entered after January 1, 1987, which does not otherwise contain a provision for wage assignment, shall also contain a provision assigning the wages of an obligor to the assigned payee. All provisions for wage assignment required pursuant to this subdivision shall be effective only upon an application signed under penalty of perjury by the assigned payee that the obligor is in arrears in payment in a sum equal to the amount of support payable for one month. Upon receipt of the application, the court shall issue, without notice to the obligor, an order requiring the obligor to assign to the payee that portion of the salary or wages of the obligor due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the obligor ordered to pay support upon whom a copy of the order is served.
- (2) In cases in which the order for child support does not contain a provision for wage assignment, the application shall state that the assigned payee has given the obligor a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or

personally served at least 15 days prior to the date of the filing of the application. The written notice of intent to seek a wage assignment required by this paragraph may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of the application with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The obligor may at any time waive the written notice required by this subdivision.

- (3) The assigned payee shall notify the employer of the obligor, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to the district attorney, the parent to whom support has been ordered to be paid shall notify the court and the district attorney, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or district attorney is unable to deliver payments under the assignment for a period of six months due to the failure of the individual to whom support has been ordered to be paid to notify the employer or district attorney of a change of address, the employer or district attorney shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.
- (4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.
- (5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the obligor, together with a written statement of the obligor's rights under the law to move to quash the assignment. The Judicial Council shall adopt a form for the statement.
- (6) An obligor alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the obligor of notice of the assignment order by his or her employer if the obligor states under oath that there is an error in the amount of current or overdue support, that the alleged obligor is not the obligor from whom support is due, or that the amount to be withheld exceeds that allowable under federal law in subdivision (b) Section 1673 of Title 15 of the United States Code, to the extent that the amount required to be withheld exceeds the limits specified in federal law. The obligor may also move to quash the assignment if he or she states under oath that a default in payment in a sum equal to the amount of support payable for one month has not occurred. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the obligor of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the

notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion. If a finding of an error in the amount of overdue support results in an amount due which is less than one month's support, the assignment of wages shall be quashed accordingly. However, if a finding of an error in the amount of overdue support results in an amount in excess of one month's support, such a finding in the amount of overdue support shall not affect the assignment of that portion of the obligor's wages withheld to pay for current support. A finding of an error in the amount of current support subject to withholding does not affect the assignment of that portion of the obligor's wages withheld to pay overdue support.

- (7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. The employer shall send the amounts withheld to the assigned payee within 10 days of the date the obligor is paid. An employer who willfully fails to withhold and forward support pursuant to a currently valid order entered and served upon the employer pursuant to this section is liable to the assigned payee for the amount of support not withheld, forwarded, or otherwise paid to the assigned payee. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.
- (8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.
- (9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the obligor has been given notice of the order of assignment and the fact that the obligor may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to enter the order for the assignment.
- (10) Upon a notice of motion by the obligor, the court shall terminate an order of assignment entered pursuant to this subdivision if past due support has been paid in full and if one of the following conditions exists: (A) The employer or district attorney has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or district attorney of a change of address; or (B) The death or emancipation of the child to whom support is owed; or
- (c) The assignment has continued for 24 months after payment in full of any past due support. However, if the assignment was pursuant to a second or subsequent application, it shall not be terminated unless, upon a petition by the parent ordered to pay support, the court determines that there is good cause to terminate the assignment.

- (11) The amounts withheld under this subdivision shall include both current support and payments towards the liquidation of arrearages. However, priority shall be given to the current support obligation.
- (c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar (\$1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.
- (d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation. The state agency or the local agency designated to enforce child support obligations, as required by federal law, shall allow employers to simplify the process of wage withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one court order in a consolidated check.
- (e) Orders for wage assignment required or authorized by this section shall include a requirement that the obligor notify the assigned payee of any change of employment and of the name and address of his or her new employer.
- (f) No employer shall use any assignment authorized by this section as grounds refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars (\$500).
- (g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.
- (h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).
- (i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.
  - (j) This section applies to the money and benefits described in

Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

- (k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of the fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting obligor. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.
- (l) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the district attorney for those purposes, or upon the district attorney's or obligor's request, the court shall issue an order for a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b), but a finding of error in the amount of the arrearage is not sufficient in and of itself to quash the wage assignment for that portion of the obligor's wages withheld to pay current support.

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

- (m) As used in this section, "assigned payee" means either the person to whom support has been ordered to have been paid or the district attorney, designated by the court to receive the payment. For the purposes of this section, the district attorney shall be the assigned payee for all cases in which an application for services has been filed under Title IV-D of the Social Security Act.
- (n) In any case where support for a minor child is ordered to be paid through the district attorney on behalf of a minor child not receiving public assistance pursuant to the Family Economic

Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the district attorney shall forward the support received to the custodial parent or other person having care or control of the minor child or children involved within seven working days of receipt.

(o) This section shall become operative on January 1, 1987.

SEC. 2. Section 4701 of the Civil Code, as amended by Section 3.4 of Chapter 1069 of the Statutes of 1985, is amended to read:

- 4701. (a) (1) On and after January 1, 1987, in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court shall order either parent or both parents to assign to an assigned payee, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child, unless the parent ordered to pay support demonstrates to the satisfaction of the court that the support payments ordered will be made. This demonstration may include proof of timely payment of previously ordered support for the minor children subject to the action. The wage assignment shall be ordered at the time of trial or entry of a judgment establishing child support, other than a temporary order pending trial. The order shall operate as an assignment and shall be binding upon any existing or future employer of the obligated parent upon whom a copy of the order is served. Any such order of assignment may be modified at any time by the court or, in the case of an arrearage, revoked as provided in subdivision (b).
- (2) Notwithstanding paragraph (1), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to an assigned payee that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the obligated parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.
- (b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding after January 1, 1987, where the court has ordered either or both parents to pay any amount for the support of a minor child, that order shall contain a provision assigning the wages of the obligor to the assigned payee. Any order for the modification of child support entered after January 1, 1987, which does not otherwise contain a provision for wage assignment, shall also contain a provision assigning the wages of an obligor to the assigned payee. All provisions for wage assignment required pursuant to this subdivision shall be effective only upon an application signed under penalty of perjury by the assigned payee that the obligor is in arrears in payment in a sum equal to the amount of support payable for one month. Upon

receipt of the application, the court shall issue, without notice to the obligor, an order requiring the obligor to assign to the payee that portion of the salary or wages of the obligor due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the obligor ordered to pay support upon whom a copy of the order is served.

- (2) In cases in which the order for child support does not contain a provision for wage assignment, the application shall state that the assigned payee has given the obligor a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the application. The written notice of intent to seek a wage assignment required by this paragraph may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of the application with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The obligor may at any time waive the written notice required by this subdivision.
- (3) The assigned payee shall notify the employer of the obligor, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to the district attorney, the parent to whom support has been ordered to be paid shall notify the court and the district attorney, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or district attorney is unable to deliver payments under the assignment for a period of six months due to the failure of the individual to whom support has been ordered to be paid to notify the employer or district attorney of a change of address, the employer or district attorney shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.
- (4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.
- (5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the obligor, together with a written statement of the obligor's rights under the law to move to quash the assignment. The Judicial Council shall adopt a form for the statement.
- (6) An obligor alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the obligor of notice of the assignment order by his or her employer if the obligor states under oath that there is an error in the

amount of current or overdue support, that the alleged obligor is not the obligor from whom support is due, or that the amount to be withheld exceeds that allowable under federal law in subdivision (b) Section 1673 of Title 15 of the United States Code, to the extent that the amount required to be withheld exceeds the limits specified in federal law. The obligor may also move to quash the assignment if he or she states under oath that a default in payment in a sum equal to the amount of support payable for one month has not occurred. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the obligor of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion. If a finding of an error in the amount of overdue support results in an amount due which is less than one month's support, the assignment of wages shall be quashed accordingly. However, if a finding of an error in the amount of overdue support results in an amount in excess of one month's support, such a finding in the amount of overdue support shall not affect the assignment of that portion of the obligor's wages withheld to pay for current support. A finding of an error in the amount of current support subject to withholding does not affect the assignment of that portion of the obligor's wages withheld to pay overdue support.

- (7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. The employer shall send the amounts withheld to the assigned payee within 10 days of the date the obligor is paid. An employer who willfully fails to withhold and forward support pursuant to a currently valid order entered and served upon the employer pursuant to this section is liable to the assigned payee for the amount of support not withheld, forwarded, or otherwise paid to the assigned payee. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.
- (8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.
- (9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the obligor has been given notice of the order of assignment and the fact that the obligor may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to enter the order for the assignment.
- (10) Upon a notice of motion by the obligor, the court shall terminate an order of assignment entered pursuant to this

subdivision if past due support has been paid in full and if one of the following conditions exists: (A) The employer or district attorney has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or district attorney of a change of address; or (B) the death or emancipation of the child to whom support is owed; or (C) the assignment has continued for 24 months after payment in full of any past due support. However, if the assignment was pursuant to a second or subsequent application, it shall not be terminated unless, upon a petition by the parent ordered to pay support, the court determines that there is good cause to terminate the assignment.

- (11) The amounts withheld under this subdivision shall include both current support and payments towards the liquidation of arrearages. However, priority shall be given to the current support obligation.
- (c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar (\$1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.
- (d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation. The state agency or the local agency designated to enforce child support obligations, as required by federal law, shall allow employers to simplify the process of wage withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one court order in a consolidated check.
- (e) Orders for wage assignment required or authorized by this section shall include a requirement that the obligor notify the assigned payee of any change of employment and of the name and address of his or her new employer.
- (f) No employer shall use any assignment authorized by this section as grounds refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars (\$500).
- (g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.
- (h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the

district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

- (i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.
- (j) This section applies to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.
- (k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of the fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting obligor. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.
- (1) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the district attorney for those purposes, or upon the district attorney's or obligor's request, the court shall issue an order for a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b), but a finding of error in the amount of the arrearage is not sufficient in and of itself to quash the wage assignment for that portion of the obligor's wages withheld to pay current support.

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

- (m) As used in this section, "assigned payee" means either the person to whom support has been ordered to have been paid or the district attorney, designated by the court to receive the payment. For the purposes of this section, the district attorney shall be the assigned payee for all cases in which an application for services has been filed under Title IV-D of the Social Security Act.
- (n) In any case where support for a minor child is ordered to be paid through the district attorney on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the district attorney shall forward the support received to the custodial parent or other person having care or control of the minor child or children involved within seven working days of receipt.
  - (o) This section shall become operative on January 1, 1987.
- SEC. 3. Section 2 of this bill incorporates amendments to Section 4701 of the Civil Code proposed by both this bill and SB 1751. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 4701 of the Civil Code, and (3) this bill is enacted after SB 1751, in which case Section 1 of this bill shall not become operative.
- SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

### CHAPTER 1410

An act to add Section 31314 to the Public Resources Code, relating to coastal resources.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 31314 is added to the Public Resources Code, to read:

31314. Plans prepared pursuant to this chapter for the Port of San Francisco may seek to expedite the implementation of visitor serving commercial uses of port property not needed for maritime use, establish a system of open spaces and public access along the

waterfront, provide for commercial fishing facilities, and provide for the rehabilitation of existing deteriorated wharfs and piers.

Upon the approval of the State Coastal Conservancy, funding of the Port of San Francisco pursuant to this chapter shall be given high priority and be available to implement plans prepared pursuant to this chapter and to increase the port's ability to establish an ongoing land management program to encourage public access and tourist uses of the port.

## CHAPTER 1411

An act to amend Sections 20022, 20332, and 20809 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 20022 of the Government Code is amended to read:

(a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States: (3) 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; (4) any amount deducted from the member's salary for payment for participation in a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States: (5) any amount deducted from the member's salary for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; (6) employer "pick up" of member contributions which meets the requirements of Section 414(h) (2) of the Internal Revenue Code of the United States: (7) any disability or workers' compensation

payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (8) any special compensation for performing normally required duties such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out of class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, split shift differential and substitute differential in Sections 45196 and 88196 of the Education Code, except for those items excluded from compensation by Section 20022.2; (9) compensation for uniforms, except as provided in Section 20022.1; (10) any other payments the board may determine to be compensation.

(b) "Compensation" shall not include: (1) the provision by an employer of any medical or hospital service or care plan or insurance plan (other than the purchase of annuity contracts referred to in this section) for its employees, any contribution by an employer to meet the premium or charge for such plan, or any payment into a private fund to provide health and welfare benefits for its employees: (2) any payment by an employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act; (3) amounts not available for payment of salaries and which are applied by an employer for the purchase of annuity contracts including those which meet the requirements of Section 403(b) of the Internal Revenue Code of the United States; (4) the bonus sum provided for low-paid state employees in the Budget Act of 1975; (5) any benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 of this division; (6) employers' payments which are to be credited as employee contributions for benefits provided by this system, or employers' payments which are to be credited to employee accounts in deferred compensation plans; provided, that amounts deducted from a member's wages for participation in a deferred compensation plan pursuant to paragraph (3) of subdivision (a) shall not be considered to be employer's payments; (7) payments for lump-sum vacation or compensating time off upon termination of employment; (8) final settlement pay; (9) lump-sum sick leave payment; (10) payments for overtime, including pay in lieu of vacation or holiday; (11) special compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, bonuses for duties performed after regular work shift; (12) those items excluded from compensation by Section 20022.2; (13) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (14) amounts not available for payment of salaries and which are applied by the employer for the purchase of a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (15) amounts not available for payment of salaries which are applied by the employer for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; and (16) any other payments the board may determine not to be compensation.

SEC. 2. Section 20332 of the Government Code is amended to read:

20332. Persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government or political subdivision thereof and who are receiving credit in such other system for service are, as to such service, excluded from this system.

For the purpose of this section, persons who merely are receiving pensions or retirement allowances, or other payments, from any source whatever, on account of service rendered to an employer other than the state and while they were not in state service, are not, because of such receipt, members of any other retirement or pension system.

For the purposes of this section only, persons who merely participate in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 or established pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, are not, because of such participation, members of any other retirement or pension system.

For the purposes of this section only, persons who participate in a money purchase pension plan and trust which meets the requirements of Section 401 (a) of the Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 401 (a)), are not, because of that participation, members of any other retirement or pension system, so long as the contracting agency has received a ruling from the Internal Revenue Service stating that the money purchase pension plan and trust qualifies under Section 401 (a) and furnishes proof thereof upon request by the Board of Administration.

SEC. 3. Section 20809 of the Government Code is amended to read:

20809. A person shall not receive credit for the same service in two retirement systems supported wholly or in part by public funds under any circumstance. Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and 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, a 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)), or a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 401(a)).

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 local public employees and employers may take advantage at the earliest possible time of the deferment of federal income taxes through money purchase plans and trusts meeting the requirements of Section 401 (a) of the Internal Revenue Code of 1954 (26 U.S.C.A., Sec. 401 (a)), it is necessary that this act take effect immediately.

## **CHAPTER 1412**

An act to amend Section 13142.4 of the Health and Safety Code, and to add Section 1464.5 to the Penal Code, relating to funds for fire training and education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 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, 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) Establish procedures for seeking, accepting, and administering

gifts and grants for use in implementing the intents and purposes of the California Fire and Arson Training Act.

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(j) This section shall be known, and may be cited, as the California Fire and Arson Training Act.

(k) 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.

SEC. 2. Section 1464.5 is added to the Penal Code, to read:

- 1464.5. (a) In addition to any assessment set forth in Section 1464, there shall be levied an assessment in the amount of ten cents (\$0.10) for every one dollar (\$1), or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for public offenses, limited to violations of any section of the Health and Safety Code enforced by the State Fire Marshal and other regulations and building standards enforced by the State Fire Marshal, the State Fire Marshal's salaried deputies or local agencies authorized to enforce those provisions pursuant to Sections 13145 and 13146 of the Health and Safety Code, or of any local fire code or ordinance. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section for all matters in which a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.
- (b) When multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.
- (c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section shall also be returned.
- (d) In any case in which a person convicted of any offense to which this section applies is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his or her immediate family.
- (e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to this section shall be transmitted at least once a month to the State Treasury to be deposited in the California Fire and Arson Training Fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by the county.
- (f) The moneys so deposited shall be available, when appropriated by the Legislature, for the Office of the State Fire Marshal to support fire and arson training.
  - SEC. 3. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

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

In order to allow for the provision of firefighters' training and education in a timely manner so as to meet the challenges of the summer fire season, it is necessary that this act take effect immediately.

# CHAPTER 1413

An act to amend Sections 17540.1, 17540.6, and 17540.10 of, and to repeal and add Section 17540.11 of, the Business and Professions Code, relating to travel promoters.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 17540.1 of the Business and Professions Code is amended to read:

17540.1. "Travel promoter" means a person who sells, provides, furnishes, contracts for, arranges, or advertises that he or she can or may arrange, or has arranged, wholesale or retail air or sea transportation either separately or in conjunction with other services. Travel promoter does not include: (1) an air carrier, (2) an ocean carrier, (3) an officially appointed agent of the air carrier or ocean carrier which provides the transportation and where the transportation is offered or sold pursuant to that agency appointment, or (4) any person or organization certified under the provisions of Part 5 (commencing with Section 12140) of Division 2 of the Insurance Code.

SEC. 2. Section 17540.6 of the Business and Professions Code is amended to read:

17540.6. A travel promoter shall not advertise that air or sea transportion is or may be available unless he or she has, prior to the advertisement, contracted for the transportation advertised with the air carrier or sea carrier.

SEC. 3. Section 17540.10 of the Business and Professions Code is amended to read:

17540.10. (a) A travel promoter shall deposit 90 percent of all sums received, including, but not limited to, those made by cash, credit card, or any other method of payment, for air or sea

transportation or any other services or goods offered by the travel promoter in conjunction with that transportation directly into a trust account in a federally insured bank or savings and loan association.

- (b) The trust required by this section shall be created and maintained for the benefit of the persons paying money to the travel promoter. The travel promoter shall not in any manner encumber the corpus of such account and shall not withdraw money therefrom except: (1) in partial or full payment for the goods or services contracted for by the passengers to the carrier or person providing the other goods or services offered by the travel promoter; or (2) to make the refunds as required by this article or provided for by written contract between the travel promoter and passengers. This section shall not prevent the withdrawal from that account of any interest earned and credited to the trust account for the sole benefit of the travel promoter after all goods and services have been provided as contracted for or the withdrawal at that time of any other sums on deposit in that account.
- (c) In lieu of that trust account, an adequate bond shall be maintained by the travel promoter. A copy of that bond shall be filed with the Secretary of State prior to the advertisement of air or sea transportation, or both, by the travel promoter.
- SEC. 4. Section 17540.11 of the Business and Professions Code is repealed.
- SEC. 5. Section 17540.11 is added to the Business and Professions Code, to read:
- 17540.11. (a) Upon payment in full by the passenger for air or sea transportation and any related services with a credit card or with cash, the travel promoter shall issue and deliver the ticket or voucher to the passenger or his or her designated agent within 48 hours.
- (b) Upon payment in full by the passenger for air or sea transportation and any related services with a check, the travel promoter shall issue and deliver the ticket or voucher to the passenger or his or her designated agent within 48 hours of the earlier of the following:
- (1) The time the passenger's payment is credited to the travel promoter's account.
- (2) The expiration of the maximum hold period specified in Section 10.190405 of Title 10 of the California Administrative Code.
- (c) Tickets, vouchers, or receipts shall be deemed to have been delivered if they have been turned over to an independent third-party delivery service or the United States Postal Service for regular delivery.
- (d) Where the travel promoter is unable to issue tickets or vouchers upon payment as set forth in subdivisions (a), (b), (c), and (d), the travel promoter may comply with this section by either: (1) forwarding to the air or sea carrier, or provider of related services the portion of the sum paid by the passenger which is required by the air or sea carrier or provider of related services from the travel promoter in order to provide the transportation or services

purchased by that passenger. The travel promoter may not offset or reduce the amount forwarded by any amounts due or claimed in connection with any other transaction, or (2) by complying with either the provisions of Sections 17540.8 and 17540.9, and subdivisions (a), (b), and (c) of Section 17540.10, or depositing directly into a trust account in a federally insured bank or savings and loan association the portion of the amount paid by the passenger which is required by the air or sea carrier or provider of related services from the travel promoter in order to provide the transportation or services purchased by the passenger. The travel promoter may not offset or reduce the amount deposited by any amount due or claimed in connection with any other transaction.

- (e) The trust required by this section shall be created and maintained for the benefit of the persons paying money to the travel promoter. The travel promoter shall not, in any manner, encumber the corpus of such account and shall not withdraw money therefrom except: (1) in partial or full payment for the goods or services contracted for by the passenger to the carrier or person providing the other goods or services offered by the travel promoter; or (2) to make the refunds as required by this section. This section shall not prevent the withdrawal from that account of any interest earned and credited to the trust account for the sole benefit of the travel promoter.
- (f) There is no violation of this section if (1) compliance with this section was rendered impossible as a direct result of an unforeseen condition beyond the travel promoter's control, and, (2) the travel promoter complied with this section or made restitution to the passenger within 30 days after receiving the passenger's payment.

A travel promoter has the burden of producing evidence to establish this exception in a criminal action, and the burden of proof to establish this exception in a civil action.

- (g) For purposes of this section only, "travel promoter" includes an officially appointed agent of an air carrier or ocean carrier, but does not include:
- (1) Any person or organization licensed under Chapter 14A (commencing with Section 1851) of Division 1 of the Financial Code.
- (2) Any person or organization certified under the provisions of Part 5 (commencing with Section 12140) of Division 2 of the Insurance Code.
- (h) For purposes of this section, "48 hours" means two business days as defined in Section 9 of the Civil Code.
- SEC. 6. Section 5 of this act does not create any duties other than those expressed in Section 5 and does not affect any duties established by any other statutory law or by decisional law.
- SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction.

SEC. 8. The 1986 amendments to Sections 17540.1 and 17540.6 of the Businesss and Professions Code made by this act are declaratory of existing law.

#### CHAPTER 1414

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

> [Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. On or before January 1, 1987, the Contractors' State License Board shall report to the Legislature on all of the following:

- (a) The feasibility and timeframe for implementation and development of an examination for the licensing, certification, or registration of home inspectors. The examination would be developed according to professionally accepted psychometric principles for a licensing examination, with the assistance and advice of representatives from the California Real Estate Inspection Association and the American Society of Home Inspectors.
- (b) The identification of experience or educational requirements desired for the licensing or certification of home inspectors.
- (c) The development of a certification procedure for which a fee may be charged.
- (d) The development of a process for taking disciplinary action against home inspectors not in compliance with certification and practice standards.
- (e) The development of a scope of practice contained in the performance of a home inspection and the role of a home inspector's opinion with respect to the disclosure requirements of Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code.
- SEC. 2. The sum of twenty-five thousand dollars (\$25,000) is hereby appropriated from the Contractors' License Fund to the Contractors' State License Board for the purpose of carrying out this act.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that information and facts necessary for legislation required for the regulation of home inspectors for the protection of the consumer may be gathered and reported to the Legislature prior to January 1, 1987, it is necessary that this act go into immediate effect.

### CHAPTER 1415

An act to add Sections 6306.1 and 6306.2 to the Public Resources Code, relating to tidelands and submerged lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 6306.1 is added to the Public Resources Code, to read:

6306.1. Notwithstanding any other provision of law, the State Lands Commission and the City of Los Angeles, acting by and through its Board of Harbor Commissioners, may take all actions which are necessary for mitigation of expansion of the Port of Los Angeles by the enhancement, restoration, and management of Batiquitos Lagoon in the County of San Diego. Nothing in this section exempts the Batiquitos Lagoon Restoration Project from the regulatory requirements or jurisdiction of any public entity.

If any interests in property are acquired as a part of the Batiquitos Lagoon mitigation project, these interests are to be held in trust for the public as sovereign lands by the State Lands Commission.

The Legislature finds that adequate area for appropriate mitigation of impacts on biological resources does not presently exist within Los Angeles Harbor. The City of Los Angeles, acting by and through its Board of Harbor Commissioners, may expend harbor revenue funds to enhance, restore, and manage Batiquitos Lagoon. The Legislature further finds that the enhancement, restoration, and management of Batiquitos Lagoon will provide benefits to the Port of Los Angeles and the community because it will (1) facilitate the development of an outer harbor landfill which is the initial step in relocating hazardous liquid bulk facilities in the port, thereby providing substantial safety benefits to the surrounding community, (2) allow the port, as part of a larger project, to generate substantial additional revenues to carry out the mandate in the state tidelands grants that the port promote commerce, navigation, and fishery; and (3) create future opportunities for recreational development consistent with tideland grants.

The port shall provide a recreational boating sanitation facility, navigational aids in the Cabrillo Channel, and a free boating safety publication. Provision of these facilities shall be considered by the California Coastal Commission in determining whether the conditions of coastal permit 5-85-623 have been met.

- SEC. 2. Section 6306.2 is added to the Public Resources Code, to read:
- 6306.2. (a) Notwithstanding any other provision of law, in order to mitigate the effects of the project which is the subject of the Department of the Army Permit No. 14003E48B, issued July 23, 1986, the City of Oakland, acting by and through its Board of Port Commissioners, may use revenue accruing from, or out of, the use of granted tidelands, for the acquisition of land, or an interest in land, located outside the geographical boundaries of the trust grant, or for the enhancement, restoration, or management of land located outside the trust grant, if the commission makes all of the following determinations:
- (1) That adequate areas for appropriate mitigation do not presently exist within the geographical boundaries of the port district trust grants, and that if some of the mitigation can occur within the geographical boundaries of the port district trust grants, that mitigation will be included in the mitigation program.
- (2) That the proposed offsite mitigation best promotes appropriate public trust purposes for which sovereign tidelands and submerged lands are held by the state, its location is appropriate in consideration of public trust needs, and it addresses the specific impacts of the project.
- (3) That, unless the proposed offsite mitigation is to be located within another tidelands trust grant, title to any land or interest in land acquired, as well as any land which is to be enhanced, restored, or managed, will be transferred to the state, acting by and through the State Lands Commission, to be held in trust for the public as land having the legal character of sovereign lands.
  - (4) That the mitigation is in the best interest of the state.
- (b) The State Lands Commission may lease any land or interest in land transferred to it pursuant to this section, as provided by Part 2 (commencing with Section 6501).
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the expansion of facilities of the Port of Los Angeles and of the Metropolitan Oakland International Airport as early as possible, it is necessary that this act take effect immediately.

# **CHAPTER 1416**

An act to amend Sections 798.17 and 798.51 of the Civil Code, relating to mobilehomes.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 798.17 of the Civil Code is amended to read: (a) Rental agreements meeting subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of such a rental agreement shall prevail over conflicting provisions of such an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

The first paragraph of a rental agreement entered into pursuant to this section shall contain a provision notifying the homeowner that the agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

- (b) Rental agreements subject to this section shall meet all of the following criteria:
- (1) The rental agreement shall be in excess of 12 months' duration.
- (2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.
- (3) The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the agreement.
- (4) The homeowner who executes a rental agreement offered pursuant to this section may void such agreement by notifying management in writing within 72 hours of the homeowner's execution of the rental agreement.
- (c) The homeowner shall have the option to reject the offered rental agreement and instead accept a rental agreement for a term of 12 months or less from the date the offered agreement begins. In the event the homeowner elects to have a rental agreement for a term

of 12 months or less, including a month-to-month agreement, the agreement shall contain the same "rental charges" terms and conditions as the offered rental agreement during the first 12 months, except for options contained in the offered rental agreement to extend or renew the agreement.

(d) Nothing in subdivision (c) shall be construed to prohibit management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

This section does not apply to or supersede other provisions of this part or other state law.

SEC. 2. Section 798.51 of the Civil Code is amended to read:

- 798.51. The management shall meet and consult with the homeowners, upon written request, within 30 days of the request, either individually, collectively, or with representatives of a group of homeowners who have signed a request to be so represented on the following matters:
  - (a) Amendments to park rules and regulations.
- (b) Standards for maintenance of physical improvements in the park.
- (c) Addition, alteration, or deletion of service, equipment or physical improvements.
  - (d) Rental agreements offered pursuant to Section 798.17.

Any collective meeting shall be conducted only after notice thereof has been given to all the requesting homeowners 10 days or more before the meeting.

#### CHAPTER 1417

An act to amend Sections 1180 and 1181 of the Civil Code, to amend Section 2093 of the Code of Civil Procedure, and to amend Section 75079 of the Government Code, relating to judges.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1180 of the Civil Code is amended to read: 1180. The proof or acknowledgment of an instrument may be made at any place within this state before a justice, retired justice, or clerk of the Supreme Court, a justice, retired justice, or clerk of any court of appeal or judge or retired judge of a superior court.

SEC. 2. Section 1181 of the Civil Code is amended to read:

1181. The proof or acknowledgment of an instrument may be made before a notary public at any place within this state, or within the county or city and county in this state in which the officer specified below was elected, or appointed, before either:

- (1) A clerk of a municipal or justice court.
- (2) A county clerk.
- (3) A court commissioner.
- (4) A judge or retired judge of a municipal or justice court.
- (5) A district attorney.
- (6) A clerk of a board of supervisors.
- (7) A city clerk.
- (8) A county counsel.
- (9) A city attorney.
- SEC. 3. Section 2093 of the Code of Civil Procedure is amended to read:
- 2093. Every court, every judge, or retired judge, or clerk of any court, every justice or retired justice, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has power to administer oaths or affirmations.
- SEC. 4. Section 75079 of the Government Code is amended to read:

75079. When a judge elects and becomes entitled to receive the benefits accorded by this article he or she does not have the right to select an optional settlement under the provisions of Article 3.5 (commencing with Section 75070) of this chapter.

When a judge becomes entitled on and after January 1, 1987, to receive the benefits accorded by this article, the judge may make an election to the contrary to select an actuarially reduced retirement allowance payable for life and if the judge dies before he or she receives the amount of his or her accumulated contributions at retirement, the remaining unpaid amount of his or her accumulated contributions shall be paid to his or her designated beneficiary, if he or she has so designated, and if none, to his or her estate.

The election shall be made in writing and filed with the Judges' Retirement System prior to the making of the first payment on account of any retirement allowance.

The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by Section 75076 but who elected to receive the actuarially reduced retirement allowance as provided in this section and who dies during retirement shall receive, until death or remarriage, an allowance equal to one-half of the retirement allowance that would have been payable to the judge were he or she living and had elected to receive the benefits accorded by Section 75076.

SEC. 5. The administration of any oath or affirmation by, or the proof or acknowledgment of any instrument before, a retired judge or retired justice prior to the effective date of this act that is not otherwise invalid is hereby retroactively validated as of the date of administration, proof, or acknowledgment.

# CHAPTER 1418

An act to add Section 6302.5 to the Business and Professions Code, to amend Section 2093 of the Code of Civil Procedure, and to amend Sections 1225, 69892.1, 69894.1, 69894.6, 69948, 70045.9 71603.3, 72608, 72609, 72610, 72645, 72646, 72702.5, 72703, 72704, 72704.5, 72717, 72717.5, 72750.4, 72750.5, 72751, 72754, 72755, 73353, 73353.1, and 74949.1 of, to add Section 72718 to, and to add Article 3 (commencing with Section 73390) to Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 6302.5 is added to the Business and Professions Code, to read:

6302.5. Notwithstanding any other provision of law, in Los Angeles County appointments made by judges of the superior court, municipal court, and justice court shall be for a term of four years, and appointments made by the board of supervisors of the county shall be for a term of two years.

Trustees who are incumbents on the effective date of this section shall be considered to have started their terms on the effective date of this section.

At the first regular meeting following the effective date of this section, the members appointed by the judiciary shall classify themselves by lot so that three members shall serve for four years, and two members for two years. Thereafter the term of office of each member so appointed shall be four years.

At the first regular meeting following the effective date of this section, the members appointed by the board of supervisors shall classify themselves by lot so that one member shall serve for two years, and one member for one year. Thereafter the term of office of each member so appointed shall be two years.

- SEC. 1.3. Section 2093 of the Code of Civil Procedure is amended to read:
- 2093. (a) Every court, every judge, or clerk of any court, every justice, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has power to administer oaths or affirmations.
- (b) A former judge or justice of a court of record in this state who retired or resigned from office, other than a judge or justice who was retired by the Supreme Court for disability, shall have the power to administer oaths or affirmations, if the former judge or justice requests and receives a certification from the Commission on Judicial Performance that there was no formal disciplinary proceeding pending at the time of retirement or resignation. Where no formal

disciplinary proceeding was pending at the time of retirement or resignation, the Commission on Judicial Performance shall issue the certification.

No law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall be construed to prohibit the Commission on Judicial Performance from issuing a certificate as provided for in this section.

SEC. 1.5. Section 1225 of the Government Code is amended to read:

1225. Every executive and judicial officer and every Member of the Legislature may administer and certify oaths.

A former judge of a court of record in this state who retired or resigned from office, other than a judge who was retired by the Supreme Court for disability, shall be deemed a judicial officer for purposes of this section, if the former judge requests and receives a certification from the Commission on Judicial Performance that there was no formal disciplinary proceeding pending at the time of retirement or resignation. Where no formal disciplinary proceeding was pending at the time of retirement or resignation, the Commission on Judicial Performance shall issue the certification. No law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall be construed to prohibit the Commission on Judicial Performance from issuing a certificate as provided for in this section.

SEC. 2. Section 69892.1 of the Government Code is amended to read:

69892.1. Notwithstanding applicable any county provision to the contrary, a majority of the judges of the superior court in any county with a population of over 7,000,000 as determined by the 1980 federal census shall appoint, with the concurrence of the board of supervisors, a county clerk/executive officer/jury commissioner who shall hold office at the pleasure of the court and the board and shall exercise such administrative powers and perform such other duties as may be required of him or her. The court and the board shall fix the qualifications of such officer and may delegate to him or her any administrative powers and duties as are now or may hereafter by law be vested in or required to be exercised by such board. The county clerk/executive officer/jury commissioner shall prepare an annual report and such other reports as may be directed by the court or the board. The annual salary of the county clerk/executive officer/jury commissioner shall be as provided in Section 69894.1. He or she shall be allowed actual traveling and other necessary expenses while engaged in the discharge of the duties of his or her office.

SEC. 3. Section 69894.1 of the Government Code is amended to read:

69894.1. In the County of Los Angeles, a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:

Nun	nber Title	Schedule
1	Accountant	55G
2	Accounting Technician	45F
2	Administrative Assistant I	49D N2
ī	Administrative Assistant II	59Å
2	Administrative Assistant III	63C
21	Administrative Judicial Secretary	54L N3
5	Administrative Secretary	51L
1	Arbitration Administrator	66L
1	Assistant County Clerk	88D
1	Assistant Criminal Courts Coordinator	65K
1	Assistant Director, Juror Management	75C
1	Assistant Director, Pre-Trial Services	71J
1	Assistant Executive Officer	88D
1	Assistant Head, Office Services	53D
2	Assistant Juvenile Courts Coordinator	65 <b>K</b>
1	Assistant Supervising Counselor, Mental	•
	Health	69G
1	Assistant Supervising Probate Attorney	91H N.X.
1	Assistant to the Executive Officer	76C
1	Associate Personnel Administrator	78D
2	Chief Clerk	56A
1	Chief, Facilities Management	71D
9	Child Custody Evaluator	66A
1	Civil Courts Coordinator	77D
1	County Clerk/Executive Officer/Jury	Floo
-00	Commissioner	E68
63	Court Attendant	48H
51	Court Commissioner	F
204	Court Donoston	\$5,773.27 71K N.Z.
324	Court Statistician	
1 1	Court Statistician Criminal Courts Coordinator	56C 77D
1	Delinquency Court Coordinator	77D
1	Dependency Court Coordinator	77D
1	Director, Fiscal and Administrative Serv-	11D
. 1	ices	83D
1	Director, Court Staff Services	79D .
ī	Director, Juror Management	84D
ī	Director, Juvenile Court Services	84D
î	Director, Family Court Services	80D
ī	Director, Personnel Administration	80D
ĩ	Director, Pre-Trial Services	78D
· 3	Director, Superior Court/County Clerk	
	Services	83D

Secretary to the Assistant County Clerk .... Secretary to the Assistant Executive Officer

1

		57L
1	Secretary to the County Clerk/Executive	
	Officer	63L
1	Secretary to Grand Jury	57K
1	Secretary to Presiding Judge	65L
1	Senior Child Custody Evaluator	68A
12	Senior Counselor	65K
3	Senior Court Attendant	54F
2	Senior Departmental Personnel Techni-	
	cian	66D
26	Senior Family Mediator	70A
4	Senior Investigator, Own Recognizance	67L
5	Senior Investigator Aide	51D
32	Senior Judicial Secretary	50L N3
25	Senior Juvenile Traffic Hearing Officer	67A
9	Senior Office Assistant I	<b>4</b> 6]
4	Senior Office Assistant II	50F
1	Senior Offset Duplicator Operator	44L
1	Senior Personnel Assistant	52G
2	Senior Program Analyst	66D
1	Senior Property Custodian-Auditor	49G
1	Senior Referee	$\mathbf{F}$
		\$5,773.27
1	Senior Word Processor	45D
1	Special Assistant	73C
1	Staff Assistant I	50E
3	Staff Assistant II	57E
2	Staff Consultant	77D
3	Supervising Counselor, Family Court Serv-	
	ices	73D
1	Supervising Counselor, Mental Health	80D
1	Supervising Juvenile Traffic Hearing Offi-	
_	cer	77D
2	Supervising Law Clerk	67B
1	Supervisor, Mail and Reproduction Services	48L
1	Supply Clerk	43C
1	Training Officer	70D
3	Family Counselor Intern, W/O Compensa-	A 1575 - 7
EO	tion	NEW
50	Volunteer, W/O Compensation	

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the Los Angeles County Code, Title 6, shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners, senior referees and referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

Reduction of the schedule applicable to a class by reason of the

adoption of this salary plan or subsequent reclassification of position for organizational purposes shall not result in a lower salary rate to incumbents of such positions. The court is authorized to regulate by rule the status of employees so affected.

As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes are used instead of schedule numbers:

F—Flat rate per month

FD-Flat rate per day

N.W.—Pursuant to the Los Angeles County Code, Title 6, employees employed in this position shall be compensated on a six-step salary range, the sixth step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. The rate or rates established by this provision constitute a base rate.

N.X.—As defined in the Los Angeles County Code Section 6.28.050. N.Z.—Pursuant to the Los Angeles County Code, Title 6, employees employed in this position shall be compensated on a seven-step salary range, the sixth step being the fifth step of the salary schedule which is one standard salary schedule above the indicated schedule number, and the seventh step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. Advancement to the sixth step shall be granted upon completion of 18 months of continuous service at the fifth step and advancement to the seventh step shall be granted upon completion of 18 months of continuous service at the sixth step. The rate or rates established by this provision constitute a base rate.

All personnel appointed pursuant to this article, except the county clerk/executive officer/jury commissioner, shall serve at the pleasure of the court and may at any time be removed by the court in its discretion. The county clerk/executive officer/jury commissioner shall serve at the pleasure of the court and the board of supervisors.

SEC. 4. Section 69894.6 of the Government Code is amended to read:

69894.6. Notwithstanding the provisions of Section 69894.1, in the County of Los Angeles, a majority of the judges of the superior court may appoint 324 court reporters, each of whom shall receive a salary equivalent to the schedule designation 71K N.Z. in the Los Angeles County Code. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

Reduction of the schedule applicable to court reporters by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbent court reporters. The court may regulate by rule the status of employees so affected.

SEC. 5. Section 69948 of the Government Code is amended to read:

69948. (a) The fee for reporting testimony and proceedings in contested cases is fifty-five dollars (\$55) a day, or any fractional part

thereof.

- (b) In San Joaquin County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (c) In Madera County, the board of supervisors may, by ordinance or resolution, prescribe a higher rate of compensation for superior court reporters.
- (d) In Kings County, the fee for reporting testimony and proceedings in contested cases is one hundred dollars (\$100) a day, or any fractional part thereof.
- (e) In Mariposa County, the fee for reporting testimony and proceedings in contested cases is ninety-five dollars (\$95) a day, or any fractional part thereof.
- (f) In Siskiyou County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (g) In Yuba County, the fee for reporting testimony and proceedings in contested cases is ninety dollars (\$90) per day, or any fractional part thereof.
- (h) In Butte County, pro tempore reporters shall receive a fee of seventy-five dollars (\$75) a day, or any fractional part thereof, for reporting testimony and proceedings in contested cases.
- (i) In Sutter County, except as may otherwise be provided in Section 74839, the fee for reporting testimony and proceedings in contested cases is ninety dollars (\$90) per day, or any fractional part thereof.
- (j) In Napa County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (k) In Tehama County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (1) In Monterey County, the fee for reporting testimony and proceedings in contested cases in any court is seventy-five dollars (\$75) a day or any fractional part thereof.
- (m) In Nevada County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (n) In Calaveras County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) per day, or any fractional part thereof; provided that the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (o) In Placer County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (p) In Sierra County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (q) In Trinity County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
  - (r) In Humboldt County, the fee for reporting testimony and

proceedings in contested cases is seventy-five dollars (\$75) per day, or any fractional part thereof.

- (s) In Del Norte County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) per day, or any fractional part thereof.
- (t) In Alpine County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (u) In Glenn County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (v) In Colusa County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) per day, or any fractional part thereof.
- (w) In Shasta County, the board of supervisors may prescribe a higher rate of compensation for superior court reporters.
- (x) In Solano County, the fee for reporting testimony and proceedings in contested cases is ninety dollars (\$90) per day, or fifty-five dollars (\$55) per half day or fractional part thereof; provided that the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (y) In Inyo County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- (z) In Mono County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.
- SEC. 5.5. Section 70045.9 of the Government Code is amended to read:
- 70045.9. Notwithstanding any other provision of law, the provisions of this section shall apply to the official court reporters in Shasta County:
- (a) The regular full-time official court reporters shall perform the following duties:
  - (1) Report all criminal proceedings in superior court.
- (2) Report all juvenile proceedings other than those heard by juvenile court referee or traffic hearing officer.
- (3) Report all civil jury trials in superior court, unless the court determines it is not required.
- (4) Report any other proceeding in the superior court at the request of the judge of the superior court.
- (5) Report any superior court proceeding when a party requests a court reporter in accordance with the rules of court.
- (6) Report all criminal investigations of the grand jury, when requested by the foreman, or by the district attorney.
- (7) Report the preliminary examination of those accused of crime before magistrates or municipal court judges within Shasta County, or before both.
  - (8) Report coroner's inquests, when requested by the coroner.
- (9) Report hearings of the Board of Equalization of the County of Shasta, as requested by that board.
- (10) Other reporting or related services, as directed by the judges of the superior court.

- (11) When not occupied with the above duties, and upon request of the board of supervisors and approval of the presiding judge of the superior court, he or she shall report matters before the board of supervisors.
- (b) Each regular full-time court reporter shall be paid a monthly salary of one thousand four hundred seventy dollars (\$1,470), unless the Board of Supervisors of Shasta County provides for compensation in excess of that amount, in which event the amount set shall apply. The salary is for compensation for reporting services set forth under subdivision (a). For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941).

The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other comparable employees of the County of Shasta.

(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court may be carried on without delay. In the event the board of supervisors has entered into a contract for supplemental reporter services with a qualified person or persons first approved by the presiding judge of the superior court, the person or persons shall be appointed as reporter pro tempore. However, if the person or persons are not reasonably available, the judge may appoint any qualified person. Notwithstanding other provisions of this section, when an assignment of a pro tempore reporter is made to proceedings in the superior court, the assignment shall be deemed to run to the completion of the proceeding.

Reporters pro tempore shall be paid in accordance with the contract with the board of supervisors or, in absence thereof, with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941). Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.

- (d) During the hours during which the court is open as prescribed by the Shasta County Superior Court for the transaction of judicial business, official court reporters shall devote full time to the performance of the duties required of them by law and shall not engage or solicit to engage in any other employment in their professional capacity.
- SEC. 6. Section 71603.3 of the Government Code, as amended by Chapter 288 of the Statutes of 1986, is amended to read:
- 71603.3. Notwithstanding the provisions of Sections 71602 and 71603, the board of supervisors of a county with a population of

200,000 or less according to the 1970 federal census, with the concurrence of a majority of the judges affected, may by ordinance abolish the office of constable and, instead, require that the duties of constable be performed by the sheriff or marshal; provided, that if the constable holds an elective office, such an ordinance shall become effective only upon the approval of the electors of the county; and further provided, that no member of the office of the constable employed on January 1, 1987, shall lose salary, rank, or benefits, and that sworn personnel assigned to duties other than the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall be exempt from meeting the requirements set by the Commission on Peace Officer Standards and Training, in the event the office of constable is abolished pursuant to this section.

SEC. 7. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), and Article 4 (commencing with Section 72750) of this chapter are deemed to be related in job and compensation to position classifications included in the Los Angeles County Code, and in the case of certain classes of positions, to the administrative series included in Section 69894.1. In order to maintain the relationship of compensation and employee rights and benefits between such officers and attachés of municipal courts and county or superior court employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such code adjusting the salary of a county employee classification listed in the table of positions set forth in this section, or on the effective date of a resolution or ordinance by the board of supervisors approving interim salary adjustments for superior court classes pursuant to Section 69894.2, the salary of the equivalent municipal court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number.

Likewise, the salary of any court classification being enumerated in Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with

Section 72750) of this chapter for the first time as an amendment to this chapter shall be adjusted as necessary on the effective date of such amendment to provide the same relationship to the county classification to which it is attached as that established when the court classification was approved in accordance with the provisions of Section 72607.

#### Table of Positions

Municipal Court classification

County classification

### Officer Series

Commander

Commander

Marshal

Assistant marshal

Captain Captain
Lieutenant Lieutenant
Sergeant Sergeant

Deputy marshal IV Deputy sheriff IV Deputy marshal Deputy sheriff

Deputy marshal trainee
Deputy marshal-matron
Deputy sheriff trainee
Corrections officer

Deputy clerk

Custody officer

Legal services specialist, Security officer II

marshal

# Municipal Court Planning and Research

Chief staff attorney, p&r

Assistant chief staff attorney Staff attorney II, p&r

Staff attorney I, p&r Legal research assistant

Planning analyst, p&r

Planning analyst aide, p&r Senior planning analyst, p&r Senior deputy county counsel

Administrative analyst

Senior administrative analyst

#### Courtroom Series

Municipal Court Class
All positions subject to civil
service provisions enumerated
in Articles 2, 3, and 4 which are
not listed in this table.

County or Superior Court Class Superior court clerk

## Management Series

Municipal Court Class Deputy court administrator County or Superior Court Class Director, superior court/county clerk services

management services, M.C. Deputy court administrator Court administrator/clerk, Los Angeles Chief deputy court administrator, Los Angeles Court administrator, one judge court Court administrator, two judge court Court administrator, three judge court Court administrator, four judge court Court administrator, five judge court Court administrator, six judge court Court administrator, seven judge court Court administrator, eight judge court Court administrator, nine judge court Court administrator, ten judge court Division chief, municipal court

Division chief/superior court/ county clerk

Assistant chief deputy
Assistant division chief, M.C.
Principal clerk, Los Angeles
Chief, accounting and
audit division
Chief, budget and facilities
division, M.C.

Supervising superior court clerk Trust and revenue officer

Administrative analyst

# Personnel—Administrative Services-Accounting Series

Municipal Court Class Personnel officer, M.C. Personnel technician, M.C.

Personnel assistant, M.C.

County or Superior Court Class Personnel officer II Senior departmental personnel technician Departmental personnel assistant

Training officer, M.C. Head, fiscal and administrative services, marshal Senior staff assistant, marshal Staff assistant, marshal Principal clerk, marshal Executive assistant, presiding judges association Principal administrative assistant, M.C. Senior administrative assistant, M.C. Administrative assistant, M.C. Staff assistant, M.C. Staff assistant, p&r Statistical analyst

Accountant, M.C.
Accounting technician, M.C.
Intermediate accountant,
M.C.

Senior accountant, M.C.

Facilities services assistant, M.C.

Facilities planning assistant, M.C.

Staff development specialist, M.C.

Account clerk, M.C.

Training officer, county clerk Administrative analyst

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Administrative assistant III

Administrative assistant II

Administrative assistant I Staff assistant I

Statistical analyst
Accountant II
Accounting technician I
Intermediate accountant
auditor

Facilities services assistant

Facilities planning assistant

Staff development specialist Account clerk II

## Secretarial and Stenographic Series

Municipal Court Class
Secretary to presiding
judge, Los Angeles
municipal court
Executive secretary,
Los Angeles municipal court
Senior management secretary
Management secretary,
Los Angeles municipal court
Executive secretary,
marshal
Senior secretary II,

Los Angeles municipal court

Management secretary,

County or Superior Court Class Executive secretary II

Senior secretary II

marshal Senior judicial secretary, municipal court Senior secretary III, municipal court Senior secretary III, p&r Senior secretary, marshal Senior secretary I, Los Angeles municipal court Secretary, marshal Secretary, Los Angeles municipal court Senior stenographer, M.C.

Legal office assistant II

#### Clerical Series

Municipal Court Class Deputy clerk II, marshal Deputy clerk II, M.C. Deputy clerk I, M.C. Deputy clerk III, M.C. Deputy clerk III, marshal Administrative clerk. marshal

Stenographer, M.C.

Supervising payroll Supervising payroll clerk,

marshal

Senior payroll clerk, marshal

Payroll supervisor Payroll assistant

Marshal's dispatcher Senior payroll assistant, M.C.

Supervising deputy clerk I

County or Superior Court Class Intermediate typist-clerk

clerk I

Payroll clerk I Sheriff dispatcher II Payroll clerk II Supervising typist clerk

## Supply and Duplicating Series

Municipal Court Class Supply and reproduction supervisor Supply and reproduction assistant Stockroom supervisor, municipal court Supply clerk Printer I, M.C. Procurement aide, M.C.

Light vehicle driver, M.C.

County or Superior Court Class Warehouse worker II

Warehouse worker aide Printer I Procurement aide Light vehicle driver

## Management Information and Data-Processing Series

Municipal Court Class Chief, management information systems division Chief, systems division Data systems supervisor, M.C. Data systems coordinator, M.C. Data systems analyst I, M.C. Data systems analyst II, M.C. Data conversion supervisor I, M.C. Data conversion supervisor III, M.C. EDP staff aide, M.C. Supervising computer operator, M.C. Computer operations supervisor, M.C. Computer equipment operator, M.C. Computer systems operator, M.C. Senior data control clerk, M.C. Data control clerk, M.C. Senior data conversion

equipment operator, M.C.

equipment operator

systems analyst, M.C.

Senior program and

Data conversion

County or Superior Court Class Departmental data processing manager

Data systems supervisor I

Data systems coordinator

Data systems analyst I.

Data systems analyst II

Data conversion supervisor I

Systems aide Supervising computer operator

Computer equipment operator Computer systems operator

Senior data control clerk

Data control clerk
Senior data conversion
equipment operator
Data conversion
equipment operator
Senior administrative
analyst

Salary adjustments made pursuant to this section 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.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights, programs and benefits, including, but not limited to, paid medical plans, management incentive, pay for performance, management merit service, and early separation programs, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County and county

clerk/superior court employee classification. Participation in management incentive early separation programs and pay for performance and management merit service shall be established by joint action and approval of a majority of the board of supervisors and a majority of the judges of the court, except in the Los Angeles Judicial District where such joint action shall be approved by a majority of the board of supervisors and a majority of the court's executive committee.

Bonus Level I assignments of deputy marshals are as follows:

Twenty positions—assistant commander, small division

Ten positions—bailiff supervisor

Seven positions—field supervisor

Nine positions—counter deputy

One position—vehicle coordinator

One position—training officer

One position—real estate levy/bookkeeping section supervisor Bonus Level II assignments of deputy marshals are as follows:

One position—operations bureau deputy

One position—security and intelligence officer

One position—assistant procedures officer

Deputy marshals with Bonus Level I assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level I positions. Deputy marshals with Bonus Level II assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level II positions.

In addition to the salary adjustment otherwise provided by this section, all persons employed in the classifications of supervising deputy clerk II shall receive a one-time only two schedule salary increase effective September 1, 1986. The resulting salary rates shall consitute the base rates for subsequent salary adjustments. The term "schedule" herein refers to the schedule increments of the salary schedule of the Los Angeles County Code.

SEC. 8. Section 72609 of the Government Code is amended to read:

72609. Except where otherwise provided by law, officers and attachés of municipal courts in Los Angeles County shall receive a monthly salary at a rate specified in the Los Angeles County Code as follows:

Title	Schedule
Account clerk	40C
Accountant	55G`
Accounting technician	45F
Administrative assistant	49D N.2
Administrative clerk	46G
Assistant chief deputy clerk, municipal court	67D
Assistant chief staff attorney, planning and re-	

search	87F N.W.
Assistant division chief, municipal court	69D
Assistant marshal	94K
Captain marshal	82K
Chief, accounting and audit division	
	74H
Chief, budget and facilities division	74H
Chief deputy clerk	66D
Chief deputy clerk (one judge court)	67D
Chief deputy clerk (two judge court)	68D
Chief deputy clerk (three judge court)	69D
Chief deputy clerk (four judge court)	69D
Chief deputy clerk (five judge court)	69D
Chief deputy clerk (six judge court)	70D
Chief deputy clerk (seven judge court)	72D
Chief deputy clerk (eight judge court)	72D
Chief deputy court administrator, municipal court	86C
Chief, management information systems division	74H
Chief staff attorney, planning and research	91H N.X.
	78A
Chief, systems division	
Commander	88K
Computer equipment operator	45J
Computer operations supervisor	68A
Computer systems operator	51E
Court administrator/clerk (one judge court)	75D
Court administrator/clerk (two judge court)	· 76D
Court administrator/clerk (three judge court)	77D
Court administrator/clerk (four judge court)	77D
Court administrator/clerk (five judge court)	77D
Court administrator/clerk (six judge court)	78D
Court administrator/clerk (seven judge court)	80D
Court administrator/clerk (eight judge court)	80D
Court administrator/clerk, Los Angeles municipal	
court	93G
Data control clerk	. <b>36</b> J
Data conversion equipment operator I	38D
Data conversion supervisor I	45F
Data conversion supervisor III	55A
	60K
Data systems analyst I	62L
Data systems analyst II	
Data systems coordinator	69J
Data systems supervisor	69J
Deputy clerk I, marshal	31F N.4
Deputy clerk II, marshal	36J
Deputy clerk III, marshal	42H
Deputy clerk I, municipal court	33F N.3
Deputy clerk II, municipal court	36J
Deputy clerk III, municipal court	42H
Deputy clerk IV, municipal court	58C
Deputy clerk-custody officer, marshal	45L '

Deputy court administrator, management serv-	
ices, municipal court	81D
Deputy court administrator, municipal court	79K
Deputy marshal	60F N.W.
Deputy marshal IV	64F
Deputy marshal matron	51B
Deputy marshal trainee	60F
Division chief	75H
EDP staff aide	45E
Executive assistant to presiding judges association	65F N.4
Executive secretary, Los Angeles municipal court	59L N.3
Executive secretary, marshal	58A N.3
Facilities planning assistant	54K
Facilities services assistant	48K
Head, fiscal and administrative services, marshal	76H
Intermediate accountant	63A
Interpreter	45C
Law clerk	65B
Legal research assistant, planning and research	FH
Legal research assistant, municipal court	FH
Legal service specialist, marshal	47B
Lieutenant	77E
Light vehicle driver	37L
Management secretary	51L N.3
Management secretary, marshal	55A N.3
Marshal	98K
Marshal's dispatcher	47C
Payroll assistant	41D
Payroll supervisor	41D 47D
Personnel assistant	41D 44C
Personnel officer	73D
Personnel technician	66D
Planning analyst aide, planning and research	51J N.2 62D
Planning analyst, planning and research	63C
Principal administrative assistant	64B
Principal clerk	52G
Principal clerk, marshalPrinter I	46G
Procurement aide	45H
Secretary, marshal	45L
Secretary, municipal court	43L
Secretary to presiding judge	61L N.3
Senior accountant	65J
Senior administrative assistant	58H
Senior data control clerk	40G
Senior data conversion equipment operator	42D
Senior judicial secretary	50L N.3
Senior management secretary, Los Angeles munic-	OTT 14'9
ipal court	55L N.3
ipai court	OOT 14'9

The term "schedule" used herein refers to the salary schedule of the Los Angeles County Code.

Training officer

SEC. 9. Section 72610 of the Government Code is amended to read:

72610. In addition to any other fees or charges required by law, in all civil cases and proceedings, exclusive of small claims court cases, the clerk shall collect from all parties, private persons, firms and corporations the same fee as collected by the county clerk of Los Angeles County.

The provisions of Section 72004 shall apply to the collection and disposition of all sums collected pursuant to this section.

SEC. 10. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint all of the following:

(a) One assistant marshal. The marshal shall make the appointment from the peace officer members of the marshal's office of the rank of lieutenant or higher and the appointee shall serve

70D

solely at the pleasure of the marshal. Section 72649 does not apply to the appointment to, nor removal of a person from, this position, but all other provisions of Section 72649 apply. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by the appointee prior to his or her appointment to the position of assistant marshal.

- (b) Three commanders. Upon the occurrence of a vacancy, any succeeding appointment to this position may be made by the marshal at his or her sole discretion. At that time and thereafter, Section 72649 shall not be applicable to the appointment to, nor removal of, a person from, this position, but all other provisions of Section 72649 shall be applicable. The marshal shall make this appointment from the peace officer members of his or her office of the rank of lieutenant or higher, and the appointee shall serve solely at the pleasure of the marshal. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held prior to appointment as commander.
  - (c) Nine captains.
  - (d) Twenty-two lieutenants.
  - (e) Forty sergeants.
- (f) Five hundred fourteen deputy marshals; except that the number of deputy marshals shall be reduced by the number of deputy marshal IV positions required to be retained pursuant to Section 72645.5.
- (g) Twenty-seven deputy marshal trainees. Appointments to the positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding Section 72649, the appointees shall be subject to a 12-month period of probation.
- (h) Four deputy marshal-matrons, each of whom shall have completed a course of training which meets the requirements of the POST commission for a specialized law enforcement basic certificate.
  - (i) Four deputy clerk-custody officers.
- (j) Ten legal services specialists, marshal, each of whom shall receive monthly compensation at the same rate specified for the county's class of security officer II.
- SEC. 11. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint:

- (a) One head, fiscal and administrative services, marshal.
- (b) One senior staff assistant, marshal.
- (c) One executive secretary, marshal. Appointment to this position shall be at step 3 of the schedule.
  - (d) Two staff assistants, marshal.
  - (e) One management secretary, marshal.
  - (f) Two principal clerks.

- (g) One supply and reproduction supervisor.
- (h) Two senior secretaries, marshal.
- (i) Ten administrative clerks.
- (j) One supervising payroll clerk, marshal.
- (k) One supply and reproduction assistant.
- (1) Sixty-five deputy clerks, grade III.
- (m) Three secretaries, marshal.
- (n) Eighty deputy clerks, grade II.
- (o) Ten deputy clerks, grade I.
- (p) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property.
  - (q) Six marshal's dispatchers.
- SEC. 12. Section 72702.5 of the Government Code is amended to read:
- 72702.5. The clerk may appoint one deputy clerk who shall be chief deputy court administrator, one deputy clerk who shall be deputy court administrator, management services, and four deputy clerks who shall be deputy court administrators, and that number of legal research assistants as approved by the board of supervisors. The positions of chief deputy court administrator, deputy court administrator, management services, deputy court administrator, and legal research assistant shall not be deemed civil service positions. In addition to the salary prescribed by Section 72609, a six-schedule bonus shall be paid to no more than one position of deputy court administrator in the Los Angeles Municipal Court who is admitted to practice law before all courts in California and required to render legal opinions and provide legal advice to the court administrator and judges. Each person appointed to these positions shall serve at the pleasure of the court administrator.
- SEC. 13. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

- (a) Nine deputy clerks who shall be division chiefs and who shall be assigned as chief, accounting and audit division; chief, budget and facilities division; chief, civil division; chief, court services division; chief, criminal division; chief, systems division; chief, management information systems division; chief, traffic division; and chief, valley division.
  - (b) Ten deputy clerks who shall be assistant division chiefs.
  - (c) Sixteen deputy clerks who shall be principal clerks.
- (d) Five deputy clerks who shall be principal administrative assistants, municipal court.
- (e) One deputy clerk who shall be personnel officer, municipal court.
- (f) Three deputy clerks who shall be personnel technicians, municipal court.
- (g) One deputy clerk who shall be personnel assistant, municipal court.

- (h) Three deputy clerks who shall be senior administrative assistants, municipal court.
- (i) One deputy clerk, who shall be administrative assistant, municipal court.
- (j) One deputy clerk who shall be stockroom supervisor, municipal court.
  - (k) One deputy clerk who shall be supply clerk, municipal court.
- (l) One deputy clerk who shall be payroll supervisor, municipal court.
- (m) Two deputy clerks who shall be payroll assistants, municipal court.
- (n) Two deputy clerks who shall be accounting technicians, municipal court.
- (o) Three deputy clerks who shall be staff assistants, municipal court.
  - (p) One deputy clerk who shall be printer I, municipal court.
- (q) One deputy clerk who shall be training officer, municipal court.
  - (r) Four deputy clerks who shall be accountant municipal court.
- (s) Four deputy clerks who shall be intermediate accountants, municipal court.
- (t) Three deputy clerks who shall be senior accountants, municipal court.
  - (u) One deputy clerk who shall be senior payroll assistant.
  - (v) Seven deputy clerks who shall be account clerks.
- SEC. 14. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

- (a) One hundred thirty deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 80 and each commissioner or traffic referee in excess of 18 to which the court is or may become entitled by law.
  - (b) One deputy clerk who shall be secretary to presiding judge.
- (c) One deputy clerk who shall be executive secretary, Los Angeles Municipal Court.
- (d) One deputy clerk who shall be senior management secretary, municipal court.
- (e) Fourteen deputy clerks who shall be senior judicial secretaries and who shall receive a monthly salary at the same rate specified for the superior court class of senior judicial secretary. Appointments to the positions shall be at step 3 of the schedule.
  - (f) Ninety-three deputy clerks grade III.
  - (g) Twenty-two deputy clerks, supervising deputy clerks I.
  - (h) One hundred seventy-eight deputy clerks grade II.
  - (i) Eighty-three deputy clerks grade I.
- (j) Five deputy clerks, who shall be senior secretaries II, municipal court.
- (k) One deputy clerk who shall be senior secretary I, municipal court.

- (1) Two deputy clerks who shall be secretaries, municipal court.
- (m) Four deputy clerks who shall be management secretaries, municipal court.
- (n) Two deputy clerks who shall be facilities services assistants, municipal court.
- (o) One deputy clerk who shall be procurement aide, municipal court.
- (p) Seventeen deputy clerks who shall be supervising deputy clerks II.
  - (q) One deputy clerk who shall be facilities planning assistant.
  - (r) One deputy clerk who shall be light vehicle driver.
  - (s) One deputy clerk who shall be statistical analyst.
- SEC. 15. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint:

- (a) One deputy clerk who shall be computer operations supervisor.
  - (b) One deputy clerk who shall be data conversion supervisor III.
- (c) Three deputy clerks who shall be data conversion supervisors I.
- (d) Nine deputy clerks who shall be senior data conversion equipment operators.
- (e) Twenty-five deputy clerks who shall be data conversion equipment operators I.
  - (f) Six deputy clerks who shall be data systems analysts II.
  - (g) Two deputy clerks who shall be data systems analysts I.
  - (h) One deputy clerk who shall be EDP staff aide.
- (i) Two deputy clerks who shall be supervising computer operators.
  - (j) Two deputy clerks who shall be computer systems operators.
- (k) Two deputy clerks who shall be computer equipment operators.
  - (l) One deputy clerk who shall be senior data control clerk.
  - (m) Two deputy clerks who shall be data control clerks.
  - (n) Three deputy clerks who shall be data systems coordinators.
- (o) One deputy clerk who shall be data systems supervisor, municipal court.
- (p) One deputy clerk who shall be senior program and systems analyst.
- SEC. 16. Section 72717 of the Government Code is amended to read:
- 72717. The judges of the municipal courts of Los Angeles County may appoint one chief staff attorney, planning and research, municipal courts.
- SEC. 17. Section 72717.5 of the Government Code is amended to read:
- 72717.5. The chief staff attorney, planning and research, municipal courts, may appoint:
  - (a) Six staff attorneys II, planning and research.

- (b) The chief staff attorney, planning and research, municipal courts, may also appoint:
- (1) One senior secretary III, who shall receive a monthly salary at the rate specified for senior judicial secretary.
  - (2) One senior stenographer, municipal courts.
  - (3) One stenographer, municipal courts.
  - (4) Fifteen legal research assistants.
  - (5) Three planning analyst aides.
  - (6) One senior planning analyst.
  - (7) One staff assistant.
- (c) The chief staff attorney may designate one staff attorney II as assistant chief staff attorney who shall, for the duration of the assignment, receive a monthly salary at the same rate specified for the class of assistant chief staff attorney.
- (d) The chief staff attorney may appoint a staff attorney I in lieu of a staff attorney II on a one for one substitute basis.
- (e) The chief staff attorney may appoint a senior planning analyst in lieu of a staff attorney II on a one-to-one substitute basis.
- SEC. 18. Section 72718 is added to the Government Code, to read: 72718. The judges of the municipal courts of Los Angeles County may appoint one senior judicial secretary.
- SEC. 19. Section 72750.4 of the Government Code is amended to read:
- 72750.4. In each municipal court district having eight judges authorized by law, the officers and attachés shall be appointed, as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

- (a) Seventeen deputy clerks grade I.
- (b) Seventeen deputy clerks grade II.
- (c) Fourteen deputy clerks grade III.
- (d) Twelve deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.
  - (e) One deputy clerk, senior judicial secretary.
  - (f) Five deputy clerks, assistant chief deputy.
- (g) One occupant of an assistant chief deputy clerk position as set forth in this section shall be designated by the court administrator as assistant court administrator and shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.
- SEC. 20. Section 72750.5 of the Government Code is amended to read:
- 72750.5. In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

- (a) Eleven deputy clerks grade I.
- (b) Thirteen deputy clerks grade II.
- (c) Nine deputy clerks grade III.
- (d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.
  - (e) One deputy clerk, senior judicial secretary.
  - (f) Five deputy clerks, assistant chief deputy.
- (g) One occupant of an assistant chief deputy position as set forth in this section shall be designated by the court administrator as assistant court administrator and shall receive a monthly salary eight schedules less than the schedule for the court administrator of the court.
- SEC. 21. Section 72751 of the Government Code is amended to read:
- 72751. In each municipal court district having six judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

- (a) Ten deputy clerks grade I.
- (b) Twelve deputy clerks grade II.
- (c) Eight deputy clerks grade III.
- (d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.
- (e) One chief deputy clerk who shall be assistant court administrator and who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.
- SEC. 22. Section 72754 of the Government Code is amended to read:
- 72754. In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one court administrator who shall be the clerk appointed by the judge of the court.

The clerk may appoint:

- (a) Three deputy clerks grade I.
- (b) Four deputy clerks grade II.
- (c) Four deputy clerks grade III.
- (d) Two deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757.
- (e) One chief deputy clerk who shall be assistant court administrator and who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 23. Section 72755 of the Government Code is amended to read:

72755. In those positions for which this article provides a five-step rate of compensation, the provisions of this section shall apply.

- (a) Except in the case of transfer, demotion, promotion or where otherwise specifically provided, original appointments to such positions shall be at the rate designated for step 1 of the salary schedule pertaining to the position occupied.
- (b) The initial rate of compensation shall be increased to the next higher step of the schedule applicable to the position occupied upon the completion of six months' continuous service in the same position. Upon the completion of each ensuing 12 months of such service, such compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until such compensation equals the sum specified in step 5 of such schedule.
- (c) A step advancement shall not be granted to any person if his or her superior finds that his or her work has been unsatisfactory and so notifies the Civil Service Commission.
- (d) When a person is promoted to a position on a five-step basis, he or she shall receive the first-step rate in the salary schedule of the new position which results in an increase in salary.
- (e) A person demoted to a lower position shall be entitled to receive whichever of the following rates is lower:
- 1. Step 5 of the salary schedule pertaining to the position to which he or she is demoted.
- 2. The same rate of pay which he or she was receiving prior to demotion.
- (f) The appointing power who demotes a person for disciplinary reasons may specify any step rate in the salary schedule pertaining to the lower position except that it shall not be higher than the step rate held by the employee in the higher position.
- (g) If a person begins employment between the 1st and 15th of any calendar month, inclusive, his or her step advancement shall be calculated from the first day of that month. Where a person begins employment on or after the 16th day of a calendar month, the step advancement shall be calculated from the first of the next month.
- (h) Upon demotion, a person shall retain the anniversary date held in the higher position.
- (i) Any deputy clerk grade III who is necessarily assigned to the regular duties of a deputy clerk grade IV because of an absence of such deputy clerk grade IV shall, for any period of such assignment in excess of 30 calendar days, receive compensation at the rate of that higher numbered salary schedule which will increase his or her basic compensation by four schedules.
- (j) One deputy clerk I, II, or III in each municipal court of six judges or less, who having passed the stenographic skills proficiency examination given by the County of Los Angeles for the county position of stenographer, shall be entitled to receive a bonus

equivalent to a four-schedule salary increase when regularly required to provide stenographic and secretarial services to the judge or judges of the court.

- (k) Not more than one deputy clerk grade IV in each municipal court having six judges or fewer, or two such deputy clerks grade IV in each municipal court having seven judges or more, while assigned to duties in divisions of the court requiring greater skill and responsibility shall receive a two-schedule increase in compensation.
- (l) Not more than a total of two deputy clerks I, II, or III in each municipal court, while assigned to duties in divisions of the court requiring greater skill and responsibility, shall receive a two-schedule increase in compensation while so assigned. However, in no event shall a deputy clerk who is receiving additional compensation pursuant to subdivision (j) receive the compensation prescribed by this subdivision.
- SEC. 24. Section 73353 of the Government Code is amended to read:

73353. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

	Class	Pay
Class Title	$\mathbf{Code}$	Level ,
Deputy clerk I	C5-0883	1099-1335
Deputy clerk - DEO I	C5-0981	1212-1473
Deputy clerk II	C5-1023	1264-1536
Deputy clerk II - DEO II	C5-1078	1335-1623
Deputy clerk - criminal process	C5-1082	1340-1629
Deputy clerk III	XB-1218	1536-1914
Deputy clerk - courtroom clerk	C5-1431	1900-2309
Deputy clerk - division supervisor	C5-1447	1931-2347
Chief deputy clerk	C5-1700	2486-3022
Clerk-administrator - A	C5-2010	3389-4119
Clerk-administrator - B	C5-1900	3036-3690
Executive secretary	C1-1399	2237
Administrative analyst	C5-1341	1737-2111

SEC. 25. Section 73353.1 of the Government Code is amended to read:

73353.1. Classes of position provided in Section 73351.1 are allocated to the salary schedule as follows:

	Class	Pay
Class Title	Code	Level
Deputy clerk II	C5-1023	1264-1536
Deputy marshal recruit	C1-1149	1742
Marshal's process clerk	XB-1218	1536-1914
Secretary - advanced	TE-1002	1665-2079
Supervising process clerk	XB-1365	1779-2217
Deputy marshal	C5-1568	2179-2648
Deputy marshal sergeant	C5-1714	2521-3064

SEC. 26. Article 3 (commencing with Section 73390) is added to Chapter 10 of Title 8 of the Government Code, to read:

### Article 3. Hanford

73390. This article applies to the municipal court established in the Hanford Judicial District, County of Kings.

73391. There shall be one judge.

73392. There shall be one clerk of the court, known as the clerk-administrator, who shall be appointed by the presiding judge of the court. He or she shall receive a salary specified in Range 63.0.

73394. (a) The clerk-administrator, with the concurrence of the presiding judge, may appoint:

- (1) One account clerk III who shall receive a salary specified in Range 30.5.
- (2) Two deputy municipal court clerks III who shall each receive a salary specified in Range 34.0.
- (3) Two courtroom deputy municipal court clerks who shall each receive a salary specified in Range 31.5.
- (4) Five deputy municipal court clerks I/II who shall each receive a salary specified in Range 24.0, or Range 29.0 if promoted to the II level.
- (b) The clerk-administrator, with the concurrence of the presiding judge and approval of the board of supervisors, may appoint such additional employees as may be necessary, each appointment to remain in effect only until January 1 of the second year following the year in which the appointment was made, unless subsequently ratified by the Legislature.
- 73395. (a) Whenever reference to a numbered salary range is made in any section of this article, the schedule of hourly rates of pay and approximate monthly equivalents found in the Salary Resolution of the County of Kings in effect on July 14, 1986, shall apply.
- (b) If the board of supervisors adopts a revised salary resolution for county employees or applies new salary range numbers for the purpose of salary adjustment, the new salary rates shall apply equally to the positions named in this article. Any salary adjustment made pursuant to this section shall be effective on the same date as the action applicable to other county permanent classified employees, but shall remain in effect only until January 1 of the second year following the year in which such adjustment in salary is made, unless subsequently ratified by the Legislature.
- (c) The persons employed in the positions named in this article shall be entitled to all employee benefits and holidays as they are provided and made applicable to positions within the classified service pursuant to personnel ordinances and resolutions adopted by the Board of Supervisors of the County of Kings.
  - (d) All matters affecting administration of salary and benefits,

selection, appointment, reclassification, and discipline of such municipal court officers and employees in those positions which they hold shall be governed by the personnel ordinances and resolutions adopted by the Board of Supervisors of the County of Kings, to the extent that such ordinances and resolutions are not contrary to state law.

- 73396. The Sheriff of the County of Kings and his or her deputies specifically designated by him or her shall be the ex officio marshal and deputy marshals, respectively, of the court and shall act as such without additional compensation.
- 73397. (a) The presiding judge may appoint as many court reporters, known as official reporters pro tempore, as the business of the court requires. Each official reporter pro tempore shall perform the duties required of him or her by law. These reporters shall hold office at the pleasure of the presiding judge.
- (b) Fees for reporting and for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters pro tempore as provided in Sections 69947 to 69954, inclusive, or as otherwise provided by law as paid to reporters in the Superior Court of the County of Kings. In all cases where by law the court may direct the payment of reporting and transcription fees out of the county treasury, including fees for reporting and transcription of testimony and proceedings in criminal cases as provided in Section 69952, such fees shall, upon order of the court, be paid from the general fund of the county treasury.
- SEC. 27. Section 74949.1 of the Government Code is amended to read:
- 74949.1. (a) The judges of the Napa Municipal Court may appoint one full-time or part-time commissioner who shall hold office at the pleasure of the judges making the appointment, and shall possess the same qualifications as are required of the judge of a municipal court. Within the jurisdiction of the court, and to the extent the judges so direct, the commissioner shall exercise the same powers and duties as a judge of the municipal court with respect to any infraction or small claims action, and shall exercise all other powers and perform all other duties of a municipal court commissioner that may be prescribed by law. In addition, and notwithstanding the provisions of Section 72400, the commissioner shall act as a traffic referee and shall have the powers and duties specified in Article 9 (commencing with Section 72400) of Chapter 8.
- (b) The commissioner shall receive a monthly salary at a rate equal to 65 percent of the salary of a municipal court judge. In addition to the monthly salary, the commissioner shall be entitled to and shall receive fringe benefits on the same basis as any employee of the municipal court, other than the clerk of the municipal court, who works an equivalent number of hours. The commissioner shall observe the same holidays as other court employees. If the appointment of the commissioner is on a part-time basis, any salary

and fringe benefits to which the commissioner may be entitled shall be prorated on the basis of a 40-hour work week.

A full-time commissioner shall not engage in the private practice of the law. Notwithstanding any other provisions of law, a part-time commissioner shall be entitled to engage in the private practice of the law so long as the commissioner does not practice law before any court of the municipal court district to which he or she is appointed.

Before any action or proceeding is tried or heard by a part-time court commissioner, any party to, or any attorney appearing in, the action or proceeding shall, however, be entitled to require, by oral or written motion without notice, that the action or proceeding be reassigned or transferred, whereupon the action or proceeding shall be reassigned or transferred as promptly as possible to a judge, court commissioner, or referee of the court. The court shall, prior to the commencement of any such trial or hearing provide notice to each party or attorney of record in the action or proceeding of this entitlement to require reassignment or transfer.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

SEC. 28. 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 1419

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

> [Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. The California State World Trade Commission shall review, analyze, and make recommendations regarding California statutes, rules, and regulations which have been identified as significant trade barriers for exporters of major California manufactured goods and services. The commission also shall catalogue significant trade barriers to manufactured goods and services imposed by Pacific Rim nations covered by the General Agreement on Tariffs and Trade (GATT).

The commission may contract for this study, which shall be completed no later than June 30, 1987.

In addition, in order to ensure that planned overseas trade offices

are located in areas of the world which will most benefit California's international trade interests, and in view of the particular need to promote California exports and reduce the California trade deficit, the commission shall also research and compile information which identifies the foreign destinations of California-produced exports by major product category. The commission may contract for this study, which shall be completed no later than February 15, 1987.

Upon completion of these studies, the commission shall report its findings and recommendations to the Governor, the Lieutenant Governor, the Secretary of State, the Senate Rules Committee, and the Speaker of the Assembly.

- SEC. 2. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the California State World Trade Commission Fund for purposes of this act.
- SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assist California's trade community by expanding export markets and improving economic opportunities as soon as possible, it is necessary that this act take effect immediately.

### CHAPTER 1420

An act to amend Sections 27281, 27288.1, and 66493 of the Government Code, to amend Section 18092.7 of the Health and Safety Code, to amend Sections 75.53, 129, 160, 480.3 2610.5, 3456, 3691, 3693.1, 3701, 3704, 3706, 3707, 3731, 4220, 4653.8, 4656.5, 4675, and 4920 of, and to add Sections 2189.1, 2189.7, 2189.8, and 3715 to, the Revenue and Taxation Code, and to amend Sections 26601, 26603, 26606, 26655, and 26658 of the Water Code, relating to taxation.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 27281 of the Government Code is amended to read:

27281. Deeds or grants conveying any interest in or easement upon real estate to a political corporation or governmental agency for public purposes shall not be accepted for recordation without the consent of the grantee evidenced by its certificate or resolution of acceptance attached to or printed on the deed or grant. If a certificate of acceptance is used, it shall be in substantially the following form:

This is to certify that the interest in real property conveyed by the

political oted by
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A political corporation or governmental agency, by a general resolution, may authorize one or more officers or agents to accept and consent to such deeds or grants.

In cases where the county tax collector files purchaser's deeds with respect to a sale for defaulted taxes, the information contained in those documents shall be deemed to constitute compliance with this section.

- SEC. 2. Section 27288.1 of the Government Code is amended to read:
- 27288.1. All documents described in this section now or hereafter authorized by law to be recorded in the official records of a county shall contain the following information in addition to such information as may be required by law pertaining to the particular document:
- (a) If such document effects or evidences a transfer or encumbrance of an interest in real property, the name or names in which such interest appears of record, except that a notice of assessment recorded pursuant to Section 3114 of the Streets and Highways Code, and a notice of award of contract recorded pursuant to Section 5248 of the Streets and Highways Code, shall show the name or names of the assessed owners as they appear on the latest secured assessment roll.
- (b) If such document releases or terminates any interest, right or encumbrance, it shall contain or have appended thereto all of the names of those persons and entities owning the title or interest being relieved thereby, or the names of the owners of such title or interest as they appeared at the time and in the document creating such interest, right or encumbrance.
- (c) In cases where the county tax collector is filing purchaser's deeds with respect to a sale for defaulted taxes, those documents shall be deemed to constitute compliance with this section.

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No such document shall be recorded or indexed in the official records of a county unless it contains the information required by this section as well as any additional information required by law pertaining to the particular document, but the recorder may rely upon the information contained in or appended to the document being offered for record. The failure of any such document to include all of the names required by this section shall not affect the constructive notice which would otherwise be afforded by the recording of such document. This section shall not apply to a vacation or abandonment by a public agency of a public highway or road.

- SEC. 3. Section 66493 of the Government Code is amended to read:
- 66493. (a) Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map or parcel map shall not be recorded until the owner or subdivider does both of the following:
- (1) Files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, a certificate prepared by the appropriate state or local official giving his or her estimate of those taxes or assessments.
- (2) Executes and files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, security conditioned upon the payment of all state, county, municipal, and local taxes and the current installment of principal and interest of all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable.
- (b) If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the security for payment of taxes need be only for that sum as may be determined by the county to be sufficient to pay the current and delinquent taxes on the land being subdivided, together with all accrued penalties and costs if those taxes have been or are allowed to become delinquent. Separate assessor's parcel numbers shall be given to the portion of the larger parcel which is not within the proposed subdivision and to the parcel or parcels which are within the proposed subdivision.

If the land being subdivided is tax-defaulted, it may be redeemed without the redemption of the remainder of the larger parcel of which it is a part pursuant to the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

(c) Whenever land subject to a special assessment or bond which may be paid in full is divided by the line of a lot or parcel of the subdivision, that assessment or bond shall be paid in full, or security shall be filed with the clerk of the board of supervisors, payable to the county as trustee for the assessment bondholders for the payment of the special assessment or bond. This section does not apply to bonds issued under the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and

Highways Code.

- (d) The amount of security for "taxes" in subdivision (a) or "current taxes" for subdivision (b), shall consider only amounts shown on the regular assessment roll or shown on any supplemental rolls prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.
- SEC. 4. Section 18092.7 of the Health and Safety Code is amended to read:
- 18092.7. The department shall withhold the registration or transfer of registration of any manufactured home, mobilehome, or floating home, other than a new manufactured home, mobilehome, or floating home for which application is being made for an original registration, until the applicant presents a tax clearance certificate issued pursuant to Section 2189.8 or 5832 of the Revenue and Taxation Code by the tax collector of the county where the manufactured home, mobilehome, or floating home is located.
- SEC. 5. Section 75.53 of the Revenue and Taxation Code is amended to read:
- 75.53. If all delinquent amounts which are a lien on real property are not paid in full by the time fixed in the publication of the notice of impending default for failure to pay real property taxes next following the date of delinquency of the second installment of the supplemental taxes, the property shall be subject to the provisions of Section 3436.
- SEC. 6. Section 129 of the Revenue and Taxation Code is amended to read:
- 129. "Business inventories" shall include goods intended for sale or lease in the ordinary course of business and shall include raw materials and work in process with respect to such goods. "Business inventories" shall also include animals and crops held primarily for sale or lease, or animals used in the production of food or fiber and feed for such animals.

"Business inventories" shall not include any goods actually leased or rented on the lien date nor shall "business inventories" include business machinery or equipment or office furniture, machines or equipment, except when such property is held for sale or lease in the ordinary course of business. "Business inventories" shall not include any item held for lease which has been or is intended to be used by the lessor prior to or subsequent to the lease. "Business inventories" shall not include goods intended for sale or lease in the ordinary course of business which cannot be legally sold or leased in this state. If goods which cannot be legally sold or leased are not reported by the taxpayer pursuant to Section 441, it shall be conclusively presumed that the value of the goods when discovered is the value of the goods on the preceding lien date.

"Business inventories" shall also include goods held by a licensed contractor and not yet incorporated into real property.

SEC. 7. Section 160 of the Revenue and Taxation Code is amended to read:

- 160. In any action against the county to quiet title allowed under this division, service of process shall be made on the tax collector of the county where the real property is situated.
- SEC. 8. Section 480.3 of the Revenue and Taxation Code is amended to read:
- 480.3. (a) Each county assessor and recorder shall make available, without charge and upon request, a form entitled "Preliminary Change of Ownership Report," which transferees of real property may complete and file with the recorder concurrent with the recordation of any document effecting a change of ownership.
- (b) If a document evidencing a change of ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change of ownership report, the recorder may charge an additional recording fee of twenty dollars (\$20). The additional fee shall not be charged if the document is accompanied by an affidavit that the transferee is not a resident of California.
- (c) Noncompliance with this section by the transferee shall not delay or preclude the recordation of documents if the additional fee specified in subdivision (b) is tendered.
- (d) The authority to obtain information pursuant to this section is in addition to, and not in lieu of, any existing authority the assessor has under this article.
- (e) In cases where the county tax collector files purchaser's deeds with respect to a sale for defaulted taxes, the information given to the assessor pursuant to Sections 3716 and 3811 shall be deemed to constitute compliance with this section.
- (f) The filing of a preliminary change of ownership report or the payment of an additional recording fee shall not be required of any intermediate transferee of property. For purposes of this subdivision, "intermediate transferee" means any transferee who is acting as both a transferee and the transferor of the same property as part of a series of simultaneous transfers which affect that property and who records the transfer documents and any other recorded documents related to the transfer in consecutive order at one time.
- (g) Except as prescribed in subdivisions (e) and (f), this section shall apply to changes of ownership occurring on or after July 1, 1985.
- (h) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.
- SEC. 9. Section 2189.1 is added to the Revenue and Taxation Code, to read:
- 2189.1. Separately billed taxes on state-assessed personal property when delinquent may be collected through use of unsecured tax collection procedures. Any of those taxes, including penalties and cost charge, which remain unpaid after June 30, shall be transferred to the unsecured roll or abstract and shall become subject to additional penalties as provided in Section 2922.
  - SEC. 10. Section 2189.7 is added to the Revenue and Taxation

Code, to read:

- 2189.7. Except as otherwise provided in subdivision (a), (b), or (c), the assessment of any floating home made pursuant to Section 229 shall be entered on the secured roll and shall be subject to all provisions of law applicable to taxes on the secured roll.
- (a) If the taxes on any floating home are not a lien on real property of the owner of the floating home pursuant to Section 2188.1, 2189, or 2189.3 and are unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll.
- (b) If the taxes on any floating home which are not a lien on real property of the owner of the floating home remain unpaid at the time set for the declaration of default for delinquent taxes of the floating home on the secured roll, the taxes, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.
- (c) The taxes on floating homes may be paid in two installments as provided in Chapter 2.1 (commencing with Section 2700) of Part 5, notwithstanding Section 2605 and whether or not the county board of supervisors has adopted a resolution in accordance with Section 2700.
- SEC. 11. Section 2189.8 is added to the Revenue and Taxation Code, to read:
- 2189.8. Upon application, the county tax collector may issue tax clearance certificates. Those certificates shall be used to permit registration of used floating homes, as defined in Section 18075.6 of the Health and Safety Code, and for any other purposes as may be prescribed by the Controller. The certificates may indicate that the county tax collector finds that no local property tax is due or is likely to become due, or that any applicable local property taxes have been paid or are to be paid in a manner not requiring the withholding of registration or the transfer of registration. The certificates shall be in any form which the Controller may prescribe, and shall be executed, issued, and accepted for clearance of registration or permit issuance on any conditions which the Controller may prescribe.
- SEC. 12. Section 2610.5 of the Revenue and Taxation Code is amended to read:
- 2610.5. Annually, on or before November 1, the tax collector shall mail a county tax bill or a copy thereof for every property on the secured roll. This requirement need not be met where no taxes are due. Failure to receive a tax bill shall not relieve the lien of taxes, nor shall it prevent the imposition of penalties imposed by this code. However, the penalty imposed for delinquent taxes as provided by any section of this code shall be canceled if the assessee or fee owner demonstrates to the tax collector that delinquency is due to the tax collector's failure to mail the tax bill to the address provided on the tax roll.

With respect to a late, amended, or corrected tax bill, the penalties

imposed for delinquent taxes shall be canceled if the tax amount is paid within 30 days following the date that bill is mailed.

Under no circumstance shall a taxpayer have fewer than 30 days to pay without penalty.

SEC. 13. Section 3456 of the Revenue and Taxation Code is amended to read:

3456. If the payment accepted by the tax collector was wholly in negotiable paper which was not paid on due presentation, the county shall have a claim against the person who attempted payment by the negotiable paper for the cost of the sale. The tax collector shall forthwith notify by registered mail the person so attempting payment with advice that his or her bid has been voided and state the amount of the county's claim.

SEC. 15. Section 3691 of the Revenue and Taxation Code is amended to read:

3691. Five years or more after the property has become tax-defaulted, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property which has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to or interest in the property, may purchase at the sale.

When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

SEC. 16. Section 3693.1 of the Revenue and Taxation Code is amended to read:

3693.1. Notwithstanding Section 3693, if the high bid is in excess of five thousand dollars (\$5,000), the tax collector may make the sale a cash or credit transaction. In the event the successful purchaser elects to treat the sale as a credit transaction, five thousand dollars (\$5,000) or 10 percent of the purchase price, whichever is greater, shall be deposited with the tax collector and the balance of the purchase price shall be paid in cash not more than 90 days from the date of the auction as a condition precedent to the transfer of title to such successful purchaser. Failure on the part of the successful bidder to consummate the sale within the period allowed shall result in the forfeiture of the deposit and all rights he may have with respect to such property. Any forfeiture of deposit shall be distributed to the county general fund and shall not apply to outstanding delinquent taxes. Upon forfeiture the right of redemption shall revive.

SEC. 17. Section 3701 of the Revenue and Taxation Code is amended to read:

3701. After receiving the written authorization of the Controller, and not less than 45 days nor more than 60 days before the proposed sale, the tax collector shall send notice of the proposed sale by

registered mail to the last known mailing address, if available, of parties of interest, as defined in Section 4675. The contents of the notice shall include the date, time, and place of the proposed sale, the amount required to redeem the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of sale, and information regarding the rights of parties of interest to claim excess proceeds, as defined in Section 4674, if the property is sold and excess proceeds result from such sale.

The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

- SEC. 18. Section 3704 of the Revenue and Taxation Code is amended to read:
  - 3704. The notice of intended sale shall state all of the following:
  - (a) The date, time, and place of the intended sale.
  - (b) A description of the property to be sold.
  - (c) The name of the last assessee of the property.
  - (d) The minimum acceptable bid of the property to be sold.
- (e) There shall also be a statement that if the property is not redeemed before the close of business on the last business day prior to the date of the sale, the right of redemption will cease.
- (f) If the property is sold, parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds from the sale which are in excess of the liens and costs required to be paid from the proceeds.
- (g) If excess proceeds result from the sale, notice will be given to parties of interest, pursuant to law.
- SEC. 19. Section 3706 of the Revenue and Taxation Code is amended to read:
- 3706. If the property is not redeemed before the close of business on the last business day prior to the date of the sale of the property, the tax collector shall sell the property at public auction to the highest bidder at the time and place fixed.

In the case of a sale at public auction, no bid shall be accepted for a sum less than the minimum price approved in the resolution of the board of supervisors; provided, however, the tax collector may reduce such minimum price when a partial redemption has been made under Chapter 2, Part 7, Division 1 of this code, or when a partial cancellation has been made under Chapter 4, Part 9, Division 1 of this code, after such price was fixed, by not more than the ratio that the delinquency on the portion so redeemed or canceled bears to the delinquency upon the whole.

- SEC. 20. Section 3707 of the Revenue and Taxation Code is amended to read:
  - 3707. (a) The right of redemption shall terminate at the close of

business on the last business day prior to the date the sale begins.

- (b) Notwithstanding any other provision of law, any remittance sent by mail for redemption of tax-defaulted property must be received in the tax collector's office prior to the time established in subdivision (a).
- (c) The sale shall be deemed complete when a qualified bid is accepted by the tax collector.
- (d) The right of redemption revives if the property is not sold. SEC. 21. Section 3715 is added to the Revenue and Taxation Code, to read:
- 3715. On completion of the sale, the tax collector shall report to the Controller the disposition of all parcels which were not sold at the sale.
- SEC. 22. Section 3731 of the Revenue and Taxation Code is amended to read:
- 3731. (a) When a tax deed to a purchaser of property sold by the tax collector pursuant to this part is recorded and it is determined that the property should not have been sold, the sale may be rescinded by the board of supervisors with the written consent of the county legal adviser and the purchaser of the property under any of the following circumstances:
- (1) The property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value.
- (2) The property has not become subject to a bona fide encumbrance for value subsequent to the recordation of the tax deed.
- (b) When the sale of tax-defaulted property is rescinded pursuant to subdivision (a), the purchaser is entitled to a refund of the amount paid as the purchase price after the purchaser executes a recision of the tax deed. The recision shall also be executed by the county tax collector. The signatures of the purchaser and the county tax collector shall be acknowledged by the county clerk, without charge, and the county tax collector shall then record the recision with the county recorder, without charge. After recordation, a copy of the recision shall be forwarded to the Controller. When the recision is recorded, the tax deed becomes null and void as though never issued and all provisions of law relating to tax-defaulted property shall apply to the property.
- SEC. 23. Section 4220 of the Revenue and Taxation Code is amended to read:
- 4220. In each succeeding fiscal year the redemptioner shall pay all current taxes and penalties coming due in that fiscal year before the delinquency date of the last installment of current taxes.

Supplemental assessment tax installments that became delinquent after April 10 shall not default the installment plan of redemption, if paid on or before June 30.

- SEC. 24. Section 4653.8 of the Revenue and Taxation Code is amended to read:
  - 4653.8. The cost charge amounts collected by the tax collector

shall be distributed to a county fund for use by the tax collector in covering the cost of preparing and maintaining the delinquent list.

SEC. 25. Section 4656.5 of the Revenue and Taxation Code is amended to read:

4656.5. All redemption fees collected for property tax-defaulted prior to January 1, 1984, shall be distributed 50 percent to the State of California for deposit in the General Fund and 50 percent to the county that is the situs of the tax-defaulted property for deposit in its general fund. Redemption fees collected for property tax defaulted on and after January 1, 1984, shall be distributed five dollars (\$5) to the State of California for deposit in the General Fund and ten dollars (\$10) to the county that is the situs of the tax-defaulted property for deposit in its general fund.

SEC. 26. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph. In addition, any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf.

The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(a) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority; and

(b) Then, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

SEC. 26.5. Section 4920 of the Revenue and Taxation Code is amended to read:

4920. This article shall be applicable only if all of the following requirements in either subdivision (a) or subdivision (b) are true:

- (a) (1) By substantial evidence a redemptioner convinces the tax collector that money paid by him in redemption of any property or for the use of any property pursuant to Chapter 3 (commencing with Section 4186) of Part 7 of this division was intended by him to be paid in connection with any other property or that such payment was, without his fault, credited to unintended property.
- (2) The right of redemption has not terminated on the property in connection with which the payment was intended.
  - (3) Two years have not elapsed since the date of the payment.
- (4) Since the date of payment, the property has not been transferred or conveyed to a bona fide purchaser for value or become subject to a bona fide encumbrancer for value.

When all of the foregoing are true, the tax collector shall transfer the payment to the property in connection with which the payment was intended, and in case the payment caused the redemption of the property in connection with which the payment was not intended, cancel the redemption of that property.

- (b) (1) By substantial evidence a redemptioner convinces the tax collector that money paid by him in redemption of any property or for the use of any property pursuant to Chapter 3 (commencing with Section 4186) of Part 7 of this division was, without his fault, credited to unintended property.
- (2) The right of redemption has not terminated on the property in connection with which the payment was intended.
  - (3) Two years have not elapsed since the date of the payment.
- (4) Since the date of payment, the property has not been transferred or conveyed to a bona fide purchaser for value or become subject to a bona fide encumbrancer for value.

When all of the foregoing are true, the tax collector shall transfer the payment to the property in connection with which the payment was intended to be made, and shall cancel the credit on the unintended property. In the event such a transfer is made, the person owning the unintended property immediately before issuance of the guaranty or certificate shall be personally liable for the amount so transferred which shall be collected in the manner specified for the collection of taxes on the unsecured roll.

SEC. 27. Section 26601 of the Water Code is amended to read: 26601. At its option, the board of directors of a district may adopt a resolution declaring its intention to dispense with either the office

of assessor or both the offices of assessor and collector of the district, and to transfer the duties of either the assessor or of both such officers to the assessor or to the assessor and tax collector of the county or counties in which the lands within such districts are located. Such resolution shall specify whether, under the proposed procedure, lands subject to sale for unpaid assessments shall be sold to the district or be declared tax-defaulted for nonpayment of the taxes.

SEC. 28. Section 26603 of the Water Code is amended to read: 26603. Within 30 days of the receipt of such resolution, the board of supervisors shall adopt a resolution advising the district of the charges to be made for the services to be performed by the county. If the board of directors elects to accept the terms offered by the county, it shall adopt a resolution reciting its acceptance, dispensing with the office of district assessor or with both the offices of district assessor and district collector, and transferring their duties to the assessor or to the assessor and tax collector of the county or counties in which the lands within the district are located. Such resolution shall specify whether, under the agreed upon procedure, lands subject to sale for unpaid assessments shall be sold to the district or be declared tax-defaulted for the nonpayment of those assessments.

SEC. 29. Section 26606 of the Water Code is amended to read: 26606. After termination of the contract, the county officers shall continue with the collection of district assessments on the county rolls and with the redemption or deeding of property subject to delinquent district assessments on county rolls until all such assessments have been collected or all such property has been either redeemed or tax-defaulted for unpaid assessments.

SEC. 30. Section 26655 of the Water Code is amended to read: 26655. Unpaid district assessments are delinquent on the same hour and day that county taxes are delinquent and the lands subject thereto shall either be sold to the district or be declared tax-defaulted in the manner, at the time, and upon the penalties of default of property for nonpayment of county taxes.

SEC. 31. Section 26658 of the Water Code is amended to read: 26658. Lands sold to the district remaining unredeemed after five years have elapsed from the date of their sale for delinquent district assessments shall be deeded to the district by the county tax collector. The deed shall be substantially in the form provided for collector's deeds by Section 26276 of the Water Code and shall have the same effect and be recorded in the same manner as irrigation district's collector's deeds under the provisions of Articles 4 and 5 of Chapter 6 of this part. Land which has been declared to be tax-defaulted remaining unredeemed after five years have elapsed from the date of the tax-default for delinquent district assessments shall become subject to the tax collector's power of sale pursuant to Section 3691 of the Revenue and Taxation Code.

SEC. 32. 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.

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- SEC. 33. (a) Every act and proceeding heretofore taken by any taxing agency or revenue district or the officers thereof relative to preparing, transmitting, computing, determining, or fixing the budget or the tax rate or taxes of any taxing agency or revenue district, or to the assessment or equalization of property or to the levy of taxes thereon or to tax collection, sales, or certificates of tax sales, tax deeds, or other conveyances, are hereby confirmed, validated, and declared legally effective.
- (b) As used in this section, "revenue district" includes every city and district for which the county officers assess property and collect taxes or assessments.

As used in this section, "taxing agency" includes the county and city. "Taxing agency" also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed.

- (c) This section is limited to the correction of defects, irregularities, and ministerial errors which the Legislature originally could have omitted from the statutory requirements of law under which the acts hereby confirmed, validated, and declared legally effective were taken.
- (d) This section is limited to the validating of acts and proceedings to the extent to which this validating can be effectuated under the California and United States Constitutions.
- (e) This section shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding, now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.
- (f) Nothing in this section shall operate to make valid any property tax rate which is in excess of that permitted by law.
- (g) If any provisions of this section or its application to any person or circumstances are held invalid, the remainder of the section and application of its provisions to other persons or circumstances is not affected.

# CHAPTER 1421

An act to amend Section 12020 of the Penal Code, relating to crime.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. Section 12020 of the Penal Code is amended to read: 12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandelub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.
  - (b) Subdivision (a) does not apply to any of the following:
- (1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.
- (2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.
- (3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.
- (4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.
  - (5) Tracer ammunition manufactured for use in shotguns.
  - (6) Any firearm or ammunition which is a curio or relic as defined

in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

- (7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.
- (c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.
- (d) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.
- (2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of

- a weapon used in connection with the practice of a system of self-defense such as karate.
- (3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.
- (4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.
- (5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.
- (6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.
- (7) As used in this section, "ballistic knife" means a device that propels a knife-like blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.
- (e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.
- SEC. 2. 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 1422

An act to amend Section 653k of the Penal Code, relating to dangerous weapons.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 653k of the Penal Code is amended to read: 653k. Every person who possesses in the passenger's or driver's area of any motor vehicle in any public place or place open to the public, carries upon his or her person, and every person who sells, offers for sale, exposes for sale, loans, transfers, or gives to any other person a switchblade knife having a blade over two inches in length is guilty of a misdemeanor.

For the purposes of this section a "switchblade knife" is a knife having the appearance of a pocketknife, and shall include a spring-blade knife, snap-blade knife, gravity knife or any other similar type knife, the blade or blades of which are two or more inches long and which can be released automatically by a flick of a button, pressure on the handle, flip of the wrist or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever.

For purposes of this section "passenger's or driver's area" means that part of a motor vehicle which is designed to carry the driver and passengers, including any interior compartment or space therein.

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 1423

An act to amend Section 12200 of the Penal Code, relating to crime.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 12200 of the Penal Code is amended to read: 12200. The term "machinegun" as used in this chapter means any weapon which shoots, or is designed to shoot, automatically, more than one shot, without manual reloading, by a single function of the

trigger, and includes any frame or receiver which can only be used with that weapon. The term also includes any part or combination of parts designed and intended for use in converting a weapon into a machinegun. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States 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 1424

An act to amend Section 204 of the Penal Code, relating to sentences.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 204 of the Penal Code is amended to read: 204. Mayhem is punishable by imprisonment in the state prison for two, four, or eight years.

## **CHAPTER 1425**

An act to amend Section 667.7 of the Penal Code, relating to sentences.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 667.7 of the Penal Code is amended to read: 667.7. Any person convicted of a felony in which such person inflicted great bodily injury as provided in Section 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; attempted murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace or fear of

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immediate and unlawful bodily injury on the victim or another person: sodomy by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force. violence, duress, menace or fear of immediate and unlawful bodily iniury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, penetration of a vaginal or anal opening in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a device with intent to murder in violation of Section 12308; exploding a destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3; any felony in which such person inflicted great bodily injury as provided in Section 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender and shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. 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 in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time. This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a iurv.

## CHAPTER 1426

An act to amend Section 667.51 of the Penal Code, relating to crimes.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 667.51 of the Penal Code is amended to read:

- 667.51. (a) Any person who is found guilty of violating Section 288 shall receive a five-year enhancement for a prior conviction of an offense listed in subdivision (b) 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 the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.
  - (b) Section 261, 264.1, 285, 286, 288, 288a, or 289.
  - (c) Section 261, 264.1, 286, 288, 288a, or 289.
- (d) A violation of Section 288 by a person who has been previously convicted two or more times of an offense listed in subdivision (c) is punishable as a felony by imprisonment in the state prison for 15 years to life. However, if the two or more prior convictions were for violations of Section 288, this subdivision is applicable only if the current violation or at least one of the prior convictions is for an offense other than a violation of subdivision (a) of Section 288. For purposes of this subdivision, a prior conviction is required to have been for charges brought and tried separately. 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 in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time.

#### CHAPTER 1427

An act to amend Sections 11116.10 and 13835.5 of, and to add Title 17 (commencing with Section 679) to Part 1 of, the Penal Code, relating to crime.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Title 17 (commencing with Section 679) is added to Part 1 of the Penal Code, to read:

# TITLE 17. RIGHTS OF VICTIMS AND WITNESSES OF CRIME

679. In recognition of the civil and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of this citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the Legislature declares its intent, in the enactment of this title, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity. It is the further intent that the rights enumerated in Section 679.02 relating to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants. It is the intent of the Legislature to add to Section 679.02 references to new rights as or as soon after they are created. The failure to enumerate in that section a right which is enumerated elsewhere in the law shall not be deemed to diminish the importance or enforceability of that right.

679.01. As used in this title, the following definitions shall control:

- (a) "Crime" means an act committed in this state which, if committed by a competent adult, would constitute a misdemeanor or felony.
- (b) "Victim" means a person against whom a crime has been committed.
- (c) "Witness" means any person who has been or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.
- 679.02. (a) The following are hereby established as the statutory rights of victims and witnesses of crimes:
- (1) To be notified as soon as feasible that a court proceeding to which he or she has been subpoenaed as a witness will not proceed as scheduled, provided the prosecuting attorney determines that the witness' attendance is not required.
- (2) Upon request of the victim or a witness, to be informed by the prosecuting attorney of the final disposition of the case, as provided by Section 11116.10.
- (3) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all sentencing proceedings, and of the right to appear, to reasonably express his or her views, and to have the court consider his or her statements, as provided by Section 1191.1.
- (4) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all juvenile disposition hearings in which the alleged act would have been a felony if committed by an adult, and of the

right to attend and to express his or her views, as provided by Section 656.2 of the Welfare and Institutions Code.

- (5) Upon request by the victim or the next of kin of the victim if the victim has died, to be notified of any parole eligibility hearing and of the right to appear, to reasonably express his or her views, and to have his or her statements considered, as provided by Section 3043 of this code and by Section 1767 of the Welfare and Institutions Code.
- (6) Upon request by the victim or the next of kin of the victim if the crime was a homicide, to be notified of an inmate's placement in a reentry or work furlough program, or notified of the inmate's escape as provided by Section 11155.
- (7) To be notified that he or she may be entitled to witness fees and mileage, as provided by Section 1329.1.
- (8) For the victim, to be provided with information concerning the victim's right to civil recovery and the opportunity to be compensated from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code and Section 1191.2 of this code.
- (9) To the expeditious return of his or her property which has allegedly been stolen or embezzled, when it is no longer needed as evidence, as provided by Chapter 12 (commencing with Section 1407) and Chapter 13 (commencing with Section 1417) of Title 10 of Part 2.
  - (10) To an expeditious disposition of the criminal action.

Nothing in this paragraph is intended to affect the right of the people and the defendant to an expeditious disposition as provided in Section 1050.

- (b) The rights set forth in subdivision (a) shall be set forth in the information and educational materials prepared pursuant to Section 13897.1. The information and educational materials shall be distributed to local law enforcement agencies and local victims' programs by the Victims' Legal Resource Center established pursuant to Chapter 11 (commencing with Section 13897) of Title 6 of Part 4.
- (c) Local law enforcement agencies shall make available copies of the materials described in subdivision (b) to victims and witnesses.
- (d) Nothing in this section is intended to affect the rights and services provided to victims and witnesses by the local assistance centers for victims and witnesses.
- SEC. 2. Section 11116.10 of the Penal Code is amended to read: 11116.10. (a) Upon the request of a victim or a witness of a crime, the prosecuting attorney shall, within 60 days of the final disposition of the case, inform the victim or witness by letter of such final disposition. Such notice shall state the information described in Section 13151.1.
- (b) As used in this section, "victim" means any person alleged or found, upon the record, to have sustained physical or financial injury to person or property as a direct result of the crime charged.
  - (c) As used in this section, "witness" means any person who has

been or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

- (d) As used in this section, "final disposition," means an ultimate termination of the case at the trial level including, but not limited to, dismissal, acquittal, or imposition of sentence by the court, or a decision by the prosecuting attorney, for whatever reason, not to file the case.
- (e) Subdivision (a) does not apply in any case where the offender or alleged offender is a minor unless the minor has been declared not a fit and proper subject to be dealt with under the juvenile court law.
- (f) This section shall not apply to any case in which a disposition was made prior to the effective date of this section.
- SEC. 3. Section 13835.5 of the Penal Code is amended to read: 13835.5. (a) Comprehensive services shall include all of the following primary services:
- (1) Crisis intervention, providing timely and comprehensive responses to the individual needs of victims.
- (2) Emergency assistance, directly or indirectly providing food, housing, clothing, and, when necessary, cash.
- (3) Resource and referral counseling to agencies within the community which are appropriate to meet the victim's needs.
- (4) Direct counseling of the victim on problems resulting from the crime.
- (5) Assistance in the processing, filing, and verifying of claims filed by victims of crime pursuant to Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.
- (6) Assistance in obtaining the return of a victim's property held as evidence by law enforcement agencies, if requested.
  - (7) Orientation to the criminal justice system.
  - (8) Court escort.
- (9) Presentations to and training of criminal justice system agencies.
  - (10) Public presentations and publicity.
- (11) Monitoring appropriate court cases to keep victims and witnesses apprised of the progress and outcome of their case.
- (12) Notification to friends, relatives, and employers of the occurrence of the crime and the victim's condition, upon request of the victim.
- (13) Notification to the employer of the victim or witness, if requested by the victim or witness, informing the employer that the employee was a victim of or witness to a crime and asking the employer to minimize any loss of pay or other benefits which may result because of the crime or the employee's participation in the criminal justice system.
- (b) Comprehensive services may include the following optional services, if their provision does not preclude the efficient provision

of primary services:

- (1) Employer intervention.
- (2) Creditor intervention.
- (3) Child care.
- (4) Assistance in obtaining restitution for the victim.
- (5) Notification to witnesses of any change in the court calendar.
- (6) Funeral arrangements.
- (7) Crime prevention information.
- (8) Witness protection, including arranging for law enforcement protection or relocating witnesses in new residences.
  - (9) Assistance in obtaining temporary restraining orders.
  - (10) Transportation.
- (11) Provision of a waiting area during court proceedings separate from defendants and families and friends of defendants.
- 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 1428**

An act to repeal Sections 211a and 213.5 of, to repeal and add Section 213 of, and to add Section 212.5 to, the Penal Code, relating to crimes.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 211a of the Penal Code is repealed. SEC. 2. Section 212.5 is added to the Penal Code, to read:

- 212.5. (a) Every robbery of any person who is performing his or her duties as an operator of any motor vehicle, streetcar, or trackless trolley used for the transportation of persons for hire, and every robbery which is perpetrated in an inhabited dwelling house or trailer coach, as defined in the Vehicle Code, or the inhabited portion of any other building, is robbery of the first degree.
- (b) All kinds of robbery other than those listed in subdivision (a) are of the second degree.
  - SEC. 3. Section 213 of the Penal Code is repealed.
  - SEC. 4. Section 213 is added to the Penal Code, to read:
  - 213. (a) Robbery is punishable as follows:
- (1) Robbery of the first degree: by imprisonment in the state prison for three, four, or six years.

- (2) Robbery of the second degree: by imprisonment in the state prison for two, three, or five years.
- (b) Notwithstanding Section 664, attempted robbery is punishable by imprisonment in the state prison.
  - SEC. 5. Section 213.5 of the Penal Code is repealed.
- SEC. 6. It is the intent of the Legislature in enacting this act to abrogate, in part, the holding in People v. Beller, 172 Cal. App. 3d 904 that robbery and residential robbery are separate substantive crimes. It has been and still is the intent of the Legislature that there is but one crime of robbery which is defined in Section 211 of the Penal Code, and that certain forms of robbery are more aggravated and deserving of greater punishment.

### CHAPTER 1429

An act to amend Section 1170.1 of the Penal Code, relating to sentences.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667.5, 667.6, or 12022.1. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to Section 12022, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9. The subordinate term for each consecutive offense which is not a "violent felony" as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for such consecutive offenses which are not "violent felonies" as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a "violent felony" as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8) of subdivision (c) of Section 667.5, shall consist of

- one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.4, 12022.5, 12022.7, or 12022.9.
- (b) When a consecutive term of imprisonment is imposed under Sections 669 and 1170 for two or more convictions for kidnapping, as defined in Section 207, involving both separate victims and separate occasions, the aggregate term shall be calculated as provided in subdivision (a), except that the subordinate term for each subsequent kidnapping conviction shall consist of the middle term for each kidnapping conviction for which a consecutive term of imprisonment is imposed and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.4, 12022.5, 12022.7, or 12022.9. The five-year limitation on the total of subordinate terms provided in subdivision (a) shall not apply to subordinate terms for second and subsequent convictions of kidnapping, as defined in Section 207, involving separate victims and separate occasions.
- (c) In the case of any person convicted of one or more felonies committed while the person is confined in a state prison, or is subject to reimprisonment for escape from such custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all the convictions which the person is required to serve consecutively shall commence from the time such person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.
- (d) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667.5, 12022, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, unless the additional punishment therefore is stricken pursuant to subdivision (h). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of such additional term, the court shall apply the sentencing rules of the Judicial Council.
- (e) When two or more enhancements under Sections 12022, 12022.4, 12022.5, 12022.7, and 12022.9 may be imposed for any single offense, only the greatest enhancement shall apply; however, in cases of penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, or

burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022, 12022.4, or 12022.5 and (2) an enhancement for great bodily injury as provided in Section 12022.7 or 12022.9.

- (f) The enhancements provided in Sections 667.5, 667.6, 12022, 12022.1, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, and 12022.9 shall be pleaded and proven as provided by law.
- (g) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (c) of this section, or an enhancement is imposed pursuant to Section 12022, 12022.4, 12022.5, 12022.6, 12022.7, or 12022.9 or the defendant stands convicted of felony escape from an institution in which he is lawfully confined.
- (h) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in Sections 667.5, 12022, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9 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.
- (i) For any violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

## CHAPTER 1430

An act to amend Sections 246, 247, and 12034 of the Penal Code, relating to sentences.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 246 of the Penal Code is amended to read: 246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited housecar, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in

Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for two, three, or five years, or by imprisonment in the county jail for a term of not less than six months and not exceeding one year. As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

- SEC. 2. Section 247 of the Penal Code is amended to read:
- 247. (a) Any person who willfully and maliciously discharges a firearm at an unoccupied aircraft is guilty of a felony.
- (b) Any person who discharges a firearm at an unoccupied motor vehicle is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison. This subdivision does not apply to shooting at an abandoned vehicle or shooting at an unoccupied vehicle with the permission of the vehicle's owner.

As used in this section and Section 246 "aircraft" means any contrivance intended for and capable of transporting persons through the airspace.

- SEC. 3. Section 12034 of the Penal Code is amended to read:
- 12034. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle, knowingly to permit any other person to carry into or bring into the vehicle a firearm in violation of Section 12031 of this code or Section 2006 of the Fish and Game Code or knowingly to permit the other person to discharge any firearm from the vehicle in violation of any provision of this code.
- (b) Except as provided in Section 3002 of the Fish and Game Code, any person who willfully and maliciously discharges a firearm from a motor vehicle is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison.
- SEC. 4. Section 1 of this bill, amending Section 246 of the Penal Code, shall not become operative if AB 3445 is also chaptered, AB 3445 also amends Section 246 of the Penal Code, and both bills become effective on or before January 1, 1987.
- 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 1431

An act to amend Section 667.6 of the Penal Code, relating to crime.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 667.6 of the Penal Code is amended to read: 667.6. (a) Any person who is found guilty of violating subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person who has been convicted previously of any of those offenses shall receive a five-year enhancement for each of those prior convictions provided that no enhancement shall be imposed under this subdivision for any conviction occurring prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Any person convicted of an offense specified in subdivision (a) who has served two or more prior prison terms as defined in Section 667.5 for any offense specified in subdivision (a), shall receive a 10-year enhancement for each of those prior terms provided that no additional enhancement shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the person remained free of both prison custody and the commission of

an offense which results in a felony conviction.

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person whether or not the crimes were committed during a single transaction. If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time the person would otherwise have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(d) A full, separate, and consecutive term shall be served for each violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force,

violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person if the crimes involve separate victims or involve the same victim on separate occasions.

In determining whether crimes against a single victim were committed on separate occasions under this subdivision, the court shall consider whether, between the commission of one sex crime and another, the defendant had a reasonable opportunity to reflect upon his or her actions and nevertheless resumed sexually assaultive behavior. Neither the duration of time between crimes, nor whether or not the defendant lost or abandoned his or her opportunity to attack, shall be, in and of itself, determinative on the issue of whether the crimes in question occurred on separate occasions.

The term shall be served consecutively to any other term of imprisonment, and shall commence from the time the person would otherwise have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

SEC. 2. It is the intent of the Legislature in the enactment of Section 1 of this act to abrogate the decision in People v. Craft (41 Cal. 3d 554), and to establish an objective test for determining whether sex crimes against a single victim occurred on separate occasions.

#### CHAPTER 1432

An act to amend Section 1101 of the Evidence Code, relating to evidence.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1101 of the Evidence Code is amended to read:

- 1101. (a) Except as provided in this section and in Sections 1102 and 1103, evidence of a person's character or a trait of his or her character (whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his or her conduct) is inadmissible when offered to prove his or her conduct on a specified occasion.
- (b) Nothing in this section prohibits the admission of evidence that a person committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or whether a defendant in a prosecution for an unlawful

sexual act or attempted unlawful sexual act did not reasonably and in good faith believe that the victim consented) other than his or her disposition to commit such an act.

(c) Nothing in this section affects the admissibility of evidence

offered to support or attack the credibility of a witness.

SEC. 2. It is the intent of the Legislature in enacting this act to clarify the holding in People v. Tassell, 36 Cal. 3d 77, to the extent an inference can be drawn from that holding that evidence of another act is ipso facto inadmissible or irrelevant to the issue of a defendant's reasonable and good faith belief that the victim consented, by rejecting that inference and making it clear that that evidence can be relevant on that issue in a particular case, depending upon the circumstances there present.

## CHAPTER 1433

An act to amend Sections 246 and 1464 of, and to add and repeal Section 13823.6 of, the Penal Code, relating to crime, and making an appropriation therefor.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 246 of the Penal Code is amended to read: 246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, inhabited housecar, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, or by imprisonment in the county jail for a term of not less than six months and not exceeding one year.

As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 2. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to five dollars (\$5) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section

1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

- (b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.
- (c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section shall also be returned.
- (d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.
- (e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.
  - (f) The moneys so deposited shall be distributed as follows:
- (1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.
- (2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.
- (3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.
- (4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent

of the funds deposited in the Assessment Fund during the preceding month.

- (5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.
- (6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars (\$850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars (\$850,000) shall be transferred to the Restitution Fund.
- (7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.
  - SEC. 3. Section 13823.6 is added to the Penal Code, to read:
- 13823.6. The Office of Criminal Justice Planning through its programs established under Title 1.5 (commencing with Section 11500) shall provide special training for prosecutors in the areas of gang violence, vertical prosecution, gang identification, and witness intimidation.

This section shall be operative until January 1, 1991, and on that date is repealed unless a later enacted statute, which becomes effective on or before January 1, 1991, deletes or extends that date.

SEC. 4. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the Local Public Prosecutors and Public Defenders Training Fund to the Office of Criminal Justice Planning to implement the training program required by this act.

## CHAPTER 1434

An act to add Section 13835.10 to the Penal Code, relating to penal law, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986 ]

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

- SECTION 1. Section 13835.10 is added to the Penal Code, to read: 13835.10. (a) The Legislature finds and declares all of the following:
- (1) That the provision of quality services for victims of crime is of high priority.

- (2) That existing victim service programs do not have sufficient financial resources to consistently recruit and employ fully trained personnel.
- (3) That there is no consistency in the training provided to the various agencies serving victims.
- (4) That comprehensive training for victim service agencies is geographically limited or unavailable.
- (5) That there is currently no statewide comprehensive training system in place for the state to insure that all service providers receive adequate training to provide quality services to victims of crime.
- (6) It is the intention of the Legislature to establish a statewide training program within the Office of Criminal Justice Planning to provide comprehensive standardized training to victim service providers.
- (b) The Office of Criminal Justice Planning shall establish a statewide victim-assistance training program, the purpose of which is to develop minimum training and selection standards, certify training courses, and provide funding to enable local victim service providers to acquire the required training.
- (c) (1) For the purpose of raising the level of competence of local victim service providers, the office shall adopt guidelines establishing minimum standards of training for employees of victim-witness and sexual assault programs funded by the office to provide services to victims of crime. The office shall establish an advisory committee composed of recognized statewide victim service organizations, representatives of local victim service programs, and others selected at the discretion of the executive director to consult on the research and development of the training, selection, and equivalency standards.
- (2) Any local unit of government, community-based organization, or any other public or private nonprofit entity funded by the office as a victim-witness or sexual assault program to provide services to victims of crime shall adhere to the training and selection standards established by the office. The standards for sexual assault victim service programs developed by the advisory committee established pursuant to Section 13836 shall be the standards for purposes of this section. With the exception of the sexual assault standards, the office shall conduct or contract with an appropriate firm or entity for research on validated standards pursuant to this section in consultation with the advisory committee established pursuant to paragraph (1). The office may defer the adoption of the selection standards until the necessary research is completed; until the standards are adopted, affected victim service programs may receive state funding from the office upon certification of their willingness to adhere to the training standards adopted by the office.
- (3) Minimum training and selection standards may include, but shall not be limited to, basic entry, continuation, supervisory, management, and specialized curricula.

- (4) Training and selection standards shall apply to all victim service and management personnel of the victim-witness and sexual assault agencies funded by the office to provide services to victims of crime. Exemptions from this requirement may be made by the office. An agency, which, despite good faith efforts, is unable to meet the standards established pursuant to this section, may apply to the office for an exemption. For the purpose of exemptions, the office may establish procedures that allow for partial adherence. The office may develop equivalency standards which recognize professional experience, education, training, or a combination of the above, for personnel hired before July 1, 1987.
- (5) Nothing in this section shall prohibit an agency, funded by the office to provide services to victims of crime, from establishing training and selection standards which exceed the minimum standards established by the office pursuant to this section.
- (d) For purposes of implementing this section, the office has all of the following powers:
- (1) To approve or certify, or both, training courses selected by the office.
- (2) To make such inquiries as may be necessary to determine whether every local unit of government, community-based organization, or any other public or private entity receiving state aid from the office as a victim-witness or sexual assault program for the provision of services to victims of crime, is adhering to the standards for training and selection established pursuant to this section.
- (3) To adopt such guidelines as are necessary to carry out the purposes of this section.
- (4) To develop or present, or both, training courses for victim service providers, or to contract with coalitions, councils, or other designated entities, to develop or present, or both, those training courses.
- (5) To perform such other activities and studies necessary to carry out the intent of this section.
- (e) In order for the Legislature to determine the need to continue or modify the standards and training programs for local victim service providers, the office shall report to the Legislature on October 1, 1990, and biannually thereafter, regarding the progress and effectiveness of the training program.
- (f) (1) The office may utilize any funds that may become available from the Victim-Witness Assistance Fund to fund the cost of training staff of victim service agencies which are funded by the office from the fund. The office may utilize federal or other state funds that may become available to fund the cost of training staff of victim service agencies which are not eligible for funding from the Victim-Witness Assistance Fund.
- (2) Peace officer personnel whose jurisdictions are eligible for training subvention pursuant to Chapter 1 (commencing with Section 13500) of Title 4 of this part and correctional or probation personnel whose jurisdictions are eligible for state aid pursuant to

Article 2 (commencing with Section 6035) of Chapter 5 of Title 7 of Part 3 are not eligible to receive training reimbursements under this section unless the person receiving the training is assigned to provide victim services in accordance with a grant award agreement with the office and is attending training to meet the established standards.

SEC. 2. The sum of two hundred thousand dollars (\$200,000) is hereby appropriated from the Victim-Witness Assistance Fund to the Office of Criminal Justice Planning for implementation of Section 13835.10 of the Penal Code, as added by Section 2 of this act. These moneys may be utilized by the office to cover administrative expenses incurred with the establishment and implementation of the statewide victim-assistance training program established by that section.

The Legislature intends that funds necessary for the continued support of the training program authorized by this act be appropriated annually to the office in the Budget Act.

### CHAPTER 1435

An act to amend Sections 13975 and 13976 of the Penal Code, relating to crimes, and making an appropriation therefor.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 13975 of the Penal Code is amended to read: 13975. The Office of Criminal Justice Planning shall submit an annual report to the Legislature regarding accomplishments of the program. The report shall include a program evaluation, financial statement, and comments of the advisory board. The program evaluation shall include specific data on the number of high-technology crimes reported and the number of prosecutions and convictions for those crimes as measured during the first and second year of the project. The project shall be considered to have met its objectives if the reporting of the incidence of high-technology crime has increased 20 percent and arrests and prosecutions have increased 20 percent from the first year of the project to the second year of the project. A statewide analysis and needs assessment shall be part of the report. This report shall be submitted on or before March 1, 1987.

SEC. 2. Section 13976 of the Penal Code is amended to read:

13976. This title shall become inoperative on March 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. The sum of one hundred forty-five thousand eight

hundred thirteen dollars (\$145,813) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for expenditure without regard to fiscal years for the purposes of Title 6.7 (commencing with Section 13970) of the Penal Code, provided that the office shall not allocate any portion of those funds unless the high-technology industry or any source, other than the State of California, has filed with the office a plan to match expenditures to the extent of seventy-two thousand nine hundred seven dollars (\$72,907). This match may be made in personnel hours, computer time and equipment, use of facilities, or other specialized talent or equipment necessary to carry out the purposes of the act.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program

specified in this act.

#### CHAPTER 1436

An act to amend Sections 484d, 484e, 484f, 484g, 484h, 484i, and 484j of the Penal Code, relating to crimes.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986]

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

SECTION 1. Section 484d of the Penal Code is amended to read: 484d. As used in this section and Sections 484e to 484j, inclusive:

- (1) "Cardholder" means any person to whom an access card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of an access card to another person.
- (2) "Access card" means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access card, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by a paper instrument.
- (3) "Expired access card" means an access card which shows on its face it has elapsed.
- (4) "Card issuer" means any person who issues an access card or the agent of that person with respect to that card.
- (5) "Retailer" means every person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of an access card by a cardholder.
- (6) An access card is "incomplete" if part of the matter other than the signature of the cardholder which an issuer requires to appear

on the access card before it can be used by a cardholder has not been stamped, embossed, imprinted, or written on it.

- (7) "Revoked access card" means an access card which is no longer authorized for use by the issuer, that authorization having been suspended or terminated and written notice thereof having been given to the cardholder.
- (8) "Counterfeit access card" means any access card that is counterfeit, fictitious, altered, or forged, or any false representation or depiction of an access card or a component thereof.
- (9) "Traffic" means to transfer or otherwise dispose of property to another, or to obtain control of property with intent to transfer or dispose of it to another.
- (10) "Card making equipment" means any equipment, machine, plate, mechanism, impression, or other device designed, used, or intended to be used to produce an access card.
  - SEC. 2. Section 484e of the Penal Code is amended to read:
- 484e. (1) Every person who acquires an access card from another without the cardholder's or issuer's consent or who, with knowledge that it has been so acquired, acquires the access card, with intent to use it or to sell or transfer it to a person other than the issuer or the cardholder is guilty of petty theft.
- (2) Every person who acquires an access card that he or she knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of petty theft.
- (3) Every person who sells, transfers, conveys, or receives an access card with the intent to defraud, or who acquires an access card with the intent to use it fraudulently, is guilty of grand theft.
- (4) Every person other than the issuer, who within any consecutive 12-month period, acquires access cards issued in the names of four or more persons which he or she has reason to know were taken or retained under circumstances which constitute a violation of subdivision (1), (2), or (3) is guilty of grand theft.
  - SEC. 3. Section 484f of the Penal Code is amended to read:
- 484f. (1) Every person who, with intent to defraud, designs, makes, alters, or embosses a counterfeit access card or utters or otherwise attempts to use a counterfeit access card is guilty of forgery.
- (2) A person other than the cardholder or a person authorized by him or her who, with intent to defraud, signs the name of another or of a fictitious person to an access card, sales slip, sales draft, or instrument for the payment of money which evidences an access card transaction, is guilty of forgery.
  - SEC. 4. Section 484g of the Penal Code is amended to read:
- 484g. Every person, who with intent to defraud, (a) uses for the purpose of obtaining money, goods, services or anything else of value an access card obtained or retained in violation of Section 484e or an access card which he or she knows is forged, expired, or revoked, or

- (b) obtains money, goods, services or anything else of value by representing without the consent of the cardholder that he or she is the holder of an access card or by representing that he or she is the holder of an access card and the card has not in fact been issued, is guilty of theft. If the value of all money, goods, services and other things of value obtained in violation of this section exceeds four hundred dollars (\$400) in any consecutive six-month period, then the same shall constitute grand theft.
  - SEC. 5. Section 484h of the Penal Code is amended to read: 484h. Every retailer or other person who, with intent to defraud:
- (a) Furnishes money, goods, services or anything else of value upon presentation of an access card obtained or retained in violation of Section 484e or an access card which he or she knows is a counterfeit access card or is forged, expired, or revoked, and who receives any payment therefor, is guilty of theft. If the payment received by the retailer or other person for all money, goods, services, and other things of value furnished in violation of this section exceeds four hundred dollars (\$400) in any consecutive six-month period, then the same shall constitute grand theft.
- (b) Presents for payment a sales slip or other evidence of an access card transaction, and receives payment therefor, without furnishing in the transaction money, goods, services, or anything else of value that is equal in value to the amount of the sales slip or other evidence of an access card transaction, is guilty of theft. If the difference between the value of all money, goods, services, and anything else of value actually furnished and the payment or payments received by the retailer or other person therefor upon presentation of a sales slip or other evidence of an access card transaction exceeds four hundred dollars (\$400) in any consecutive six-month period, then the same shall constitute grand theft.
  - SEC. 6. Section 484i of the Penal Code is amended to read:
- 484i. (a) Every person who possesses an incomplete access card, with intent to complete it without the consent of the issuer is guilty of a misdemeanor.
- (b) Every person who designs, makes, possesses, or traffics in card making equipment or incomplete access cards with the intent that the equipment or cards be used to make counterfeit access cards, is punishable by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison.
  - SEC. 7. Section 484j of the Penal Code is amended to read:
- 484j. Any person who publishes the number or code of an existing, canceled, revoked, expired or nonexistent access card, or the numbering or coding which is employed in the issuance of access 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 charge, or with intent to defraud or aid another in defrauding, is guilty of a misdemeanor. 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.

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 1437

An act to amend Section 484j of the Penal Code, relating to computers.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 484j of the Penal Code is amended to read: 484j. Any person who publishes the number or code of an existing, canceled, revoked, expired or nonexistent credit card, personal identification number, computer password, access code, debit card number, bank account number, 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 charge, is guilty of a misdemeanor. 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 on a computer network or computer bulletin board, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.

SEC. 2. Section 484j of the Penal Code is amended to read:

484j. Any person who publishes the number or code of an existing, canceled, revoked, expired or nonexistent access card, personal identification number, computer password, access code, debit card number, bank account number, or the numbering or coding which is employed in the issuance of access 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 charge, or with intent to defraud or aid another in defrauding, is guilty of a misdemeanor. 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 on a computer network or computer bulletin board, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.

- SEC. 3. Section 2 of this bill incorporates amendments to Section 484j of the Penal Code proposed by both this bill and SB 2392. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 484j of the Penal Code, and (3) this bill is enacted after SB 2392, in which case Section 1 of this bill shall not become operative.
- SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

#### CHAPTER 1438

An act to amend Section 13967 of the Government Code, relating to victims of crime.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 13967 of the Government Code is amended to read:

- 13967. (a) Upon a person being convicted of any crime in the State of California, the court shall, in addition to any other penalty provided or imposed under the law, order the defendant to pay restitution in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. In addition, if the person is convicted of one or more felony offenses, the court shall impose a separate and additional restitution fine of not less than one hundred dollars (\$100) and not more than ten thousand dollars (\$10,000). In setting the amount of the fine for felony convictions, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which others suffered losses as a result of the crime. Such losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Except as provided in Section 1202.4 of the Penal Code and subdivision (c) of this section, under no circumstances shall the court fail to impose the separate and additional restitution fine required by this section. This fine shall not be subject to penalty assessments as provided in Section 1464 of the Penal Code.
  - (b) Except as provided in subdivision (c), the fine imposed

pursuant to this section shall be deposited in the Restitution Fund in the State Treasury. Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board for the purpose of indemnifying persons filing claims pursuant to this article. However, the funds appropriated pursuant to this section for administrative costs of the State Board of Control shall be subject to annual review through the State Budget process.

(c) In cases in which a victim has suffered economic loss as a result of the defendant's criminal conduct, and the defendant is denied probation, in lieu of imposing all or a portion of the restitution fine, the court shall order restitution to be paid to the victim. Notwithstanding subdivision (a), restitution shall be imposed in the amount of the losses, but not to exceed ten thousand dollars (\$10,000). A restitution order imposed pursuant to this subdivision shall identify the losses to which it pertains, and shall be enforceable as a civil judgment. The making of a restitution order pursuant to this subdivision shall not affect the right of a victim to recovery from the Restitution Fund in the manner provided elsewhere, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained by the victim against the defendant arising out of the crime for which the defendant was convicted.

#### CHAPTER 1439

An act to amend Section 451 of the Penal Code, relating to crimes.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 451 of the Penal Code is amended to read: 451. A person is guilty of arson when he or she willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of, any structure, forest land or property.

(a) Arson that causes great bodily injury is a felony punishable by imprisonment in the state prison for five, seven, or nine years.

- (b) Arson that causes an inhabited structure or inhabited property to burn is a felony punishable by imprisonment in the state prison for three, five, or eight years.
- (c) Arson of a structure or forest land is a felony punishable by imprisonment in the state prison for two, four, or six years.
- (d) Arson of property is a felony punishable by imprisonment in the state prison for 16 months, two, or three years. For purposes of this paragraph arson of property does not include one burning or

causing to be burned his or her own personal property unless there is an intent to defraud or there is injury to another person or another person's structure, forest land or property.

(e) In the case of any person convicted of violating this section while confined in a state prison, prison road camp, prison forestry camp, or other prison camp or prison farm, or while confined in a county jail while serving a term of imprisonment for a felony or misdemeanor conviction, any sentence imposed shall be consecutive to the sentence for which the person was then confined.

#### CHAPTER 1440

An act to amend Section 667.7 of the Penal Code, relating to crime.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 667.7 of the Penal Code is amended to read: (a) Any person convicted of a felony in which such person inflicted great bodily injury as provided in Section 12022.7, or personally used force which was likely to produce great bodily injury. who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, penetration of a vaginal or anal opening in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a device with intent to murder in violation of Section 12308; exploding a destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310;

exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3; any felony in which such person inflicted great bodily injury as provided in Section 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender shall be punished as follows:

- (1) Such person who served two prior separate prison terms shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. 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 in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time.
- (2) Any person convicted of such a felony who has served three or more prior separate prison terms, as defined in Section 667.5, for the crimes specified in subdivision (a) of this section shall be punished by imprisonment in the state prison for life without the possibility of parole.
- (b) This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.
  - SEC. 2. Section 667.7 of the Penal Code is amended to read:
- 667.7. Any person convicted of a felony in which such person inflicted great bodily injury as provided in Section 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; attempted murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force,

violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, penetration of a vaginal or anal opening in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a device with intent to murder in violation of Section 12308; exploding a destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3: any felony in which such person inflicted great bodily injury as provided in Section 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender shall be punished as follows:

- (1) Such person who served two prior separate prison terms shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. 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 in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time.
- (2) Any person convicted of such a felony who has served three or more prior separate prison terms, as defined in Section 667.5, for the crimes specified in subdivision (a) shall be punished by imprisonment in the state prison for life without the possibility of parole.
- (b) This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true

by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

SEC. 3. Section 2 of this bill incorporates amendments to Section 667.7 of the Penal Code proposed by both this bill and AB 3250. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 667.7 of the Penal Code, and (3) this bill is enacted after AB 3250, in which case Section 1 of this bill shall not become operative.

# CHAPTER 1441

An act to add Article 13.6 (commencing with Section 500) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to youthful offenders, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Article 13.6 (commencing with Section 500) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

#### Article 13.6. Serious Habitual Offenders

500. The Legislature hereby finds that a substantial and disproportionate amount of serious crime is committed by a relatively small number of chronic juvenile offenders commonly known as serious habitual offenders. In enacting this article, the Legislature intends to support increased efforts by the juvenile justice system comprised of law enforcement, district attorneys, probation departments, juvenile courts, and schools to identify these offenders early in their careers, and to work cooperatively together to investigate and record their activities, prosecute them aggressively by using vertical prosecution techniques, sentence them appropriately, and to supervise them intensively in institutions and in the community. The Legislature further supports increased interagency efforts to gather comprehensive data and actively disseminate it to the agencies in the juvenile justice system, to produce more informed decisions by all agencies in that system, through organizational and operational techniques that have already proven their effectiveness in selected counties in this and other states.

501. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial assistance for law enforcement, district attorneys, probation departments, juvenile

courts, and schools, designated the Serious Habitual Offender Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this article shall be administered and disbursed by the executive director of that office, and shall, to the greatest extent feasible, be coordinated or consolidated with federal funds that may be made available for these purposes.

- (b) From moneys appropriated therefor, the Executive Director of the Office of Criminal Justice Planning may allocate and award funds to counties in which programs are established in substantial compliance with the policies and criteria set forth in this article. Awards made to individual counties shall not exceed three years in duration. A county receiving an award shall provide matching funds at an increasing rate each year; the rate shall be as determined by the Office of Criminal Justice Planning for that county.
- (c) Allocation and award of funds for the purposes of this article shall be made upon application by a district attorney, a local law enforcement agency, a probation department, or a school district, that has been approved by the board of supervisors of the particular county. The applicant agency shall use the funds to create an information gathering and analysis unit responsible for the identification of serious habitual offenders and for the dissemination of information about the activities of those offenders to the juvenile justice system. This unit shall participate in the planning, support, and assistance of activities required in Sections 503 to 506, inclusive. Funds disbursed under this article shall not supplant local funds that would, in absence of the program established by this article, be made available to support the juvenile justice system. Local grant awards made under the program shall not be subject to review as specified in Section 14780 of the Government Code.
- 502. (a) An individual shall be the subject of the efforts of programs established pursuant to this article who has been previously adjudged a ward pursuant to Section 602 and is described in any of the following paragraphs:
- (1) Has accumulated five total arrests, three arrests for crimes chargeable as felonies and three arrests within the preceding 12 months.
- (2) Has accumulated 10 total arrests, two arrests for crimes chargeable as felonies and three arrests within the preceding 12 months.
- (3) Has been arrested once for three or more burglaries, robberies, or sexual assaults within the preceding 12 months.
- (4) Has accumulated 10 total arrests, eight or more arrests for misdemeanor crimes of theft, assault, battery, narcotics or controlled substance possession, substance abuse, or use or possession of weapons, and has three arrests within the preceding 12 months.
- (b) Arrests for infractions or conduct described in Section 601 shall not be utilized in determining whether an individual is described in subdivision (a). All arrests used in determining eligibility for selection for program participation that did not result

in a sustained petition shall be certified by the prosecutor as having been provable.

- (c) In applying the selection criteria set forth above, a program may elect to limit its efforts to persons described in one or more of the categories listed in subdivision (a), or specified felonies, if crime statistics demonstrate that the persons so identified present a particularly serious problem in the county, or that the incidence of the felonies so specified present a particularly serious problem in the county.
- 503. Programs funded under this article shall adopt and pursue the following policies:
- (a) Each participating law enforcement agency shall do all of the following:
  - (1) Gather data on identified serious habitual offenders.
- (2) Compile data into usable format for law enforcement, prosecutors, probation officer, schools, and courts pursuant to interagency agreement.
- (3) Regularly update data and disseminate data to juvenile justice system agencies, as needed.
- (4) Establish local policies in cooperation with the prosecutor, the probation officer, schools, and the juvenile court regarding data collection, arrest, and detention of serious habitual offenders.
- (5) Provide support and assistance to other agencies engaged in the program.
- (b) Each participating district attorney's office shall do all of the following:
- (1) File petitions based on the most serious provable offenses of each arrest of a serious habitual offender.
- (2) Use all reasonable prosecutorial efforts to resist the release, where appropriate, of the serious habitual offender at all stages of the prosecution.
- (3) Seek an admission of guilt on all offenses charged in the petition against the offender. The only cases in which the prosecutor may request the court to reduce or dismiss the charges shall be cases in which the prosecutor decides there is insufficient evidence to prove the people's case, the testimony of a material witness cannot be obtained or a reduction or dismissal will not result in a substantial change in sentence. In those cases, the prosecutor shall file a written declaration with the court stating the specific factual and legal basis for such a reduction or dismissal and the court shall make specific findings on the record of its ruling and the reasons therefor.
- (4) Vertically prosecute all cases involving serious habitual offenders, whereby the prosecutor who makes the initial filing decision or appearance on such a case shall perform all subsequent court appearances on that case through its conclusion, including the disposition phase.
- (5) Make all reasonable prosecutorial efforts to persuade the court to impose the most appropriate sentence upon such an offender at the time of disposition. As used in this paragraph, "most appropriate

sentence" means any disposition available to the juvenile court.

- (6) Make all reasonable prosecutorial efforts to reduce the time between arrest and disposition of the charge.
- (7) Act as liaison with the court and other criminal justice agencies to establish local policies regarding the program and to ensure interagency cooperation in the planning and implementation of the program.
- (8) Provide support and assistance to other agencies engaged in the program.
- (c) Each participating probation department shall do all of the following:
- (1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement.
- (2) Detain minors in custody who meet the detention criteria set forth in Section 628.
- (3) Consider the data relating to serious habitual offenders when making all decisions regarding the identified individual and include relevant data in written reports to the court.
- (4) Use all reasonable efforts to file violations of probation pursuant to Section 777 in a timely manner.
- (5) Establish local policies in cooperation with law enforcement, the district attorney, schools, and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.
  - (d) Each participating school district shall do all of the following:
- (1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement. School district access to records and data shall be limited to that information that is otherwise authorized by law.
- (2) Report all crimes that are committed on campus by serious habitual offenders to law enforcement.
- (3) Report all violations of probation committed on campus by serious habitual offenders to the probation officer or his or her designee.
- (4) Provide educational supervision and services appropriate to serious habitual offenders attending schools.
- (5) Establish local policies in cooperation with law enforcement, the district attorney, probation and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.
- (e) On or before March 1, 1988, the Office of Criminal Justice Planning shall submit a written report to the Legislature regarding achievement of program goals. Specifically, the report shall do all of the following:
- (1) Document the amount of serious crime committed by a relatively small number of serious habitual offenders.
- (2) Provide statistical documentation regarding the total number of juveniles in the program, the types of offenses committed, the manner in which cases are disposed, and a statistical profile of the

average juvenile who qualifies for the program.

(3) Evaluate program costs.

- (4) Review new operational and organizational techniques used in gathering and disseminating information, in prosecution and in monitoring and supervising serious habitual offenders.
- (5) Compare this program and its effectiveness with the techniques and methods used prior to the implementation of the program.
- 504. The judge of the juvenile court shall authorize the inspection of juvenile court records, probation and protective services records, district attorney records, school records, and law enforcement records by the participating law enforcement agency charged with the compilation of the data relating to serious habitual offenders into the format used by all participating agencies.
- 505. Within one month of implementation of the program, all participating agencies in a county shall execute a written interagency agreement outlining their role in the program, including the duties they will perform, the duties other agencies will perform for and with them, and the categories of information to be collected and the plan for its distribution and use. All participating agencies will meet no less than once each month to plan, implement, and refine the operation of the program and to exchange information about individuals subject to the program or other related topics.
- 506. Law enforcement agencies and district attorneys participating in programs funded pursuant to this article shall adopt procedures to require a check of juvenile criminal history of all adults whose cases are presented to the district attorney's office for filing. The juvenile criminal history shall be considered by the district attorney in the charging decision and establishing the district attorney's position on the appropriate plea and sentence.
- SEC. 2. The sum of three hundred thousand dollars (\$300,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning, for expenditure in the 1986–87 fiscal year, for the purpose of this act.

#### CHAPTER 1442

An act to amend Section 140 of the Penal Code, relating to crimes.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 140 of the Penal Code is amended to read: 140. (a) Except as provided in Section 139, every person who willfully threatens to use force or violence upon the person of a witness to a crime or a victim of a crime or any other person, or to

take, damage, or destroy any property of any witness, victim, or any other person, because the witness, victim, or informant has provided any assistance or information to a law enforcement officer, or to a public prosecutor in a criminal proceeding or juvenile court proceeding, is guilty of a misdemeanor.

- (b) Any person who commits a misdemeanor violation of subdivision (a) or (d) of Section 243, subdivision (a) of Section 417, Section 418, Section 467, paragraph (2) of subdivision (b) of Section 594, Section 626.10, Section 12021, Section 12021.1, subdivision (a) of Section 12021.5, Section 12025, or Section 12031 while committing a violation of subdivision (a), is punishable by imprisonment in a county jail for a period of not more than one year or by imprisonment in the state prison.
- 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 1443

An act to amend Sections 7028.1 and 7137 of, and to add Sections 7058.7 and 7118.6 to, the Business and Professions Code, and to add Section 142.7 to the Labor Code, relating to contractors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 7028.1 of the Business and Professions Code is amended to read:

- 7028.1. Any contractor who performs or engages in asbestos-related work, as defined in Section 6501.8 of the Labor Code, without certification pursuant to Section 7058.5 of this code, or who performs or engages in a removal or remedial action, as defined in Section 7058.7 without certification pursuant to Section 7058.7, is subject to one of the following penalties:
- (a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.
- (b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars (\$3.000) or more than five

thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment.

- SEC. 2. Section 7058.7 is added to the Business and Professions Code, to read:
- 7058.7. (a) On and after May 1, 1988, no contractor shall engage in a removal or remedial action, as defined in subdivision (d), unless the applicant for the license has passed an approved hazardous substance removal certification examination.
- (b) (1) On or before July 1, 1987, the Contractors' State License Board, the Division of Occupational Safety and Health of the Department of Industrial Relations, and the State Department of Health Services shall jointly select an advisory committee, which shall be composed of two representatives of hazardous substance removal workers in California, two general engineering contractors in California, and two representatives of insurance companies in California who shall be selected by the Insurance Commissioner.
- (2) On or before January 1, 1988, the Contractors' State License Board shall develop a written test for the certification of contractors engaged in hazardous substance removal or remedial action, in consultation with the Division of Occupational Safety and Health and the State Department of Health Services, and in consultation with the advisory committee.
- (c) The Contractors' State License Board may require additional updated approved hazardous substance removal certification examinations of licensees currently certified based on new public or occupational health and safety information. The Contractors' State License Board, in consultation with the State Department of Health Services, shall approve initial and updated hazardous substance removal certification examinations and determine whether to require an updated certification examination of all current certificate holders.
- (d) For purposes of this section "removal or remedial action" has the same meaning as found in Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, if the action requires the contractor to dig into the surface of the earth and remove the dug material and the action is at a site listed pursuant to Section 25356 of the Health and Safety Code or any other site listed as a hazardous waste site by the State Department of Health Services or a site listed on the National Priorities List compiled pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. Sec. 9601 et seq.). "Removal or remedial action" does not include asbestos-related work, as defined in Section 6501.8 of the Labor Code, or work related to a hazardous substance spill on a highway.
- (e) If the appropriation in Section 7 of the act enacting this section does not become effective, the date specified in subdivision (a) is extended to September 1, 1988, and the date specified in paragraph (2) of subdivision (b) is extended to July 1, 1988.
  - SEC. 3. Section 7118.6 is added to the Business and Professions

Code, to read:

- 7118.6. Any contractor or employer who, either knowingly or negligently, or by reason of a failure to inquire, enters into a contract with another person who is either required to be, and is not certified pursuant to Section 7058.7 to engage in a removal or remedial action, as defined in Section 7058.7, is subject to the following penalties:
- (a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.
- (b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.
- 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, a change of responsible managing officer or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, 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).
  - (i) The application fee for a hazardous substance removal or

remedial action certification examination shall not exceed fifty dollars (\$50).

- SEC. 5. Section 142.7 is added to the Labor Code, to read:
- 142.7. (a) On or before October 1, 1987, the board shall adopt an occupational safety and health standard concerning hazardous substance removal work, so as to protect most effectively the health and safety of employees. The standard shall include, but not be limited to, requirements for all of the following:
  - (1) Specific work practices.
- (2) Certification of all employees engaged in hazardous substance removal-related work, except that no certification shall be required for an employee whose only activity is the transportation of hazardous substances which are subject to the requirement for a certificate under Section 12804.1 of the Vehicle Code.
- (3) Certification of supervisors with sufficient experience and authority to be responsible for hazardous substance removal work.
- (4) Designation of a qualified person who shall be responsible for scheduling any air sampling, laboratory calibration of sampling equipment, evaluation of soil or other contaminated materials sampling results, and for conducting any equipment testing and evaluating the results of the tests.
- (5) Requiring that a safety and health conference be held for all hazardous substance removal jobs before the start of actual work. The conference shall include representatives of the owner or contracting agency, the contractor, the employer, employees, and employee representatives, and shall include a discussion of the employer's safety and health program and the means, methods, devices, processes, practices, conditions, or operations which the employer intends to use in providing a safe and healthy place of employment.
- (b) For purposes of this section, "hazardous substance removal work" means a removal or remedial action, as defined in Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, only if the action requires the contractor to dig into the surface of the earth and remove the dug material and the action is at a site listed pursuant to Section 25356 of the Health and Safety Code or listed on the National Priorities List compiled pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.). "Hazardous substance removal work" does not include work related to a hazardous substance spill on a highway.
- 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. The sum of one hundred forty thousand three hundred forty-three dollars (\$140,343) is hereby appropriated from the

Contractors' License Fund to the Contractors' State License Board for the 1986-87 fiscal year, for the purpose of carrying out this act.

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 protect the public health and safety and the safety of workers, it is necessary that this act take effect immediately.

# CHAPTER 1444

An act to amend and repeal Sections 17053, 23605, and 24343.5 of, and to add and repeal Sections 17053.1 and 17149 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 17053 of the Revenue and Taxation Code is amended to read:

- 17053. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in subdivisions (b) and (c).
- (b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for the purchase of company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program for employees conducted principally in this state.
- (2) The credit provided in paragraph (1) shall be claimed in the state income tax return for the taxable year in which the ridesharing vehicles are purchased and placed in service.
- (3) The basis of any ridesharing vehicle purchased for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.
- (4) If a ridesharing vehicle purchased for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of an employer-sponsored ridesharing incentive program, within three years of its acquisition, that portion of the credit provided in paragraph (1) which represents the pro rata share of that remaining three-year period shall be added to the employer's tax liability in the taxable year of that disposition or nonuse. The basis of any such vehicle shall be increased by an amount equal to that amount added to the employer's tax liability.

- (c) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total payments to the lessor or vehicle provider during the life of the lease or contract, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision shall not be eligible for this credit.
- (2) The credit provided in paragraph (1) shall be claimed in the state income tax return for the taxable year in which the ridesharing vehicles are first leased or contracted for and placed in service. However, with respect to ridesharing vehicles first leased or contracted for prior to the 1984 taxable year, the credit provided in paragraph (1) shall be claimed in the state income tax return for the 1984 taxable year based on the total payments to the lessor or vehicle provider during the 1984 taxable year and the total payments to be made during the remaining life of the lease or contract.
- (3) If a ridesharing vehicle leased or contracted for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of an employer-sponsored ridesharing incentive program, prior to the expiration date of the lease or contract, that portion of the credit provided in paragraph (1) which represents the pro rata share of the remaining life of that lease or contract shall be added to the employer's tax liability in the taxable year of that disposition or nonuse.
- (d) The credits allowed by subdivisions (b) and (c) shall not apply to the cost of purchasing, leasing, or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which would otherwise be required as part of the employer's business activities in the absence of an employer-sponsored ridesharing incentive program.
- (e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in succeeding taxable years until the credit is used. The credit shall be applied first to the earliest taxable years possible.
- (f) (1) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent such credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor-pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced so that the combined effective credit shall not exceed 30 percent of the costs, notwithstanding the carryover provisions of subdivision (e).
- (2) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978,

is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced by the amount of the increase in the federal credit.

- (g) For purposes of this section:
- (1) "Employer" means either of the following:
- (A) A taxpayer for whom services are performed by employees, except government agencies.
- (B) A private educational institution which enrolls students at higher than the secondary level.
  - (2) "Employee" means either of the following:
- (A) An individual who performs service for an employer for more than eight hours per week for remuneration.
  - (B) Any commuting student, as defined in paragraph (3).
- (3) "Commuting student" means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the "employment site" for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.
- (4) "Employer-sponsored ridesharing incentive program" means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal or other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.
- (5) "Company shuttle bus" means a highway vehicle which meets all of the following criteria:
- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) At least 80 percent of the mileage of which reasonably can be expected to be for any of the following purposes:
  - (i) Transporting employees on a scheduled-route basis.
  - (ii) Interfacing with public transportation facilities.
  - (iii) Transporting employees on a demand-response basis.
- (C) Is acquired by the taxpayer on or after the date of the enactment of this section.
- (D) With respect to which the taxpayer makes an election under this paragraph on his or her return for the taxable year in which the vehicle is placed in service.
- (6) "Company commuter bus or van" means a highway vehicle which meets all of the following criteria:
- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.
- (C) Is acquired by the taxpayer on or after the date of enactment of this legislation.

- (D) With respect to which the taxpayer makes an election under this paragraph on his or her return for the taxable year in which the vehicle is placed in service.
- (7) "Company motor pool vehicle" means a highway vehicle which meets all of the following criteria:
- (A) Is an automobile with a gross vehicle weight of 6000 pounds or less.
- (B) Meets or exceeds certain fuel efficiency standards pursuant to the provisions of Title II of Public Law 95–618.
- (Ĉ) Is made available to all employees on a nondiscriminatory basis in the normal course of the taxpayer's business.
- (D) Is acquired by the taxpayer on or after the date of the enactment of this section.
- (E) With respect to which the taxpayer makes an election under this paragraph on his or her return for the taxable year in which the vehicle is placed in service.
- (h) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.
- SEC. 1.5. Section 17053.1 is added to the Revenue and Taxation Code, to read:
- 17053.1. (a) In lieu of the credit allowed by Section 17053, there shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in subdivisions (b) and (c).
- (b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by a taxpayer for the purchase of ridesharing shuttle buses or commuter buses, vans, or vehicles which are used in a private third-party ridesharing program principally in this state.
- (2) The credit provided in paragraph (1) shall be claimed in the state income tax return as follows:
- (A) One-third of the allowable amount shall be applied against the taxpayer's net tax for the taxable year in which the ridesharing vehicles are purchased and placed in service.
- (B) One-third of the allowable amount shall be applied against the taxpayer's net tax for the taxable year immediately following the taxable year in which the ridesharing vehicles are purchased and placed in service.
- (C) One-third of the allowable amount shall be applied against the taxpayer's net tax for the second taxable year immediately following the taxable year in which the ridesharing vehicles are purchased and placed in service.
- (3) The basis of any ridesharing vehicle purchased for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.
- (4) If a ridesharing vehicle purchased for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part

of a private third-party ridesharing program, within three years of its acquisition, that portion of the credit provided in paragraph (1) which represents the pro rata share of that remaining three-year period shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse. The basis of any such vehicle shall be increased by an amount equal to that amount added to the taxpayer's tax liability.

- (c) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by a taxpayer for leasing or contracting shuttle buses or commuter buses, vans, or vehicles, which are used in a private third-party ridesharing program. This credit shall be based on the total payments to the lessor or vehicle provider during the life of the lease or contract, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision shall not be eligible for this credit.
- (2) The credit provided in paragraph (1) shall be claimed in the state income tax return as follows:
- (A) One-third of the allowable amount shall be applied against the taxpayer's net tax for the taxable year in which the ridesharing vehicles are first leased or contracted for and placed in service.
- (B) One-third of the allowable amount shall be applied against the taxpayer's net tax for the taxable year immediately following the taxable year in which the ridesharing vehicles are first leased or contracted for and placed in service.
- (C) One-third of the allowable amount shall be applied against the taxpayer's net tax for the second taxable year immediately following the taxable year in which the ridesharing vehicles are first leased or contracted for and placed in service.
- (3) If a ridesharing vehicle leased or contracted for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of a private third-party ridesharing program, prior to the expiration date of the lease or contract, that portion of the credit provided in paragraph (1) which represents the pro rata share of the remaining life of that lease or contract shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse.
- (d) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect, notwithstanding subdivision (g), for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest taxable years possible.
- (e) (1) If the tax credit provided by Section 17053 is reduced, the credit provided in subdivisions (b) and (c) shall be reduced by the same amount.
  - (f) For purposes of this section:
- (1) "Shuttle bus" means a highway vehicle which meets all of the following criteria:

- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) At least 80 percent of the mileage of which reasonably can be expected to be for any of the following purposes:
- (i) Transporting employers and employees on a scheduled-route basis.
  - (ii) Interfacing with public transportation facilities.
- (iii) Transporting employers and employees on a demand-response basis.
- (C) Is acquired by the taxpayer on or after the date of the enactment of this section.
- (D) With respect to which the taxpayer makes an election under this paragraph on his or her return for the taxable year in which the vehicle is placed in service.
- (2) "Commuter bus, van, or vehicle" means a highway vehicle which meets all of the following criteria:
- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) Has at least four or more persons commuting on a daily basis to and from work.
- (C) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employers and employees to and from work.
- (D) Is acquired by the taxpayer on or after the date of enactment of this legislation.
- (E) With respect to which the taxpayer makes an election under this paragraph on his or her return for the taxable year in which the vehicle is placed in service.
- (g) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.
- SEC. 2. Section 17149 is added to the Revenue and Taxation Code, to read:
- 17149. (a) Gross income does not include compensation or any other benefit, except salary or wages, received by an employee from an employer for the actual costs of participation in any ridesharing arrangement in California specified in subdivision (b).
- (b) For purposes of this section, compensation or any other benefit received for the actual costs of participation in a ridesharing arrangement in California includes compensation or other benefit received for:
  - (1) Commuting in a third-party vanpool.
  - (2) Commuting in a private commuter bus.
- (3) A monthly transit pass for use by the employee or his or her dependents, other than transit passes for use by elementary and secondary school students who are dependents of the employee.
  - (4) Commuting in a subscription taxipool.
  - (c) For purposes of this section:
  - (1) "Third-party vanpool" means a vanpool that is not

administered and operated by an employer or his or her employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other equipment and services available for use by employers and their employees.

- (2) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adults, including the driver.
- (3) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.
- (4) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.
- (5) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily-fare basis following a relatively fixed route and schedule tailored to meet the needs of the subscribers.
- (6) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver. The term includes ridesharing arrangements known as carpools, vanpools, and buspools.
- (7) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than seven adults, including the driver.
- (8) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.
- (9) "Private commuter bus" means a highway vehicle which meets all of the following criteria:
- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.
- (C) Is acquired by the taxpayer on or after the date of enactment of this section.
- (D) With respect to which the taxpayer makes an election under this paragraph on his or her return for the taxable year in which the vehicle is placed in service.
- (d) The exclusion provided by this section is in addition to any exclusion provided pursuant to Section 124 of the Internal Revenue Code.
- (e) This section shall remain in effect only until-January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

- SEC. 3. Section 23605 of the Revenue and Taxation Code is amended to read:
- 23605. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in subdivisions (b) and (c).
- (b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for the purchase of company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program for employees conducted principally in this state.
- (2) The credit provided in paragraph (1) shall be claimed in the state return for the income year in which the ridesharing vehicles are purchased and placed in service.
- (3) The basis of any ridesharing vehicle purchased for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.
- (4) If a ridesharing vehicle purchased for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part of an employer-sponsored ridesharing incentive program, within three years of its acquisition, that portion of the credit provided in paragraph (1) which represents the pro rata share of that remaining three-year period shall be added to the employer's tax liability in the income year of that disposition or nonuse. The basis of any such vehicle shall be increased by an amount equal to that amount added to the employer's tax liability.
- (c) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total payments to the lessor or vehicle provider during the life of the lease or contract, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision is not eligible for this credit.
- (2) The credit provided in paragraph (1) shall be claimed in the state income tax return for the income year in which the ridesharing vehicles are leased or contracted for and placed in service. However, with respect to ridesharing vehicles first leased or contracted for prior to the 1984 income year, the credit provided in paragraph (1) shall be claimed in the state income tax return for the 1984 income year based on the total payments to the lessor or vehicle provider during the 1984 income year and the total payments to be made during the remaining life of the lease or contract.
- (3) If a ridesharing vehicle leased or contracted for which a credit is provided in paragraph (1) is disposed of, or is no longer used as part

of an employer-sponsored ridesharing incentive program, prior to the expiration date of the lease or contract, that portion of the credit provided in paragraph (1) which represents the pro rata share of the remaining life of that lease or contract shall be added to the employer's tax liability in the income year of that disposition or nonuse.

- (d) The credits allowed by subdivisions (b) and (c) shall not apply to the cost of purchasing, leasing, or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which would otherwise be required as part of the employer's business activities in the absence of an employer-sponsored ridesharing incentive program.
- (e) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds those taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years until the credit is used. The credit shall be applied first to the earliest income years possible.
- (f) (1) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor-pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced so that the combined effective credit shall not exceed 30 percent of the costs, notwithstanding the carryover provisions of subdivision (e).
- (2) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced by the amount of the increase in the federal credit.
  - (g) For purposes of this section:
  - (1) "Employer" means either of the following:
- (A) A taxpayer for whom services are performed by employees, except government agencies.
- (B) A taxpayer which is a private educational institution which enrolls students at higher than the secondary level.
  - (2) "Employee" means either of the following:
- (A) An individual who performs service for an employer for more than eight hours per week for remuneration.
  - (B) Any commuting student, as defined in paragraph (3).
- (3) "Commuting student" means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the

"employment site" for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.

- (4) "Employer-sponsored ridesharing incentive program" means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal or other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.
- (5) "Company shuttle bus" means a highway vehicle which meets all of the following criteria:
- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) At least 80 percent of the mileage of which reasonably can be expected to be for any of the following purposes:
  - (i) Transporting employees on a scheduled-route basis.
  - (ii) Interfacing with public transportation facilities.
  - (iii) Transporting employees on a demand-response basis.
- (C) Is acquired by the taxpayer on or after the date of the enactment of this section.
- (D) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which the vehicle is placed in service.
- (6) "Company commuter bus or van" means a highway vehicle which meets all of the following criteria:
- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.
- (C) Is acquired by the taxpayer on or after the date of enactment of this legislation.
- (D) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which such vehicle is placed in service.
- (7) "Company motor-pool vehicle" means a highway vehicle which meets all of the following criteria:
- (A) Is an automobile with a gross vehicle weight of 6,000 pounds or less.
- (B) Meets or exceeds certain fuel efficiency standards pursuant to the provisions of Title II of Public Law 95-618.
- (C) Is made available to all employees on a nondiscriminatory basis in the normal course of the taxpayer's business.
- (D) Is acquired by the taxpayer on or after the date of the enactment of this section.
- (E) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which the vehicle is placed in service.
- (h) This section shall 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. 4. Section 24343.5 of the Revenue and Taxation Code is amended to read:
- 24343.5. (a) Except as otherwise provided in this section, there shall be allowed to an employer a deduction as an ordinary and necessary expense paid or incurred during the income year in carrying on any trade or business those expenses involved in each of the following activities:
  - (1) Subsidizing employees commuting in third-party vanpools.
- (2) Subsidizing employees commuting in private commuter buses.
- (3) Subsidizing monthly transit passes for its employees or for use by the employee's dependents, except that no deduction shall be allowed for transit passes issued for the use of elementary and secondary school students.
  - (4) Subsidizing employees commuting in subscription taxipools.
- (5) In the case of an employer who offers free parking to its employees, offering a cash equivalent to employees who do not require parking.
- (6) Providing free or preferential parking to carpools and vanpools.
- (7) Making facility improvements to encourage employees, for the purpose of commuting from their homes, to participate in ridesharing arrangements, to use bicycles, or to walk. These facility improvements may include, but are not limited to, any of the following: the construction of bus shelters; the installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms; and parking lot modifications to provide carpools, vanpools, or buspools with preferential treatment. The cost of these facility improvements shall be allowed as a depreciation deduction. Notwithstanding subdivision (c), the depreciation deduction shall be allowable over a 36-month period.
- (8) Providing company commuter van or bus service to its employees and to others for commuting from their homes, but not for transportation required as part of the employer's business activities, except as otherwise provided in this section. The capital costs of providing this service shall not be an eligible deduction under this section.
- (9) Providing to employees tranportation services which are required as part of the employer's business activities to the extent that the transportation would be provided by employees without reimbursement in the absence of an employer-sponsored ridesharing incentive program. The capital costs of providing this service shall not be an eligible deduction under this section.
  - (b) For purposes of this section:
- (1) "Employer," "employee," "commuting student," "employer-sponsored ridesharing incentive program," and "company commuter bus or van" have the meanings specified in Section 23605.

- (2) "Third-party vanpool" means a vanpool that is not administered and operated by an employer or its employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other equipment and services available for use by employers and their employees.
- (3) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adult persons.
- (4) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.
- (5) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.
- (6) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily-fare basis, following a relatively fixed route and schedule tailored to meet the needs of the subscribers.
- (7) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver. The term includes ridesharing arrangements known as carpools, vanpools, and buspools.
- (8) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than seven adults, including the driver.
- (9) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.
- (10) "Private commuter bus" means a highway vehicle which meets all of the following criteria:
- (A) Has a seating capacity of at least seven adults, including the driver.
- (B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.
- (C) Is acquired by the taxpayer on or after the date of enactment of this section.
- (D) With respect to which the taxpayer makes an election under this paragraph on his or her return for the income year in which the vehicle is placed in service.
- (c) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.
- SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

## CHAPTER 1445

An act to amend Section 4500 of the Penal Code, relating to crimes.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 4500 of the Penal Code is amended to read: 4500. Every person while undergoing a life sentence, who is sentenced to state prison within this state, and who, with malice aforethought, commits an assault upon the person of another with a deadly weapon or instrument, or by any means of force likely to produce great bodily injury is punishable with death or life imprisonment without possibility of parole. The penalty shall be determined pursuant to the provisions of Sections 190.3 and 190.4; however, in cases in which the person subjected to such assault does not die within a year and a day after such assault as a proximate result thereof, the punishment shall be imprisonment in the state prison for life without the possibility of parole for nine years.

For the purpose of computing the days elapsed between the commission of the assault and the death of the person assaulted, the whole of the day on which the assault was committed shall be counted as the first day.

Nothing in this section shall be construed to prohibit the application of this section when the assault was committed outside the walls of any prison if the person committing the assault was undergoing a life sentence and was serving a sentence to a state prison at the time of the commission of the assault and was not on parole, on probation, or released on bail pending an appeal.

#### CHAPTER 1446

An act to amend Sections 2932, 2933, 3041, 5075, 5076, and 5076.1 of the Penal Code, relating to sentencing.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 2932 of the Penal Code is amended to read: 2932. (a) (1) For any time credit accumulated pursuant to Section 2931 or to Section 2933, not more than 360 days of credit may be denied or lost for a single act of murder, attempted murder, solicitation of murder, manslaughter, rape, sodomy, or oral copulation accomplished against the victim's will, attempted rape,

attempted sodomy, or attempted oral copulation accomplished against the victim's will, assault or battery causing serious bodily injury, assault with a deadly weapon or caustic substance, taking of a hostage, escape with force or violence, or possession or manufacture of a deadly weapon or explosive device, whether or not prosecution is undertaken for purposes of this paragraph. Solicitation of murder shall be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

- (2) Not more than 180 days or credit may be denied or lost for a single act of misconduct, except as specified in (1) which could be prosecuted as a felony whether or not prosecution is undertaken.
- (3) Not more than 90 days of credit may be denied or lost for a single act of misconduct which could be prosecuted as a misdemeanor, whether or not prosecution is undertaken.
- (4) Not more than 30 days of credit may be denied or lost for a single act of misconduct defined by regulation as a serious disciplinary offense by the Department of Corrections. Any person confined due to a change in custodial classification following the commission of any serious disciplinary infraction shall, in addition to any loss of time credits, be ineligible to receive participation or worktime credit for a period not to exceed the number of days of credit which have been lost for such act of misconduct or 180 days. whichever is less. Any person confined in a secure housing unit for having committed any misconduct specified in paragraph (1) in which great bodily injury is inflicted upon a nonprisoner shall, in addition to any loss of time credits, be ineligible to receive participation or worktime credit for a period not to exceed the number of days of credit which have been lost for that act of misconduct, or for the period that the prisoner is confined in a secure housing unit, whichever is less. In unusual cases, an inmate may be denied the opportunity to participate in a credit qualifying assignment for up to six months beyond the period specified in this subdivision if the Director of Corrections finds, after a hearing, that no credit qualifying program may be assigned to the inmate without creating a substantial risk of physical harm to staff or other inmates. At the end of the six-month period and of successive six-month periods, the denial of the opportunity to participate in a credit qualifying assignment may be renewed upon a hearing and finding by the director.

The prisoner may appeal the decision through the department's review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

(b) For any credit accumulated pursuant to Section 2931, not more than 30 days of participation credit may be denied or lost for a single failure or refusal to participate. Any act of misconduct described by the Department of Corrections as a serious disciplinary infraction if committed while participating in work, educational, vocational, therapeutic or other prison activity shall be deemed a

failure to participate.

- (c) Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures provided for by the Department of Corrections for serious disciplinary infractions if those procedures are not in conflict with this section.
- (1) The Department of Corrections shall, using reasonable diligence to investigate, provide written notice to the prisoner. The written notice shall be given within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, except that if the prisoner has escaped, the notice shall be given within 15 days of the prisoner's return to the custody of the Director of Corrections. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the procedures that will be employed at the proceedings and the prisoner's rights at the hearing. The hearing shall be conducted by an individual who shall be independent of the case and shall take place within 30 days of the written notice.
- (2) The prisoner may elect to be assigned an employee to assist in the investigation, preparation, or presentation of a defense at the disciplinary hearing if it is determined by the department that: (i) the prisoner is illiterate; or (ii) the complexity of the issues or the prisoner's confinement status makes it unlikely that the prisoner can collect and present the evidence necessary for an adequate comprehension of the case.
- (3) The prisoner may request witnesses to attend the hearing and they shall be called unless the person conducting the hearing has specific reasons to deny this request. Such specific reasons shall be set forth in writing and a copy of the document shall be presented to the prisoner.
- (4) The prisoner has the right, under the direction of the person conducting the hearing, to question all witnesses.
- (5) At the conclusion of the hearing the charge shall be dismissed if the facts do not support the charge, or the prisoner may be found guilty on the basis of a preponderance of the evidence.
- (d) If found guilty the prisoner shall be advised in writing of the guilty finding and the specific evidence relied upon to reach this conclusion and the amount of time-credit loss. The prisoner may appeal such decision through the Department of Corrections' review procedure, and may, upon final notification of appeal denial, within 15 days of such notification demand review of the department's denial of credit to the Board of Prison Terms, and the board may affirm, reverse, or modify the department's decision or grant a hearing before the board at which hearing the prisoner will have the rights specified in Section 3041.5.
- (e) Each prisoner subject to Section 2931 shall be notified of the total amount of good behavior and participation credit which may be credited pursuant to Section 2931, and his anticipated time-credit

release date. The prisoner shall be notified of any change in the anticipated release date due to denial or loss of credits, award of worktime credit, under Section 2933, or the restoration of any credits previously forfeited.

(f) If the conduct the prisoner is charged with also constitutes a crime, the Department of Corrections may refer the case to criminal authorities for possible prosecution. The department shall notify the prisoner, who may request postponement of the disciplinary proceedings pending such referral.

The prisoner may revoke his request for postponement of the disciplinary proceedings up until the filing of the accusatory pleading. In the event of the revocation of the request for postponement of the proceeding, the department shall hold the hearing within 30 days of the revocation.

In the case where the prisoner is prosecuted by the district attorney, the Department of Corrections shall not deny time credit where the prisoner is found not guilty and may deny credit if the prisoner is found guilty, in which case the procedures in subdivision (c) shall not apply.

- (g) If time credit denial proceedings or criminal prosecution prohibit the release of a prisoner who would have otherwise been released, and the prisoner is found not guilty of the alleged misconduct, the amount of time spent incarcerated, in excess of what the period of incarceration would have been absent the alleged misbehavior, shall be deducted from the prisoner's parole period.
- (h) Nothing in the amendments to this section made at the 1981–82 Regular Session of the Legislature shall affect the granting or revocation of credits attributable to that portion of the prisoner's sentence served prior to January 1, 1983.
  - SEC. 2. Section 2933 of the Penal Code is amended to read:
- 2933. (a) It is the intent of the Legislature that persons convicted of crime and sentenced to state prison, under Section 1170, serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Director of Corrections for performance in work, training or education programs established by the Director of Corrections. Worktime credits shall apply for performance in work assignments and performance in elementary, high school, or vocational education programs. Enrollment in a two- or four-year college program leading to a degree shall result in the application of time credits equal to that provided in Section 2931. For every six months of full-time performance in a credit qualifying program, as designated by the director, a prisoner shall be awarded worktime credit reductions from his term of confinement of six months. A lesser amount of credit based on this ratio shall be awarded for any lesser period of continuous performance. Less than maximum credit should be awarded pursuant to regulations adopted by the director for prisoners not assigned to a full-time credit qualifying program. Every prisoner who refuses to accept a full-time credit qualifying

assignment or who is denied the opportunity to earn worktime credits pursuant to subdivision (a) of Section 2932 shall be awarded no worktime credit reduction. Every prisoner who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit reductions from his term of confinement of three months for each six-month period of continued performance. Except as provided in subdivision (a) of Section 2932, every prisoner willing to participate in a full-time credit qualifying assignment but who is either not assigned to a full-time assignment or is assigned to a program for less than full time, shall receive no less credit than is provided under Section 2931. Under no circumstances shall any prisoner receive more than six months' credit reduction for any six-month period under this section.

- (b) Worktime credit is a privilege, not a right. Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932. Except as provided in subdivision (a) of Section 2932, every prisoner shall have a reasonable opportunity to participate in a full-time credit qualifying assignment in a manner consistent with institutional security and available resources.
- (c) Under regulations adopted by the Department of Corrections, which shall require a period of not more than one year free of disciplinary infractions, worktime credit which has been previously forfeited may be restored by the director. The regulations shall provide for separate classifications of serious disciplinary infractions as they relate to restoration of credits; the time period required before forfeited credits or a portion thereof may be restored; and the percentage of forfeited credits that may be restored for such time periods. For credits forfeited for commission of a felony specified in paragraph (1) of subdivision (a) of Section 2932, the Department of Corrections may provide that up to 180 days of lost credit shall not be restored and up to 90 days of credit shall not be restored for a forfeiture resulting from conspiracy or attempts to commit one of those acts; provided that no credits may be restored if they were forfeited for a serious disciplinary infraction in which the victim died or was permanently disabled. Upon application of the prisoner and following completion of the required time period free of disciplinary offenses, forfeited credits eligible for restoration under the regulations shall be restored unless, at a hearing, it is found that the prisoner refused to accept or failed to perform in a credit qualifying assignment or extraordinary circumstances are present that require that credits not be restored. "Extraordinary circumstances" shall be defined in the regulations adopted by the director.

The prisoner may appeal the finding through the Department of Corrections review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

(d) The provisions of subdivision (c) shall also apply in cases of credit forfeited under Section 2931 for offenses and serious disciplinary infractions occurring on or after January 1, 1983.

SEC. 3. Section 3041 of the Penal Code is amended to read:

- (a) In the case of any prisoner sentenced pursuant to any provision of law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Prison Terms shall meet with each such inmate during the third year of incarceration for the purposes of reviewing the inmate's file, making recommendations, and documenting activities and conduct pertinent to granting or withholding post-conviction credit. One year prior to the inmate's minimum eligible parole release date a panel consisting of at least two commissioners of the Board of Prison Terms shall again meet with the inmate and shall normally set a parole release date as provided in Section 3041.5. The release date shall be set in a manner that will provide uniform terms for offenses of similar gravity and magnitude in respect to their threat to the public, and that will comply with the sentencing rules that the Judicial Council may issue and any sentencing information relevant to the setting of parole release dates. The board shall establish criteria for the setting of parole release dates and in doing so shall consider the number of victims of the crime for which the prisoner was sentenced and other factors in mitigation or aggravation of the crime. At least one commissioner of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole to the full board for an en banc hearing. In case of such a review, a majority vote of the full Board of Prison Terms in favor of parole is required to grant parole to any prisoner.
- . (b) The panel or board shall set a release date unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual, and that a parole date, therefore, cannot be fixed at this meeting.
- (c) For the purpose of reviewing the suitability for parole of those prisoners eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each such prisoner until such time as the person is released pursuant to such proceedings or reaches the expiration of his term as calculated under Section 1170.2.

SEC. 4. Section 5075 of the Penal Code is amended to read:

5075. The Board of Prison Terms shall be composed of nine commissioners, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and until the appointment and qualification of his successor. Commissioners shall be eligible for reappointment.

The chairman of the board shall be designated by the Governor from time to time. The chairman shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. He shall be the appointing authority for all civil service positions of employment in the board.

The terms of the commissioners shall expire as follows: two on March 15, 1978, two on March 15, 1979, two on March 15, 1980, and three on March 15, 1981. Successor commissioners shall hold office for terms of four years, each term to commence on the expiration date of the term of the predecessor. The Governor shall fill every vacancy for the balance of the unexpired term. The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross-section of the racial, sexual, economic, and geographic features of the population of the state.

It is the further intent of this section that the board shall adopt such policies and practices as will permit continuing operations and improvements without any further increase in the number of its commissioners.

SEC. 5. Section 5076 of the Penal Code is amended to read:

5076. Each commissioner of the board shall devote his entire time to the duties of his office and shall receive an annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6. Section 5076.1 of the Penal Code is amended to read:

5076.1. The board shall meet at each of the state prisons at such times as may be necessary for a full and complete study of the cases of all prisoners whose applications for parole come before it. Other times and places of meeting may also be fixed by the board. Each commissioner of the board shall receive his actual necessary traveling expenses incurred in the performance of his official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least five members shall be present, and no such action shall be valid unless it is concurred in by a majority vote of those present.

The board may meet and transact business in panels. Each panel shall consist of at least three persons. No action shall be valid unless concurred in by a majority vote of the persons present.

Consideration of parole release for persons sentenced to life imprisonment pursuant to subdivision (b) of Section 1168 shall be heard by a panel, a majority of whose commissioners are commissioners of the Board of Prison Terms. A recommendation for recall of a sentence under subdivisions (d) and (f) of Section 1170 shall be made by a panel, a majority of whose commissioners are commissioners of the Board of Prison Terms.

The board may employ deputy commissioners to whom it may assign appropriate duties, including that of hearing cases and making decisions. Such decisions shall be made in accordance with policies approved by a majority of the total membership of the board.

# **CHAPTER 1447**

An act to amend Sections 6490 and 25500 of the Elections Code, relating to elections.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 6490 of the Elections Code is amended to read:

6490. No candidate's name shall be printed on the ballot to be used at the direct primary unless the following nomination documents are delivered for filing to the county clerk not less than 88 and not more than 113 days prior to the direct primary:

(a) Declaration of candidacy pursuant to Section 6491.

(b) Nomination papers signed by signers pursuant to Section 6494.

The county clerk shall not accept the nomination documents after 5 p.m. on the 88th day prior to the direct primary.

Upon the receipt of an executed nomination document, the county clerk shall give the person delivering such document a receipt, properly dated, indicating that the document was delivered to the county clerk.

Notwithstanding Section 6490.5, upon request of a candidate, the county clerk shall provide the candidate with a declaration of candidacy and nomination papers. The county clerk shall not require a candidate to sign, file, or sign and file, a declaration of candidacy as a condition of receiving nomination papers.

SEC. 2. Section 25500 of the Elections Code is amended to read: 25500. (a) Each candidate for a party nomination for the office of State Senator or Member of the Assembly, or for any state constitutional office, at the direct primary election shall file a written and signed declaration of his or her intention to become a candidate for his or her party's nomination for that office. The declaration of intention shall be filed with either the Secretary of State or the clerk of the county in which the candidate is a resident. The declaration of intention shall be filed, on a form to be supplied by the county clerk or registrar of voters, not more than 14 nor less than five days prior to the first day on which nomination papers may be presented for filing. However, if the incumbent fails to file a declaration of intention by the end of that period, persons other than the incumbent may file declarations of intention no later than the first day for filing nomination papers. The declaration of intention provided for in this section shall be in substantially the following form:

# Party's nomination for the office of

(Name of office and district, if any) at the direct primary election.		v
	(Signature of candidate)	
	(Address of candidate)	

- (b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for a party nomination for the office of State Senator or Member of the Assembly, or for any state constitutional office, at the direct primary election unless he or she has filed the declaration of intention provided for in this section. However, if the incumbent of the office files a declaration of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of nomination papers, an additional five days shall be allowed for the filing of nomination papers for the office, and any person, other than the incumbent if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he or she has not filed a written and signed declaration of intention to become a candidate for the office as provided in subdivision (a).
- 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 1448

An act to amend Section 43830 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 43830 of the Health and Safety Code is amended to read:

43830. The state board shall establish, by regulation, maximum standards for the volatility of gasoline at nine pounds per square inch Reid vapor pressure as determined by the American Society for Testing and Materials test D 323-58, or by an appropriate test

determined by the state board, for gasoline sold in this state.

The state board, in adopting the regulations, shall give full consideration to climatic conditions and may provide that the maximum standards imposed thereby shall be applicable only during those periods of time and only in those areas which the state board determines necessary in order to carry out the purposes of this division.

Notwithstanding any other law or regulation, until January 1, 1990, any blend of gasoline of at least 10 percent ethyl alcohol is a legal fuel in California if the gasoline used in the blend meets the standard of nine pounds per square inch Reid vapor pressure.

# CHAPTER 1449

An act to amend Sections 25208.3 and 25208.7 of, and to add Section 25208.17 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 25208.3 of the Health and Safety Code is amended to read:

25208.3. (a) On or before July 1, 1985, the state board shall, by emergency regulation, adopt a fee schedule which assesses a fee upon any person discharging any liquid hazardous wastes or containing free liquids into hazardous wastes impoundment, except as provided in Section 25208.17. The state board shall include in this fee schedule the fees charged for applications for, and renewals of, an exemption from Section 25208.5, as specified in subdivision (h) of Section 25208.5, from subdivision (a) of Section 25208.4, as specified in subdivision (b) of Section 25208.4, from subdivision (c) of Section 25208.4 as specified in Section 25208.16, and from Sections 25208.4 and 25208.5, as specified in subdivision (e) of Section 25208.13. The state board shall also include provisions in the fee schedule for assessing a penalty pursuant to subdivision (c). The state board shall set these fees at an amount equal to the state board's and regional board's reasonable and anticipated costs of administering this article.

(b) The emergency regulations which set the fee schedule shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general

- welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the state board.
- (c) The state board shall send a notice to each person subject to the fee specified in subdivision (a). If a person fails to pay the fee within 60 days after receipt of this notice, the state board shall require the person to pay an additional penalty fee. The state board shall set the penalty fee at not more than 100 percent of the assessed fee, but in an amount sufficient to deter future noncompliance, as based upon that person's past history of compliance and ability to pay, and upon additional expenses incurred by this noncompliance.
- (d) The state board shall collect and deposit the fees collected pursuant to this article in the Surface Impoundment Assessment Account, which is hereby created in the General Fund. The money within the Surface Impoundment Assessment Account is available, upon appropriation by the Legislature, to the state board and the regional boards for purposes of administering this article.
- SEC. 2. Section 25208.7 of the Health and Safety Code is amended to read:
- 25208.7. (a) The regional board shall make at least one inspection per year of all facilities with surface impoundments, and shall regularly review monitoring data, as necessary, to ensure that all surface impoundments comply with this article and that any equipment or programs required pursuant to this article are operating properly.
- (b) Except as provided in subdivision (c), each regional board shall establish a schedule and a notification system requiring the submission of reports to the regional board on or before January 1, 1988, by every person discharging liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment located within the jurisdiction of the regional board. Any person discharging liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment who receives this notice from the regional board shall submit a report to the regional board within the time specified in the notice, except that if the person has filed a report with an application for exemption, pursuant to subdivision (c) of Section 25208.5, the regional board shall not require the person to file a report.
- (c) The regional board may require that the report specified in Section 25208.8 be filed by a person who has conducted a site assessment pursuant to subdivision (a) of Section 25208.17 only after the regional board makes the determination specified in subdivision (g) of Section 25208.17.
- SEC. 3. Section 25208.17 is added to the Health and Safety Code, to read:
  - 25208.17. (a) Except as provided in subdivision (g), a person

specified in subdivision (h) is exempt from filing the report required by Section 25208.7 if the surface impoundment has been closed, or will be closed before January 1, 1988, in accordance with Subchapter 15 (commencing with Section 2510) of Chapter 3 of Title 23 of the California Administrative Code, and it has only been used for the discharge of economic poisons, as defined in Section 12753 of the Food and Agricultural Code, and if the person submits an application for exemption to the regional board on or before February 1, 1987, pursuant to subdivision (b) and an initial hydrogeological site assessment report to the regional board on or before July 1, 1987. A qualified person shall be responsible for the preparation of the hydrogeological site assessment report and shall certify its completeness and accuracy.

- (b) A person seeking exemption from Section 25208.7 shall file an application for exemption with the regional board on or before February 1, 1987, together with an initial filing fee of three thousand dollars (\$3,000). The application shall include the names of persons who own or operate each surface impoundment for which the exemption is sought and the location of each surface impoundment for which an exemption is sought.
- (c) Notwithstanding Section 25208.3, each person filing an application for exemption pursuant to subdivision (b) shall pay only the application fee provided in subdivision (b) and any additional fees assessed by the state board to recover the actual costs incurred by the state board and regional boards to administer this section. The person is not liable for fees assessed pursuant to Section 25208.3, except that, if the person is required to comply with Section 25208.7 or 25208.6, the fees assessed under this section shall include the costs of the regional board and state board to administer those sections.
- (d) If a person fails to pay the initial filing fee by February 1, 1987, or fails to pay any subsequent additional assessment pursuant to subdivision (c), the person shall be liable for a penalty of not more than 100 percent of the fees due and unpaid, but in an amount sufficient to defer future noncompliance, as based upon that person's past history of noncompliance and ability to pay, and upon additional expenses incurred by the regional board and state board as a result of this noncompliance.
- (e) Notwithstanding Section 25208.3, after the regional board has made a determination pursuant to subdivision (g), a final payment or refund of fees specified in subdivision (c) shall be made so that the total fees paid by the person shall be sufficient to cover the actual costs of the state board and the regional board in administering this section.
- (f) The hydrogeological site assessment report shall contain for each surface impoundment, all of the following information:
- (1) A description of the surface impoundment, including its physical characteristics, its age, the presence or absence of a liner, a description of the liner, the liner's compatibility with the hazardous wastes discharged to the impoundment, and the design specifications

of the impoundment.

- (2) A description of the volume and concentration of hazardous waste constituents placed in the surface impoundment, based on a representative chemical analysis of the specific hazardous waste type and accounting for variance in hazardous waste constituents over time.
- (3) An analysis of surface and groundwater on, under, and within one mile of the surface impoundment to provide a reliable indication of whether or not hazardous constituents or leachate is leaking or has been released from the surface impoundment.
- (4) A chemical characterization of soil-pore liquid in areas which are likely to be affected by hazardous constituents or leachate released from the surface impoundment, as compared to geologically similar areas near the surface impoundment which have not been affected by releases from the surface impoundment. This characterization shall include:
- (A) A description of the composition of the vadose zone beneath the surface impoundment. This description shall include a chemical and hydrogeological characterization of both the consolidated and unconsolidated geologic materials underlying the surface impoundment, and an analysis for pollutants, including those constituents discharged into the surface impoundment. This description shall also include soil moisture readings from a representative number of points around the surface impoundment's perimeter and at the maximum depth of the surface impoundment. The initial report shall contain all data in tabular form so that data, constituents, and concentrations are readily discernible.
- (B) A determination of the chemical characteristics of the soil made by collecting a soil sample upgradient from the impoundment or from an area which has not been affected by seepage from the surface impoundment and which is in a hydrogeologic environment similar to the surface impoundment. The determinations shall be analyzed for the same pollutants analyzed pursuant to subparagraph (A).
- (5) A description of current groundwater and vadose zone monitoring being conducted at the surface impoundment for leak detection, including detailed plans and equipment specifications and a technical report which provides the rationale for the spatial distribution of groundwater and vadose zone monitoring points for the design of monitoring facilities, and for the selection of monitoring equipment. This description shall include:
- (A) A map showing the location of monitoring facilities with respect to each surface impoundment.
- (B) Drawings and design data showing construction details of groundwater monitoring facilities, including all of the following:
  - (i) Casing and hole diameter.
  - (ii) Casing materials.
  - (iii) Depth of each monitoring well.
  - (iv) Size and position of perforations.

- (v) Method for joining sections of casing.
- (vi) Nature and gradation of filter material.
- (vii) Depth and composition of annular seals.
- (viii) Method and length of time of development.
- (ix) Method of drilling.
- (C) Specifications, drawings, and data for the location and installation of vadose zone monitoring equipment.
- (D) Discussion of sampling frequency and methods and analytical protocols used.
  - (E) Justification of indicator parameters used.
- (6) Documentation demonstrating that the monitoring system and methods used at the facility can detect any seepage before the hazardous waste constituents enter the waters of the state. This documentation shall include, but is not limited to, substantiation of each of the following:
- (A) The monitoring facilities are located close enough to the surface impoundment to identify lateral and vertical migration of any constituents discharged to the impoundment.
- (B) The groundwater monitoring wells are not located within the influence of any adjacent pumping water wells which might impair their effectiveness.
- (C) The groundwater monitoring wells are screened only in the zone of groundwater to be monitored.
- (D) The casing material in the groundwater monitoring wells does not interfere with, or react to, the potential contaminants of major concern at the impoundment.
- (E) The casing diameter allows an adequate amount of water to be removed during sampling and allows full development of each well
- (F) The annular seal of each groundwater monitoring well prevents pollutants from migrating down the well.
- (G) The water samples are collected after at least five well volumes have been removed from the well and that the samples are collected, preserved, transported, handled, analyzed, and reported in accordance with guidelines for collection and analysis of groundwater samples which provide for preservation of unstable indicator parameters and prevent physical or chemical changes which could interfere with detection of indicator parameters.
- (H) The hazardous waste constituents selected for analysis are specific to the facility, taking into account the chemical composition of hazardous wastes previously placed in the surface impoundment.
- (I) The frequency of monitoring is sufficient to give timely warning of any leakage or release of hazardous constituents or leachate so that remedial action can be taken prior to any adverse changes in the quality of the groundwater.
- (7) A written statement from the qualified person preparing the report indicating whether any hazardous constituents or leachate has migrated into the vadose zone, water-bearing strata, or waters of the state in concentrations which pollute or threaten to pollute the

waters of the state.

- (8) A written statement from the qualified person preparing the report indicating whether any migration of hazardous constituents or leachate into the vadose zone, water-bearing strata, or waters of the state is likely or not likely to occur within five years, and any evidence supporting that statement.
- (g) The regional board shall complete a thorough analysis of each hydrogeological site assessment report submitted pursuant to subdivision (b) within one year after submittal. If the regional board, determines that a hazardous waste constituent from the surface impoundment is polluting or threatening to pollute, as defined in subdivision (l) of Section 13050 of the Water Code, both of the following shall occur:
- (1) The regional board shall issue a cease and desist order or a cleanup and abatement order which prohibits any discharge into the surface impoundment and which requires compliance with Section 25208.6.
- (2) The person shall file a report pursuant to Section 25208.7 within nine months after the regional board makes the determination pursuant to subdivision (g). In making any determination under this subdivision, the regional board shall state the factual basis for the determinations.
  - (h) For purposes of this section, person means only the following:
- (1) Pest control operators and businesses licensed pursuant to Section 11701 of the Food and Agricultural Code.
- (2) Local governmental vector control agencies who have entered into a cooperative agreement with the department pursuant to Section 2426.

#### CHAPTER 1450

An act to amend Sections 8208 and 8263 of the Education Code, relating to child care and development.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

- (a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.
- (b) "Alternative payments" includes payments which are made by one child care agency to another agency or child care provider

for the provision of child care and development services, and payments which are made by an agency to a parent for the parent's purchase of child care and development services.

- (c) "Applicant or operating agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.
- (d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or which is clearly in the best interest of the child.
- (e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.
- (f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.
- (g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.
- (h) "Child care and development programs" means those programs which offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:
  - (1) Campus child care and development.
  - (2) General child care and development.
  - (3) Intergenerational child care and development.
  - (4) Migrant child care and development.
  - (5) School-age parenting and infant development.
  - (6) State preschool.
  - (7) Resource and referral.
  - (8) Severely handicapped.
  - (9) Family day care.
  - (10) Alternative payment.
  - (11) Child abuse protection and prevention services.
  - (12) School age community child care.
- (i) "Child care and development services" means those services designed to meet a wide variety of needs of children and their

families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite, including, but not limited to, respite while seeking permanent housing for family stability. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

- (j) "Children at risk of abuse, neglect, or exploitation" means children who are identified as such in a written referral from a legal, medical, social service agency, or emergency shelter.
- (k) "Children with exceptional needs" means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, severely handicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting. Children with exceptional needs who are between the ages of birth and 21 years, inclusive, shall also meet the criteria for that age group specified in Section 56026.
- (l) "Children with special needs" includes infants to the age of two years and 9 months; limited-English-speaking-proficient children; children with exceptional needs; limited-English-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.
- (m) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.
- (n) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.
- (o) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.
- (p) "Severely handicapped children" means children under the age of six years who need intensive special education services and who satisfy the applicable requirements of Section 56026 or 56030.5, and children from ages six to 21 years, inclusive, who meet the criteria established by Section 56030.5. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.
- (q) "Health services" includes, but is not limited to, all of the following:
  - (1) Referral, whenever possible, to appropriate health care

providers able to provide continuity of medical care.

- (2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.
- (3) Health education and training for children, parents, staff, and providers.
- (4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.
- (r) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.
- (s) "Intergenerational staff" means persons of various generations.
- (t) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:
- (1) Having used a language other than English when they first began to speak.
- (2) Having a language other than English predominantly or exclusively spoken at home.
- (u) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.
- (v) "Program director" means a person who, regardless of his or her title has administrative and programmatic responsibility for a child care and development program operated at two or more sites. These persons shall hold a children's center supervision permit, or its equivalent, as specified in Section 8360, or shall demonstrate progress in meeting these requirements by June 1, 1990, as determined by standards established by the Superintendent of Public Instruction and shall have been employed as a program director as of January 1, 1986.
- (w) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.
- (x) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social

services.

- (y) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.
- (z) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall meet the qualifications prescribed by the state licensing regulations for a child care center director. Effective July 1, 1987, these persons shall additionally hold a regular children's center supervision permit, and shall have completed not less than six units of administration and supervision coursework in child development. The Superintendent of Public Instruction may waive the requirements of this subdivision if the superintendment determines that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential.

- (aa) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.
- (bb) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.
- (cc) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.
- (dd) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.
- (ee) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.
- (ff) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:
  - (1) To undertake training in preparation for a job.
  - (2) To undertake or retain a job.
- (3) To undertake other activities which are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of

health problems in the family.

- SEC. 2. Section 8263 of the Education Code is amended to read: 8263. (a) The Superintendent of Public Instruction shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:
- (1) A family shall be (A) a current aid recipient, (B) income eligible, (C) homeless, or (D) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.
- (2) A family shall need the child care service because the child is identified by a legal, medical, social service agency, or emergency shelter as being (A) a recipient of protective services, (B) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (C) having a medical or psychiatric special need which cannot be met without provision of child day care, or the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, (iii) seeking permanent housing for family stability, or (iv) incapacitated, including a medical or psychiatric special need which cannot be met without provision of child day care.
- (b) Priority for state and federally subsidized child development services shall be as follows:
- (1) First priority shall be given to recipients of child protective services for children who are neglected or abused, or at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency. When an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.
- (2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the Superintendent of Public Instruction, shall be admitted first. When two or more families are in the same priority in relation to income, the family which has been on the waiting list for the longest amount of time shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.
- (3) The superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies which wish to serve specific populations, such as handicapped children or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as

long as appropriate fees are paid.

- physical examination and evaluation, age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.
- (d) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or disabled children.
- (e) The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter. No fees shall be assessed for families whose children are enrolled in the state preschool program.
- (f) The superintendent shall establish guidelines for the collection of employer sponsored child care benefit payments from any parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.
- (g) The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.
- (h) No public funds shall be paid directly or indirectly to any agency which does not pay at least the minimum wage to each of its employees.
- SEC. 3. The Legislature finds and declares that the term "child care and development services," as defined in subdivision (i) of Section 8208 of the Education Code, includes needed services for homeless families as specified by this act. The amendments made in subdivision (i) of Section 8208 and Section 8263 of the Education Code pursuant to this act do not constitute a change in, but are declaratory of, existing law.

# CHAPTER 1451

An act to amend Sections 7028.1, 7028.2, 7058.5, 7065.01, and 7118.5 of the Business and Professions Code, to amend Section 49410.7 of the Education Code, to amend Section 66780.5 of the Government Code, to add Section 25143.7 to, and to repeal Section 24223 of, the Health and Safety Code, and to amend Sections 6436, 6501.5, 6501.8, 6501.9, and 6505.5 of, and to add Section 9021.5 to, the Labor Code, relating to asbestos abatement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. The Legislature finds and declares that exposure to friable asbestos poses a significant health and public safety hazard; that the removal of asbestos from buildings must be done in a manner that does not pose a threat to the health and safety of the workers or the public or to the environment; and that it has been determined that, when disposed of properly, asbestos is of little threat to the environment.

- SEC. 1.3. Section 7028.1 of the Business and Professions Code is amended to read:
- 7028.1. Any contractor who performs or engages in asbestos-related work, as defined in Section 6501.8 of the Labor Code, without certification pursuant to Section 7058.5 of this code, is subject to one of the following penalties:
- (a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.
- (b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment.
- SEC. 1.4. Section 7028.1 of the Business and Professions Code is amended to read:
- 7028.1. Any contractor who performs or engages in asbestos-related work, as defined in Section 6501.8 of the Labor Code, without certification pursuant to Section 7058.5 of this code, or who performs or engages in a removal or remedial action, as defined in Section 7058.7 without certification pursuant to Section 7058.7, is subject to one of the following penalties:
- (a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension

of any contractor's license.

- (b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment.
- SEC. 1.5. Section 7028.2 of the Business and Professions Code is amended to read:
- 7028.2. A criminal complaint pursuant to this chapter may be brought by the Attorney General or by the district attorney or prosecuting attorney of any city, in the municipal court of any county in the state with jurisdiction over the contractor or employer, by reason of the contractor's or employer's act, or failure to act, within that jurisdiction. Any penalty assessed by the court shall be paid to the office of the prosecutor bringing the complaint, but if the matter was referred to the prosecutor by the Contractors' State License Board, one-half of the penalty assessed shall be paid to the Contractors' State License Board.
- SEC. 2. Section 7058.5 of the Business and Professions Code is amended to read:
- 7058.5. (a) On and after January 1, 1987, no contractor shall engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, which involves 100 square feet or more of surface area of asbestos containing materials, unless the qualifier for the license passes an asbestos certification examination. Additional updated asbestos certification examinations may be required based on new health and safety information. The decision on whether to require an updated certification examination shall be made by the Contractors' State License Board, in consultation with the Division of Occupational Safety and Health in the Department of Industrial Relations and the State Department of Health Services.

No asbestos certification examination shall be required for contractors involved with the installation, maintenance, and repair of asbestos cement pipe or sheets, vinyl asbestos floor materials, or asbestos bituminous or resinous materials.

"Asbestos" as used in this section, has the same meaning as defined in Section 6501.7 of the Labor Code.

(b) On or after January 1, 1987, and until December 31, 1989, the Contractors' State License Board shall develop, and deliver to all contractors at each renewal thereafter, and to all applicants with the application for a license, a booklet containing information relative to handling and disposal of asbestos, together with an open book examination concerning asbestos-related work. All contractors and applicants for a contractor's license shall complete and sign the open book examination and submit it to the Contractors' State License Board with the required renewal or application forms. On or after January 1, 1990, only applicants for an original license shall complete and sign the open book examination and submit it to the Contractors' State License Board with the required application forms.

- SEC. 3. Section 7065.01 of the Business and Professions Code is amended to read:
- 7065.01. On or before May 15, 1986, the Contractors' State License Board shall develop a written test for the certification of contractors engaged in asbestos-related work. The test shall be developed according to professionally accepted psychometric principles for licensing examinations, and with the assistance of subject matter experts provided by the Division of Occupational Safety and Health, the State Department of Health Services, and subject matter experts selected from the insurance industry, registered professional engineers, asbestos workers in California, and from licensed contractors engaged in asbestos-related work.
- SEC. 4. Section 7118.5 of the Business and Professions Code is amended to read:
- 7118.5. Any person who owns a commercial or industrial building or structure, any employer who engages in or contracts for asbestos-related work, any contractor, public agency, or any employee acting for any of the foregoing, who, either knowingly or negligently, or by reason of a failure to inquire, enters into a contract with another person who is required to be, and is not, certified pursuant to Section 7058.5 to engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, is subject to the following penalties:
- (a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.
- (b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.
- SEC. 5. Section 49410.7 of the Education Code is amended to read:
- 49410.7. (a) For purposes of funding pursuant to Section 39619.9, the factors determining the need for abatement of friable asbestos or potentially friable asbestos shall include, but not be limited to, visual inspection and bulk samples and air monitoring showing an airborne concentration of asbestos in excess of the standard .01 fibers/cc by Transmission Electron Microscopy (TEM) monitoring, as specified in subdivision (b), or the concurrently measured concentration of asbestos in the ambient air immediately adjacent to the building, whichever is higher. For purposes of reconstruction and rehabilitation projects approved pursuant to Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code, air monitoring shall not be required to determine the need for abatement of friable asbestos or potentially friable asbestos.
- (b) For purposes of air monitoring, the operating agency for each public school building in which friable asbestos-containing materials

(other than pipe and block insulation) have been identified shall monitor airborne asbestos levels in each sampling area. Each sampling area in which asbestos-containing materials have been identified shall be monitored for at least eight hours during a period of normal building activity. Analysis of samples shall be by Transmission Electron Microscopy (TEM) methods, in accordance with the Environmental Protection Agency provisional method and update, to measure the number of observable asbestos fibers. The results of this monitoring shall be recorded in terms of the number of visible fibers greater than 5 microns in length per cubic centimeter of air (f/cc) in accord with standard definitions for asbestos monitoring established by the Occupational Safety and Health Administration.

"Sampling area," as used in this section, means any area, whether contiguous or not, within a building that contains friable material that is homogenous in texture and appearance.

- (c) Any public primary or secondary school building in which asbestos abatement work has been performed shall not be reoccupied until air monitoring has been conducted to show that the airborne concentration of asbestos does not exceed the air monitoring standard of subdivision (a). Not less than one month after the reoccupancy of the school building where asbestos abatement work has occurred, the building shall be remonitored to determine compliance with subdivision (b).
- (d) "School building," as used in this section, means any of the following:
- (1) Structures used for the instruction of public school children, including classrooms, laboratories, libraries, research facilities, and administrative facilities.
  - (2) School eating facilities and school kitchens.
- (3) Gymnasiums or other facilities used for athletic or recreational activities or for courses in physical education.
  - (4) Dormitories or other living areas of residential schools.
- (5) Maintenance, storage, or utility facilities essential to the operation of the facilities described in paragraphs (1) to (4).
- (e) School districts and county offices of education may apply for reimbursement from the Asbestos Abatement Fund for the costs of air monitoring completed pursuant to this section.
- SEC. 6. 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 the provisions of Chapter 3 (commencing with Section 66795), which has been reviewed by the board and the State Department of Health Services.
  - (b) 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.

- (c) 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.
- (d) At the next revision of the plan occurring on or after January 1, 1987, the plan shall be revised to indicate the amount of asbestos waste generated in the county from asbestos removal projects and the sites or potential sites which have been designated to accept that waste. If it is concluded that the quantities of asbestos waste are not significant or that there are no sites located within the area covered by the county solid waste management plan where the asbestos waste could feasibly be disposed of, then the plan need not designate sites or potential sites for accepting such waste. If the plan does not designate sites or potential sites for accepting asbestos waste, then it shall identify measures which the county intends to take to secure the availability of sites for that purpose.
- SEC. 6.5. 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 the provisions of 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.
- (e) At the next revision of the plan occurring on or after January 1, 1987, the plan shall be revised to indicate the amount of asbestos waste generated in the county from asbestos removal projects and the sites or potential sites which have been designated to accept that waste. If it is concluded that the quantities of asbestos waste are not significant or that there are no sites located within the area covered by the county solid waste management plan where the asbestos waste could feasibly be disposed of, then the plan need not designate sites or potential sites for accepting such waste. If the plan does not designate sites or potential sites for accepting asbestos waste, then it shall identify measures which the county intends to take to secure the availability of sites for that purpose.
- SEC. 7. Section 24223 of the Health and Safety Code is repealed. SEC. 8. Section 25143.7 is added to the Health and Safety Code, to read:
- 25143.7. Waste containing asbestos may be disposed of at any landfill which has waste discharge requirements issued by the regional water quality control board which allow the disposal of such waste, provided that the wastes are handled and disposed of in accordance with the Toxic Substances Control Act (P.L. 94-469) and all applicable laws and regulations.
  - SEC. 9. Section 6436 of the Labor Code is amended to read:
- 6436. The criminal complaint regarding a violation of Section 6505.5 may be brought by the Attorney General or by the district attorney or prosecuting attorney of any city, in the municipal court of any county in the state with jurisdiction over the contractor or employer, by reason of the contractor's or employer's act or failure to act within that jurisdiction. Any penalty assessed by the court shall be paid to the office of the prosecutor bringing the complaint, but if the case was referred to the prosecutor by the division, or some other governmental unit, one-half of the civil or criminal penalty assessed shall be paid to that governmental unit.
- SEC. 10. Section 6501.5 of the Labor Code is amended to read: 6501.5. Effective January 1, 1987, any employer or contractor who engages in asbestos-related work, as defined in Section 6501.8, and which involves 100 square feet or more of surface area of asbestos-containing material, shall register with the division.

The division may grant registration based on a determination that

the employer has demonstrated evidence that the conditions, practices, means, methods, operations, or processes used, or proposed to be used, will provide a safe and healthful place of employment. This section is not intended to supersede existing laws and regulations under Title 8, California Administrative Code, Section 5208.

An application for registration shall contain such information and attachments, given under penalty of perjury, as the division may deem necessary to evaluate the safety and health of the proposed employment or place of employment. It shall include, but not be limited to, all of the following:

- (a) Every employer shall meet each of the following criteria:
- (1) If the employer is a contractor, the contractor shall be certified pursuant to Section 7058.5 of the Business and Professions Code.
- (2) Provide health insurance coverage to cover the entire cost of medical examinations and monitoring required by law and be insured for workers' compensation, or provide a five hundred dollar (\$500) trust account for each employee engaged in asbestos-related work. The health insurance coverage may be provided through a union, association, or employer.
- (3) Train and certify all employees in accordance with all training required by law and Title 8 of the California Administrative Code.
- (4) Be proficient and have the necessary equipment to safely do asbestos-related work.
- (b) Provide written notice to the division of each separate job or phase of work, where the work process used is different or the work is performed at noncontiguous locations, noting all of the following:
  - (1) The address of the job.
  - (2) The exact physical location of the job at that address.
  - (3) The start and projected completion date.
- (4) The name of a certified supervisor with sufficient experience and authority who shall be responsible for the asbestos-related work at that job.
- (5) The name of a qualified person, who shall be responsible for scheduling any air sampling, laboratory calibration of air sampling equipment, evaluation of sampling results, and conducting respirator fit testing and evaluating the results of those tests.
- (6) The type of work to be performed, the work practices that will be utilized, and the potential for exposure.

Should any change be necessary, the employer or contractor shall so inform the division at or before the time of the change. Any oral notification shall be confirmed in writing.

- (c) Post the location where any asbestos-related work occurs so as to be readable at 20 feet stating, "Danger—Asbestos. Cancer and Lung Hazard. Keep Out."
- (d) A copy of the registration shall be provided before the start of the job to the prime contractor or other employers on the site and shall be posted on the jobsite beside the Cal-OSHA poster.

- (e) The division shall obtain the services of three industrial hygienists and one clerical employee to implement and to enforce the requirements of this section unless the director makes a finding that these services are not necessary or that the services are not obtainable due to a lack of qualified hygienists applying for available positions. Funding may, at the director's discretion, be appropriated from the Asbestos Abatement Fund.
- (f) Not later than January 1, 1987, the Division of Occupational Safety and Health shall propose to the Occupational Safety and Health Standards Board for review and adoption a regulation concerning asbestos-related work, as defined in Section 6501.8, which involves 100 square feet or more of surface area of asbestos-containing material. The regulation shall protect most effectively the health and safety of employees and shall include specific requirements for certification of employees, supervisors with sufficient experience and authority to be responsible for asbestos-related work, and a qualified person who shall be responsible for scheduling any air sampling, for arranging for calibration of the air sampling equipment and for analysis of the air samples by a NIOSH approved method, for conducting respirator fit testing, and for evaluating the results of the air sampling.

The Division of Occupational Safety and Health shall also propose a regulation to the Occupational Safety and Health Standards Board for review and adoption specifying sampling methodology for use in taking air samples.

- SEC. 11. Section 6501.8 of the Labor Code is amended to read: 6501.8. (a) For purposes of this chapter, "asbestos-related work" means any activity which by disturbing asbestos-containing construction materials may release asbestos fibers into the air and which is not related to its manufacture, the mining or excavation of asbestos-bearing ore or materials, or the installation or repair of automotive materials containing asbestos.
- (b) For the purposes of this chapter, "asbestos containing construction material" means any manufactured construction material which contains more than one tenth of 1 percent asbestos by weight.
  - SEC. 12. Section 6501.9 of the Labor Code is amended to read:
- 6501.9. The owner of a commercial or industrial building or structure, employer, or contractor who engages in, or contracts for, asbestos-related work shall make a good faith effort to determine if asbestos is present before the work is begun. The contractor or employer shall first inquire of the owner if asbestos is present in any building or structure built prior to 1978.
- SEC. 13. Section 6505.5 of the Labor Code is amended to read: 6505.5. (a) The division may, upon good cause shown, and after notice to the employer or contractor by the division and an opportunity to be heard, revoke or suspend any registration issued to the employer or contractor to do asbestos-related work until certain specified written conditions are met.

- (b) Any person who owns a commercial or industrial building or structure, any employer who engages in or contracts for asbestos-related work, any contractor, public agency, or any employee acting for any of the foregoing, who, contracts for, or who begins, asbestos-related work in any commercial or industrial building or structure built prior to 1978 without first determining if asbestos-containing material is present, and thereby fails to comply with the applicable laws and regulations, is subject to one of the following penalties:
- (1) For a knowing or negligent violation, a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for not more than six months, or both the fine and imprisonment.
- (2) For a willful violation which results in death, serious injury or illness, or serious exposure, a fine of not more than ten thousand dollars (\$10,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment. A second or subsequent conviction under this paragraph may be punishable by a fine of not more than twenty thousand dollars (\$20,000) or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.
- (3) A civil penalty of not more than two thousand dollars (\$2,000) for each violation, to be imposed pursuant to the procedures set forth in Sections 6317, 6318, and 6319.
- (4) For a willful or repeat violation, a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation.
- (c) It is a defense to an action for violation of this section if the owner, contractor, employer, public agency, or agent thereof, proves, by a preponderance of the evidence, that he or she made a reasonable effort to determine whether asbestos was present.
  - SEC. 14. Section 9021.5 is added to the Labor Code, to read:
- 9021.5. Not later than January 1, 1987, the Division of Occupational Safety and Health shall propose a regulation concerning asbestos-related work, as defined in Section 6501.8, to the Occupational Safety and Health Standards Board for review and adoption so as to protect most effectively the health and safety of employees. The regulation shall also include, but not be limited to, specific work practices and specific requirements for certification of all employees engaged in asbestos-related work, and shall define and specify requirements for certification of asbestos consultants.

This section does not exempt any employer from complying with the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of this code) and regulations adopted thereunder, nor does it exempt any employer from complying with Section 5208 of Title 8 of the California Administrative Code. For products not requiring contractor certification pursuant to subdivision (a) of Section 7058.5 of the Business and Professions Code, training and certification of employees shall be done by the employer.

SEC. 15. Section 1.4 of this bill incorporates amendments to

Section 7028.1 of the Business and Professions Code proposed by both this bill and SB 2575. 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 7028.1 of the Business and Professions Code, and (3) this bill is enacted after SB 2575, in which case Section 7028.1 of the Business and Professions Code, as amended by SB 2575, shall remain operative only until the operative date of this bill, at which time Section 1.4 of this bill shall become operative, and Section 1.3 of this bill shall not become operative.

SEC. 16. Section 6.5 of this bill incorporates amendments to Section 66780.5 of the Government Code proposed by both this bill and AB 1809. 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) each bill amends Section 66780.5 of the Government Code, and (3) this bill is enacted after AB 1809, in which case Section 66780.5 of the Government Code, as amended by Section 6 of this bill, shall remain operative only until the operative date of AB 1809, at which time Section 6.5 of this bill shall become operative.

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, 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.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow school districts which qualify for state funds for asbestos abatement to carry out this asbestos abatement during the December break and in order to allow the Department of Industrial Relations to review the asbestos regulations, which it is currently adopting, in accordance with this act, it is necessary that this act take effect immediately.

#### CHAPTER 1452

An act to amend Section 7436 of, and to repeal and add Section 7332.5 of, the Business and Professions Code, relating to cosmetology.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 7332.5 of the Business and Professions Code is repealed.

- SEC. 2. Section 7332.5 is added to the Business and Professions Code, to read:
- 7332.5. (a) The board shall admit to the examination for a certificate of registration and license as a cosmetology instructor, any person who has made an application to the board in the proper form, who has paid the fee required by this chapter, and who meets the following qualifications:
- (1) Has had at least 600 hours of teacher training in an approved school in this state or equivalent training in an approved school in another state, or one year of practical experience within the previous three years in all branches of cosmetology, except the branch of electrology, in a licensed cosmetological establishment in this state, or equivalent experience in another state.
- (2) Has completed the 12th grade, or an accredited senior high school course of study, in public schools of this state, or has equivalent education.
- (3) Has not committed any acts or crimes constituting grounds for denial of a license under Section 480.
  - (4) Holds a valid California license as a cosmetologist.
- (b) Each applicant shall submit an affidavit signed by his or her employers attesting to his or her experience.
- (c) Each licensed cosmetology instructor shall complete 30 clock hours of continuing education in the teaching of vocational education during each two-year licensing period. This subdivision does not apply to a cosmetology instructor who teaches cosmetology on the campus of a California community college.

For purposes of this subdivision, "teaching of vocational education" means the development of understanding and competency in the learning process, instructional techniques, curriculum and media, instructional evaluation, counseling and guidance, and the special needs of students.

- SEC. 3. Section 7436 of the Business and Professions Code is amended to read:
- 7436. (a) Licenses issued under this chapter, unless specifically excepted, shall be issued for a two-year period and shall expire at midnight on the last day of the month of the date of issuance established by the board.

- (b) The board may establish procedures for administration of a two-year continuous renewal program. The program shall include, but not be limited to, the establishment of a pro rata formula for the payment of fees by licentiates affected by the implementation of that program. The renewal program shall provide that a relatively equal number of licenses expire annually and in a manner as to best distribute the renewal and reregistration work of the board in a uniform manner.
- (c) As a condition for the renewal of the license of a cosmetology instructor the board shall require instructors to periodically demonstrate their current competency in the teaching of vocational education. The requirements shall be reasonable and may include, but not be limited to, completion of continuing education programs approved by the board. The board shall determine the standards for the approval of continuing education programs.

### CHAPTER 1453

An act to amend Sections 42400, 42401, 42402, and 42403 of, and to add Sections 42400.1, 42400.2, 42402.1, 42402.2, and 42405.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 42400 of the Health and Safety Code is amended to read:

- 42400. (a) Except as otherwise provided in Section 42400.1 or 42400.2, any person who violates any provision of this part, or any order, permit, rule, or regulation of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is guilty of a misdemeanor and is subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail for not more than six months, or both.
- (b) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the supervision of, or of any independent contractor working for, any person subject to this part, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor and is punishable as provided in subdivision (a). That liability shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of any action violating any provision of this part.

- (c) The recovery of civil penalties pursuant to Section 42402, 42402.1, or 42402.2, precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.
- (d) Each day during any portion of which a violation of subdivision (a) occurs is a separate offense.
- SEC. 2. Section 42400.1 is added to the Health and Safety Code, to read:
- 42400.1. (a) Any person who negligently emits an air contaminant in violation of any provision of this part or any rule, regulation, or order of the state board or of a district pertaining to emission regulations or limitations is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars (\$10,000) or imprisonment in the county jail for not more than nine months, or both.
- (b) Any person who owns or operates any source of air contaminants in violation of Section 41700 which causes actual injury, as defined in subdivision (c) of Section 42400.2, to the health or safety of a considerable number of persons or the public is guilty of a misdemeanor and is punishable as provided in subdivision (a).
- (c) Each day during any portion of which a violation occurs is a separate offense.
- (d) The recovery of civil penalties pursuant to Section 42402, 42402.1, or 42402.2, precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.
- SEC. 3. Section 42400.2 is added to the Health and Safety Code, to read:
- 42400.2. (a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, or regulation of the state board or of a district pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action within a reasonable period of time under the circumstances, is guilty of a misdemeanor and is subject to a fine of not more than twenty-five thousand dollars (\$25,000) or imprisonment in the county jail for not more than one year, or both.

For purposes of this section, "corrective action" means the termination of the emission violation or the grant of a variance from the applicable order, rule, or regulation pursuant to Article 2 (commencing with Section 42350). If a district regulation regarding process upsets or equipment breakdowns would allow continued operation of equipment which is emitting air contaminants in excess of allowable limits, compliance with that regulation is deemed to be corrective action.

(b) Any person who, knowingly and with intent to deceive,

falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, or order of the state board or of a district, is guilty of a misdemeanor and is punishable as provided in subdivision (a).

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 which causes actual injury to the health or safety of a considerable number of persons or the public, and who knew of the emission and failed to take corrective action, as defined in subdivision (a), within a reasonable period of time under the circumstances, is guilty of a misdemeanor and is punishable as provided in subdivision (a).

As used in this subdivision, "actual injury" means any physical injury which, in the opinion of a licensed physician and surgeon, requires medical treatment involving more than a physical examination.

- (d) Each day during any portion of which a violation occurs constitutes a separate offense.
- (e) The recovery of civil penalties pursuant to Section 42402, 42402.1, or 42402.2, precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.
- SEC. 4. Section 42401 of the Health and Safety Code is amended to read:
- 42401. Any person who intentionally or negligently violates any order of abatement issued by a district pursuant to Section 42450, by a hearing board pursuant to Section 42451, or by the state board pursuant to Section 41505 is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.
- SEC. 5. Section 42402 of the Health and Safety Code is amended to read:
- 42402. (a) Except as otherwise provided in Section 42402.1 or 42402.2, any person who violates any provision of this part, or any order issued pursuant to Section 42316, or any order, permit, rule, or regulation of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is liable for a civil penalty of not more than one thousand dollars (\$1,000).
- (b) There is no liability under subdivision (a) if the person accused of the violation alleges by affirmative defense and establishes that the violation was caused by an act which was not the result of intentional or negligent conduct.
- (c) Each day during any portion of which a violation occurs is a separate offense.
- SEC. 6. Section 42402.1 is added to the Health and Safety Code, to read:
  - 42402.1. (a) Any person who negligently emits an air

contaminant in violation of this part or any rule, regulation, or order of the state board or of a district pertaining to emission regulations or limitations is liable for a civil penalty of not more than ten thousand dollars (\$10,000).

- (b) Any person who owns or operates any source of air contaminants in violation of Section 41700 which causes actual injury, as defined in subdivision (c) of Section 42400.2, to the health or safety of a considerable number of persons or the public is liable for a civil penalty as provided in subdivision (a).
- (c) Each day during any portion of which a violation occurs is a separate offense.
- SEC. 7. Section 42402.2 is added to the Health and Safety Code, to read:
- 42402.2. (a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, or regulation of the state board or of a district pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action within a reasonable period of time under the circumstances, is liable for a civil penalty, of not more than twenty-five thousand dollars (\$25,000).

For purposes of this section, "corrective action" means the termination of the emission violation or the grant of a variance from the applicable order, rule, or regulation pursuant to Article 2 (commencing with Section 42350). If a district regulation regarding process upsets or equipment breakdowns would allow continued operation of equipment which is emitting air contaminants in excess of allowable limits, compliance with that regulation is deemed to be corrective action.

- (b) Any person who, knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, or order of the state board or of a district, is subject to the same civil penalty as provided in subdivision (a).
- (c) Any person who owns or operates any source of air contaminants in violation of Section 41700 which causes actual injury to the health or safety of a considerable number of persons or the public, and who knew of the emission and failed to take corrective action, as defined in subdivision (a), within a reasonable period of time under the circumstances, is subject to a civil penalty as provided in subdivision (a).

As used in this subdivision, "actual injury" means any physical injury which, in the opinion of a licensed physician and surgeon, requires medical treatment involving more than a physical examination.

- (d) Each day during any portion of which a violation occurs is a separate offense.
- SEC. 8. Section 42403 of the Health and Safety Code is amended to read:
  - 42403. The civil penalties prescribed in Sections 42401, 42402,

42402.1, and 42402.2 shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, or by the attorney for any district in which the violation occurs in any court of competent jurisdiction.

In determining the amount assessed pursuant to Sections 42401, 42402, 42402.1, and 42402.2, the court shall take into consideration all relevant circumstances, including, but not limited to, the following:

- (a) The extent of harm caused by the violation.
- (b) The nature and persistence of the violation.
- (c) The length of time over which the violation occurs.
- (d) The frequency of past violations.
- (e) The record of maintenance.
- (f) The unproven or innovative nature of the control equipment.
- (g) Any action taken by the defendant to mitigate the violation.
- (h) The financial burden to the defendant.
- SEC. 9. Section 42405.5 is added to the Health and Safety Code, to read:
- 42405.5. (a) If any state or local government agency provides assistance in the investigation, data collection, or monitoring, preparation, or prosecution of an action to recover civil penalties pursuant to Section 42401, 42402, 42402.1, or 42402.2, and that assistance is provided in coordination with the state board or a district prosecuting the action, that agency shall be reimbursed out of the proceeds of the penalty collected for its costs and expenses incurred in providing the assistance.
- (b) If the penalty collected is insufficient to fully reimburse the state board or district for the costs and expenses incurred in preparing and prosecuting the case and another agency or agencies for the costs and expenses incurred in assisting in the case, the amount collected shall be prorated among the state board or district and the assisting agency or agencies, on the basis of costs and expenses incurred by each.
- (c) This section does not apply where there is an express agreement between the state board or district and another agency or agencies regarding reimbursement for assistance services and expenses.
- SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act and because this act creates new crimes.

# CHAPTER 1454

An act to amend Sections 15200.1, 15200.2, and 15200.3 of the Welfare and Institutions Code, relating to support, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 15200.1 of the Welfare and Institutions Code, as amended by Chapter 1702 of the Statutes of 1984, is amended to read:

15200.1. (a) There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, from which the department shall make payments to each county on any support payments collected or distributed, or both, on or after October 1. 1985, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed between October 1, 1982 and June 30, 1986, inclusive, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter, on collections paid to an aided family in the form of income not included in determining eligibility for assistance pursuant to federal law (so-called "disregards"), on collections paid to an aided family in the form of income included in determining eligibility (so-called "pass-ons" and "excess") and for aid which is entitled to federal matching funds.

(b) In the event that the federal government does not provide the funding for federal financial participation in administrative costs of the child support program as scheduled in P.L. 98-378 at the rate of 70 percent in federal fiscal year 1987, 68 percent in federal fiscal years 1988 and 1989, and 66 percent in federal fiscal year 1990, and thereafter, the department shall provide sufficient incentives, commencing July 1, 1986, to supplant the dollar reduction to federal financial participation.

The state incentive rate shall be determined annually, and the rate shall be applied to collections paid to a nonaided family (non-AFDC incentive) and to distributed collections on aid-related cases (AFDC incentive). The AFDC incentive rate shall include the established base level incentive of 7.5 percent and may be adjusted up to 11.5 percent. The state incentive rate for AFDC and non-AFDC shall apply retroactively to July 1 of each fiscal year.

These incentives shall be paid in addition to the federal AFDC and non-AFDC incentives.

(c) The offset amount shall be the difference between the

estimated dollar reimbursement resulting from the scheduled rates in subdivision (b) and the estimated dollar reimbursement resulting from actual federal financial participation at an incentive rate not in excess of 11.5 percent for collections for an aided family as defined in subdivision (a) and 4 percent for collections paid to a nonaided family. The exact additional state incentive rate, when applied to estimated total collections for the state fiscal year, shall approximately equal in amount the federal reduction to be offset.

- (d) In addition, a county may qualify for an additional incentive payment under Section 15200.7. These funds shall be deposited in the county general fund.
- (e) (1) Where more than one county has participated in the enforcement or collection, the federal and state AFDC incentive payments authorized by this section shall be made to the collecting county except as follows:
- (A) The federal non-AFDC incentive shall be paid to the reporting county making the nonwelfare payments to the family for the period October 1, 1985, to June 30, 1986, inclusive.
- (B) Effective July 1, 1986, the federal and state non-AFDC incentive shall be paid to the appropriate jurisdiction as determined by the State Department of Social Services.
- (f) Where more than one state has participated in the enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.
- (g) Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.
- SEC. 2. Section 15200.2 of the Welfare and Institutions Code, as amended by Chapter 1702 of the Statutes of 1984, is amended to read:
- 15200.2. (a) There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, from which the department shall make payments to California counties, on any interstate support collections collected or distributed, or both, on or after October 1, 1985, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed during the period of October 1, 1982, to June 30, 1986, inclusive, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter, on collections paid to an aided family in the form of income not included in determining eligibility for assistance pursuant to federal law (so-called "disregards") on collections paid to an aided family in the form of income included in determining eligibility for assistance pursuant to federal law (so-called "pass-ons" and "excess") and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7.
  - (b) Effective July 1, 1986, the department shall pay, in addition to

- the federal incentive for AFDC and non-AFDC interstate collections, an increased state AFDC incentive on aid-related interstate collections as defined in subdivision (a) and a state non-AFDC incentive for interstate collections paid to nonaided families.
- (c) The actual state incentive rates shall be calculated annually pursuant to the formula specified in subdivisions (b) and (c) of Section 15200.1.
- (d) The department shall, by regulation, pay the incentive payment to the county distributing the support payment from another state.
- (e) Where a county makes a collection for another state, the department shall make the federal incentive payment to the county making the collection. No state incentive shall be paid on collections made by a county on behalf of another state.
- (f) Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.
- SEC. 3. Section 15200.3 of the Welfare and Institutions Code is amended to read:
- 15200.3. (a) There is hereby appropriated out of any money in the General Fund not otherwise appropriated, amounts from which the department shall make federal incentive payments to each county on nonfederally funded foster care support payments collected or distributed on or after October 1, 1985. The department shall also make payments to the extent and as specified in subdivision (c) to counties on collections distributed between the periods of the effective date of this section, and June 30, 1986, a state incentive of 7.5 percent to be paid on amounts received for nonfederally funded foster care cases, including, but not limited to, collections made pursuant to Sections 903, 903.4, and 903.5. This incentive shall be paid on collections which are used to repay the state share of aid paid pursuant to this chapter which are not entitled to incentives pursuant to Sections 15200.1 and 15200.2.
- (b) Effective July 1, 1986, the department shall pay to counties, in addition to the federal incentive for nonfederally funded foster care, an increased state incentive rate calculated pursuant to the formula specified in subdivisions (b) and (c) of Section 15200.1 on collections used to repay the state's share of aid as described in subdivision (a). The increased state incentive shall be paid to the extent and as specified in subdivision (c) of this section.
- (c) The state incentive provided in subdivisions (a) and (b) for nonfederal foster care cases shall only apply to those statewide collections distributed in a fiscal year in excess of the 1982–83 budget projection. From the excess, 7.5 percent, or the increased incentive, of collections for nonfederal foster care cases shall be set aside for payment of these incentives. At the end of the fiscal year payment to each county of the incentive money shall be in proportion to the

percentage of the total nonfederal cases support collection for the state which each county has distributed. The percentage incentive specified in subdivision (a) shall not exceed the total incentive provided by the state for federal foster care cases at any time but shall automatically be adjusted for any reductions. Any remaining funds shall be credited to offset expenditures for AFDC-FC.

- (d) The Legislature finds and declares that the state incentive provided pursuant to this section is sufficient to reimburse counties for court and all other costs incurred through enforcement of parental liability in nonfederally funded foster care cases.
- 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 this act to be applicable during the entire 1986–87 fiscal year, and so facilitate the orderly administration of the programs to which it relates, it is necessary for this act to take effect immediately.

# CHAPTER 1455

An act to amend Sections 2653 and 2653.5 of the Unemployment Insurance Code, relating to disability insurance.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 2653 of the Unemployment Insurance Code is amended to read:

2653. The maximum amount of benefits payable to an individual during any one disability benefit period shall be 52 times his or her weekly benefit amount, but in no case shall the total amount of the benefits payable be more than the total wages paid to the individual during his or her disability base period. If the benefit is not a multiple of one dollar (\$1) it shall be computed to the next higher multiple of one dollar (\$1).

This section shall apply to periods of disability commencing on or after January 1, 1984, but prior to January 1, 1990.

SEC. 2. Section 2653.5 of the Unemployment Insurance Code is amended to read:

2653.5. The maximum amount of benefits payable to an individual during any one disability benefit period shall be 39 times his or her weekly benefit amount, but in no case shall the total amount of such benefits payable be more than 75 percent of the total wages paid to the individual during his or her disability base period. If the benefit is not a multiple of one dollar (\$1) it shall be computed to the next higher multiple of one dollar (\$1).

This section shall apply to periods of disability commencing prior to January 1, 1984, and on or after January 1, 1990.

SEC. 3. This act shall become operative only if SB 1633 of the 1985–86 Regular Session of the Legislature is chaptered.

### CHAPTER 1456

An act to amend Sections 8208, 8220, and 8265 of the Education Code, relating to child care and development programs.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

- (a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.
- (b) "Alternative payments" includes payments which are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments which are made by an agency to a parent for the parent's purchase of child care and development services.
- (c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.
- (d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or which is clearly in the best interest of the child.
- (e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

- (f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.
- (g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.
- (h) "Child care and development programs" means those programs which offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:
  - (1) Campus child care and development.
  - (2) General child care and development.
  - (3) Intergenerational child care and development.
  - (4) Migrant child care and development.
  - (5) School-age parenting and infant development.
  - (6) State preschool.
  - (7) Resource and referral.
  - (8) Severely handicapped.
  - (9) Family day care.
  - (10) Alternative payment.
  - (11) Child abuse protection and prevention services.
  - (12) School age community child care.
- (i) "Child abuse protection and prevention services" means short-term respite child care provided for the prevention of child abuse, neglect, or exploitation. This care assists families whose children have been identified through written referral from a legal, medical, or social service agency as being neglected, abused, or exploited, or at risk of being neglected, abused, or exploited. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.
- (j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.
- (k) "Children at risk of abuse, neglect, or exploitation" means children who are identified as such in a written referral from a legal, medical, or social service agency.
- (1) "Children with exceptional needs" means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, severely handicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting. Children with exceptional needs who are between the ages of birth

and 21 years, inclusive, shall also meet the criteria for that age group specified in Section 56026.

- (m) "Children with special needs" includes infants to the age of two years and 9 months; limited-English-speaking-proficient children; children with exceptional needs; limited-English-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.
- (n) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.
- (o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.
- (p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.
- (q) "Severely handicapped children" means children under the age of six years who need intensive special education services and who satisfy the applicable requirements of Section 56026 or 56030.5, and children from ages 6 to 21 years, inclusive, who meet the criteria established by Section 56030.5. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.
- (r) "Health services" includes, but is not limited to, all of the following:
- (1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.
- (2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.
- (3) Health education and training for children, parents, staff, and providers.
- (4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.
- (s) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State

University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

- (t) "Intergenerational staff" means persons of various generations.
- (u) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:
- (1) Having used a language other than English when they first began to speak.
- (2) Having a language other than English predominantly or exclusively spoken at home.
- (v) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.
- (w) "Program director" means a person who, regardless of his or her title has administrative and programmatic responsibility for a child care and development program operated at two or more sites. These persons shall hold a children's center supervision permit, or its equivalent, as specified in Section 8360, or shall demonstrate progress in meeting these requirements by June 1, 1990, as determined by standards established by the Superintendent of Public Instruction and shall have been employed as a program director as of January 1, 1986.
- (x) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.
- (y) "Resource and referral programs" are programs which provide services to families seeking child care, and services to the local child care community, as specified in Article 2 (commencing with Section 8210).
- (z) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall meet the qualifications prescribed by the state licensing regulations for a child care center director. Effective July 1, 1987, these persons shall additionally hold a regular children's center supervision permit, and shall have completed not less than six units of administration and supervision course work in child development. The Superintendent of Public Instruction may waive the requirements of this subdivision if the Superintendent determines that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential.

- (aa) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.
- (bb) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full

enrollment of children.

- (cc) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.
- (dd) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.
- (ee) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.
- (ff) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:
  - (1) To undertake training in preparation for a job.
  - (2) To undertake or retain a job.
- (3) To undertake other activities which are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.
  - SEC. 1.5. Section 8208 of the Education Code is amended to read: 8208. As used in this chapter:
- (a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.
- (b) "Alternative payments" includes payments which are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments which are made by an agency to a parent for the parent's purchase of child care and development services.
- (c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.
- (d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or which is clearly in the best interest of the child.

- (e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.
- (f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development

services are provided.

- (h) "Child care and development programs" means those programs which offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:
  - (1) Campus child care and development.
  - (2) General child care and development.
  - (3) Intergenerational child care and development.
  - (4) Migrant child care and development.
  - (5) School-age parenting and infant development.
  - (6) State preschool.
  - (7) Resource and referral.
  - (8) Severely handicapped.
  - (9) Family day care.
  - (10) Alternative payment.
  - (11) Child abuse protection and prevention services.
  - (12) School age community child care.
- (i) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.
- (j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.
- (k) "Children at risk of abuse, neglect, or exploitation" means children who are identified as such in a written referral from a legal, medical, social service agency, or emergency shelter.
- (1) "Children with exceptional needs" means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically

impaired, other health impaired, deaf-blind, multihandicapped, severely handicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting. Children with exceptional needs who are between the ages of birth and 21 years, inclusive, shall also meet the criteria for that age group specified in Section 56026.

- (m) "Children with special needs" includes infants to the age of two years and 9 months; limited-English-speaking-proficient children; children with exceptional needs; limited-English-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.
- (n) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.
- (o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.
- (p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.
- (q) "Severely handicapped children" means children under the age of six years who need intensive special education services and who satisfy the applicable requirements of Section 56026 or 56030.5, and children from ages 6 to 21 years, inclusive, who meet the criteria established by Section 56030.5. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.
- (r) "Health services" includes, but is not limited to, all of the following:
- (1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.
- (2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.
- (3) Health education and training for children, parents, staff, and providers.

- (4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.
- (s) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.
- (t) "Intergenerational staff" means persons of various generations.
- (u) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:
- (1) Having used a language other than English when they first began to speak.
- (2) Having a language other than English predominantly or exclusively spoken at home.
- (v) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.
- (w) "Program director" means a person who, regardless of his or her title has administrative and programmatic responsibility for a child care and development program operated at two or more sites. These persons shall hold a children's center supervision permit, or its equivalent, as specified in Section 8360, or shall demonstrate progress in meeting these requirements by June 1, 1990, as determined by standards established by the Superintendent of Public Instruction and shall have been employed as a program director as of January 1, 1986.
- (x) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.
- (y) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.
- (z) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall meet the qualifications prescribed by the state licensing regulations for a child care center director. Effective July 1, 1987, these persons shall additionally hold a regular children's center supervision permit, and shall have completed not less than six units of administration and supervision course work in child development. The Superintendent of Public Instruction may waive the requirements of this subdivision if the Superintendent determines that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential.

- (aa) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.
- (bb) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.
- (cc) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.
- (dd) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.
- (ee) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.
- (ff) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:
  - (1) To undertake training in preparation for a job.
  - (2) To undertake or retain a job.
- (3) To undertake other activities which are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.
- SEC. 2. Section 8220 of the Education Code is amended to read: 8220. Upon the approval of the State Department of Education, funds appropriated for the purposes of this chapter may be used for alternative payment programs to allow for maximum parental choice. Various methods of reimbursement for parental costs for child care may be utilized. All payment arrangements shall conform to the eligibility criteria and the parent fee schedule established pursuant to Sections 8263 and 8265.

To provide for maximum parental choice, alternative payment programs may include the following:

- (a) A subsidy that follows the family from one provider to another within a given alternative payment program.
- (b) Choices, whenever possible, among hours of service including before and after school, evenings, weekends, and split shifts.
- (c) Child care and development services according to parental choice, including use of family day care homes, general center based programs, and other state-funded programs to the extent that those programs exist in the general service area and are in conformity with the purposes and applicable laws for which those programs were

established, but excluding state preschool programs.

SEC. 3. Section 8265 of the Education Code is amended to read: 8265. (a) The Superintendent of Public Instruction shall implement a plan which establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

Reimbursement shall not exceed actual program costs which are reasonable and necessary and which are within the maximum reimbursable amount. Parent fees shall be used to pay reasonable and necessary costs for providing additional services.

When establishing standards and assigned reimbursement rates, the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

The Superintendent of Public Instruction may establish any regulations he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

- (b) The standard reimbursement rate shall be three thousand five hundred twenty-three dollars (\$3,523) per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.
- (c) The plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.
- (d) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:
  - (1) Loss of program resources from other sources.
- (2) Need of an agency to pay the same child care rates as those prevailing in the local community.
- (3) Increased costs directly attributable to new or different regulations.
- (4) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

Child care agencies funded at the lowest rates shall be given first priority for increases.

- (e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.
- (f) The Superintendent of Public Instruction may reduce the percentage of reduction for any public agency:
  - (1) Which is currently serving more than 400 children; or
  - (2) Which has in effect a collective bargaining agreement; or
  - (3) For which other extenuating circumstances apply as

determined by the Superintendent of Public Instruction.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 8208 of the Education Code proposed by both this bill and AB 3738. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 8208 of the Education Code, and (3) this bill is enacted after AB 3738, in which case Section 1 of this bill shall not become operative.

#### CHAPTER 1457

An act to amend Sections 15254 and 15262 of the Education Code, to amend Sections 75.54, 75.60, 93, 95, 97.65, 213.7, 214.8, 231, 408, 722, 731, 732, 745, 749, 755, 756, 830, 2237.5, 2611.5, and 17053.5 of, to add Sections 75.55, 98.9, 235, 722.5, 723.1, 830.1, 1605.5, and 1817 to, and to repeal Section 757 of, the Revenue and Taxation Code, and to amend Section 4 of Chapter 1485 of the Statutes of 1982, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 15254 of the Education Code is amended to read:

- 15254. This article shall apply only to bonds of a school district which were approved by the electors prior to July 1, 1978, and to bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.
- SEC. 1.3. Section 15262 of the Education Code is amended to read:
- 15262. This article shall apply only to bonds of a school district which were approved by the electors prior to July 1, 1978, and to bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.
- SEC. 1.5. Section 75.54 of the Revenue and Taxation Code is amended to read:
- 75.54. (a) Taxes on the supplemental roll become a lien against the real property on the date of the change in ownership or completion of new construction unless by other provisions of law the taxes are not a lien on real property.
- (b) With respect to taxes which are not a lien on real property that have become delinquent on the supplemental roll, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll for collection of the tax. If taxes which are not a lien on real property remain unpaid at the time set for sale to

the state, following a delinquency in the payment of the second installment of the taxes, the taxes and any penalties and costs thereon shall be transferred to the unsecured roll for collection.

- (c) Notwithstanding subdivision (a), in the event there is a subsequent change in ownership following an initial change in ownership or completion of new construction, which occurs before the mailing of the supplemental tax billing attributable to the initial change in ownership or completion of new construction, then the lien for supplemental taxes is extinguished and that portion of the supplemental assessment attributable to the assessee from the date of the initial change in ownership or completion of new construction to the date of the subsequent change in ownership shall be entered on the unsecured roll in the name of the person who would have been the assessee if the additional change in ownership had not occurred, and thereafter that portion of the tax shall be treated and collected like other taxes on the unsecured roll. The remaining portion of the supplemental tax attributable to the initial change in ownership becomes a lien against the real property on the date of the subsequent change in ownership which lien shall also secure any increase or decrease in supplemental taxes resulting from the determination of the new base year value required to be made following the subsequent change in ownership.
- (d) In lieu of determining, as provided in subdivision (c), the portion of the supplemental assessment attributable to the person who would have been the assessee if the additional change in ownership had not occurred, a county may elect to compute that portion of the supplemental assessment attributable to the assessee from the first day of the month following the date of the initial change in ownership or completion of new construction to the date of the subsequent change in ownership.
- SEC. 2. Section 75.55 is added to the Revenue and Taxation Code, to read:
- 75.55. (a) A county board of supervisors may, by ordinance, provide for the cancellation of any supplemental tax bill in which the amount of taxes to be billed is less than the cost of administration. In no event shall any supplemental tax bill be canceled pursuant to this subdivision if the amount of taxes on that bill exceeds twenty dollars (\$20).
- (b) Notwithstanding this section, no taxable real property shall be exempt from property taxes assessed on the lien date, as provided in Section 2192, unless the property is otherwise exempt under this division.
- SEC. 3. Section 75.60 of the Revenue and Taxation Code is amended to read:
- 75.60. (a) Notwithstanding any other provision of law, the board of supervisors of an eligible county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county, prior to the allocation of property tax revenues

pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the additional revenues which have been collected due to the increased assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

- (b) For purposes of this section:
- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal which are incurred by county auditors, assessors, and tax collectors.
- (2) "Eligible county" means a county which has been certified by the State Board of Equalization as an eligible county. The State Board of Equalization shall certify a county as an eligible county only if the average level of assessment in the county is at least 90 percent of the assessment level required by statute, as determined by the board in the survey made pursuant to Section 15640 of the Government Code and commenced prior to January 1, 1987, or is at least 95 percent of the assessment level required by statute, as determined by the board in the survey made pursuant to Section 15640 of the Government Code and commenced after January 1, 1987. Each certification of a county shall be valid only until the next survey made by the board. If a county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of that survey.
- SEC. 3.5. Section 93 of the Revenue and Taxation Code is amended to read:
- 93. (a) Notwithstanding any other provision of law, except as provided in subdivisions (b) and (c), no local agency, school district, county superintendent of schools, or community college district shall levy an ad valorem property tax, other than that amount which is equal to the amount needed to make annual payments for the interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978 or the amount levied pursuant to Part 10 (commencing with Section 15000) of Division 1 and Sections 39308, 39311, 81338, and 81341 of the Education Code. In determining the tax rate required for the purposes specified in this subdivision, the amount of the levy shall be increased to compensate for any allocation and payment of tax revenues required pursuant to subdivision (b) of Section 33670 and subdivision (d) of Section 33675 of the Health and Safety Code.
- (b) A county shall levy an ad valorem property tax on taxable assessed value at a rate equal to four dollars (\$4) per one hundred dollars (\$100) of assessed value, and at an equivalent rate when the ratio prescribed in Section 401 is changed from 25 percent to 100 percent. The revenue from that tax shall be distributed, subject to the allocation and payment as provided in subdivision (d) of Section 33675 of the Health and Safety Code, to local agencies, school districts, county superintendents of schools, and community college

districts in accordance with the provisions of the Government Code.

- (c) Any jurisdiction may levy an ad valorem property tax rate in the excess of the rate permitted in subdivision (b) in order to produce revenues in an amount which is equal to the amount needed to make annual payments for the interest and principal on any bonded indebtedness for the acquisition or improvement of real property which is approved by a two-thirds vote of its voters after June 4, 1986.
- SEC. 3.6. Section 95 of the Revenue and Taxation Code is amended to read:
  - 95. For the purpose of this chapter,
  - (a) "Local agency" means a city, county, and special district.
- (b) "Jurisdiction" means a local agency, school district, community college district, or county superintendent of schools.

For jurisdictions located in more than one county, the county auditor of each county in which that jurisdiction is located shall, for the purposes of computing the amount for that jurisdiction pursuant to this chapter, treat the portion of the jurisdiction located within that county as a separate jurisdiction.

(c) "Property tax revenue" includes the amount of state reimbursement for the homeowners' exemption.

"Property tax revenue" does not include the amount of property tax levied for the purpose of making payments for the interest and principal on (1) general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of, and Sections 39308 and 39311 and former Sections 81338 and 81341 of the Education Code, and Section 26912.7 of the Government Code, and (2) bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

- (d) "Taxable assessed value" means total assessed value minus all exemptions other than the homeowners' and business inventory exemptions.
- (e) "Jurisdictional change" includes a change of organization, as defined in Section 35027 of the Government Code, an incorporation, as defined in Section 35037 of the Government Code, a municipal reorganization, as defined in Section 35042 of the Government Code, a change of organization, as defined in Section 56028 of the Government Code, a formation, as defined in Section 56042 of the Government Code, and a reorganization, as defined in Section 56068 of the Government Code. "Jurisdictional change" also includes any change in the boundary of those special districts which are not under the jurisdiction of a local agency formation commission.

Jurisdictional change shall also include a functional consolidation where two or more local agencies, except two or more counties, exchange or otherwise reassign functions and any change in the boundaries of a school district or community college district or county superintendent of schools.

- (f) "School entities" means school districts, community college districts, and county superintendents of schools.
- (g) Except as otherwise provided in this subdivision, "tax-rate area" means a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities for the current fiscal year.

In the case of a jurisdictional change pursuant to Section 99, the area subject to the change shall constitute a new tax-rate area, except that if the area subject to change is within the same combinations of local agencies and school entities as an existing tax-rate area, the two tax-rate areas may be combined into one tax-rate area.

- (h) "State assistance payments" means:
- (1) For counties, amounts determined pursuant to subdivision (b) of Section 16260 of the Government Code, increased by the amount specified for each county pursuant to Section 94 of Chapter 282 of the Statutes of 1979, with the resultant sum reduced by an amount derived by the calculation made pursuant to Section 16713 of the Welfare and Institutions Code.
- (2) For cities, 82.91 percent of the amounts determined pursuant to subdivisions (b) and (i) of Section 16250 of the Government Code plus for any city an additional amount equal to one-half of the amount of any outstanding debt as of June 30, 1978, for "museums" as shown in the Controller's "Annual Report of Financial Transactions of Cities for Fiscal Year 1977–78."
- (3) For special districts, 95.24 percent of the amounts received pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code, Section 35.5 of Chapter 332 of the Statutes of 1978, and Chapter 12 of the Statutes of 1979.
- (i) "City clerk" means the clerk of the governing body of a city or city and county.
- (j) "Executive officer" means the executive officer of a local agency formation commission.
- (k) "City" means any city whether general law or charter, except a city and county.
- (l) "County" means any chartered or general law county. "County" includes a city and county.
- (m) "Special district" means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. "Special district" includes the Bay Area Air Quality Management District. "Special district" does not include a city, a county, a school district or a community college district. "Special district" does not include any agency which is not authorized by statute to levy a property tax rate. However, any special district authorized to levy a

property tax by the statute under which the district was formed shall be considered a special district.

- SEC. 3.7. Section 97.65 of the Revenue and Taxation Code is amended to read:
- 97.65. (a) For the 1985–86 fiscal year and each fiscal year thereafter, no jurisdiction shall impose a property tax rate pursuant to subdivision (a) of Section 93, unless it is imposed for one or more of the following purposes:
- (1) To make annual payments for the interest and principal on general obligation bonds approved by the voters before July 1, 1978, and on bonded indebtedness for the acquisition and improvement of real property approved by the voters by a two-thirds vote after June 4, 1986.
- (2) To make payments to the State of California under contracts for the sale, delivery, or use of water entered into pursuant to California Water Resources Development Bond Act in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code or to make payments to the United States or another public agency under voter-approved contracts for the sale, delivery, or use of water or for the repayment of voter-approved obligations for the construction, maintenance, or operation of water conservation, treatment, or distribution facilities, provided that the indebtedness was approved by the voters before July 1, 1978.
- (3) To make payments pursuant to lease-purchase programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.
- (4) To make payments in support of pension programs approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 or 1983–84 fiscal year.
- (5) To make payments in support of paramedic, library, or zoo programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.
- (6) To make payments for the interest and principal on an indebtedness, pursuant to Section 5544.2 of the Public Resources Code, approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 fiscal year.
- (b) In the 1985–86 fiscal year and any fiscal year thereafter, a jurisdiction shall not impose a property tax rate, pursuant to subdivision (a) of Section 93, in excess of the rate it imposed in the 1982–83 or 1983–84 fiscal year. Notwithstanding the limit imposed by this subdivision, a higher property tax rate may be imposed whenever necessary to make payments for any of the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). However, no property tax rate increase in excess of the rate imposed in the 1984–85 fiscal year shall be imposed if the purpose of the rate increase is to fund a reduction in the rates charged for water at the time of the property tax rate increase.
  - (c) Notwithstanding subdivisions (a) and (b), a charter city may

levy an ad valorem property tax rate to make payments in support of a retirement system for fire and police employees if all of the following criteria are met:

- (1) The retirement system is part of the city's charter and was approved by the voters before July 1, 1978.
- (2) The city did not levy a separate ad valorem property tax rate to support the retirement system in the 1983–84 fiscal year.
- (3) The retirement system provides for a cost-of-living adjustment which is indexed to a consumer price index and does not limit the annual increases which may be paid to members after their retirement.
- (4) The retirement system is not currently available to newly hired fire and police employees and will not be available in the future.
- (5) Before January 1, 1985, the city unsuccessfully litigated a limit to the cost-of-living adjustment which may be paid to members of the retirement system after their retirement.
- (6) After July 1, 1985, the city conducted an election and a question authorizing the levying of an ad valorem property tax for the purpose of making payments in support of the retirement system received the affirmative votes of at least 60 percent of those voting on that question.

The proceeds of an ad valorem property tax rate levied pursuant to this subdivision shall be used only to pay for the obligations of a retirement system described by this subdivision. The proceeds shall not be used to finance more than 75 percent of the annual obligations of this retirement system. A city shall not levy an ad valorem property tax pursuant to this subdivision after June 30, 2034.

- (d) If a jurisdiction imposes a rate in excess of the maximum rate authorized by subdivision (a), (b), or (c), the amount of property tax allocated to the jurisdiction pursuant to this chapter shall be reduced by one dollar (\$1) for each one dollar (\$1) of property tax revenue attributable to the excess rate. Any property tax revenue which has been subtracted from a jurisdiction's allocation pursuant to this subdivision shall be allocated to elementary, high school, and unified school districts within the jurisdiction's jurisdiction in proportion to the average daily attendance of each district.
- (e) This section shall be deemed to be a limit on the maximum property tax rate pursuant to Section 20 of Article XIII of the California Constitution.
- SEC. 4. Section 98.9 is added to the Revenue and Taxation Code, to read:
- 98.9. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Section 723, and Section 723.1, which is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756 and shall be allocated within each county as follows:
  - (a) Each tax rate area shall receive an amount equal to the

amount received in the prior fiscal year, unless the total amount of assessed value to be allocated is insufficient, in which case, each tax rate area shall receive a pro rata share of the amount it received in the prior fiscal year.

- (b) If the total amount of assessed value to be allocated is greater than the amount of assessed value allocated in the prior fiscal year, each tax rate area shall receive a pro rata share of the amount in excess of the prior year's assessed value, as follows:
- (1) Each tax rate area shall be allocated an amount not to exceed 2 percent of the amount allocated pursuant to subdivision (a).
- (2) The amount in excess of the amount distributed pursuant to paragraph (1), if any, shall be distributed among all tax rate areas in the county by formula. The amount allocated to each tax rate area shall be the same percentage of the amount of the excess value of the unitary and operating nonunitary property in the county as the percentage of the total locally assessed value and the value of nonunitary property in the tax rate area is of the total value of locally assessed value and the value of nonunitary property is in the county.
- (c) The assessed value of the unitary and operating nonunitary property shall be kept separate for each company throughout the allocation process.
- (d) If a tax rate area is divided, the value of the unitary and operating nonunitary property shall be divided among the resulting tax rate areas in the same proportion that the value of locally assessed property and nonunitary property is divided among the resulting tax rate areas.
- SEC. 5. Section 213.7 of the Revenue and Taxation Code is amended to read:
- 213.7. (a) As used in Section 214, "property used exclusively for religious, hospital, scientific or charitable purposes" shall include the property of a volunteer fire department which is used exclusively for volunteer fire department purposes, provided that the department qualifies for exemption either under Section 23701d or 23701f of this code or under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954. This section shall not be construed to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, but not otherwise qualified for the "welfare exemption" under other provisions of this code.

As used in this section, "volunteer fire department" means any fund, foundation or corporation regularly organized for volunteer fire department purposes, which qualified as an exempt organization on or before January 1, 1969, either under Section 23701d or 23701f of this code or under Section 501(c) (3) or 501(c) (4) of the Internal Revenue Code of 1954, having official recognition and full or partial support of the government of the county, city or district in which such volunteer fire department is located, and which has functions having an exclusive connection with the prevention and extinguishing of fires within the area of the county, city or district

extending official recognition for the benefit of the public generally and to lessen the burdens of the entity of government which would otherwise be obligated to furnish such fire protection.

- (b) For purposes of subdivision (a), an organization shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.
- SEC. 6. Section 214.8 of the Revenue and Taxation Code is amended to read:
- 214.8. (a) Except as provided in Sections 213.7 and 231, the "welfare exemption" shall not be granted to any organization unless it is qualified as an exempt organization under either Section 23701d of this code or Section 501(c)(3) of the Internal Revenue Code of 1954. This section shall not be construed to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(3) of the Internal Revenue Code of 1954 but not otherwise qualified for the "welfare exemption" under other provisions of this code.

The exemption for veterans' organizations shall not be granted to any organization unless it is qualified as an exempt organization under either Section 23701f of this code or under Section 501(c)(4) or 501(c)(19) of the Internal Revenue Code of 1954. This section shall not be construed to enlarge the "veterans' organization exemption" to apply to organizations qualified under Section 501(c)(4) or 501(c)(19) but not otherwise qualified for the "veterans' organization exemption" under other provisions of this code.

- (b) For purposes of subdivision (a), an organization shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.
- SEC. 7. Section 231 of the Revenue and Taxation Code is amended to read:
- 231. (a) Property which is owned by a nonprofit corporation and leased to, and used exclusively by, government for its interest and benefit shall be exempt from taxation within the meaning of "charitable purposes" in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California if:
- (1) All of the provisions of Section 214 are complied with, except subdivision (6). For purposes of subdivision (6) of Section 214, irrevocable dedication to charitable purpose shall be deemed to exist

if the lease provides that the property shall be transferred in fee to the entity of government leasing the same upon the sooner of either the liquidation, dissolution, or abandonment of the owner or at the time the last rental payment is made under the provisions of the lease.

- (2) All of the provisions of Section 254.5 relating to owners are complied with, commencing during calendar year 1969.
- (3) All of the provisions of Section 214.01 are complied with by March 15, 1970.
  - (b) As used in this section "property" means:
- (1) Any building or structure of a kind or nature which is uniquely of a governmental character and includes, but is not limited to, the following:
  - (A) City halls.
  - (B) Courthouses.
  - (C) Administration buildings.
  - (D) Police stations, jails, or detention facilities.
  - (E) Fire stations.
  - (F) Parks or playgrounds.
  - (G) Hospitals.
  - (H) Water systems and waste water facilities.
  - (I) Toll bridges.
- (2) Any other property required for the use and occupation of the buildings and leased to government.
- (3) Any possessory interest of the nonprofit corporation in property and in the land upon which the property was constructed and so much of the surrounding land that is required for the use and occupation of the property.
- (4) Any building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building when such building and equipment is being constructed for the sole purpose of being leased to government to lessen its burden.

"Uniquely of a governmental character" means the property, except hospitals, water systems, waste water facilities and toll bridges, is not intended to produce income or revenue in the form of rents or admission, user or service fees, or charges.

- (c) As used in this section "property" does not include any possessory interest of any person or organization not exempt from taxation.
- (d) As used in this section "nonprofit corporation" means a community chest, fund, foundation or corporation, not conducted for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and such nonprofit corporation is organized and operated for the sole purpose of leasing property to government and to lessen the burden of government and, in fact, only leases property to government. Such nonprofit corporation shall qualify as an exempt organization either under

Section 23701f of this code or Section 501(c) (4) of the Internal Revenue Code of 1954. This subdivision is not intended to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c) (4) of the Internal Revenue Code of 1954 but not otherwise qualified for the "welfare exemption" under this section. Nonprofit corporations meeting the tests of this subdivision are deemed to be organized and operated for charitable purposes.

- (e) As used in this section "government" means the State of California, a city, city and county, county, public corporation, and a hospital district.
- (f) The exemption provided for in this section shall be deemed to be within the "welfare exemption" for purposes of Section 251.
- (g) For leases first entered into by and between government and nonprofit corporation on or after January 1, 1969, all requirements of this section shall be met for the property and the nonprofit corporation to qualify for the exemption provided by this section.
- (h) For leases first entered into by and between government and nonprofit corporation on or before December 31, 1968, all requirements of this section shall be met except that the last unnumbered paragraph of subdivision (b) shall not apply and for the purposes of subdivision (b) (1) the list of real property qualifying for this exemption includes community recreation buildings or facilities, golf courses, airports, water, sewer and drainage facilities, music centers and their related facilities, and public parking incidental to and in connection with one of the buildings or structures set forth in this section.
- (i) Property exempt under this section shall be located within the boundaries of the entity of government leasing the same.
- (j) Where the construction has commenced on or after January 1, 1969, improvements shall be advertised and put to competitive bid to qualify for the exemption provided by this section.
- (k) For purposes of subdivision (d), a nonprofit corporation shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.
- SEC. 8. Section 235 is added to the Revenue and Taxation Code, to read:
- 235. For the purposes of this division, the lessee of tangible personal property owned by a bank or financial corporation shall be conclusively presumed the owner of that property.
- SEC. 9. 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. 10. Section 722 of the Revenue and Taxation Code is amended to read:
- 722. State-assessed property shall be assessed at its fair market value or full value as of 12:01 a.m. on the first day of January. The board shall annually prepare an assessment roll of the assessments made by it for transmittal to county auditors and city auditors as hereinafter provided in this chapter.
- SEC. 11. Section 722.5 is added to the Revenue and Taxation Code, to read:
- 722.5. (a) Real property assessed by the board pursuant to Section 19 of Article XIII of the California Constitution on January 1, which thereafter becomes subject to local assessment, shall not be assessed locally during the remainder of the local assessment year commencing within 60 days after January 1, except as provided in Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1.
- (b) Real property which becomes subject to board assessment pursuant to Section 19 of Article XIII of the California Constitution as the result of a lease, a purchase, a change in ownership, or the creation of a possessory interest after January 1 and before the following March 1 shall be deemed to be subject to board assessment as of January 1.
- (c) Personal property which becomes subject to board assessment after January 1, and real property which becomes subject to board assessment on or after March 1, and on or before the following January 1, shall not be state assessed until the assessment year commencing on the latter January 1.
- SEC. 12. Section 723.1 is added to the Revenue and Taxation Code, to read:
- 723.1. Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee.
- SEC. 12.5. Section 731 of the Revenue and Taxation Code is amended to read:
- 731. Each year between the first day of January and the first day of June, upon valuing the unitary property of an assessee, the board shall mail to the assessee, at its address as shown in the records of the board, a notice stating the amount of the assessed value of the assessee's unitary property. The notice shall advise the assessee of the date by which and the place where a declaration of intent to petition for reassessment, and the date by which and place where a petition for reassessment of the unitary property may be filed. The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing the declaration of intent to petition.
- SEC. 13. Section 732 of the Revenue and Taxation Code is amended to read:

- of June, upon valuing the nonunitary property of an assessee, the board shall mail to the assessee at its address shown in the records of the board a notice stating the amount of the assessed value of the assessee's nonunitary property. The notice shall advise the assessee of the date by which and the place where a declaration of intent to petition for reassessment, and the date by which and place where a petition for reassessment of the nonunitary property may be filed. The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing of the declaration of intent to petition.
- SEC. 14. Section 745 of the Revenue and Taxation Code is amended to read:
- 745. The assessment of the unitary and operating nonunitary property of an assessee shall be allocated to assessments on the roll prepared by the board among the counties in which parts of the unitary and operating nonunitary property are situated. The assessment of the nonunitary property of an assessee shall be placed on the assessment roll prepared by the board.
- SEC. 15. Section 749 of the Revenue and Taxation Code is amended to read:
- 749. Section 743 shall be applicable to hearings on petitions for correction of an allocated assessment and the board shall notify the petitioner of its decision by mail prior to July 31. The decision shall include written findings and conclusions of the board if requested at or prior to the commencement of the hearing.
- SEC. 16. Section 755 of the Revenue and Taxation Code is amended to read:
- 755. On or before July 15, the board shall transmit to each county auditor an estimate of the total unitary value of state-assessed property in the county and of nonunitary state-assessed property in each revenue district in the county. An estimate need not be made for a revenue district that did not levy a tax or assessment during the preceding year unless the board receives on or before January 1 preceding the fiscal year for which the levy is to be made a notice in writing of the proposed levy. The estimate shall be regarded as establishing the total assessed value of state-assessed property in the county and each revenue district in the county for the purpose of determining tax rates, subject only to such changes as may be transmitted on or prior to July 31. All information furnished pursuant to this section is at all times during office hours open to inspection of any interested person or entity.
- SEC. 17. Section 756 of the Revenue and Taxation Code is amended to read:
- 756. On or before July 31, the board shall transmit to each county auditor a roll showing the unitary assessments made by the board in the county and the nonunitary assessments made by the board in each city and revenue district in the county; provided, however, that

the roll need not show the assessments made by the board in a revenue district which did not levy a tax or assessment during the preceding year. Such roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonunitary assessments made by the board in the district.

- SEC. 18. Section 757 of the Revenue and Taxation Code is repealed.
- SEC. 19. 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 March 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 March 1, or by that later date to which the filing period is extended pursuant to Section 830.1, 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 development 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 nonunitary property, the penalty shall be 10 percent of the value of the property.
- (4) If the failure to timely file a property statement is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the assessed value of the estimated assessment shall be added to the assessment. A willful failure to file a property statement as required by Article 5 (commencing with Section 826) shall be deemed to be a willful attempt to evade the tax.
- (5) No penalty added pursuant to paragraph (1), (2), (3), or (4) shall exceed twenty million dollars (\$20,000,000) of full value. In addition, if a penalty has been added pursuant to paragraph (1), (2), or (3), a claim for refund seeking the recovery of that penalty has been filed by the state assessee contesting the penalty within three months of the due date of the second installment, and the state assessee initiates an action in the superior court within one year of the filing of the claim for refund, the board shall not add any further

penalties to any subsequent assessments for failure to comply with any subsequent request seeking information or data with respect to the same issue as set forth in a claim for refund filed within the time limits set forth above, until the year after a final decision of the court, and then only with respect to a failure to comply with a request for information with respect to assessments after a final decision of the court. For purposes of this paragraph, "same issue" means the type of information which is the subject of the disputed request for information.

(b) Any person who subscribes to the board's tax rate area change service and receives a change mailed between April 1 and May 1, shall file a corrected statement no later than May 30 with respect to those parts of the property statement which are affected by the change.

If such person receives a change mailed after May 1, a corrected statement shall be filed no later than the 60th day following the mailing of such change.

- (c) Penalties incurred for filings received after June 30 may be included with the assessments for the succeeding fiscal year.
- (d) If the assessee establishes to the satisfaction of the board that the failure to file the property statement or any of its parts within the time required by this section was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.
- SEC. 20. Section 830.1 is added to the Revenue and Taxation Code, to read:
- 830.1. Notwithstanding Section 15620 of the Government Code, the board, by order entered upon its minutes and for good cause shown, may extend the time fixed for filing portions of the property statement as follows:
- (a) For any part of the property statement relating to the development of the unit value of the operating property, an extension not exceeding 45 days may be granted.
- (b) For any part of the property statement that lists or describes specific operating property, an extension not exceeding 30 days may be granted.
- (c) For any part of the property statement that lists or describes specific nonunitary property, an extension not exceeding 30 days may be granted.
- (d) If an extension is granted pursuant to subdivision (a), (b), or (c), an additional 15-day extension may be granted upon the showing of extraordinary circumstances which prevent the filing of the statement within the first extension.
- SEC. 21. Section 1605.5 is added to the Revenue and Taxation Code, to read:
  - 1605.5. The county board shall hear applications for a reduction

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in an assessment in cases in which the issue is whether or not property has been subject to a change in ownership, as defined in Chapter 2 (commencing with Section 60) of Part 0.5, or has been newly constructed, as defined in Chapter 3 (commencing with Section 70) of Part 0.5.

In any county which has established an assessment appeals board, the board of supervisors may, by ordinance, provide that it shall act as the county board of equalization for the purpose of hearing applications pursuant to this section.

This section shall not be construed to alter, modify, or eliminate the right of an applicant under existing law to have a trial de novo in superior court with regard to the legal issue of whether or not that property has undergone a change in ownership or has been newly constructed so as to require reassessment.

SEC. 22. Section 1817 is added to the Revenue and Taxation Code, to read:

1817. Commencing with the 1987–88 fiscal year and annually thereafter, the board shall determine the statewide and county-by-county ratio of assessed value to fair market value of locally assessed commercial and industrial real property in California. The board shall publish these ratios.

The board shall determine these ratios by sales-assessment ratio studies of commercial and industrial property which has been transferred, which may be supplemented by board appraisals and by review of the amount of new construction added to the assessment rolls each year. The board shall conduct ratio studies in accordance with statistical principles applicable to those studies.

For this purpose, the board and its duly authorized representatives shall have access to all records, public or otherwise, of any county assessor, and further, the board shall prescribe by rules the information which shall be necessary to be developed by the county assessors to enable the board to perform sales-assessment ratio studies and the format in which the data or information shall be transmitted by the county assessors to the board.

SEC. 22.5. Section 2237.5 of the Revenue and Taxation Code is amended to read:

2237.5. For the 1979–80 fiscal year and thereafter, except as provided by subdivision (b) of Section 12 of Article XIII of the Constitution, for purposes of computing tax rates on the unsecured tax roll, the county auditor may add to the 1-percent rate the rate levied on the prior year's secured tax roll for indebtedness approved by the voters prior to July 1, 1978, and bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986, as described in subdivision (b) of Section 1 of Article XIII A of the California Constitution.

SEC. 22.6. Section 2611.5 of the Revenue and Taxation Code is amended to read:

2611.5. The following information shall be included in each county tax bill or in a separate statement accompanying the bill:

- (1) The full value of locally assessed property, including assessments made for irrigation district purposes in accordance with Section 26625.1 of the Water Code.
- (2) The tax rate required by Article XIII A of the State Constitution.
- (3) The rate or dollar amount of taxes levied in excess of the 1-percent limitation to pay for voter-approved indebtedness incurred before July 1, 1978, or bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.
- (4) The amount of any special taxes and special assessments levied.
- (5) The amount of any tax rate reduction pursuant to Section 100 of this code, with the notation: "Tax reduction by (name of jurisdiction)."
- (6) The amount of any exemptions. Exemptions reimbursable by the state shall be separately shown.
  - (7) The total taxes due on the property covered by the bill.
- (8) Instructions on tendering payment, including the name and mailing address of the tax collector.

In any year in which all of the assessments on the local secured roll have been raised or lowered as a result of a board order adopted pursuant to Section 18, Article XIII of the California Constitutuion, the full value may be omitted or, if shown, the tax bill shall include an explanation of the inconsistency of that figure with the equalized value and announced assessment ratio.

SEC. 23. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred thirty-seven dollars (\$137) for married couples, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars (\$60) for other individuals.

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

- (1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (d).
- (2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (d).
- (b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the

entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

- (c) For purposes of this section, a "qualified renter" means an individual who:
  - (1) Was a resident of this state, as defined in Section 17014, and
  - (2) Either—
- (A) On March 1 of the taxable year rented and occupied premises in this state which consituted his or her principal place of residence, or
- (B) Was absent from this state on March 1 as a result of military service, but who rented and resided in premises in this state during 50 percent of the taxable year, including January 1 or December 31.

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

- (d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.
- (e) Every person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.
- (f) The credit provided in this section shall be claimed on returns in that form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432.
- (g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome. The credit shall not be allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

- (h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.
- (i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature and the changes made to subdivisions (a) and (b) of this section by the 1979–80 Legislature, shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter. corporation.
- SEC. 24. Section 4 of Chapter 1485 of the Statutes of 1982 is amended to read:
- Sec. 4. This act shall be operative on the lien date in 1983 and shall be operative to and including the lien date in 1992, after which date it shall be of no further force or effect.
- SEC. 25. The amendments to Sections 213.7, 214.8, and 231 of the Revenue and Taxation Code made by Sections 5, 6, and 7 of this act shall be operative for exemption claims filed for the 1987–88 fiscal year and fiscal years thereafter.
- SEC. 26. The amendments to Section 17053.5 of the Revenue and Taxation Code made by Section 23 of this act do not constitute a change in, but are declaratory of, existing law.
- SEC. 27. The sum of two hundred twenty-two thousand dollars (\$222,000) is hereby appropriated from the General Fund to the State Board of Equalization for the purpose of implementing Section 3 of this act.
- SEC. 28. This act makes a classification or exemption of property for purposes of ad valorem property taxation within the meaning of Section 2229 of the Revenue and Taxation Code.
- SEC. 29. 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 substantial savings and additional revenues as well as costs in this act which, in the aggregate, do not result in additional net costs.

## CHAPTER 1458

An act to add Sections 7508 and 20042.5 to, to add and repeal Section 20013.8 of, 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 public retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 7508 is added to the Government Code, to read:

7508. A retired member of a state retirement system, other than the University of California Retirement System, the Judges' Retirement System, and the State Teachers' Retirement System, may, notwithstanding Section 9359.12, serve on a public board or commission and be entitled to receive for that service, per diem compensation for every day or portion thereof of actual attendance at meetings of the board or commission or any committee thereof, and necessary traveling expenses incurred in connection with the performance of his or her official duties, without loss or interruption of benefits provided by the system, so long as the service does not exceed a total of 50 meeting days.

This section shall not apply to service as a member of a board or commission the annual salary for which is prescribed by Chapter 6 (commencing with Section 11550) of Division 3 of Title 2.

SEC. 2. Section 20013.8 is added to the Government Code, to read:

20013.8. Members with at least 10 years of service credit who, in the opinion of the board, had permanently separated from state service prior to July 1, 1985, may make an irrevocable election to be subject to the Two Tier level of benefits provided for in Section 21251.146 for service rendered as a state miscellaneous member and state industrial member.

The board has no duty to locate or notify any permanently separated member or to provide the name or address of any permanently separated member to any person, agency, or entity for the purpose of notifying those members.

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 20042.5 is added to the Government Code, to read:

20042.5. The provisions of this part extending rights to a member of this system or subjecting him or her to any limitation, by reason of his or her membership in a retirement system established under the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 2 of Title 3), shall also apply to members who terminated state employment and became an employee of a fire district within six months of the termination, and who were employees of the district at the time that the district became subject to the county retirement system.

This section shall only be operative with respect to a county where the board of supervisors has made the provisions of Section 31840.5 of the County Employees Retirement Law of 1937 applicable in that county.

SEC. 4. 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 Return of Contributions Benefit Plan

20540. The board shall investigate the feasibility of developing an additional benefit plan under this part to consist of a return of contributions benefit plan.

The board shall consult with contracting agencies, representatives of employee organizations of contracting agencies, and appropriate legislative staff members in conjunction with this investigation.

- SEC. 5. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.
- SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to secure the expertise of former members of state retirement systems to aid in the solution of California problems, it is necessary that this act take effect immediately.

#### CHAPTER 1459

An act to amend Sections 1250, 1250.1, and 1267.8 of, and to add Section 1265.7 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are

admitted for a 24-hour stay or longer, and includes the following types:

- (a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1. 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.
- (b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.
- (c) "Skilled nursing facility" means a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.
- (d) "Intermediate care facility" means a health facility which provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.
- (e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.
- (f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

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- (h) "Intermediate care facility/developmentally disabled—nursing" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.
- (i) "Congregate living health facility" means a residential home with a capacity of no more than six beds, which provides inpatient care to mentally alert, physically disabled residents, who may be ventilator dependent, and which provides the following basic services: medical supervision, 24-hour skilled nursing and supportive care to residents, including ventilator assisted or dependent residents, all of whom would otherwise require long-term institutional care without this licensure classification and who no longer require care in an acute care facility, as determined by their physicians.
- SEC. 1.5. Section 1250 of the Health and Safety Code is amended to read:
- 1250. As used in this chapter, "health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:
- (a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a

contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

- (b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.
- (c) "Skilled nursing facility" means a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.
- (d) "Intermediate care facility" means a health facility which provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.
- (e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.
- (f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.
- (g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.
- (h) "Intermediate care facility/developmentally disabled—nursing" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.
  - (i) "Congregate living health facility" means a residential home

with a capacity of no more than six beds, which provides inpatient care to mentally alert, physically disabled residents, who may be ventilator dependent, and which provides the following basic services: medical supervision, 24-hour skilled nursing and supportive care to residents, including ventilator assisted or dependent residents, all of whom would otherwise require long-term institutional care without this licensure classification and who no longer require care in an acute care facility, as determined by their physicians.

SEC. 2. Section 1250.1 of the Health and Safety Code is amended to read:

1250.1. The state department shall adopt regulations which define the following bed classifications for health facilities:

- (a) General acute care.
- (b) Skilled nursing.
- (c) Intermediate care-developmental disabilities.
- (d) Intermediate care-other.
- (e) Acute psychiatric.
- (f) Specialized care, with respect to special hospitals only.
- (g) Chemical dependency recovery.
- (h) Intermediate care facility/developmentally disabled habilitative.
  - (i) Intermediate care facility/developmentally disabled nursing.
  - (j) Congregate living health facility.

Except as provided in Section 1253.1, beds classified as intermediate care beds, on September 27, 1978, shall be reclassified by the state department as intermediate care—other. This reclassification shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1, and regulations of the state department governing intermediate care prior to such effective date shall continue to be applicable to the intermediate care—other classification unless and until amended or repealed by the state department.

SEC. 3. Section 1265.7 is added to the Health and Safety Code, to read:

1265.7. (a) The state department shall adopt regulations for the licensure of congregate living health facilities. The regulations shall include minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards for staffing with duly qualified personnel, and training of the staff, and minimum standards for providing the services offered. These regulations shall ensure that residents of these facilities are assured appropriate supportive health services in the most normal, least restrictive physical and rehabilitative environment appropriate to individual resident needs. Regulations developed pursuant to this section shall include licensing fee schedules appropriate to recoup the department's General Fund costs for the licensure program. These fee schedules shall be adjusted annually.

- (b) The state department shall establish an expert advisory committee to assist in the development of the regulations required pursuant to this section. A representative of the department shall act as chairperson of the committee. The members of the expert advisory committee shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the actual performance of their duties. For the purposes of budgeting support for the expert advisory committee, including the expenses of the members of the committee and necessary staff, the committee shall be organizationally located within the state department. To the extent sufficient funds have been appropriated in the Budget Act, the state department may provide staff support to the advisory committee as the state department may deem is necessary for the conduct of the advisory committee's business. The committee shall meet at the director's pleasure until the time as the proposed regulations are presented for adoption at the public hearing.
- SEC. 4. Section 1267.8 of the Health and Safety Code is amended to read:
- 1267.8. (a) An intermediate facility/developmentally care disabled habilitative an intermediate or facility/developmentally disabled—nursing or a congregate living health facility shall meet the same fire safety standards adopted by the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 that apply to community care facilities, as defined in Section 1502, of similar size and with residents of similar age and ambulatory status. No other state or local regulations relating to fire safety shall apply to these facilities and the requirements specified in this section shall be uniformly enforced by state and local fire authorities.
- (b) An intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing or a congregate living health facility shall meet the same seismic safety requirements applied to community care facilities of similar size with residents of similar age and ambulatory status. No additional requirements relating to seismic safety shall apply to such facilities.
- (c) Whether or not unrelated persons are living together, an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons or a congregate living health facility 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 is related to the residential use of property pursuant to this article.

For the purposes of all local ordinances, an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons or a congregate

living health facility shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the intermediate care facility/developmentally disabled habilitative or intermediate care facility/developmentally disabled—nursing or a congregate living health facility is a business run for profit or differs in any other way from a single-family residence.

This section does not forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons or a congregate living health facility as long as such restrictions are identical to those applied to other single-family residences.

This section does not forbid the application to an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing or a congregate living health facility 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, as long as that ordinance does not distinguish intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing or a congregate living health facility from other single-family dwellings and that the ordinance does not distinguish residents of the intermediate care facility/developmentally disabled habilitative or intermediate care facility/developmentally disabled—nursing which serves six or fewer persons or a congregate living health facility from persons who reside in other single-family dwellings.

No conditional use permit, zoning variance, or other zoning clearance shall be required of an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons or a congregate living health facility which is not required of a single-family residence in the same zone.

Use of a single-family dwelling for purposes of an intermediate care facility/developmentally disabled habilitative serving six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons or a congregate living health facility shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section supersedes Section 13143 to the extent these provisions are applicable to intermediate care facility/developmentally disabled habilitative

providing care for six or fewer residents or an intermediate care facility/developmentally disabled—nursing serving six or fewer persons or a congregate living health facility.

- SEC. 5. Section 1.5 of this bill incorporates amendments to Section 1250 of the Health and Safety Code proposed by both this bill and SB 1953. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 1250 of the Health and Safety Code, and (3) this bill is enacted after SB 1953, in which case Section 1 of this bill shall not become operative.
- 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 1460

An act to amend Sections 4201, 4201.5, and 4213 of the Civil Code, relating to marriage.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 4201 of the Civil Code is amended to read: 4201. All persons about to be joined in marriage must first obtain a license therefor, from a county clerk, which license must show all of the following:

- (1) The identity of the parties.
- (2) Their real and full names, and places of residence.
- (3) Their ages.

No license shall be granted when either of the parties, applicants therefor, is an imbecile, is insane, or is, at the time of making the application for the license, under the influence of any intoxicating liquor, or narcotic drug. If the person is under the age of 18 years, no license may be issued by the county clerk unless both parties are capable of consenting to and consummating marriage as provided for in Section 4101 and such consent or consents or court orders, provided for in Section 4102, must be filed by the clerk. Each applicant may be required to present authentic identification as to name. For the purpose of ascertaining all the facts mentioned or required in this section, the clerk, at the time the license is applied for may, if he or she deems it necessary in order to satisfy himself or herself as to matters enumerated in this section, examine the applicants for a license on oath, which examination shall be reduced

to writing by the clerk, and subscribed by them; or, if necessary, the clerk may request additional documentary proof as to the accuracy of the facts stated. Applicants for a license pursuant to this section shall not be required to state, for any purpose, their race or color.

The forms for the application for license to marry and the marriage license shall be prescribed by the State Department of Health Services, and shall be adapted to set forth the facts required in this section.

The application for license form shall include an affidavit on the back which the bride and groom shall sign, affirming that they have received the brochure provided for in Section 4201.5. The affidavit required by this section shall state:

## **AFFIDAVIT**

I acknowledge that I have received the brochure titled	
Signature of Bride	Date
Signature of Groom	Date

SEC. 2. Section 4201.5 of the Civil Code is amended to read: 4201.5. The State Department of Health Services shall prepare and publish a brochure which indicates the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases, and provides information to applicants concerning acquired immune deficiency syndrome (AIDS) informing them of the availability of testing for antibodies to the probable causative agent of AIDS. The State Department of Health Services shall make such brochures available to county clerks who shall distribute a copy of the brochure to all applicants for a marriage license, including applicants for a confidential marriage license and notary publics receiving a confidential marriage license pursuant to subdivision (b) of Section 4213. Each notary public authorizing a confidential marriage under Section 4213 shall distribute a copy of the brochure to applicants for a confidential marriage license. To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 3. Section 4213 of the Civil Code is amended to read:

4213. (a) When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife they may be married by any person authorized to solemnize a marriage under Sections 4205, 4205.1, and 4205.5, without the necessity of first obtaining health certificates. Except as provided in Section 4213.1, a confidential marriage license shall be issued by the county clerk

upon the personal appearance of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code. Any license issued pursuant to this section shall be valid only for a period of 90 days after its issuance and may only be used in the county in which it is issued. The license shall be presented to the person performing the ceremony. Upon performance of the ceremony, the confidential marriage certificate shall be filled out by the parties to the marriage and authenticated by the person performing the ceremony. The certificate shall be filed by the person performing the ceremony with the office of the county clerk in the county in which the license was issued within four days after the performance of the ceremony. Except as provided in Section 4213.2, the county clerk shall maintain the certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause.

Upon performance of the ceremony, the person performing the ceremony shall give a copy of the confidential marriage certificate to the parties who were married. The person performing the ceremony shall also provide the parties who were married with an application for a certified copy of the confidential marriage certificate which shall be filled out by the parties and sent by the person performing the marriage to the county clerk.

The form of the confidential marriage license shall be prescribed by the State Registrar of Vital Statistics. The form shall be designed in a manner such that the parties to be married must declare or affirm that they meet all of the requirements of this section. The form also shall contain a certificate of marriage, which shall be filled out by the parties upon performance of the marriage and authenticated by the person performing the marriage. The form shall include an affidavit on the back, which the husband and wife shall sign, affirming that they have received the brochure provided for in Section 4201.5.

- (b) The county clerk shall issue a confidential marriage license upon the request of a notary public approved by the county clerk to authorize confidential marriages pursuant to subdivision (c) and his or her payment of the fees specified in Sections 26840.1 and 26840.8 of the Government Code. The parties shall reimburse a notary public who authorizes a confidential marriage for the amount of the fees. A confidential marriage license issued by the county clerk to a notary public shall be valid only for a period of 90 days after its issuance by the county clerk and may only be used in the county in which it was issued.
- (c) (1) No notary public shall authorize a confidential marriage pursuant to this section unless he or she is approved by the county clerk to authorize such a marriage pursuant to this subdivision.
- (2) An application for approval to authorize confidential marriages pursuant to this section shall be submitted to the county

clerk in the county in which the notary public who is applying therefor resides. The application shall include all of the following:

- (A) The full name of applicant.
- (B) His or her date of birth.
- (C) His or her current residential address and telephone number.
- (D) The address and telephone number of the place where the applicant will issue authorizations for the performance of a marriage.
- (E) The full name of his or her employer if the applicant is employed by another party.
- (F) Whether or not the applicant has engaged in any of the acts specified in Section 8214.1 of the Government Code.
- (3) The application shall be accompanied by a fee of one hundred seventy-five dollars (\$175). An approval to authorize confidential marriages pursuant to this section shall be valid for one year. The fee for a renewal of an approval is one hundred seventy-five dollars (\$175). Fees received pursuant to this section shall be deposited in a trust fund established by the county clerk, the funds contained in which shall be used exclusively for the administration of the program described in this subdivision.
- (4) If, after an approval to authorize confidential marriages is granted pursuant to this subdivision, it is discovered that the notary public has engaged in any of the actions specified in Section 8214.1 of the Government Code, the approval shall be revoked. In such a case, any fees paid by the notary public may be retained by the county clerk.
- (5) No approval shall be granted pursuant to this subdivision unless the notary public shows evidence of successful completion of a course of instruction concerning the authorization of confidential marriages that shall be conducted by the county clerk. The course of instruction shall not exceed two hours in duration.
- (6) The county clerk shall maintain a list of the notaries public who are approved to authorize confidential marriages. The list shall be available for inspection by the public. It is the responsibility of a notary public approved to authorize confidential marriages pursuant to this subdivision to keep current the information required in subparagraphs (A), (C), (D), and (E) of paragraph (2). This information shall be used by the county clerk to update the list required to be maintained by this paragraph.
- (7) If a notary public who is approved to authorize confidential marriages pursuant to this subdivision is alleged to have violated any of the provisions of this article, the county clerk shall conduct a hearing to determine if the approval of the notary public should be suspended or revoked. The notary public may present such evidence as is necessary in his or her defense. If the county clerk determines that the notary public has violated any of the provisions of this article, the county clerk may place the notary public on probation or suspend or revoke his or her registration. The county clerk shall report the findings of the hearing to the Secretary of State for whatever action the Secretary of State deems appropriate.

- (d) A violation of paragraph (1) of subdivision (c) is a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) or six months in jail.
- (e) The county clerk shall, not less than quarterly, transmit copies of all confidential marriage certificates filed after January 1, 1982, to the State Registrar of Vital Statistics. The registrar may destroy the copies so transmitted after they have been indexed. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this section, but shall not disclose the date of such a marriage.
- (f) The county clerk may conduct a search for a confidential marriage certificate for the purpose of confirming the existence of a marriage; however, the date of the marriage and any other information contained in the certificate shall not be disclosed except upon order of the superior court.
- (g) A party to a confidential marriage may obtain a certified copy of the confidential marriage certificate from the county clerk of the county in which the certificate is filed in any of the following ways:
- (1) By submitting the application for a certified copy of the confidential marriage certificate provided to the parties at the time of the marriage.
- (2) By personally appearing before a notary public or at the county clerk's office in his or her county of residence, producing proper identification, obtaining a certificate attesting to his or her identity from the notary public or county clerk, and transmitting that certificate, together with a request for the certified copy of the confidential marriage certificate, to the county clerk of the county with which the certificate is filed.
- (3) By personally appearing at the county clerk's office where the certificate is filed and producing proper identification.

Copies of a confidential marriage certificate may be issued to the parties to such a marriage upon the payment of a fee equivalent to that charged for copies of a certificate of marriage.

- (h) In the event that a certificate furnished pursuant to this section is lost, damaged, or destroyed after the performance of the marriage and before it is filed, the county clerk may issue a replacement upon the payment of a fee of five dollars (\$5).
  - (i) The affidavit required by subdivision (a) shall state:

## **AFFIDAVIT**

I acknowledge that I have received the brochure titled		
<u> </u>		
	•	
Signature of Wife	Date	
Signature of Husband	Date	

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 1461

An act to add Chapter 1.15 (commencing with Section 199.81) to Part 1 of Division 1 of the Health and Safety Code, relating to schools.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Chapter 1.15 (commencing with Section 199.81) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

## CHAPTER 1.15. AIDS INFORMATION

199.81. The State Department of Education shall provide information to school districts on acquired immune deficiency syndrome (AIDS) and on AIDS-related conditions. This information shall include, but not be limited to, any appropriate methods school employees may employ to prevent exposure to AIDS. This information shall be compiled and updated annually, or if there is new information, more frequently, by the State Department of Education in conjunction with the State Department of Health Services and in consultation with the California Conference of Local Health Officers. In order to reduce costs, this information may be included as an insert with other regular mailings to the extent practicable.

199.82. School districts shall inform their employees annually, or if there is new information, more frequently, of the information compiled by the State Department of Education pursuant to Section 199.81.

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 1462

An act to add Chapter 1.15 (commencing with Section 199.55) to Part 1 of Division 1 of the Health and Safety Code, relating to acquired immune deficiency syndrome, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Chapter 1.15 (commencing with Section 199.55) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

# CHAPTER 1.15. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) VACCINE RESEARCH AND DEVELOPMENT GRANT PROGRAM

199.55. The Legislature finds and declares all of the following:

- (a) Over the past five years AIDS has reached an epidemic stage and is estimated to affect 30,000 Californians by 1990.
- (b) The estimated cost of medical care alone for the 4,000 AIDS cases that have occurred to date in California totals approximately two hundred fifty million dollars (\$250,000,000). By the end of 1990, medical care is projected to approach three billion five hundred million dollars (\$3,500,000,000) and the total public health and medical care expenditures are expected to exceed five billion dollars (\$5,000,000,000).
- (c) There is no cure for the AIDS virus. The long-term solution to the elimination of AIDS lies in conducting vaccine research.
- (d) Much research has already been completed by the private sector and should be utilized to the maximum extent possible, including supplementing with public funds.
- (e) Profitmaking corporations are (1) not eligible for most of the existing public funding sources as are institutions of higher learning and nonprofit corporations; (2) when eligible, the public funding amounts are not adequate to conduct research; and (3) private grants are only available to nonprofit corporations.
- (f) Moreover, private research companies, already having established vaccine development and manufacturing capabilities, are uniquely situated to maximize available resources and to utilize both management and research staff, equipment, and technical innovations to their greatest efficiency towards the specific goal of developing and manufacturing an AIDS vaccine at the earliest possible time.
- (g) Exclusion of private corporations from public funding to develop an approved vaccine will likely result in (1) a delay in the

development of a vaccine to prevent AIDS; (2) continued spread of AIDS to the general population; and (3) continued increases in private and public funds to provide care to AIDS victims.

- (h) An AIDS Vaccine Research and Development Grant Program should be established to encourage AIDS vaccine research by the private sector.
- (i) It is appropriate to mandate that a grant made to a private entity to develop an AIDS vaccine, once the vaccine has been approved by the FDA for use by the general population, should be reimbursed to the state from the sale of such a vaccine.
- 199.56. (a) There is hereby created an AIDS Vaccine Research and Development Grant Program. There is hereby established an AIDS Vaccine Research and Development Grant Fund the moneys in which shall, upon appropriation to the State Department of Health Services, be available for the purposes of this chapter.
  - (b) For the purposes of this chapter:
  - (1) "AIDS" means acquired immune deficiency syndrome.
- (2) "California manufacturer" means a manufacturer with management or officers based in this state and operations for the conduct of research and development of an AIDS vaccine in this state.
- (3) "Committee" means the AIDS Vaccine Research and Development Advisory Committee.
- (4) "Grant" means AIDS vaccine research and development grants.
- 199.57. (a) There is hereby created the AIDS Vaccine Research and Development Advisory Committee within the State Department of Health Services which shall review and make recommendations to the state department regarding the award of the AIDS vaccine research and development grants. The membership of the committee shall be appointed by the State Director of Health Services within 30 days of the effective date of this chapter. The chairman of the committee shall be the State Director of Health Services, or his or her designee.
- (b) The committee shall be composed of the following five members:
  - (1) The State Director of Health Services, or his or her designee.
- (2) An expert in infectious disease and vaccine development to be appointed by the state department.
- (3) The chief physician involved in the treatment of AIDS patients at San Francisco General Hospital, or his or her designee.
- (4) The Chief of the Office of AIDS within the State Department of Health Services, or his or her designee.
- (5) An expert in retro-viruses/AIDS virus research to be appointed by the state department.
- (c) Members of the committee shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter.

- 199.58. (a) The State Department of Health Services shall issue within 60 days of the effective date of this chapter, a request for proposal (RFP) for research and development projects, based on the criteria provided in subdivision (d). Upon issuing the RFP the state department shall publish this fact along with the deadline for grant proposals in the newspapers with the greatest circulation in the major cities of the state, as determined by the state department. Additionally, upon issuing the RFP the same information shall be transmitted to the Secretary of the Senate and the Chief Clerk of the Assembly for publishing in the respective journals of each house of the California Legislature.
- (b) Any California manufacturer may submit a proposal to the RFP for an AIDS vaccine research and development grant to the state department. The proposal shall be submitted to the state department within 90 days of the issuance of the RFP.
- (c) Within 30 days after the proposal deadline, the committee shall review the proposals and make recommendations to the state department. The state department, taking into consideration the committee's recommendations, shall award grants to no more than three California manufacturers within 30 days after receiving the committee's recommendations.
- (d) The state department, making use of an RFP, shall include a clear description of the criteria to be used to select the projects which will receive funding pursuant to this chapter. The committee shall make recommendations to the state department regarding the content of the RFP. The criteria shall include, but not be limited to, the following:
- (1) The potential of the grant recipient to develop a vaccine for AIDS.
- (2) The financial, technical, and managerial committment of the grant recipient to the development of an AIDS vaccine.
- (3) The demonstrated need of the grant recipient for state funding.
- (e) The grants made pursuant to this chapter are not subject to the State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code).
- 199.59. (a) The recipients of the grants shall use the moneys of the grant to develop an AIDS vaccine until the Federal Food and Drug Administration (FDA) approves the clinical testing of an AIDS vaccine on humans. Any grant funds not encumbered or expended at the time of the FDA approval of the clinical testing of an AIDS vaccine on humans shall not be used by the recipients until the state department authorizes further expenditure or requires the funds to be returned to the AIDS Vaccine Research and Development Grant Fund pursuant to subdivision (b).
- (b) If an AIDS vaccine which has received FDA approval for clinical testing on humans has been developed by a grant recipient pursuant to this chapter, then any funds which have been granted to, but not expended or encumbered by, the grant recipient shall be

expended for the clinical testing of the vaccine on humans in accordance with the FDA protocol.

With respect to the other grant recipients, or when none of the recipients have received the FDA approval for the vaccine they are developing, the committee shall meet to consider whether the grant recipient has a good chance of developing a vaccine which will receive FDA approval for clinical testing on humans and shall make recommendations to the state department. If the state department, taking into consideration the committee's recommendations, determines that the grant recipient has a good chance of developing an FDA approved vaccine, it shall inform the grant recipient in writing to continue expending its grant funds for the development of an AIDS vaccine.

If the state department, taking into consideration the committee's recommendations, determines that the grant recipient does not have a good chance of developing a vaccine which will receive FDA approval for clinical testing on humans, it shall inform the recipient in writing that the funds not encumbered or expended, as described in subdivision (a), shall be returned to the state department for deposit in the AIDS Vaccine Research and Development Grant Fund.

Any funds remaining in the AIDS Vaccine Research and Development Grant Fund after the state department's determinations pursuant to this subdivision, shall, in the state department's discretion, either be expended for (1) further support of the clinical trials of a vaccine developed in whole or in part by a grant recipient or for (2) further research and development of a vaccine by a grant recipient who has been permitted, in accordance with this subdivision, to continue expending grant funds for development of a vaccine, or be expended for (3) both purposes. If no grant recipient is conducting clinical trials or developing a vaccine pursuant to this subdivision, then the moneys in the AIDS Vaccine Research and Development Grant Fund shall revert to the General Fund.

199.60. If a California manufacturer that is a grant recipient sells, delivers, or distributes an AIDS vaccine which has received FDA approval for use by the general population and which was developed in whole or in part using a grant awarded pursuant to this chapter, the State of California shall be reimbursed for the grant as provided in this section.

Until the total amount of the grant is repaid, repayments in the amount of one dollar (\$1) per dose from the sale of the AIDS vaccine shall be deposited by the grant recipient into the General Fund. Upon payment in full of the grant amount into the General Fund, a royalty on the sale of the vaccine from the grant recipient shall be deposited into the General Fund. The percentage amount of the royalty shall be negotiated at the time of the grant award.

SEC. 2. A sum not to exceed four million dollars (\$4,000,000), depending on the availability of moneys in the AIDS Vaccine

Research and Development Grant Fund, is hereby appropriated without regard to fiscal years from the AIDS Vaccine Research and Development Grant Fund to accomplish the purposes of Chapter 1.15 (commencing with Section 199.55) of Part 1 of Division 1 of the Health and Safety Code.

- SEC. 3. Notwithstanding any other law, the repayments made in fiscal years 1986–87 and 1987–88 by eligible institutions pursuant to Sections 25410 to 25421, inclusive, of the Public Resources Code shall be deposited in the AIDS Vaccine Research and Development Grant Fund established pursuant to Section 199.56.
- SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the California population from the rapidly spreading AIDS epidemic by facilitating the production of an AIDS vaccine, it is necessary for this act to take effect immediately.

## CHAPTER 1463

An act to add Chapter 1.14 (commencing with Section 199.45) to Part 1 of Division 1 of the Health and Safety Code, relating to acquired immune deficiency syndrome, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Chapter 1.14 (commencing with Section 199.45) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

# CHAPTER 1.14. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS): IMMUNIZATION

- 199.45. The Legislature finds and declares all of the following:
- (a) The rapidly spreading AIDS epidemic poses an unprecedented major public health crisis in California, and threatens, in one way or another, the life and health of every Californian.
- (b) The best hope of stemming the spread of the AIDS virus among the general public is the development of an AIDS vaccine to develop an immunity to exposure.
- (c) No vaccine has yet been fully developed, tested, or approved for AIDS. An effective vaccine, especially when directed at high-risk groups of unexposed persons, will virtually eliminate the risk of

contracting AIDS, just as the risk of contracting polio and smallpox have been virtually eliminated by earlier vaccine development, production, and use among the general public.

- (d) Private industry today has the capability of conducting the vaccine research, biological research, immunology, and genetic engineering of appropriate viral components needed to formulate, develop, produce, and test an AIDS vaccine. Whenever these and other appropriate expertise cannot be found within a single company, the formation of multiinstitutional research groups should be encouraged and prioritized, as it is in the public interest to encourage efforts toward vaccine production.
- (e) It is of the highest importance and in the public interest to maximize public protection by developing an AIDS vaccine and by establishing high levels of immunization, initially among high-risk populations.
- (f) The continuous spread of AIDS and especially the threat of infection spreading among population groups previously considered low-risk demands that the highest of priorities be given to the development of a universal immunoprophylaxis.
- (g) The use of vaccines to control the spread of infectious pathogens is recognized as one of the genuinely decisive technologies of modern medicine. Recent advances in pharmaceutical technology combined with better understanding of the immune process offer the hope of an AIDS vaccine that is effective, safe, relatively inexpensive, and relatively easy to administer.
- (h) Utilization of this new science may be forestalled, however, by problems that have recently deterred the development of vaccines by traditional means. These problems must be resolved before the full public health benefits of new approaches to vaccine development can be fully and expeditiously realized.
- (i) The marketplace conditions facing vaccine manufacturers and developers today have changed considerably over the past 30 years. Private manufacturers and developers of vaccines cannot be forced to produce vaccines, and may choose, under the free enterprise system, not to produce them if marketplace conditions are unfavorable.
- (j) Certain market conditions and other secondary considerations are slowing and threatening to halt the development of an AIDS vaccine. Any delay in the discovery, testing, approval, and production of the vaccine because of these secondary considerations may cost tens of thousands of human lives annually, unnecessary pain and suffering for hundreds of thousands of infected Americans, and billions of dollars in medical costs and in lost productivity.
- (k) Resource constraints in the public and private sectors and the time required to bring vaccines to market presently limit investments in vaccines research and development. Although universities constitute a significant resource in AIDS research in particular and vaccines research in general, university funding

limitations and conflicting research priorities make reliance on the resources and expertise of the private pharmaceutical industry a necessary supplement to public funding of AIDS research.

- (l) There has been a decrease in the willingness of pharmaceutical companies to become involved in vaccine research, development, and manufacturing because of uncertain profitability and perceived and actual marketplace risks and disincentives.
- (m) It is clearly in the public interest to provide appropriate and necessary incentives toward the timely development and production of an effective and safe AIDS vaccine.
- (n) The development of an AIDS vaccine provides an exceptionally important benefit, making its availability highly desirable. However, certain conditions may preclude that development, including the following:
- (1) There is a high cost for capital expenditures for vaccine development (estimated to be from ten million dollars (\$10,000,000) to thirty million dollars (\$30,000,000)). Testing costs of clinical trials (twenty million dollars (\$20,000,000) per vaccine, by some estimates) are particularly burdensome, especially for smaller firms.
- (2) There is an uncertain market demand for a vaccine once development costs have been invested and FDA marketing approval has been secured.
- (3) Manufacturers report that the management decision to go forward with the significant financial investment necessary to the development and approval of an AIDS vaccine is negatively influenced by the potentially disastrous and uncertain risk posed by the application of strict product liability on such a product, regardless of the public benefit that would result from such a vaccine.
- (o) Without state intervention to assure minimal profitability of an AIDS vaccine, inadequate incentives may exist for the private sector to commit resources and expertise to the accelerated development of an AIDS vaccine.
- (p) Secondary considerations impeding the immediate development of an AIDS vaccine must be immediately removed.
- (q) In light of the dangers inherent in the AIDS epidemic to the general public of California, it is crucial that to the extent possible any serious obstacles to the development of such a vaccine be removed.
- (r) Because an AIDS vaccine provides an exceptionally important public benefit, it is in the public interest to take uncommon action to facilitate the development and production of such a vaccine.
- (s) It is as well in the public interest to assure fair compensation, if necessary at public expense, to any innocent victim who may be injured by an AIDS vaccine, as a part of implementing the socially beneficial policy of establishing high levels of AIDS immunization.
- (t) In light of the high incidence of AIDS amongst Californians, the California Legislature must lead our country into the 20th century in this effort.
  - (u) It is therefore fitting and proper that the State of California

enact uncommon and exceptional legislation in order to assure the removal of the obstacles to the speedy development of a vaccine to prevent the further spread of the AIDS epidemic.

- 199.46. The Legislature further finds and declares all of the following:
- (a) Acquired immune deficiency syndrome (AIDS) is caused by the virus human T-cell lymphotropic virus, type III (HTLV-3) which initially cripples the body's immune system and eventually leaves the body open to an array of lethal opportunistic infections.
- (b) So far, there is no known cure for AIDS and once a person is AIDS infected, the virus remains throughout the rest of his or her life.
- (c) The AIDS virus has a three-to-seven year incubation period, making it one of the most difficult diseases to combat and trace.
- (d) An easily administered blood test can determine whether a person has been exposed to the AIDS virus.
- (e) In 1979, when AIDS was first diagnosed in the United States, the number of newly diagnosed victims was doubling every six to nine months; today the number of people diagnosed with AIDS doubles each year.
- (f) Nationally, between 500,000 and 2,000,000 Americans are estimated to have been exposed to the AIDS virus. Of those exposed, between 25,000 and 500,000 persons (5 percent-25 percent) may be expected to die of AIDS.
- (1) Another 25,000 to 500,000 persons may be expected to develop AIDS Related Complex (ARC). The range of illnesses these individuals will suffer from may range from minor ailments to brain damage.
- (2) The remaining majority of those exposed may never suffer its consequences, but may carry and transmit the disease unknowingly.
- (3) Some experts estimate as many as 1,000 additional people are exposed daily.
- (g) The State Department of Health Services, in its report to the Legislature (March 1986) estimated conservatively that over 30,000 Californians shall have contracted AIDS by 1990, about 50 percent having succumbed. The disease is believed to be fatal within 18 months of diagnosis. To date, more than half the 16,000 people with AIDS in the United States have died.
- (h) The AIDS virus is transmitted primarily through sexual contact, and also through the sharing of hypodermic needles, contaminated blood transfusions, and during pregnancy to the fetus.
- (i) While the earliest spread of the AIDS virus was primarily among homosexuals, the virus is now found and spreading among heterosexuals as well.
- (j) Additionally, drug abusers are highly susceptible to the AIDS virus since the drugs diminish the ability of the body's immune system to function. Intravenous drug abusers traditionally come into contact with the virus from sharing hypodermic needles.
- (k) Persons sexually active in the heterosexual community are also at risk. Until a vaccine is developed, the AIDS virus will cross

- over from the high-risk groups to the lower risk groups. At this time, it is not known how fast the AIDS virus will penetrate other population groups, but it is not expected to be nearly as rapid. To date, partners of high-risk groups (bisexual men and intravenous drug users) are considered the main means of transmitting the AIDS virus to the heterosexual population. Other means include pregnant women who pass the infection on to the child and prostitutes who pass on the infection to their clients.
- (1) Of the first 9,000 AIDS cases diagnosed in the United States, almost 1,000 were women. Fourteen percent of these women developed AIDS through sexual contact. Recent studies have demonstrated that the virus can be transmitted by women to their male sexual partners. Sexual contact with an infected partner may transmit the virus and fatally infect the partner.
- 199.47. The Legislature further finds and declares all of the following:
- (a) The average cost per patient in the treatment of AIDS until death is now one hundred fifty thousand dollars (\$150,000). It is estimated that total costs including health care of the first 10,000 AIDS cases in the United States totaled more than six billion three hundred million dollars (\$6,300,000,000). By 1990, according to the State Department of Health Services, Californians will spend almost five billion dollars (\$5,000,000,000) in medical costs alone in care and treatment of 30,000 AIDS patients, with no realistic hope for their remission or cure. This cost does not include money spent on education, research, and lost income.
- (b) To date, the costs of caring for people with AIDS related complex (ARC) has not been officially calculated. However, it is safe to assume the costs are substantial over time. Experts fear that the illnesses of ARC patients, although they may not be fatal, are severe. For example, the virus invades the brain rendering the patients incapable of caring for themselves. It is, therefore, plausible that a percentage of ARC patients will need to be institutionalized.
- (c) The Legislature intends by this chapter to take uncommon action to remove the impediments to the expeditious development of an AIDS vaccine.
- (d) It is further the intent of the Legislature to provide to any person, whose injury is proximately caused by the use of the vaccine, except to the extent the injuries are attributable to the comparative negligence of the claimant in the use of the vaccine, all of the following:
- (1) Compensation for related medical costs associated with the care and treatment of the injury.
- (2) Compensation for the loss of any and all earnings caused by the injury.
- (3) Compensation for pain and suffering caused by the injury, except that in no action shall the amount of damages for noneconomic losses exceed five hundred fifty thousand dollars (\$550,000).

- (e) It is further the intent of the Legislature to establish the AIDS Clinical Trials Testing Fund which will be available to not more than three California manufacturers of an AIDS vaccine approved by the federal Food and Drug Administration (FDA) for clinical trials with humans. The funds are to be appropriated to the sites specified in the FDA approved protocol for administering the clinical trials.
- 199.48. "State," as used in this chapter, has the same meaning as set forth in Section 900.6 of the Government Code.
- 199.49. (a) (1) Except as provided in paragraph (2), a manufacturer of an FDA-approved AIDS vaccine that is sold, delivered, administered, or dispensed in California shall be liable for all damages proximately or legally caused by that AIDS vaccine.
- (2) A manufacturer of an FDA-approved AIDS vaccine that is sold, delivered, administered, or dispensed in California, shall not be liable in strict products liability for any damages proximately or legally caused by any design or warning defect of the AIDS vaccine, or for breach of implied warranty, if, upon motion and after the hearing provided in subdivision (b), the trial judge determines that the subject AIDS vaccine is unavoidably dangerous. For purposes of this section, an AIDS vaccine is unavoidably dangerous if the trial judge determines that all three of the following criteria are met:
- (A) At the time of distribution, the vaccine was intended to confer an exceptionally important benefit on society that made its availability highly desirable.
- (B) At the time of distribution, the then-existing risk posed by the vaccine was both substantial and unavoidable.
- (i) In determining whether the risk posed by the vaccine was substantial, the court shall consider whether the risk posed permanent or long-term disability as opposed to temporary or insignificant inconvenience.
- (ii) In determining whether the risk posed was unavoidable, the court shall consider whether the vaccine was designed to minimize, to the extent scientifically knowable at the time it was distributed, the risk inherent in the vaccine, and also, the availability, at the time of distribution, of an alternative AIDS vaccine or product that would have as effectively accomplished the full intended purpose of the subject vaccine.
- (C) At the time of distribution, the interest in availability of the subject AIDS vaccine outweighed the interest in promoting enhanced accountability through either strict products liability design and warning defect, or implied warranty, review.
- (3) For purposes of this section, it shall be conclusively presumed that any FDA-approved AIDS vaccine that is sold, delivered, administered, or dispensed in California is intended to confer an exceptionally important benefit on society that makes its availability highly desirable.
- (b) In any civil action governed by the provisions of this section, the defendant manufacturer shall, upon motion be entitled to a determination of whether the subject AIDS vaccine is unavoidably

dangerous within the meaning of subdivision (a). The manufacturer shall have the burden of proving by a preponderance of the evidence all the criteria established in paragraph (2) of subdivision (a) except as to those matters for which a presumption exists.

(c) In enacting this section, it is the intent of the Legislature to codify, in part, certain portions of the court ruling in Kearl v. Lederle Laboratories, 172 Cal. App. 3d 812.

This section is intended with respect to design and warning defect only, to deny recovery under strict liability, whether based upon theories of strict liability, implied warranty, or any other theory of liability without fault. For purposes of this section, breach of express warranty shall not be affected by a finding of "unavoidably dangerous."

This section is not intended to, nor shall it be construed to, repeal, modify, or otherwise preclude any recovery based on negligence or fault, or any theory of liability except this section is intended, with respect to design and warning defect only, to deny recovery under strict liability, whether based upon theories of strict liability, implied warranty, or any other theory of liability without fault.

For purposes of this section, "unavoidably dangerous" means unavoidably unsafe. It is the intent of the Legislature that the terms "unavoidably dangerous" and "unavoidably unsafe" may be used interchangeably.

This section does not apply to any other vaccine, drug, or similar product, other than an FDA-approved AIDS vaccine that is sold, distributed, administered, or dispensed in California, and does not apply to any manufacturer of any vaccine, drug, or similar product, other than a manufacturer of an FDA-approved AIDS vaccine that is sold, distributed, administered, or dispensed in California.

- 199.50. (a) There is hereby created the AIDS Vaccine Victims Compensation Fund.
  - (b) For the purposes of this section:
- (1) "AIDS vaccine" means a vaccine which (A) has been developed by any manufacturer and (B) is approved by the FDA as a safe and efficacious vaccine for the purpose of immunizing against AIDS.
  - (2) "Board" means the State Board of Control.
- (3) "Damages for personal injuries," means the direct medical costs for the care and treatment of injuries to any person, including a person entitled to recover damages under Section 377 of the Code of Civil Procedure, proximately caused by an AIDS vaccine, the loss of earnings caused by the injuries, and the amount necessary, but not to exceed five hundred fifty thousand dollars (\$550,000), to compensate for noneconomic losses, including pain and suffering caused by the injuries.
- (4) "Fund" means the AIDS Vaccine Victims Compensation Fund.
- (c) The board shall pay from the fund, contingent entirely upon the availability of moneys as provided in subdivision (o), damages for

personal injuries caused by an AIDS vaccine that is sold in or delivered in California, and administered or dispersed in California to the injured person except that no payment shall be made for any of the following:

- (1) Damages for personal injuries caused by the vaccine to the extent that they are attributable to the comparative negligence of the person making the claim.
- (2) Damages for personal injuries in any instance in which the manufacturer has been found to be liable for such injuries in a court of law.
- (3) Damages for personal injuries due to a vaccination administered during a clinical trial.
- (d) An application for payment of damages for personal injuries shall be made on a form prescribed by the board, which application may be required to be verified, within one year of the date that the injury and its cause are discovered. Upon receipt, the board may require the submission of additional information necessary to evaluate the claim.
- (e) (1) Within 45 days of the receipt of the application and the submission of any additional information, the board shall do either of the following:
  - (A) Allow the claim in whole or part.
  - (B) Disallow the claim.
- (2) In those instances of unusual hardship to the victim, the board may grant an emergency award to the injured person to cover immediate needs upon agreement by the injured person to repay in the event of a final determination denying the claim.
- (3) If the claim is denied in whole or part, the victim may apply within 60 days of denial for a hearing. The hearing shall be held within 60 days of the request for a hearing unless the injured person requests a later hearing.
- (f) At the hearing the injured person may be represented by counsel and may present relevant evidence as defined in subdivision (c) of Section 11513 of the Government Code. The board may consider additional evidence presented by its staff. If the injured person declines to appear at the hearing, the board may act solely upon the application, the staff report, and other evidence that appears on the record.
- (g) The board may delegate the hearing of applications to hearing examiners.
- (h) The decision of the board shall be in writing and shall be delivered or mailed to the injured person within 30 days of the hearing. Upon the request by the applicant within 30 days of delivery or mailing, the board may reconsider its decision.
- (i) Judicial review of a decision shall be under Section 1094.5 of the Code of Civil Procedure, and the court shall exercise its independent judgment. A petition for review shall be filed as follows:
- (1) If no request for reconsideration is made, within 30 days of personal delivery or mailing of the board's decision on the

application.

- (2) If a timely request for reconsideration is filed and rejected by the board, within 30 days of personal delivery or mailing of the notice of rejection.
- (3) If a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 days of personal delivery or mailing of the final decision on the reconsidered application.
- (j) The board shall adopt rules and regulations to implement this section, including those governing discovery.
- (k) The fund is subrogated to any right or claim that any injured person may have who receives compensation pursuant to this section, or any right or claim that such person's personal representative, legal guardian, estate, or survivor may have, against any third party who is liable for the personal injuries caused by the AIDS vaccine, including any manufacturer who is liable under Section 199.49, and the fund shall be entitled to indemnity from that third party. The fund shall also be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured person.
- (1) In the event that the injured person, or his or her guardian, personal representative, estate, or survivors, or any of them, bring an action for damages against the person or persons liable for the injury or death giving rise to an award by the board under this section, notice of institution of legal proceedings and notice of any settlement shall be given to the board in Sacramento except in cases where the board specifies that notice shall be given to the Attorney General. All notices shall be given by the attorney employed to bring the action for damages or by the injured person, or his or her guardian, personal representative, estate, or survivors, if no attorney is employed.
- (m) This section is not intended to affect the right of any individual to pursue claims against the fund and lawsuits against manufacturers concurrently, except that the fund shall be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured party by the fund.
- (n) There is hereby created the AIDS Vaccine Injury Compensation Policy Review Task Force consisting of 14 members. The task force shall be composed of 10 members appointed by the Governor, of which two shall be from a list provided by the California Trial Lawyers Association, one from the State Department of Health Services, the Director of Finance, one unspecified member, and one attorney with experience and expertise in products liability and negligence defense work, two representing recognized groups which represent victims of vaccine induced injuries or AIDS victims, or both, and two representing manufacturers actively engaged in developing an AIDS vaccine. In addition four Members of the Legislature or their designees shall be appointed to the task force, two of which shall be appointed by the Speaker of the Assembly and two of which shall be appointed by the Senate Rules Committee. The

chairperson of the task force shall be appointed by the Governor from the membership of the task force. The task force shall study and make recommendations on the legislative implementation of the fund created by subdivision (a). These recommendations shall at least address the following issues:

- (1) The process by which victims are to be compensated through the fund.
- (2) The procedures by which the fund will operate and the governance of the fund.
- (3) The method by which manufacturers are to pay into the fund and the amount of that payment.
- (4) The procedural relationship between a potential victim's claim through the fund and a court claim made against the manufacturer.
  - (5) Other issues deemed appropriate by the task force.

The task force shall make its recommendations to the Legislature on or before June 30, 1987.

- (o) The fund shall be funded wholly by a surcharge on the sale of an FDA-approved AIDS vaccine in California in an amount to be determined by the State Department of Health Services. The surcharge shall be levied on the sale of each unit of the vaccine sold or delivered, administered, or dispensed in California. The appropriate amount of the surcharge shall be studied by the AIDS Vaccine Injury Compensation Policy Review Task Force which shall recommend the appropriate amount as part of its report, with the amount of the surcharge not to exceed ten dollars (\$10) per unit of vaccine. Expenditures of the task force shall be made at the discretion of the Director of Finance or the director's designee.
- (p) For purposes of this section, claims against the fund are contingent upon the existing resources of the fund as provided in subdivision (o), and in no case shall the state be liable for any claims in excess of the resources in the fund.
- 199.51. (a) Because the development of a vaccine now costs somewhere between twenty million dollars (\$20,000,000) and forty million dollars (\$40,000,000), and because the last vaccine produced and marketed did not sell well, vaccine manufacturers are hesitant to proceed to invest their resources in such a risky venture. It is, therefore, in the public health interest of California to assure that manufacturers proceed to develop this vaccine and protect Californians against this dread disease and protect the State of California against the enormous fiscal costs of treatment for persons getting AIDS. It is a sound and worthwhile investment to provide a guarantee of a market to lessen the risk of loss and assure the development of an AIDS vaccine.

It is anticipated that this AIDS vaccine will consist of a three-unit series. The State of California is willing to guarantee that at least 175,000 persons will be vaccinated, and to guarantee the purchase, within three years after the FDA approves marketing of an AIDS vaccine, of at least 500,000 units, at a cost of no more than twenty

dollars (\$20) per dosage, by all companies, anywhere in the United States.

Therefore, the State of California, by moneys to be appropriated later through the Budget Act, commits itself to purchasing, at the end of three years after the FDA has approved the marketing on a competitive basis, at not more than twenty dollars (\$20) per dosage, the difference between 500,000 units and the actual amount sold, delivered, administered, or dispensed by all companies throughout the United States, including units sold to or reimbursed by Medi-Cal, Medicare, or other public programs, providing that less than 750,000 units are sold, delivered, administered, or dispensed.

- (b) The AIDS Vaccine Guaranteed Purchase Fund is hereby established and shall be administered by the State Department of Health Services, which may develop necessary regulations to carry out the purpose of this section.
- (c) The State Department of Health Services is hereby authorized to carry out this section, when such funds are appropriated through the state budget. In determining which vaccine shall be purchased by the state from among those manufacturers selling or distributing in California, an FDA-approved AIDS vaccine, the State Department of Health Services shall take into consideration at least all of the following factors:
- (1) The length of time each AIDS vaccine has been in the marketplace in California.
  - (2) Each AIDS vaccine's history of efficacy since FDA approval.
- (3) Each AIDS vaccine's history of side effects experienced by previous recipients of the vaccine.
- (4) The relative cost of each competing manufacturer's AIDS vaccine.
- SEC. 2. The sum of six million fifty thousand dollars (\$6,050,000) is hereby appropriated from the General Fund in accordance with the following schedule:
- (a) For expenditures in fiscal year 1986-87 for purpose of subsidizing any clinical trials with humans for an acquired immune deficiency syndrome (AIDS) vaccine which are approved by a federal Food and Drug Administration (FDA) protocol. The funds shall be allocated by the State Department of Health Services in amounts up to one million dollars (\$1,000,000) for each of up to three manufacturers with management or officers based in this state and operations for the research and manufacture of an AIDS vaccine in this state, who receive FDA approval for clinical trials. The funds shall be provided to the state department for disbursement to the sites approved in the FDA protocol and for the

purposes set forth in the protocol. The funds shall be disbursed to FDA approved protocol sites within 90 days of a request from the FDA approved protocol sites. The unencumbered and unexpended balance of funds appropriated pursuant to this subdivision, on June 30, 1987, shall be carried over for expenditure pursuant to subdivision (b) of this section ....

\$3,000,000

(b) For expenditure and allocation in the same manner and for the same purposes as described in subdivision (a) of this section, in fiscal year 1987–88......

\$3,000,000

(c) For purposes of the AIDS Vaccine Injury Compensation Policy Review Task Force, established pursuant to Section 199.50, to be expended at the discretion of the Director of Finance or the director's designee .......

\$ 50,000

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

In order to protect the California population from the rapidly spreading AIDS epidemic by facilitating the production of an AIDS vaccine, it is necessary for this act to take effect immediately.

#### CHAPTER 1464

An act to add Section 14105.43 to the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 14105.43 is added to the Welfare and Institutions Code, to read:

14105.43. (a) Notwithstanding other provisions of this chapter, any drug which is approved by the United States Food and Drug Administration for use in the treatment of acquired immune deficiency syndrome (AIDS) or an AIDS-related condition shall be deemed to be approved for addition to the Medi-Cal drug formulary only for the purpose of treating AIDS or an AIDS-related condition, for the period prior to the completion of the procedures established pursuant to Section 14105.4.

(b) Any drug deemed to be approved pursuant to subdivision (a)

shall be immediately added to the Medi-Cal drug formulary.

- (c) If it is determined pursuant to Section 14105.4 that a drug to which subdivision (a) applies should not be placed on the Medi-Cal drug formulary, that drug shall no longer be deemed to be approved for addition to the formulary 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:

Due to the continuing serious threat to public health posed by AIDS, it is necessary that this act take effect immediately.

## CHAPTER 1465

An act relating to community colleges, and making an appropriation therefor.

> [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am reducing the appropriation contained in Section 6 of Assembly Bill No. 3409

from \$525,000 to \$250,000.

While I support many of the recommendations of the Commission for the Review of the Master Plan and recognize the need to establish a community college funding mechanism which continues beyond the current June 30, 1987, sunset date, I do not believe \$525,000 in State General Fund momes is necessary for the two task forces. With this reduction, I approve Assembly Bill No. 3409.

GEORGE DEUKMEIIAN, Governor

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

SECTION 1. The Legislature finds and declares that:

- (a) The Commission for the Review of the Master Plan for Higher Education has completed a Community College Reassessment Study, mandated by Chapter 1506 of the Statutes of 1984, and transmitted that reassessment study to the Legislature's Joint Committee for the Review of the Master Plan for Higher Education on April 2, 1986.
- (b) The Joint Committee for the Review of the Master Plan for Higher Education has completed a series of public hearings concerning the findings and recommendations of the commission, and will complete an independent and comprehensive community college assessment report for the Legislature and the Governor.
- (c) The California community colleges will play a pivotal role in the economic and social development of the state into the next century, but not without reform and resources.
- (d) The continued health and development of the community colleges requires a maintenance of the highest caliber of qualified faculty, staff, and administrators which will be fulfilled through reform of the system of faculty and administrator qualifications,

hiring, and retention procedures (at the state and local levels).

- (e) The Commission for the Review of the Master Plan for Higher Education has recommended that the current system of financing community colleges be restructured to be more consistent with the status and role of these postsecondary education institutions.
- (f) California's vast and diverse system of community colleges, which serves over 1,000,000 students a year, requires a strengthened, effective, and better supported Board of Governors of the California Community Colleges and office of the Chancellor of the California Community Colleges to provide statewide leadership and enhance local initiative.
- (g) The broad policy reform guidelines recommended by the Commission for the Review of the Master Plan for Higher Education and under consideration by the Governor and the Legislature require a significant amount of additional detail and technical substance before the guidelines may be enacted.
- (h) Therefore, it is the intent of the Legislature to establish, through this act, two short-term task forces, to be appointed by the Board of Governors of the California Community Colleges, and convened and staffed by the office of the Chancellor of the California Community Colleges, to provide the Governor and the Legislature with detailed policy implementation proposals on the issues described above.
- SEC. 2. (a) It is the intent of the Legislature to establish, by July 1, 1988, through statutory provisions and administrative rules and regulations, a new funding mechanism for determining the allocation of state general apportionments for community colleges which assures access to all Californians, promotes educational excellence, and is more reflective of a postsecondary educational system.
- (b) To implement this funding method with the least disruption for community college programs, the Chancellor of the California Community Colleges shall convene a broad-based short-term task force on community college financing reform which shall include, but not be limited to, representatives of the Master Plan Review Commission, the Department of Finance, the Legislative Analyst, the Controller, the California Postsecondary Education Commission, local community college districts, and appropriate constituent groups. The chancellor shall invite participation by community college districts, but acceptance of the invitation shall be the prerogative of the local community college district.
- (c) The task force shall develop specific recommendations which may include, but need not be limited to, the following:
- (1) A new state support allocation mechanism, which is sensitive to and measures the full costs associated with the delivery of community college programs and services.
- (2) Revenue adjustment components of the mechanism which would provide for adjustments on an incremental basis for increases or decreases in workload, for equalization, for inflation, and for other

legally authorized purposes.

- (3) A specific funding methodology which would differentiate among the major categories for operating community colleges, including, but not limited to, instruction, academic support, student operations services, institutional support, and plant maintenance. The Legislature intends that, within the instruction category, the methodology be based upon mode and cost of instruction, as measured by full-time equivalent credits generated by the instructional activity, by subcategories that would include, but not necessarily be limited to, lecture, seminar, lecture-laboratory, high cost, low cost, independent study, and apprenticeship. The Legislature intends that in addition to these subcategories, adjustments be made for full-time equivalent courses taught by full-time and part-time faculty, and the differences in full-time equivalent courses in small and large districts in the context of economies of scale.
- (4) Specific workload measures applicable for each category and subcategory.
- (5) Options for providing budgetary incentives for measuring and improving student performance.
- (6) The need for community college districts to rely on county superintendents of schools for fiscal services that may be provided through the chancellor's office.
- (7) A specific means for preventing major revenue losses to districts during the initial year or years of the new formula.
- (8) General provisions and guidelines of a funding mechanism which should be incorporated into statute and more detailed provisions which should be incorporated in rules and regulations of the board of governors.
- (d) The chancellor shall submit a report of the task force on community college financing, including its recommendations, to the Governor and the Legislature not later than May 1, 1987, and the task force shall serve as liaison to the Joint Committee for the Review of the Master Plan for Higher Education as it considers and deliberates on comprehensive community college reform.
- SEC. 3. (a) The Chancellor of the California Community Colleges shall convene a broad-based, short-term task force on faculty and administrator qualifications, peer review, hiring, and retention. This task force shall be composed of 11 members, a majority of whom are current faculty members of the community colleges, and are broadly representative of academic and vocational programs in the curriculum from both urban and rural districts, and proportionally representative of ethnic minority communities. It is the intent of the Legislature that the composition of the task force should include community college administrators.
- (b) The charge of this task force shall be, but is not necessarily limited to, the following:
- (1) Establishment of detailed proposals regarding the qualifications for hire as a member of the faculty and administration.

- (2) Establishment of detailed proposals regarding the process of faculty and administrator hiring, evaluation and retention which are consistent with the guidelines proposed in the final community college assessment report and recommendations of the Joint Committee for the Review of the Master Plan for Higher Education.
- (3) Development of specific recommendations regarding different levels of appropriate qualification for different vocational and academic programs.
- (4) Development of proposals regarding the transition between systems of faculty and administrative qualifications.
- (c) The task force shall submit preliminary proposals and recommendations to the Legislature by March 15, 1987, and serve as liaison to the Joint Committee for Review of the Master Plan for Higher Education as it considers and deliberates on comprehensive community college reform.
- SEC. 4. (a) The Legislature finds and declares that there is a pressing need to:
- (1) Provide to parents and potential students adequate information necessary to evaluate and make informed decisions about enrollment in a community college.
- (2) Increase the public's awareness of and confidence in educational programs offered by, and the fiscal stability of, community colleges.
- (3) Offer community college trustees, administrators, faculty, and students an authoritative and reasonable basis for measuring their performance from year-to-year and against their community college counterparts.
- (4) Accomplish these goals through the annual publication of a detailed accountability report on the educational accomplishments and fiscal conditions of all community colleges in California.
- (b) The Chancellor of the California Community Colleges shall conduct a study of the feasibility of developing and implementing a statewide program of educational accountability based on at least the following principles:
- (1) Standards of academic rigor for all students, regardless of their backgrounds or programs, which direct them to higher levels of accomplishment.
- (2) Performance reporting of each college, as measured by the accomplishments of its students, which encourage all districts toward higher levels of success.
- (3) Recognizing and building on the exemplary performance of individual students, colleges, and districts which best allows community colleges to offer the education required for all California citizens.
- (c) This study shall at least examine the feasibility of collecting, evaluating, and reporting on educational quality indicator and student outcome evaluation criteria such as:
  - (1) Articulation agreements with high schools.
  - (2) Articulation agreements with other colleges and universities.

- (3) Transfer rates to other academic or vocational institutions, by program, ethnicity, and gender.
- (4) Vocational education placement rates in occupations for which students received training.
- (5) Attrition and retention rates by program, ethnicity, and gender.
- (6) Standardized test scores of entering and exiting students, where available.
  - (7) Program accreditation, where applicable.
  - (8) Affirmative action targets and ratios.
  - (9) Part-time and full-time faculty ratios.
- (10) Student satisfaction as measured through periodic student attitude surveys.
- (d) This study shall also include an examination of the feasibility of collecting, evaluating, and reporting at least the following information about the fiscal condition of each community college district:
- (1) Total revenues, from all sources, including state, local, and student fee support, property, investments and other assets.
  - (2) The extent to which surpluses or deficits exist.
  - (3) Total expenditures, by major budget item.
- (4) Steps taken in each district by local governing boards, district management or the state chancellor to ensure fiscal stability.
- (e) The chancellor shall submit this report to the Governor and the Legislature not later than June 1, 1987.
- SEC. 5. The Chancellor of the California Community Colleges shall have the authority to contract for services and hire staff appropriate to perform the work associated with this act. The chancellor shall submit a plan to the Department of Finance for the expenditure of these funds which is consistent with the intention and direction of this act. The Department of Finance shall review and approve the chancellor's plan to ensure that it is reasonably consistent with this act.
- SEC. 6. The sum of five hundred twenty-five thousand dollars (\$525,000) is hereby appropriated from the General Fund in augmentation of Item 6870-001-001 of Section 2.00 of the Budget Act of 1986 for the purposes of providing appropriate staff, contractual services and necessary expenses to the Chancellor of the California Community Colleges associated with complying with this act.
- SEC. 7. As of September 30, 1987, the work of the task forces shall be complete.
  - SEC. 8. This act shall become inoperative October 1, 1987.

## CHAPTER 1466

An act to amend Sections 4050 and 4052 of, and to repeal and add Section 4053 of, the Health and Safety Code, relating to water, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$53,000 appropriation contained in Section 6 of Senate Bill No. 1796.

The study of removing selenate from irrigation water is a local responsibility and the need for such a study should be considered in light of the demand for local funds. I do not believe it would be appropriate to provide scarce state resources for this local responsibility.

With this deletion, I approve Senate Bill No. 1796.

GEORGE DEUKMEJIAN, Governor

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

- SECTION 1. Section 4050 of the Health and Safety Code is amended to read:
- 4050. (a) It is hereby declared to be the policy of this state that multiple use should be made of all public water within the state, to the extent that multiple use is consistent with public health and public safety.
- (b) Except as provided in Section 4053, recreational uses shall not, with respect to a reservoir in which water is stored for domestic use, include recreation in which there is bodily contact with the water by any participant.
- ŚEC. 2. Section 4052 of the Health and Safety Code is amended to read:
- 4052. Unless the context otherwise requires, the following definitions shall control the construction of this chapter:
- (a) "Multiple use" includes domestic, industrial, agricultural, and recreational uses.
- (b) "Public agency" means the state or any city, other than a chartered city, county, public district, or other public institution.
- (c) "Reservoir" does not include ditches, canals, or any similar type of water distributing facility.
  - SEC. 3. Section 4053 of the Health and Safety Code is repealed.
- SEC. 4. Section 4053 is added to the Health and Safety Code, to read:
- 4053. (a) In San Diego County, recreational uses shall not, with respect to a reservoir in which water is stored for domestic use, include recreation in which there is bodily contact with the water by any participant, unless both of the following conditions are satisfied:
- (1) The water subsequently receives complete water treatment, including coagulation, flocculation, sedimentation, filtration, and disinfection, before being used for domestic purposes.
- (2) The reservoir is operated in compliance with regulations of the department, as provided in Section 4051.

- (b) The recreational use may be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir, if the conditions and restrictions do not conflict with regulations of the department and are designed to further protect or enhance the public health and safety.
- SEC. 5. Due to the unique scarcity of recreational reservoirs in the County of San Diego and the desire of persons in that area for facilities where bodily contact with water by recreational participants is allowed, the Legislature finds that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution and that this special act is necessary.
- The sum of fifty-three thousand dollars (\$53,000) is SEC. 6. hereby appropriated from the General Fund to the Department of Water Resources for purposes of a grant to the San Diego Regional Water Reclamation Agency in order to study the removal of selenate from irrigation drain water. The department may make the grant if it determines the agency will not duplicate research efforts utilizing aerobic bacteria for selenate removal from agricultural drain water which are receiving financial assistance from the state.

## CHAPTER 1467

An act to add Article 1.5 (commencing with Section 78210) to Chapter 2 of Part 48 of the Education Code, relating to community colleges, and making an appropriation therefor.

> [Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

I am reducing the appropriation contained in Section 2(a) of Assembly Bill No. 3 from \$55,196,000 to \$6,151,000

The reductions are reflected as follows: Section 2(1) I eliminate this appropriation

Section 2(2) \$34,296,000 to \$6,151,000

The reduction has two effects:

1. It will eliminate the one-half-year funding provided in the bill for matriculation.

2. It will provide, after taking into consideration the fiscal impact of AB 216 which I have previously signed, one-half of full funding for community colleges with declining average daily attendance

When the 1987–88 legislative session convenes, it is my intention to seek full funding

for the matriculation (which was funded for one-half-year only) and the remaining one-half of the declining average daily attendance provisions I support full funding of the matriculation program which was added to my Budget and the declining average daily attendance provisions which I included in my 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 \$300 million in income Legislature for these programs, awaying the processory. \$302 million in income I set aside funding for these programs, awarting 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. 3

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 1.5 (commencing with Section 78210) is added to Chapter 2 of Part 48 of the Education Code, to read:

## Article 1.5. Student Matriculation

78210. This article shall be known and may be cited as the Seymour-Campbell Matriculation Act of 1986.

78211. It is the intent of the Legislature to do all of the following:

(a) Ensure equal education opportunity for all Californians.

(b) Ensure that students receive the educational services necessary to optimize their opportunities for success.

(c) Provide students with the information to establish realistic educational goals, and ensure that the matriculation process does not exclude students from receiving appropriate educational services at community colleges.

78211.5. (a) The Chancellor of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for this purpose allow.

- (b) Because of the need to develop and evaluate data on a standard statewide basis concerning the implementation and effectiveness of the matriculation services described in this article, any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article. The obligations of the college or district under the agreement shall include, but not be limited to, the expenditure of funds received pursuant to this article for only those matriculation services approved by the chancellor and the contribution toward the purposes of this article of such matching funds as the chancellor may require pursuant to Section 78216.
- 78212. (a) For purposes of this article, "matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational objectives. The agreement involves the responsibilities of both parties to attain those objectives through the college's established programs, policies, and requirements.

The student's responsibilities under the agreement include the expression of at least a broad educational intent upon enrollment, the declaration of a specific educational objective within a reasonable period after enrollment, diligence in class attendance and completion of assigned coursework, and the completion of courses and maintenance of progress toward an educational goal according to standards established by the college, the district, and the state.

- (b) Matriculation services to be made available by the colleges shall include, but are not limited to, all of the following:
  - (1) Processing of the application for admission.

- (2) Orientation and preorientation services designed to provide to students, on a timely basis, information concerning campus procedures, academic expectations, financial assistance, and any other matters the college or district finds appropriate.
- (3) Assessment and counseling upon enrollment, which shall include, but not be limited to, all of the following:
- (A) Administration of assessment instruments to determine student competency in computational and language skills.
- (B) Assistance to students in the identification of aptitudes, interests and educational objectives, including, but not limited to, associate of arts degrees, transfer for baccalaureate degrees, and vocational certificates and licenses.
  - (C) Evaluation of student study and learning skills.
- (D) Referral to specialized support services as needed, including, but not limited to, federal, state, and local financial assistance; health services; campus employment placement services; extended opportunity programs and services provided pursuant to Article 8 (commencing with Section 69640) of Chapter 2 of Part 42; campus child care services provided pursuant to Article 4 (commencing with Section 8225) of Chapter 2 of Part 6; programs that teach English as a second language; and disabled student services provided pursuant to Chapter 14 (commencing with Section 67300) of Part 40.
  - (E) Advisement concerning course selection.
- (4) Postenrollment evaluation of each student's progress, and required advisement or counseling for students who are enrolled in remedial courses, who have not declared an educational objective as required, or who are on academic probation, as defined by standards adopted by the Board of Governors of the California Community Colleges and community college districts.
- 78213. (a) No district or college may use any assessment instrument for the purposes of this article without the authorization of the chancellor. The chancellor may adopt a list of authorized assessment instruments pursuant to the policies and procedures developed pursuant to this section and the intent of this article. The chancellor may waive this requirement as to any assessment instrument pending evaluation.
- (b) The chancellor shall review all assessment instruments to ensure that they meet all of the following requirements:
- (1) Assessment instruments shall be sensitive to cultural and language differences between students.
- (2) Assessment instruments shall be used as an advisory tool to assist students in the selection of an educational program.
- (3) Assessment instruments shall not be used to exclude students from admission to community colleges.
- (c) The chancellor shall establish an advisory committee to review and make recommendations concerning all assessment instruments used by districts and colleges pursuant to this article.
- 78214. (a) All participating districts shall, with the assistance of the chancellor, establish and maintain institutional research to

evaluate the effectiveness of the matriculation services described by this article and of programs and services designed to remedy students' skills deficiencies.

- (b) The data base for this research shall include, but not be limited to:
- (1) Prior educational experience, including transcripts when appropriate, as determined by the chancellor.
  - (2) Educational objectives.
- (3) Criteria for exemption from assessment or required counseling or advisement, if applicable.
  - (4) Need for financial assistance.
  - (5) Ethnicity, sex, and age.
  - (6) Academic performance.
- (7) Any additional information that the chancellor finds appropriate.
- (c) The evaluation provided for by this section shall include an assessment of the effectiveness of the programs and services in attaining at least the following objectives:
  - (1) Helping students to define their educational goals.
- (2) Assisting institutions in the assessment of students' educational needs.
- (3) Matching institutional resources with students' educational needs.
- (4) Providing students with specialized support services as referred to in subdivision (b) of Section 78212.
- 78215. The Board of Governors of the California Community Colleges shall establish criteria for exempting students from participation in orientation, assessment testing, or required counseling or advisement under this article.
- 78216. (a) The Legislature recognizes that community college districts are currently funding various components of student matriculation through existing counseling, assessment, and other student services, but that adequate student matriculation cannot be realized without supplemental funding support.
- (b) The chancellor shall develop a formula for funding student matriculation services at community colleges. The formula shall include the requirement that the districts or colleges contribute matching funds in an amount to be established by the chancellor in each case, and shall reflect, but not be limited to, all of the following considerations:
- (1) The number of students to receive matriculation services at each college.
- (2) The levels of support for matriculation services provided at each college prior to July 1, 1985, and the need for funding assistance in the implementation of the program set forth in this article.
- (3) The relative needs for matriculation services, based on special student populations such as low-income students, students with language differences, students with physical and learning disabilities, and students in need of remedial instruction.

- (4) The requirement that funds for matriculation services be expended only for services approved by the chancellor.
- (5) The requirement that any district or college receiving funding pursuant to this section agree to implement this article during the period in which it receives that funding.
- (6) The need for computer hardware and software to provide approved matriculation services, and for institutional research personnel for ongoing evaluation.
- (c) The chancellor shall require participating colleges to develop a plan for student matriculation that reflects all of the following:
  - (1) A method for providing the services specified in Section 78212.
- (2) The college budget for the matriculation services pursuant to Sections 78212 and 78214.
- (3) The development and training of staff and faculty to implement the matriculation services.
- (4) In multicampus districts, the coordination of the college matriculation plan with other college plans.
- (5) Computerized information services and institutional research and evaluation necessary for implementation of this article.
- (d) The chancellor may allocate up to 5 percent of the total funds appropriated for student matriculation for state administrative operations to carry out the intent of this article, subject to the review of the annual budget process.
- 78217. (a) By no later than January 30, 1987 and prior to the allocation of any funding for purposes of this article to local districts, the chancellor shall provide the Department of Finance, Legislative Analyst, California Postsecondary Education Commission, and the education policy committees and the fiscal committees of the Legislature with a comprehensive management plan for implementation of matriculation programs pursuant to the provisions of this article.
- (b) On or before March 15, 1989, the chancellor shall submit a report to the Legislature evaluating the effectiveness of those community college matriculation programs receiving funding under this article for the 1986–87 academic year. The report shall cover operation of the programs during the 1986–87 and 1987–88 fiscal years, and shall include the chancellor's recommendations regarding the improvement of student matriculation, the continued operation of student matriculation services, and the funding of those services. The chancellor shall include in the report information on the success rate of students who enroll in courses contrary to the recommendations and advice of college advisement staff.
- (c) On or before March 15 of each year thereafter, the chancellor shall provide a progress report to the Legislature on the implementation of this article. The chancellor may require participating districts or colleges to provide data for the completion of these reports.
- (d) No later than January 1, 1986, the chancellor shall appoint an advisory committee to assist in the development of the evaluation

required by this section; however, the Legislature recognizes that to promote the effective implementation of this program, the chancellor may wish to appoint the advisory committee prior to that date.

(e) On or before April 1, 1988, the chancellor shall submit a report to the Legislature evaluating the comparative utility of matriculation services to students with differing educational objectives.

78218. In the 1986-87 fiscal year and each fiscal year thereafter, this article shall be operative only if funds are specifically

appropriated for the purposes of this article.

- SEC. 2. (a) The sum of fifty-five million one hundred ninety-six thousand dollars (\$55,196,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for local assistance as follows:
- (1) Twenty-one million dollars (\$21,000,000) for matriculation purposes pursuant to Article 1.5 (commencing with Section 78210) of Chapter 2 of Part 48 of the Education Code.
- (2) Thirty-four million one hundred ninety-six thousand dollars (\$34,196,000) for the purposes of augmenting category A of Item 6870-101-001 of Section 2.00 of the 1986 Budget Act (Chapter 186 of the Statutes of 1986) for community colleges with declining average daily attendance.
- (b) The Legislature declares that funds appropriated by this act for matriculation purposes are for half year costs in the 1986–87 fiscal year.

#### CHAPTER 1468

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

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$300,000 appropriation contained in Section 1(b) of Senate Bill No. 1745

The appropriation would have funded the International Border Pollution Control Authority created by AB. 4309. The bill has been vetoed, thus making this appropriation unnecessary.

I am reducing the \$500,000 appropriation contained in Section 1(a) to \$150,000 together with the appropriation language relating to Phase II of the workplan.

together with the appropriation language relating to Phase II of the workplan. At this time, completing a general pollution abatement strategy, requiring more information about the extent of the pollution, and a cost analysis of the environmental reporting requirements are all steps which should be taken to address this problem. Proceeding to Phase II of the workplan without having an opportunity to evaluate the results from Phase I would be premature.

With this deletion and reduction, I approve Senate Bill No. 1745.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of eight hundred thousand dollars (\$800,000) is hereby appropriated, without regard to fiscal year, from the General Fund for expenditure as follows:

- (a) The sum of five hundred thousand dollars (\$500,000) to the State Water Resources Control Board for the purposes of preparing a workplan for abating the pollution levels in the New River and the Alamo River. The workplan shall be completed in two phases. An amount of not more than two hundred fifty thousand dollars (\$250,000) shall be expended by the board for completion of phase I, and not more than two hundred fifty thousand dollars (\$250,000) shall be expended by the board for completion of phase II. Phase I of the workplan shall address all of the following:
- (1) The development of a general abatement strategy which includes a detailed analysis of feasible alternatives.
- (2) The collection and review of water quality and health effects data. This shall include, but not be limited to, an investigation of the extent of pollution in the Cities of Calexico, Brawley, and Seeley and at other Imperial County sites affected by sewer and toxic flows from Mexicali, Mexico.
- (3) A cost analysis of environmental impact reporting requirements and planning of pilot impact studies.

Phase II of the workplan shall address both of the following:

- (1) Development and evaluation of viable abatement alternatives.
- (2) Development of an implementation plan, including performance of pilot plant and treatability tests.

The State Water Resources Control Board shall allocate these funds to the California Regional Water Quality Control Board (Colorado River Basin Region), which shall complete, or enter into a contract for completion of, phase I of the workplan by January 1, 1988, and phase II of the workplan by January 1, 1989.

- (b) The sum of three hundred thousand dollars (\$300,000) to the International Border Pollution Control Authority for purposes of funding all necessary startup costs pursuant to Title 7.7 (commencing with Section 67410) of the Government Code.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to begin to address the cleanup of the New River and the Alamo River, which are a significant health hazard, at the earliest possible time, it is necessary that this act take effect immediately.

## CHAPTER 1469

An act relating to water quality, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$40,000 appropriation contained in Section 2 of Senate Bill No. 186. This program is discretionary with the university If they do not believe the costs are absorbable, the bill does not require them to do this program. With this deletion, I approve Senate Bill No. 186.

GEORGE DEUKMEJIAN, Governor

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

- SECTION 1. (a) The University of California is requested, with the approval of the regents, to establish a Water Quality Task Force to develop a research agenda identifying in priority order the most fruitful areas of research for developing cost-effective methods for providing clean and safe drinking water. Areas of research to be considered for the research agenda shall include a risk assessment of various levels of contaminants in water, methods which may be used to reduce the cost of carbon regeneration for the granular activated carbon process, and other areas identified by the task force.
- (b) The agenda shall include recommendations for research areas to be funded.
- (c) The University of California is requested, with the approval of the regents, to appoint the members of the task force. The task force shall include experts in water from academic institutions, governmental agencies, including the State Department of Health Services and State Water Resources Control Board, municipal water districts, and private industry. The task force shall utilize existing research materials and resources in order to avoid duplication of research efforts.
- (d) The University of California, with the approval of the regents, shall provide the Legislature and the Governor with its research agenda by April 15, 1987.
- SEC. 2. The sum of forty thousand dollars (\$40,000) is hereby appropriated from the General Fund to the University of California for developing a research agenda pursuant to this act.

#### CHAPTER 1470

An act to add Section 8874.5 to, and to add Chapter 12.4 (commencing with Section 8877.1) to Division 1 of Title 2 of, the Government Code, relating to seismic safety, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$150,000 appropriation contained in Senate Bill No 1920 Since this measure is permissive and does not mandate additional resources by local governments not interested in utilizing its provisions, those local governments desiring to create a coordinating body to oversee recovery efforts and the enactment of necessary ordinances should fiscally support this program.

With this deletion, I approve Senate Bill No. 1920

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 8874.5 is added to the Government Code, to read:

8874.5. The disastrous effects and after effects of the Mexico City earthquake of September 19, 1985, have increased the urgency for development of local plans to provide authority and procedures for orderly transition from emergency disaster response operations to short-and long-range efforts toward reestablishment of governmental services, private business activity, and reconstruction and rehabilitation.

In furtherance of that purpose, the commission shall enter into a grant agreement with a local agency situated in a high earthquake-hazard area for development of a program model for use by local agencies and the state which will address at least, but need not be limited to, the following elements:

- (a) Establishment of a coordinating body within the jurisdiction to assess the various impacts of the disaster, recommend appropriate legislative, administrative, and private actions, and monitor implementation efforts.
- (b) Creation of an information-gathering mechanism to provide the basis for evaluation, prioritization, and implementation.
- (c) Procedures for coordination and orderly transition from disaster response to reconstruction and rehabilitation.
- (d) Identification, delineation, and preparation of legislation, both statutory and local, necessary to provide authority on a preevent basis for postevent activity to accomplish the purposes of this program.
- (e) Integration and coordination with this chapter, the California Emergency Services Act (Chapter 7 (commencing with Section 8550)), the Natural Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680)), the Economic Disaster Act of 1984 (Chapter 7.6 (commencing with Section 8695)), the Planning

and Zoning Law (Title 7 (commencing with Section 65000)), the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), and the Community Development Financial Assistance and Disaster Project Law (Part 1.5 (commencing with Section 34000) of Division 24 of the Health and Safety Code).

- (f) Identification of those components of the local program which may serve as a program model for disasters other than those caused by earthquake.
- SEC. 2. Chapter 12.4 (commencing with Section 8877.1) is added to Division 1 of Title 2 of the Government Code, to read:

## CHAPTER 12.4. DISASTER RECOVERY RECONSTRUCTION ACT OF 1986

- 8877.1. This chapter shall be known and may be cited as the Disaster Recovery Reconstruction Act of 1986.
- 8877.2. The Legislature finds and declares that the impact of the Mexico City earthquake disaster of September 19, 1985, has rendered more cogent and compelling the findings of the Legislature set forth in Section 8870, particularly subdivision (c) thereof, and heightened the need for authority for local agencies to engage in effective preevent and postevent activity to accomplish those goals set forth in paragraph (4) of subdivision (b) of Section 8872. It is the intent of this chapter to provide that authority.
- 8877.3. It is the purpose of this chapter to authorize, guide, and otherwise enable cities, counties, and other entities to prepare in advance of a disaster, such as a devastating earthquake, for the expeditious and orderly recovery and reconstruction of the community or region.
  - 8877.4. As used in this chapter:
- (a) "Disaster" means a devastating earthquake or other conditions specified in subdivisions (b) and (c) of Section 8558.
- (b) "Recovery" means the overall short-term and long-term restoration of social, economic, and institutional activity to levels comparable to those which existed prior to the disaster.
- (c) "Reconstruction" means the renovation, replacement, or rebuilding of damaged or destroyed facilities which will enable this recovery to occur.
- 8877.5. Each city, county, or other local subdivision of the state, in conjunction with planning activities authorized under Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 and Article 10 (commencing with Section 8610) of Chapter 7 of Division 1 of Title 2 of the Government Code, may prepare, prior to a disaster, plans and ordinances facilitating the expeditious and orderly recovery and reconstruction of the area under its jurisdiction, should a disaster occur. These plans and ordinances may include any of the following:
  - (a) An evaluation of the vulnerability of specific areas under its

jurisdiction to damage from a potential disaster, together with streamlined procedures for the appropriate modification of existing general plans or zoning ordinances affecting those areas after a disaster.

- (b) A contingency plan of action and organization for short-term and long-term recovery and reconstruction to be instituted after a disaster.
- (c) An ordinance, to be adopted prior to the disaster, which could be invoked as soon as possible after the event and which would provide necessary local authorization for activities designated under subdivisions (a) and (b).

These plans and ordinances may include the authority and proposed organization for establishment of a local reconstruction authority with powers parallel to those of a community redevelopment agency, except that the reconstruction authority would be authorized to operate beyond the confines of designated redevelopment areas and would have financing sources other than tax increment sources.

The plans and organizational arrangements may be made separately or jointly by formal cooperative arrangements with other local entities.

- 8877.6. Each city, county, or other local subdivision of the state may take such actions as are necessary to assure the orderly transition from emergencies declared under subdivision (b) or (c) of Section 8558 to a systematic program of short-term and long-term recovery and reconstruction, including, but not limited to, any of the following:
- (a) Activate the ordinances, plans, and organizational arrangements made prior to the disaster, including the establishment of a reconstruction authority as specified by ordinance.
- (b) Coordinate these actions with those taken under other provisions of law governing a declared emergency.
- (c) Identify areas where substantial damage or destruction has occurred.
- (d) Review and recommend modifications to the governing body of recovery and reconstruction plans adopted prior to the disaster.
- (e) Determine appropriate methods of financing of activities undertaken by the reconstruction authority, including postevent funding sources both public and private.

These actions may be taken separately or jointly through cooperative arrangements made with other entities.

- 8877.7. The Seismic Safety Commission shall prepare and submit to the Speaker of the Assembly and the President pro Tempore of the Senate on or before January 1, 1990, a report on its findings and recommendations derived from the implementation of this chapter.
- SEC. 3. The sum of one hundred fifty thousand dollars (\$150,000) is hereby appropriated to the Seismic Safety Commission from the General Fund for the purpose of making a grant to the County of San

Bernardino to be used in development of a program model for earthquake reconstruction efforts pursuant to Section 1 of this act. The grant shall not be used by the county to make capital improvements.

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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to minimize the impact of a disaster caused by earthquake on personal life, governmental and business activity, and the economy of a local area and the state, and to maximize capability to respond quickly, positively, and effectively in efforts directed toward recovery and reconstruction, it is necessary that this act go into immediate effect.

## CHAPTER 1471

An act to amend Sections 15394, 15394.1, 15395.1, 15395.5, and 15396 of, and to add Section 15392.4 to, the Government Code, relating to export financing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$1 million appropriation contained in Senate Bill No 2124. The \$1 million appropriation should have come from the Special Account for Capital Outlay

When the Legislature approved the Budget Bill last June, it contained over \$700 million in spending above available funds. Thus, in order to protect California's fiscal million in spending above available funds. Thus, in order to protect California's fiscal integrity, and to maintain our prudent reserve for emergencies, I was obligated to eliminate that \$700 million in excess spending from the Budget I set aside \$283 million of those reductions for programs which I was willing to fund, if the Legislature sent me a bill implementing the funding mechanism which they had approved in the Budget. However, they failed to follow through on their original actions.

Now, the Legislature once again has sent me bills which would spend more than \$300 million above the funding available. My resolve to maintain California's fiscal integrity to protect our reserve and to maintain our newly won AAA hand rating is

integrity, to protect our reserve, and to maintain our newly won AAA bond rating, is

unshakeable. Therefore, I am again obligated to veto these expenditures.

While some of this legislation may have merit, it is the obligation of the Legislature, when sending these spending bills, to demonstrate where the funding would come

With this deletion, I approve Senate Bill No. 2124.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 15392.4 is added to the Government Code, to read:

15392.4. The California Export Finance Office shall comply with the Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1, regarding public meetings, and the California Public Records Act, Chapter 3.5 (commencing with Section 6750) of Division 7 of Title 2, regarding public records, except that these provisions shall not apply to the disclosure of financial data contained in applications for financial assistance from the Export Finance Board, where the director of the Export Finance Office determines that disclosure of financial data would be competitively injurious to the applicant. For this purpose, financial data includes financial statements, details of accounts receivable and accounts payable, income tax returns, owner-officer compensation records, collateral details, cash flow analysis, orders, contracts and letters of credit, and other documents which would disclose specific names or addresses of customers or would-be customers.

- SEC. 2. 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 Development 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.

- (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. 3. Section 15394.1 of the Government Code is amended to read:

15394.1. The board shall do all of the following:

- (a) Elect a chair and vice chair from among its members. The chair shall preside at meetings of the board.
- (b) Implement the California Export Finance Program Law, promulgate rules and regulations which are necessary to carry out the responsibilities under this chapter, particularly with respect to establishing California Export Finance Office programs to insure, coinsure, and provide loan guarantees to support export transactions prior to the expenditure of moneys from the Export Finance Fund. The board shall ensure that these programs conform to international trade agreements of the United States. The programs' rules and regulations shall be reviewed and approved by the commission prior to final adoption by the board.
- (c) Adopt subsequent bylaws as are required to govern the conduct and operation of the board.
- (d) Provide for the appointment of advisory groups necessary to carry out the powers and duties of the board.
- (e) Hold regularly scheduled meetings, at least quarterly, in order to carry out the objectives and responsibilities of the board.
- (f) Issue an annual report critiquing the program, its needs and recommended changes. The report shall include an evaluation of the program's impact on all of the following:
  - (1) Participation of private banks in export financing programs.
- (2) Access of California firms to federal export financing programs.
  - (3) Export volume of California firms.
  - (4) Other economic and social benefits to the state.
- (g) Adopt criteria establishing which exporters and export transactions shall be eligible for the insurance, coinsurance, and loan guarantees as may be extended by the board. Pursuant to this subdivision, the board shall adopt regulations to ensure that all of the following criteria are met:
- (1) Borrowers have a minimum equity interest in the business as determined by the board.
- (2) That loan guarantees, insurance, and coinsurance are extended exclusively to support the export of goods, services, and

agricultural commodities produced or grown primarily in California by companies or agricultural enterprises which are domiciled in California as defined by subdivision (b) of Section 25120 of the Revenue and Taxation Code.

- (3) That financing assistance using state funds shall only be extended in one or both of the following circumstances:
- (A) As part of a state match which may be required to secure participation of California firms or agricultural enterprises in federal, state, or private financing programs.
- (B) If adequate financing assistance is not readily available from public or private sources in a timely manner.
- (h) Adopt collateral or security requirements to ensure the full repayment of loan guarantees and solvency of any insurance and coinsurance program extended under this chapter and to assist in evaluating the program.
- (i) Approve any and all extensions of insurance, coinsurance, or loan guarantees under this chapter.
- (1) The board may elect to delegate this approval authority to a committee consisting of no fewer than three members of the board. Members of the committee shall be knowledgeable in the export financing needs of small or medium-sized businesses, agriculture, or financial institutions.
- (2) In order to expedite the functions of the California Export Finance Program Law, when a loan does not exceed one hundred thousand dollars (\$100,000), the board may elect to delegate this approval authority to an office loan committee. The office loan committee shall be composed of the Director of the California Export Finance Office and two others who shall be selected by, and who shall be responsible to, the board. All approvals made by the office loan committee shall be reported to, and shall be reviewed by, the board at the next regular board meeting.
- (j) Consult with the Department of Commerce to ensure that the respective loan guarantee programs are not duplicative and that each program makes full use of, to the extent practicable, the resources of the other.
- (k) Work to secure a delegated line of authority from the U.S. Export-Import Bank in order to take advantage of this possible new federal funding source.
  - (1) Develop a streamlined application and review process.
- SEC. 4. Section 15395.1 of the Government Code is amended to read:
- 15395.1. The Export Finance Fund is created for the purpose of receiving the following moneys for purposes of this chapter:
  - (a) State, federal, and private moneys.
  - (b) Insurance premiums and other fees earned by the office.
  - (c) Recoveries and collections on claims paid by the office.
- (d) Moneys received from the return of investments made by the Treasurer pursuant to this chapter.
  - SEC. 5. Section 15395.5 of the Government Code is amended to

read:

- 15395.5. Moneys in the Export Finance 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 loan guarantee and insurance programs, payments for reinsurance, and payments required by state, federal, or private export programs conducted by the board.
- SEC. 6. Section 15396 of the Government Code is amended to read:
- 15396. The California Export Finance Office may charge fees for its loan guarantees, insurance, and other services, the amounts of which shall be determined by the board.
- SEC. 7. The sum of one million dollars (\$1,000,000) is hereby appropriated from the General Fund to the Export Finance Fund for purposes of this chapter.
- 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 assist California exporters, and, as a result, improve the United States trade deficit which has exceeded \$123 billion at the cost of millions of jobs and lost trade opportunities, it is necessary that this act take effect immediately.

## CHAPTER 1472

An act to amend Section 11489 of the Health and Safety Code, and to amend Sections 5475, 5476, 5477, 5478, 5479, 5480, 5481, 5481.5, and 5482 of the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor.

> [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986 ]

I am deleting the \$458,000 appropriation contained in Assembly Bill No 2912. This appropriation is intended to fund three specified centers for the purpose of providing therapeutic day services for abused, neglected and emotionally disturbed infants and children in Contra Costa County.

The \$458,000 appropriation would create the expectation that this level of State funding will be continued in subsequent fiscal years and that the State will supplant local funding as local priorities change. I believe that this appropriation would constitute an inequity to all other counties and treatment centers as it would single-out three specified centers for additional funding. If such automatications are to be three specified centers for additional funding If such augmentations are to be considered, they should be considered through the normal budgetary process and in light of the total demand for State General Fund support.

With this deletion, I approve Assembly Bill No 2912

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. 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 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. 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 (Chapter 111 of the Statutes 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 the state or for state or local law enforcement efforts 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.

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. 2. Section 5475 of the Welfare and Institutions Code is amended to read:

5475. The Legislature recognizes that prevention and early intervention services have long been slighted in the community mental health programs and has identified, as a goal of the Short-Doyle program, the prevention of serious mental disorders and psychological problems. It is the intent of the Legislature to establish a system of school-based primary prevention projects designed for the early detection and prevention of emotional, behavioral, and learning problems in primary grade children with services provided by child aides or unpaid volunteers under the supervision of mental health professionals. The goal of the primary prevention projects is to help young children derive maximum profit from the school experience and, in so doing, prevent later-life problems of school failure, unemployment, delinquency, criminal behavior, and substance abuse.

SEC. 3. Section 5476 of the Welfare and Institutions Code is amended to read:

- 5476. Primary prevention projects shall be developed in accordance with the guidelines and principles set forth in this chapter. To this end, school districts, publicly funded preschool programs, and local mental health programs may implement primary prevention projects with available funds, or may jointly apply to the State Department of Mental Health to be considered for grant projects outlined in this chapter.
- SEC. 4. Section 5477 of the Welfare and Institutions Code is amended to read:
- 5477. The Director of Mental Health shall develop guidelines for primary prevention projects in accordance with the following:
- (a) School based projects shall serve children in grades kindergarten through three.
- (b) The projects may serve children beyond grade three who could benefit from the program but the number of children accepted into the program from grades four and above shall not represent more than 15 percent of the total number of children served.
- (c) The projects may serve children enrolled in a publicly funded preschool program.
- (d) The projects shall serve children referred by either a screening process, a teacher, school based mental health professionals, other school personnel who have had opportunities to observe children in interpersonal contacts, or parents. If a screening process is utilized, behavior rating scales shall constitute the primary instrument from which referrals to primary prevention projects are made. To a more limited extent, observations of children working on structured tasks and standardized projective tests may also be used.
  - (e) The projects may include a parent involvement component.
- (f) Before acceptance of a child into a primary prevention project, parental consent is required.
- SEC. 5. Section 5478 of the Welfare and Institutions Code is amended to read:
- 5478. (a) Each primary prevention project shall have a core team consisting of school-based mental health professionals, including pupil personnel professionals or local mental health program professionals, or both, a senior aide, and a group of from two to five child aides.
- (b) The program based mental health professionals shall be responsible for accepting referred children into the program, program coordination and supervision of the senior and child aides, assignment of a child to an aide, evaluation of progress, and determination of termination from the program. The mental health professionals shall supervise the scoring and interpretation of screening and assessment test data, conduct conferences with parents, and evaluate the effectiveness of individual aides.
- (c) The senior aide shall be responsible for communication among school personnel, the mental health professionals, including pupil personnel professionals, and the child aides and for the administrative functions of scheduling with aides and teachers.

arranging case conferences, and maintaining records.

- (d) Child aides, under supervision of a mental health professional, shall conduct weekly play sessions with children served in the primary prevention projects. Child aides may be salaried school aides, unpaid volunteers such as students, elderly persons or other persons with time and interest in working with young children, or may be provided stipends to meet expenses.
- (e) All aides shall undergo a time-limited period of training that is focused on the main intervention strategies of the particular program and is provided prior to direct contacts with the children served in the primary prevention projects. Training shall, at a minimum, include basic child development, crisis intervention, techniques of nondirective play, other intervention skills appropriate to identified problem areas, and instruction in utilizing supervision and consultation.
- SEC. 6. Section 5479 of the Welfare and Institutions Code is amended to read:
- 5479. School districts or preschool programs submitting joint proposals with local mental health programs for grants under this chapter shall demonstrate a capability for referral to appropriate public and private community services. The referrals shall be made through contacts with families in response to information regarding the need for such referral arising from the child aide sessions.
- SEC. 7. Section 5480 of the Welfare and Institutions Code is amended to read:
- 5480. (a) The State Department of Mental Health shall award primary prevention project grants pursuant to a request for proposal consistent with the provisions of this chapter. The grant award shall be administered by the local mental health program.
- (b) Prior to dissemination of a request for proposal, the department shall establish a maximum figure for the amount of project funds available per project site and for the number of sites that may be funded per school district or regional area. The department shall be guided in its decisions by the availability of uncommitted funds in the Mental Health Primary Prevention Fund.
- (c) Primary prevention project grants shall be funded from funds allocated to the Department of Mental Health for primary prevention programs in accordance with Section 11489 of the Health and Safety Code.
- (d) Upon approving a primary prevention grant, the State Department of Mental Health shall contract with the grant recipient to provide a primary prevention project for a period of three years.
- (e) Costs of a primary prevention project shall be financed on a basis of:
- (1) Fifty percent from primary prevention project grant funds or a maximum established by the department, whichever is less.
- (2) At least 50 percent from a combination of school district or preschool program and local mental health program funds.
  - (f) The school district or preschool program share may be in-kind

contributions, including staff, space, equipment, materials, and reasonable administrative services.

- (1) Contributed space to be used for child aide sessions must be comfortable, attractive, and engaging to young children. Small individual rooms are preferable.
- (2) Space to be used for group meetings and consultation sessions may also be contributed.
- (3) Equipment and materials may be contributed if it includes items that encourage child participation in nondirective play.
- (g) The local mental health program share may include either the cost of the mental health professional as described in subdivision (b) of Section 5478 or the contribution of professional staff to provide case consultation to the child aides and assistance in child aide training.
- SEC. 8. Section 5481 of the Welfare and Institutions Code is amended to read:
- 5481. The State Department of Mental Health shall, on the basis of applications submitted pursuant to a request for proposal, select recipients of primary prevention project grants based on the following criteria:
- (a) Availability of professional and other program staff with related experience and interest in early intervention.
- (b) Reasonable evidence of future stability of the program and its personnel.
- (c) Representation of a wide range of economic, ethnic, and cultural populations.
- (d) Demonstration of strong support by the teaching, pupil services, and administrative personnel at the school or preschool program and by the local mental health program.
- (e) Assurance that grants would supplement existing local resources.
- SEC. 9. Section 5481.5 of the Welfare and Institutions Code is amended to read:
- 5481.5. (a) The role of the school district or preschool program in each approved project shall be to:
- (1) Arrange for mental health professionals based at the project site to supervise project staff and procedures. These persons may be either pupil personnel staff or local mental health program staff.
  - (2) Recruit and train child aides.
- (3) Screen and assess children in accordance with guidelines established by the department.
- (4) Provide individual and group play sessions to selected children in accordance with guidelines established by the department.
- (5) Provide space and equipment for child aide sessions with children and for staff meetings.
  - (6) Establish and maintain project records.
- (7) Prepare project reports in accordance with guidelines established by the department.

- (8) Submit periodic statements of project grant fund expenditures to the local mental health program for reimbursement in accordance with the approved project budget.
- (b) The role of the local mental health program in each approved project shall be to:
- (1) Administer state project grant funds awarded by the department by contracting with the school district or preschool program to provide a primary prevention project in accordance with this chapter and the joint proposal of the local mental health program and the school district or preschool program as approved by the department.
- (2) Contribute professional staff to the project to do both of the following:
- (A) Assist the school district or preschool program in the recruiting and initial training of child aides.
- (B) Provide ongoing case consultation and training to the child aides at regular intervals at the project site.
- (3) Assure access to appropriate mental health treatment services available within the county's program for those children in the project and their families who require services that are beyond the scope and purposes of the Primary Prevention Project.
- (c) The role of the State Department of Mental Health in each approved project shall be to:
- (1) Develop a contract with the local mental health program for provision of a primary prevention project in accordance with this chapter and the joint proposal of the local program and school district or preschool program as approved by the department.
- (2) Disburse project grant funds to the local program in accordance with terms of the contract.
- (3) Conduct visits to each project site at least once during the first year of funding, and thereafter as necessary, in order to determine compliance with this chapter and the contract and to determine training needs of project staff.
  - (4) Provide for periodic training workshops for project staff.
- (5) Establish guidelines for project procedures, screening and assessment of children, records, and reports.
- SEC. 10. Section 5482 of the Welfare and Institutions Code is amended to read:
- 5482. The department shall provide for training of project personnel. Funds for this purpose may be appropriated under Section 11489 of the Health and Safety Code, or through the state budget. Training of project personnel may be contracted out to programs designated by the State Department of Mental Health appropriate to provide these services.
- SEC. 11. The State Department of Mental Health shall provide for the conduct of comparative studies of the outcome and costs of primary prevention projects under Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code from funds appropriated for this purpose under Section 11489

of the Health and Safety Code or the Budget Act. The department may contract with programs designated as appropriate by the department to conduct the studies. The department shall limit the total cost of the studies under this section to fifty thousand dollars (\$50,000) annually.

SEC. 12. The sum of four hundred fifty-eight thousand dollars (\$458,000) is hereby appropriated from the General Fund to the State Department of Mental Health for the Lynn Day Treatment Center, Pittsburg, California, the Therapeutic Nursery School, Richmond, California, and the We Care Center, Concord, California, for the purposes of providing therapeutic day services for abused, neglected, and emotionally disturbed infants and children.

SEC. 13. Section 1 of this act shall become effective only if Assembly Bill 4145 of the 1986 Regular Session of the Legislature is

enacted.

### CHAPTER 1473

An act to amend and supplement the Budget Act of 1986 by adding Items 3790-102-263, 3790-103-742, and 3790-497 thereto, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

I am deleting the \$299,000 OHV Fund appropriation contained in Section 2 and 4 of Assembly Bill No. 1331

This item is contained in AB 3002, which I have already approved.

With this deletion, I approve Assembly Bill No. 1331.

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 Quail Hollow Ranch contains rare and endangered plant and animal species.
- (b) The Wildlife Conservation Board has set aside two hundred thousand dollars (\$200,000) to contribute towards and encourage the state purchase of the Quail Hollow Ranch because of its natural character.
- (c) The Quail Hollow Ranch is owned by the Santa Clara County Office of Education, which is looking for a buyer of the property.
- SEC. 2. Item 3790-102-263 is added to Section 2.00 of the Budget Act of 1986, to read:

3790-102-263—For local assistance, Department of Parks and Recreation, payable from the Off-High-

1. Provision 1 of Item 3790-101-263 shall also be applicable to this item.

SEC. 3. Item 3790-103-742 is added to the Budget Act of 1986, to read:

# NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

250,000

(a) Project grant, County of Santa Cruz, acquisition and development of property consisting of the Quail Hollow Ranch......

250,000

- SEC. 4. Item 3790-497 is added to Section 2.00 of the Budget Act of 1986, to read:
- 3790-497—Reversion, Department of Parks and Recreation. As of June 30, 1986, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:

263—Off-Highway Vehicle Fund:

- (1) Item 3790-101-263 (r), Budget Act of 1982, County of Los Angeles, Motor Exposition.
- 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 acquisition provided for by this act may be made as quickly as possible, and in order that the County of Los Angeles may establish urgently needed local off-highway vehicle parks, it is necessary that this act take effect immediately.

## CHAPTER 1474

An act to add Section 5625.2 to the Public Resources Code, and to amend and supplement the Budget Act of 1986 by amending Item 3790-301-728 of, and adding Items 3790-102-263, 3790-102-742, 3790-302-721, 3790-302-722, and 3790-497 to, Section 2.00 thereof, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$213,000 1976 Park Bond Fund appropriation contained in Section 5 of Assembly Bill No. 3002. I deleted this item in the 1986 Budget Bill along with five other local assistance projects for 1976 Bond funds "because they should be submitted through the State competitive grant process for review and evaluation." While the project may have merit, I question the need to fund the project this year with 1976 Bond funds, since the project is already under public ownership and the valuable artifacts already excavated from the site, and a more appropriate alternative funding source exists The Community Parklands Act of 1986 was put into law this year to fund projects of this type, and the use of this block grant fund will let the people of Riverside determine the priority of funding this project.

projects of this type, and the use of this block grant rund will let the people of Riverside determine the priority of funding this project

I am also deleting the \$900,000 1980 Park Bond Fund appropriation contained in Section 7 of Assembly Bill No 3002. I deleted this item in the 1986 Budget Bill because "funding for the remaining Rimpau property may be requested in the 1987-88 budget because an option on that property is in effect during 1986-87". The Department of Parks and Recreation will consider this item for the 1987-88 budget.

I am also deleting the \$982,000 1984 Park Bond Fund appropriation contained in Section 8 of Assembly Bill No. 3002 I deleted this item in the 1986 Budget Bill "because it is an additional substantial commutation of the total \$5 million of 1984 Bond funds

it is an additional, substantial commitment of the total \$5 million of 1984 Bond funds allocated for storm damage repairs I have previously approved two appropriations totaling \$1 million from 1984 Bond funds for this project. I am also concerned about the need for local participation in the operation and maintenance project". I feel these concerns are still valid and cannot support spending more park bond momes on a marginal area where the greatest benefit will be nonrecreational purposes.

With these deletions, I approve Assembly Bill No. 3002

GEORGE DEUKMEIIAN, Governor

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

SECTION 1. Section 5625.2 is added to the Public Resources Code, to read:

- 5625.2. Block grants may be made pursuant to this chapter for the rehabilitation of historical structures so long as the structure is located within a park or recreation area and the structure's rehabilitation will complement or enhance the recreational use of the park or recreational area.
- SEC. 2. The revised criteria submitted to the Legislature in 1986 by the Director of Parks and Recreation pursuant to Section 5625 of the Public Resources Code and Section 10 of Chapter 1748 of the Statutes of 1984, for determining the priority of need among those block grants made pursuant to Sections 5628 and 5629 of the Public Resources Code, which are contained in the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act, are hereby approved as submitted.
  - SEC. 3. The Department of Parks and Recreation shall conform

5298

its criteria for projects eligible for grants pursuant to the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act to Section 5625.2 of the Public Resources Code. Notwithstanding subdivision (a) of Section 5625 of the Public Resources Code, the revised criteria need not be submitted to the Legislature for approval by statute.

SEC. 4. Item 3790-102-263 is added to Section 2.00 of the Budget

Act of 1986, to read:

3790-102-263—For local assistance, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund..... Schedule:

299,000

(1) Los Angeles County OHV local planning grant ..... Provisions:

299,000

1. Provision 1 of Item 3790-101-263 shall also be applicable to this item.

SEC. 5. Item 3790-102-742 is added to Section 2.00 of the Budget Act of 1986, to read:

# NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

3790-102-742—For local assistance, Department of Parks and Recreation, payable from the State, Urban, and Coastal Park Fund..... Schedule:

275,102

(1) Project grant to City of Ontario— Ontario Recreation Facilities......

62,102

(2) 80.80.095—County of Riverside-Chinatown Archaeological Project .....

213,000

#### Provisions:

1. Grants payable from the State, Urban, and Coastal Park Fund appropriated in category (1) of this item are for grants to counties, cities, and districts, as defined in Section 5096.123, pursuant to subdivision (a) of Section 5096.124, of the Public Resources Code, and unless otherwise provided herein, funds appropriated for each local grant project in this item are for acquisition, development, or restoration, or any combination thereof, and are available expenditure during the 1986-87, 1987-88, and 1988–89 fiscal years.

SEC. 6. Item 3790-301-728 of Section 2.00 of the Budget Act of 1986 is amended to read:

3790-301-728—For Capital Outlay, Department of Parks and Recreation, payable from the Recreation and Fish and Wildlife Enhancement Fund	389,000	
(1) 90.AI.200-Millerton Lake SRA— Waterline Improvements—minor project		
Day Use Area—preliminary plans and working drawings		
design 100,000		
SEC. 7. Item 3790-302-721 is added to Section 2.00 of the Budget Act of 1986, to read:  PARKLANDS ACQUISITION AND  DEVELOPMENT PROGRAM		
3790-302-721—For Capital Outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980	900,000	
ty		
SEC. 8. Item 3790-302-722 is added to Section 2.00 of the Budget Act of 1986, to read:  PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984		
3790-302-722—For Capital Outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1984	982,000	
(1) 90.95.100—Little Franks Tract- Storm Damage Repair 982,000		
SEC. 9. Item 3790-497 is added to Section 2.00 of the B	udget Act	

of 1986, to read:

3790-497—Reversion, Department of Parks and Recreation. As of June 30, 1986, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:

263—Off-Highway Vehicle Fund:

- (1) Item 3790-101-263 (r), Budget Act of 1982, County of Los Angeles, Motor Exposition.
- 742—State Urban and Coastal Park Fund
- (1) Item 443.8 (300), Budget Act of 1977, City of Ontario, Area No. 16 Park Site.
- (2) Notwithstanding Item 3790-490-742 (4) of this section, Item 585 (c), Budget Act of 1980, Castaic Lake SRA, except that the amount to be reverted shall be limited to \$100,000.

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 that the revised criteria submitted pursuant to Section 5625 of the Public Resources Code and Section 10 of Chapter 1748 of the Statutes of 1984, which are required to be approved by the Legislature, may be applied as soon as possible so that grants for rehabilitation of specified historical structures may be made at the earliest opportunity, so that the County of Los Angeles may establish urgently needed local off-highway vehicle parks, so that the newly constructed Baal Point Day Use Area at Castaic Lake State Recreation Area may be accessible for public use, and in order to redirect park grant funds for current projects as soon as possible, it is necessary that this act take effect immediately.

### CHAPTER 1475

An act to add Section 29301.5 to the Food and Agricultural Code, relating to Africanized bees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

I am deleting the \$50,000 General Fund appropriation together with the appropriation language relating to the allocation of General Fund monies contained in Section 2(b) of Assembly Bill No. 3435.

I am not convinced that the General Fund should be the principal source of funding

for Africanized bee research.

With this deletion, I approve Assembly Bill No. 3435.

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

SECTION 1. Section 29301.5 is added to the Food and Agricultural Code, to read:

29301.5. The beekeeper, apiary owner, apiary operator, or the person in possession of an apiary, in addition to the annual assessment fee prescribed by subdivision (a) of Section 29301, shall pay to the director an annual assessment fee of three cents (\$0.03) per colony for the purpose of research on Africanized bees. The fee shall be annually collected until July 1, 1992, and the revenue, notwithstanding Section 13340 of the Government Code, is continuously appropriated for that research.

Subdivision (c) of Section 29301 and Section 29303 does not apply to the disposition of funds authorized by this section.

- SEC. 2. (a) The Legislature finds that the Africanized bee poses a serious public health and safety threat and will, if uncontrolled, cause major damage to California's bee industry and agriculture as a whole.
- (b) The sum of one hundred thousand dollars (\$100,000) for the balance of the 1986-87 fiscal year shall be expended by the Department of Food and Agriculture for the purpose of research on Africanized bees. When appropriate, the research shall be conducted in locations where the Africanized bee is endemic. For the 1986-87 fiscal year, 50 percent of these funds shall come from a combination of agricultural industry, federal, or private foundation sources. Upon receipt of these funds, the Director of Food and Agriculture shall inform the Controller of the amount received. The Controller is hereby authorized to allocate to the department the remaining funds necessary so that the department will have received in total the amount of one hundred thousand dollars (\$100,000) for the balance of the 1986-87 fiscal year. This allocation shall come from the General Fund from which these funds are hereby appropriated.
- (c) The Director of Food and Agriculture shall establish an advisory committee to propose, review, and make recommendations to the director on which research project proposals to fund and research staff to contract with. The advisory committee shall be made up of representatives from the United States Department of Agriculture, the State Department of Health Services, the University of California, California beekeepers, and other allied farm commodity groups who contribute funds for this purpose. The beekeeper and other allied farm commodity group representatives shall be selected from a list of nominees submitted by each group and the number of representatives from each group shall be made in proportion to the amount of funds contributed by each group.

It is the intent of the Legislature that sufficient funds, not to exceed one hundred fifty thousand dollars (\$150,000), be appropriated from the General Fund annually, through the 1991–92

fiscal year, to the department to enable it to continue to contract for the research initially funded by subdivision (b).

- (d) It is the intent of the Legislature that the funds expended by the department pursuant to this act shall be expended for research and control only and not for purposes of eradication.
- 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 safeguard the public health and safety from the dangers of the Africanized bee and to preserve the bee industry and related agricultural uses of bees, it is necessary that this act take effect immediately.

# CHAPTER 1476

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

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$5,000 reappropriation contained in Section 1 of Senate Bill No

This reappropriation would require \$5,000 of a local historic restoration grant to be

used to acquire hability insurance for a one-year period.

While I support the restoration of the historic Butte Store in Amador County, this is an inappropriate use of 1984 Park Bond Act funds, which may only be spent for acquisition, development or interpretation.
With this deletion, I approve Senate Bill No 44

GEORGE DEUKMEIIAN, Governor

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

SECTION 1. Notwithstanding any other law, five thousand dollars (\$5,000) of the undisbursed balance of the appropriation made by Item 3790-101-722 (d) (5), Budget Act of 1985, County of Amador, Butte Store (Butte City), is hereby reappropriated to the Department of Parks and Recreation for allocation by the County of Amador to the Butte Store Preservation Trust to cover the cost of liability insurance necessary to carry out the restoration of the Butte Store for the first year of the restoration.

The sum of five hundred fifty-three thousand six hundred twenty-five dollars (\$553,625) is hereby appropriated from the General Fund to the Department of Justice to pay the settlement resulting from the judgment in the action captioned Tiago v. State of California (case no. 174787) brought in the Superior Court of the State of California in and for the County of San Joaquin provided that if the payment made in the claim specified in this section is less than

the amount appropriated pursuant to this section, the excess funds shall revert to the General Fund.

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

In order to settle claims against the state, end a hardship to claimants as quickly as possible, and minimize the ultimate cost to the state, it is necessary for this act to take effect immediately.

## CHAPTER 1477

An act to amend Sections 41007 and 41019 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 41007 of the Revenue and Taxation Code is amended to read:

- 41007. "Service supplier" shall mean any person supplying intrastate telephone communication services pursuant to California intrastate tariffs to any service user in this state.
- SEC. 2. Section 41019 of the Revenue and Taxation Code is amended to read:
- 41019. No surcharge shall be imposed on charges for any types of service or equipment furnished by a service supplier subject to state or federal public utility regulation during any period in which the same or similar services or equipment are also available for sale or lease from persons not subject to state or federal public utility regulation.
- SEC. 3. Sections 1 and 2 of the act, which amend Sections 41007 and 41019 of the Revenue and Taxation Code, do not constitute a change in, but are declaratory of, the existing law. It is the intent of the Legislature in enacting this act to clarify existing law.
- 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 1478

An act to add Section 13170.2 to the Water Code, relating to water quality.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) Past municipal, industrial, and agricultural discharges into the state's ocean waters and the rivers, streams, and bays that drain into these ocean waters, along with past legal and illegal ocean dumping, have an adverse effect on the marine environment and threaten the public health.
- (b) The beneficial uses of the ocean waters of the state that should be protected from adverse discharges and dumping include industrial water supply, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other marine resources or preserves.
- (c) The full extent of the environmental and human health risks associated with current municipal, industrial, and agricultural discharges into the state's ocean waters are not fully understood.
- (d) In furtherance of the policy set forth in Section 13000 of the Water Code, the Legislature finds and declares that protection of the quality of the ocean waters for the use and enjoyment by the people of the state requires control of the discharge of waste substances which may impair those uses.
- (e) In order to protect beneficial uses, it is necessary to promulgate water quality objectives and effluent quality requirements to govern the disposal of waste into the coastal water of California.
- (f) It is necessary to implement monitoring programs to determine compliance with water quality objectives and effluent quality requirements, and to yield other information, such as the effectiveness of source control programs and the identification of any short-term or long-term degradation of marine biota.
- (g) The Legislature further declares that it is the policy of the state that there be no discharge or dumping into the state's ocean waters, or into rivers, streams, or bays that empty into ocean waters, that would unreasonably affect beneficial uses.
  - SEC. 2. Section 13170.2 is added to the Water Code, to read:
- 13170.2. (a) The state board shall formulate and adopt a water quality control plan for ocean waters of the state which shall be known as the California Ocean Plan.
- (b) The plan shall be reviewed at least every three years to guarantee that the current standards are adequate and are not

allowing degradation to indigenous marine species or posing a threat to human health.

- (c) In formulating the plan, the state board shall develop bioassay protocols to evaluate the effect of municipal and industrial waste discharges on the marine environment.
- (d) The state board shall adopt the bioassay protocols and complementary chemical testing methods and shall require their use in the monitoring of complex effluent ocean discharges. For purposes of this section, "complex effluent" means an effluent in which all chemical constituents are not known or monitored. The state board shall adopt bioassay protocols and complementary chemical testing methods for complex effluent ocean monitoring by January 1, 1990, and shall require their use in monitoring complex effluent ocean discharges by entities discharging 100 million gallons per day or more by January 1, 1991. The state board shall also adopt a schedule for requiring the use of these protocols for complex effluent ocean discharges of under 100 million gallons per day by January 1, 1992.
- SEC. 3. If the State Water Resources Control Board determines through its Marine Bioassay Project that a multispecies toxicity testing program with representative marine species for monitoring complex ocean effluent discharges is appropriate, the board shall use the multispecies toxicity testing program with representative marine species in adopting the bioassay protocols specified in Section 13170.2 of the Water 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 1479**

An act to amend Section 13271 of the Water Code, relating to water quality.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. Section 13271 of the Water Code is amended to read:

13271. (a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1)

that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.7) of Chapter 7 of Division 1 of Title 2 of the Government Code and immediately notify the state board or the appropriate regional board of the discharge. The state board or the regional board shall list all notifications received by them pursuant to this section in the minutes of the next business meeting and shall provide a copy of the minutes to the appropriate local health officials.

- (b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.
- (c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars (\$20,000) or imprisonment for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.
- (d) Notification received pursuant to this section or information obtained by use of such notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.
- (e) Immediate notification of an appropriate agency of the federal government of the discharge shall constitute compliance with the requirements of subdivision (a).
- (f) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board, in consultation with the State Department of Health Services, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the State Department of Health Services pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 shall be in effect for

purposes of the enforcement of this section until the time that the regulations required by this subdivision are adopted.

- (g) The state board shall, on or before June 30, 1987, adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, "sewage" means the effluent of a municipal waste water treatment plant or a private utility waste water treatment plant, as those terms are defined in Section 13625.
- 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 1480

An act to add Chapter 3.8 (commencing with Section 10780) to Part 2 of Division 9 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. It is the intent of the Legislature to examine the costs and benefits of a pilot program for an automated benefit delivery system in the City and County of San Francisco and a second county, upon submission of the necessary documents, which address the following issues:
- (a) The lack of integration between the benefit delivery system in the Aid to Families with Dependent Children, Medi-Cal, Food Stamps, and Refugee Assistance programs and other benefit programs.
- (b) The need for a single access mechanism, the debit card, which captures economies and management efficiencies by eliminating checks, vouchers, food stamp coupons, and monthly proof of eligibility labels.
- (c) The creation of added benefits to the City and County of San Francisco, other counties, and the State of California from simplified accounting and reconciliation, a complete audit trail, and the

reduction of excessive administrative costs from paper-based systems, postage, and multiple issuance systems.

- (d) The elimination of service fees to cash checks for public assistance clients.
- (e) The reduction of complaints by health care providers about nonreimbursed services.
- SEC. 2. Chapter 3.8. (commencing with Section 10780) is added to Part 2 of Division 9 of the Welfare and Institutions Code, to read:

# CHAPTER 3.8. LOCAL AUTOMATED BENEFITS SYSTEM

- 10780. (a) Upon the department and the State Department of Health Services' review and approval of the documents required by this program, the City and County of San Francisco and a second participating county may establish an automated card benefit delivery pilot program for the provision of public assistance benefits after they submit a feasibility study or advance planning document which addresses all of the following issues:
- (1) The costs and benefits of establishing an automated benefit delivery program for the provision of benefits under two or more of the following programs:
  - (A) Aid to Families with Dependent Children.
  - (B) Medi-Cal.
  - (C) Food Stamp Program.
  - (D) SSI/SSP Medi-Cal component.
  - (E) Refugee assistance.
  - (F) Foster care.
  - (G) Other benefit programs deemed appropriate.
- (2) The identification of how the pilot program will fit into the existing system for handling the affected benefit program.
- (3) The identification of the costs associated with implementing the pilot program including all startup and ongoing costs.
- (4) The provision of an analysis of the project's potential costs and benefits.
- (5) The discussion of the relationship between the project and private industry efforts.
- (6) The identification of the anticipated time frame for the pilot program.
- 10781. The City and County of San Francisco, if it elects to establish the pilot program pursuant to Section 10780, and a second participating county wishing to establish a pilot program pursuant to Section 10780, shall submit a feasibility study or advance planning document to the department and the State Department of Health Services.
- 10782. (a) The implementation of the pilot project in the City and County of San Francisco and a second participating county is subject to the availability of federal financial participation.
- (b) The department and the State Department of Health Services shall either reject the pilot program or initiate steps to secure the

federal waivers and federal funding within 60 days of receipt of the feasibility study.

- (c) The department and the State Department of Health Services shall approve or disapprove, within 60 days of receipt, the feasibility study or advance planning document submitted by the City and County of San Francisco or the other participating county pursuant to Section 10781. The department shall also submit a report to the appropriate policy and fiscal committees of each house of the Legislature and to the Legislative Analyst, containing their findings on that pilot program and its potential for statewide application.
- 10783. The department and the State Department of Health Services shall submit annual status reports beginning 15 months after the implementation of each pilot program and annually thereafter, and shall, no later than four years after the commencement of each pilot program under this chapter, submit a final report on the effectiveness of each pilot program to the appropriate policy committees and fiscal committees of each house of the Legislature and to the Legislative Analyst, for review.
- 10784. The implementation of a pilot program pursuant to this chapter shall not affect the eligibility of any individual for public assistance benefits through any of the programs administered by the pilot program, and any individual receiving benefits through a pilot program established pursuant to this chapter shall be entitled to the same benefits he or she would have received if the program had not been implemented.
- SEC. 3. The General Fund shall bear no additional expenses beyond those it would have normally incurred in order to operate the programs included in the automated card benefit delivery pilot program in the City and County of San Francisco and a second participating county.
- SEC. 4. It is the intent of the Legislature that the City and County of San Francisco and a second participating county shall be repaid, from any savings realized from the program, for their start-up and additional costs due to the pilot program before any other distribution of the savings are undertaken.
- 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:

Because the pilot program described in the bill will provide a better coordinated system of delivering health and welfare services to the eligible residents of the City and County of San Francisco and a second county, because the pilot program will also provide anticipated administrative cost savings to the state, because the City and County of San Francisco and a second county will be enabled to immediately begin negotiating the federal waivers necessary to implement the program, and in order to reduce any delays in providing this much needed service to welfare recipients, it is necessary that this act take effect immediately.

# CHAPTER 1481

An act to amend Section 11011 of, and to add Section 66907.12 to, the Government Code, and to add Section 31104.3 to the Public Resources Code, relating to property exchanges, and making an appropriation therefor.

> . [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting Section 6 from Assembly Bill No. 2286

I believe that the funding mechanism contained in Section 6 provides an inappropriate means to fund the acquisition of Lower Solstice Canyon. The State Coastal Conservancy has sufficient funds and authority to acquire this property if it is determined to be high priority.

With this deletion, I approve Assembly Bill No. 2286.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 11011 of the Government Code is amended to read:

11011. On or before December 31st of each year each state agency shall make a review of all proprietary state lands (other than tax-deeded land and land held for highway purposes and lands under the jurisdiction of the State Lands Commission and land which has escheated to the state or which has been distributed to the state by court decree in estates of deceased persons and lands under the jurisdiction of the State Coastal Conservancy) over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services.

Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director thereof, for sale or disposition under this section or as may be otherwise authorized by law.

The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of the Government Code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies which are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state which involve the exchange of surplus lands for lands listed in those reports.

Whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the

Department of General Services determines that any such land is needed by any other state agency it may transfer the jurisdiction of such land to such other state agency upon such terms and conditions as it may deem to be for the best interests of the state.

When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to such authorization, upon such terms and conditions and subject to such reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

- (a) A description or other identification of the property
- (b) The date of authorization
- (c) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange, or
- (d) The present status of the property, if not sold or otherwise disposed of at the time of the report.

Money received from the sale of any parcel of land pursuant to this section shall be paid into the General Fund unless otherwise specified by law.

Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under the provisions of this section, shall be deposited in the General Fund in the account established by Section 15863 of this code. Any expenditures required to maintain, repair, care for, and sell such real property shall be paid from the appropriation made by Section 15863.

Nothing contained in this section shall be construed to prohibit the sale, letting or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing such sale, letting or disposition.

SEC. 2. Section 66907.12 is added to the Government Code, to read:

66907.12. On an annual basis or as may be required, the executive officer of the conservancy shall report to the Director of General Services regarding privately owned properties within the conservancy's jurisdiction which have special significance and which might appropriately be the subject of trades for lands owned by the state for the purposes of preserving natural resources and moderating the impacts of regulation within the Tahoe Basin. A particular property shall be included in any report only upon agreement of the owner.

For purposes of this section, "special significance" means having importance because of the land's value for (1) public access, (2) public recreation, (3) wetlands, riparian, or other natural habitat, (4)

open space, (5) protection of the waters of the region, or (6) any other purposes and objectives of this title.

SEC. 3. Section 31104.3 is added to the Public Resources Code, to read:

31104.3. On an annual basis or as may be required, the executive officer of the conservancy shall report to the Director of General Services regarding privately owned properties within the conservancy's jurisdiction which have special significance and which might appropriately be the subject of trades for lands owned by the state for the purposes of preserving natural resources and moderating the impacts of regulation with the coastal zone. A particular property shall be included in any report only upon agreement of the owner.

For purposes of this section, "special significance" means having importance because of the land's value for (1) public access, (2) public recreation, (3) wetlands, riparian, or other natural habitat, (4) open space, or (5) agricultural use.

- SEC. 4. Notwithstanding any other provision of law, the net proceeds which are realized on the sale of any portion, or all, of Lower Zuma Canyon, for whose purchase funds were appropriated under Item 3810-302-036 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985), or which are realized as reimbursement from the National Park Service, shall be deposited in the Special Account for Capital Outlay to reimburse that account for amounts appropriated and expended pursuant to that budget item. The remainder shall be used to reimburse Item 3810-301-722 of the Budget Act of 1985 to the extent that those funds were advanced for acquisition of the property. Upon reimbursement, the funds advanced from Item 3810-301-722 of the Budget Act of 1985 shall be available for the purposes originally appropriated.
- SEC. 5. Upon availability of funds to the National Park Service to acquire any portion, or all, of Lower Zuma Canyon, the appropriate portions of that property shall be immediately sold to the National Park Service. The Santa Monica Mountains Conservancy and the Department of General Services shall make every effort to expedite the sale, consistent with approved appraisals and regular procedures.
- SEC. 6. (a) Notwithstanding any other provision of law, up to three million dollars (\$3,000,000) of the funds deposited in the Special Account for Capital Outlay from the sale of Lower Zuma Canyon during the 1986–87 fiscal year shall be transferred to the State Coastal Conservancy Fund. These funds are hereby appropriated from the fund to the State Coastal Conservancy for the acquisition of Solstice Canyon.
- (b) If the conservancy has already purchased Solstice Canyon by the time of the transfer of these funds to the fund, the transferred funds are hereby reappropriated to the conservancy for capital outlay or local assistance for the purposes of Division 21 (commencing with Section 31000) of the Public Resources Code during the 1986–87 fiscal year. If the conservancy does not purchase

Solstice Canyon during the 1986-87 fiscal year, the funds shall be transferred back to the Special Account for Capital Outlay.

(c) If the conservancy acquires Solstice Canyon and receives funds from the Special Account for Capital Outlay for this purpose or for reimbursement for an already completed purchase, it shall request that the Department of General Services transfer the property to the Santa Monica Mountains Conservancy for management. Notwithstanding any other provision of law, the Special Account for Capital Outlay shall be fully reimbursed from any sale of the property to the National Park Service or the Department of Parks and Recreation. Upon the availability of funds to either of these agencies, the Department of General Services shall sell the property to either, upon request, for fair market value. If neither entity has acquired the property for the full purchase price within three years from the date of acquisition, the property shall be sold by the Department of General Services at fair market value. The full proceeds of any sale of the property, less costs of administration, shall be deposited in the Special Account for Capital Outlay.

### CHAPTER 1482

An act to amend Section 60263 of, and to add Section 60061.5 to, the Education Code, relating to instructional materials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

I am deleting the \$100,000 appropriation contained in Section 3 of Assembly Bill No. 2654.

The 1986 Budget Act already provides over \$92 million for the instructional materials program during 1986-87 For this reason, I question the need for the additional funding called for in this bill.

With this deletion, I approve Assembly Bill No. 2654

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 60061.5 is added to the Education Code, to read:

60061.5. A publisher or manufacturer shall do all of the following:

(a) Actively solicit or make available a process through which input concerning the quality, content, and usability of textbooks and instructional materials can be obtained from educators, parents, teachers, and students.

Upon request of a district governing board a publisher shall provide a summation of that information including both positive and critical input and their responses to the positive and critical input.

(b) Guarantee delivery of textbooks and instructional materials

prior to the opening of school in the year in which the textbooks and instructional materials are to be used if they are ordered by a date or dates specified in the contract with the district.

- SEC. 2. Section 60263 of the Education Code is amended to read: 60263. (a) District boards may order state-adopted textbooks and instructional materials on forms prescribed by the State Department of Education. The forms shall include, or be accompanied by, information concerning the grade or grades and subject or subjects for which each instructional material is intended, and the unit cost of the material, as computed pursuant to Section 60243, which will be deducted from the credit of the district when ordered.
- (b) The forms also shall include, or be accompanied by, information concerning the following requirements imposed on publishers and manufacturers:
- (1) Notification of the provisions of Section 60061.5 with reference to the duty of the publishers to actively solicit information and to provide a summation of the information as well as the contract delivery criteria.
- (2) Requiring guaranteed delivery of textbooks and instructional materials prior to the opening of school in the year in which the textbooks and instructional materials are to be used if they are ordered by a date or dates specified in the contract agreed to by the publishers.
- SEC. 3. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to instructional material display centers, as described in Section 60202 of the Education Code. The display centers shall use these funds to inform parents and teachers of the availability and location of centers and to provide opportunities for viewing textbooks and instructional materials at convenient times, including at least one Saturday per month.
- SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To expedite reform in the process of procuring instructional materials, it is necessary that this act take effect immediately.

## CHAPTER 1483

An act to amend Section 5 of Chapter 1048 of the Statutes of 1985, and to add Item 3810-102-140 to the Budget Act of 1986, relating to resources and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$166,500 appropriation contained in Section 2 of Assembly Bill No. 2688.

Numerous other Environmental License Plate proposals are currently being considered by the Resources Agency for 1987–88 budget year. The local assistances grants contained in this bill should be considered with the other funding proposals now before the Resources Agency

With this deletion, I approve Assembly Bill No. 2688

GEORGE DEUKMEIIAN, Governor

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

SECTION 1. Section 5 of Chapter 1048 of the Statutes of 1985 is amended to read:

Sec. 5. Item 3810-302-036 is added to the Budget Act of 1985, to read:

3810-302-036—For capital outlay and local assistance, Santa Monica Mountains Conservancy, payable from the Special Account for Capital Outlay ....... Schedule:

3,000,000

(1) 20.10.015—Appraisals, project planning and design.....

15,000

(2) 20.10.115—Lower Zuma Canyon—Acquisition .....

2,985,000

## **Provisions:**

- 1. Notwithstanding any other provision of law, if the National Park Service has not, within three years from date of acquisition, reimbursed the appraised market value of the property acquired in category (2), pursuant to Section 33204 of the Public Resources Code, the property shall be sold for fair market value by the Department of General Services, pursuant to Section 33205 of the Public Resources Code.
- Funds in excess of the amount appropriated in this item that are necessary to complete this acquisition shall be provided from the funds appropriated to the conservancy in Item 3810-301-722.
- Notwithstanding Section 11011 of the Government Code and Section 33205 of the Public Resources Code, net proceeds realized upon sale of the property or as reimbursement from the Na-

tional Park Service shall be deposited in the Special Account for Capital Outlay to reimburse that account for amounts appropriated and expended pursuant to this item. The remainder shall be used to reimburse Item 3810-301-722 to the extent that those funds were advanced for acquisition of the property, and upon reimbursement, the funds advanced from Item 3810-301-722 shall be available without regard to fiscal years for the purposes originally appropriated.

4. Any amount remaining from the net proceeds of sale or reimbursement, after making the reimbursements required by Provision 3, shall be deposited in the Special Account for Capital Outlay.

SEC. 2. Item 3810-102-140 is added to the Budget Act of 1986 (Chapter 186, Statutes of 1986), to read:

166,500

40,000

(1)	School Group Environmental Ed-	
	ucation Program, William O. Dou-	
	glas Outdoor Classroom	48,000
(2)	Mountains Ahead Program, Ahead	
	with Horses	31,000
(3)	Adventure Trails, Hollywood	
	YMCA, Inc	13,800
<b>(4)</b>	Camping Nature Education Pro-	•
	gram, Woodcraft Rangers, Inc	33,700
<b>(5)</b>	Lower Arroyo Seco Riparian Res-	
	toration Project, Community Ac-	

### Provision:

 Local assistance grants in this item shall be awarded to qualified nonprofit organizations pursuant to Section 33204.2 of the Public Resources Code. Each grant shall be approved by the Secretary of the Resources Agency.

tion for Parks .....

#### CHAPTER 1484

An act to add Part 6.6 (commencing with Section 15290) to Division 3 of Title 2 of the Government Code, and to amend, repeal, and add Section 647 of the Penal Code, relating to homeless persons, and making an appropriation therefor.

> [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$3 million appropriation contained in Section 2 of Assembly Bill

The budget for the current year already appropriates more than \$44 million for various homeless related programs, including \$65 million to the Department of Housing and Community Development for homeless shelters and residential hotels, \$35 million for the homeless mentally ill, \$3 million for homeless growth and family violence shelter protection, and \$200,000 for homeless Veteran's assistance.

When the Legislature approved the budget bill last June, it contained over \$700 million in spending above available funds. Thus, in order to protect California's fiscal integrity and the spirite and the spi

million in spending above available funds. Thus, in order to protect California's fiscal integrity, and to maintain our prudent reserve for emergencies, I was obligated to eliminate that \$700 million in excess spending from the budget. I set aside \$283 million of those reductions for programs which I was willing to fund, if the Legislature sent me a bill implementing the funding mechanism which they had approved in the budget. However, they failed to follow through on their original action.

Now, the Legislature once again has sent me bills which would spend more than \$300 million above the funding available. My resolve to maintain California's fiscal integrity to protect our resolve and to maintain our poulty won AAA bond rating as

integrity, to protect our reserve, and to maintain our newly won AAA bond rating, is unshakeable. Therefore, I am again obligated to veto these expenditures
With this deletion, I approve Assembly Bill No 2839

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Part 6.6 (commencing with Section 15290) is added to Division 3 of Title 2 of the Government Code, to read:

# PART 6.6. ASSISTANCE TO HOMELESS PERSONS

# CHAPTER 1. HOMELESS RELIEF PILOT PROJECT

15290. The Legislature finds and declares all of the following:

- (a) Many persons residing in this state lack sufficient income or capacity to provide daily shelter, food, and clothing for themselves or their families.
- (b) Federal, state, local, and private efforts to assist these homeless persons are not well coordinated and data concerning these shelterless persons are not kept in a consistent manner.
- (c) Local and state efforts to help homeless persons have not fixed overall coordination responsibility with individuals in either county or state government.
- (d) Existing programs providing homeless services to unsheltered residents, especially clients such as the elderly, displaced workers, juveniles, veterans, and the mentally ill do not adequately meet the needs of these persons.
  - (e) The expansion, improvement, and initiation of homeless

services to unsheltered residents will aid in returning these persons to productive society.

(f) To feed the hungry, clothe the naked, and to house the homeless consistent with this part is a priority for this state.

15291. There is hereby established the Homeless Relief Pilot Project, to be administered by the Department of Housing and Community Development for a period of two years from the effective date of this part in the County of San Diego. The purpose of the project shall be to coordinate and centralize the delivery of state and local services, both public and private, for homeless persons in order to maximize the individual benefit and cost-effectiveness of those services and to assess the suitability of the program model hereby established for implementation on a permanent statewide basis.

15292. The following definitions shall govern the construction of this part:

- (a) "Board" means the Federal Emergency Management Agency Board in the County of San Diego.
- (b) "Department" means the Department of Housing and Community Development.
- (c) "Homeless person" means an individual who lacks the financial resources, mental capacity, or community ties needed to provide for his or her own adequate shelter.
- (d) "Permanent housing" means occupancy, for at least 90 days, in either of the following:
- (1) A dwelling unit with self-contained kitchen and bathroom facilities, which dwelling unit is not a shelter for homeless persons.
- (2) A duly accredited public or private facility for the care of the mentally or physically ill, which facility is not a juvenile hall, reform school, jail, prison, or similar penal institution.
- (e) "Positive cash flow" means steady income equal to or in excess of expenses.
- (f) "Steady income" means a legal, regular, permanent source of funds maintained for a period of at least 90 days while resident in permanent housing.

15293. The department shall have the following powers and duties:

- (a) To promulgate such rules and regulations as are necessary for the effective administration of this part.
- (b) To recommend a comprehensive plan for the coordinated delivery of existing state services for homeless persons in San Diego County to every state entity administering such services. The recommendations shall be in writing. The recommendations shall be consistent with the local plan required pursuant to Section 15294. The recommendations shall be included in the report to the Legislature required by Section 15300 and shall include comments regarding compliance by the various state entities with the recommendations.
  - (c) Approve the local plan for the delivery of services to homeless

persons required pursuant to Section 15294. If the department does not approve the local plan by March 1, 1987, it shall report a detailed explanation why the report was not approved to the Legislature within 30 days.

- (d) Disburse and monitor funds appropriated for the purposes of Section 15294.
  - (e) Report to the Legislature as required by Section 15300.
- 15294. The department shall allocate funds to the board for provision of services to homeless persons pursuant to a local plan to be submitted by January 1, 1987, which contains all of the following elements:
- (a) Coordinated delivery of local public and private services for homeless persons, including designation by the county of a single person to coordinate the delivery of local county services.
- (b) Collection of information, including, but not limited to, the number of homeless persons in the county and the currently unmet needs of the homeless.
- (c) Establishment of one or more homeless service centers administered by the board, or its contractor, which shall provide at least all of the following services:
  - (1) Food.
  - (2) Clothing.
  - (3) Emergency shelter in accordance with Section 15296.
- (4) Transportation services to a place of permanent residence in accordance with Section 15297.
- (5) Case management services, including an evaluation of the client's needs and the making of referrals to other entities which provide services needed by the client. These case management services shall include an assessment of existing entitlements and the prevention of duplication of services in accordance with subdivision (a).
- 15295. None of the funds provided under this part may be used to satisfy, directly or indirectly, the county's existing legal obligations under Section 17000 of the Welfare and Institutions Code, to provide food, clothing, transportation, shelter, and other necessities of life. Funds may be used for both capital and operating costs, as specified in the local plan. Funds shall be used to expand availability of existing programs, resources, and services, or to initiate new ones. If pilot project funding is reduced or eliminated, no new services pursuant to this part shall be mandated on the county. The county is not required to divert existing funding for mental health, alcohol and drug programs for services under this part.
- 15296. (a) In providing emergency shelter services under this part, the board or its contractor may utilize either direct services or a voucher system.
- (b) A homeless person shall be entitled to an annual maximum concurrent stay in an emergency shelter funded by this part of 90 days provided that within the first five days he or she begins participation in case management services and provided that he or

she complies with rules of conduct and cleanliness established by the shelter.

Whenever a homeless person indicates a desire to establish permanent residence in another state and demonstrates that he or she will be able to establish a permanent residence in another state, such as with relatives, friends, or through the acceptance of a pending job offer, the board or its contractor shall, if consistent with cost effectiveness guidelines which shall be adopted by the board, provide the individual with funding for transportation to the out-of-state residence. The board or its contractor may purchase the necessary services. An agency shall not be eligible to disburse funds for transportation under this part until it has received approval from the board. Each disbursement of funds for transportation shall be approved by the board coordinator. The board shall adopt guidelines specifying the manner in which an individual would have to verify his or her potential permanent residence in order to receive services under this section. Under no circumstances may a homeless person be forced to relocate.

15298. The board or its contractor may also provide job placement services, including job counseling, to homeless persons. If the board contracts with other entities to provide job services under this chapter, the board shall utilize incentives to reward agencies that successfully place homeless individuals in unsubsidized employment.

The board or its contractor may also provide or arrange for the

provision of counseling services.

15299. If consistent with cost effectiveness guidelines which shall be adopted by the board, a contractor may utilize funds allocated pursuant to this part in order to provide loans to individuals placed in employment for first and last month's rent and for cleaning deposits. Any loan made pursuant to this section shall be approved by the board.

15300. By March 1, 1988, the department shall report to the Legislature on the status of the project and make recommendations for its future disposition.

- (a) At minimum, the report on program status shall include the percentage of homeless persons in the county, from January 1, 1987, to January 1, 1988, to whom all of the following apply:
  - (1) Those who obtain permanent housing.
  - (2) Those who achieve a steady income.
  - (3) Those who maintain a positive cash flow.
- (b) At minimum, the department's recommendations shall address questions of termination or continuation and restriction to San Diego County or expansion statewide.
- SEC. 2. The sum of three million dollars (\$3,000,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development for the first year of the pilot project under Section 1 of this act, for expenditure as follows:
  - (a) One hundred fifty thousand dollars (\$150,000) to the

Department of Housing and Community Development for the administration of Section 1 of this act and the report required by Section 15300 of the Government Code.

- (b) Two million eight hundred fifty thousand dollars (\$2,850,000) for the purposes of Sections 15294, 15295, 15296, 15297, 15298, and 15299 of the Government Code.
- SEC. 3. It is the intent of the Legislature to provide, in future legislation, funding in the amount of three million dollars (\$3,000,000) for the second year of the pilot project established pursuant to Section 1 of this act.

## CHAPTER 1485

An act making an appropriation for the payment of certain claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$50,000 claim to be paid from Item 3340-001-001 (California Conservation Corps) contained in Assembly Bill No 2862.

This claim should not have been included in the bill Rather, the claim will be paid

from Item 8190-001-001 from funds that are appropriated to the Attorney General. The California Conservation Corps and the Attorney General concur with this action. With this deletion, I approve Assembly Bill No. 2862

GEORGE DEUKMEJIAN, Governor

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

- SECTION 1. The sum of one million twenty-one thousand eight hundred three dollars and two cents (\$1,021,803.02) is hereby appropriated from the funds indicated to the Secretary of the State Board of Control for the payment of certain claims accepted by the State Board of Control, in accordance with the following schedule:
- (1) Four hundred eighty-two thousand eight hundred thirty-six dollars and twenty-four cents (\$482,836.24) from the General Fund.
- (2) Thirty dollars and fifty cents (\$30.50) from the Auditor General Fund.
- (3) Three hundred seventy dollars (\$370) from the Bank and Corporation Tax Fund.
- (4) Twenty dollars (\$20) from the California Health Facilities Commission Fund.
- (5) Two thousand two hundred twenty-eight dollars (\$2,228) from the California Housing Finance Fund.
- (6) Six hundred twelve dollars and thirty-four cents (\$612.34) from the California State University and College Dormitory Revenue Fund.
- (7) One hundred fifty-seven dollars and eighty-eight cents (\$157.88) from the Employment Development Contingent Fund.

- (8) Ten dollars and ten cents (\$10.10) from the Energy Resources Programs Account in the General Fund.
  - (9) Thirty dollars (\$30) from the Federal Trust Fund.
- (10) One hundred fifty dollars (\$150) from the Fish and Game Preservation Fund.
- (11) Three thousand five hundred ninety-one dollars and eighty-seven cents (\$3,591.87) from the Health Care Deposit Fund.
- (12) One thousand four hundred eight dollars and seven cents (\$1,408.07) from the Personal Income Tax Fund.
- (13) Three thousand five hundred ninety-one dollars and forty cents (\$3,591.40) from the Prison Industries Revolving Fund.
- (14) Nineteen thousand seven hundred fifty-one dollars and ninety-one cents (\$19,751.91) from the Renewable Resources Investment Fund.
- (15) Two hundred twenty-nine dollars and eighty-five cents (\$229.85) from the Special Deposit Fund.
- (15.5) Thirty thousand three hundred thirty-two dollars and fifty-eight cents (\$30,332.58) from the Motor Vehicle Account, State Transportation Fund.
- (16) Twelve thousand nine hundred eighty-two dollars and sixty-one cents (\$12,982.61) from the Tax Relief and Refund Account in the General Fund.
- (17) Eight hundred forty-four dollars and thirty-five cents (\$844.35) from the Transportation Revolving Account in the State Transportation Fund.
- (18) Three thousand two hundred forty-two dollars and fifty-six cents (\$3,242.56) from the Unemployment Compensation Disability Fund.
- (19) One hundred dollars (\$100) from the Unemployment Administration Fund.
- (20) Two thousand seven hundred two dollars and seventy-three cents (\$2,702.73) from the Unemployment Fund.
- (21) Three thousand two hundred fifty dollars and seventy-eight cents (\$3,250.78) from the Unclaimed Property Fund.
- (22) One thousand eight hundred seventy-nine dollars (\$1,879) from the Water Resources Revolving Fund.
- (23) Twelve dollars (\$12) from Item 0250-001-001 of the Budget Act of 1986.
- (25) Eight hundred eighty-four dollars and ninety-nine cents (\$884.99) from category (a) of Item 0585-001-981 of the Budget Act of 1986.
- (27) Twenty-one thousand seven hundred twenty-six dollars and three cents (\$21,726.03) from Item 0820-001-001 of the Budget Act of 1986.
- (28) Two hundred sixty-six dollars and fifty cents (\$266.50) from category (g) of Item 0820-001-001 of the Budget Act of 1986.
- (29) One thousand nine hundred seventy-one dollars and nineteen cents (\$1,971.19) from category (a) of Item 0840-001-001 of the Budget Act of 1986.

- (31) Fifty dollars (\$50) from Item 0860-001-001 of the Budget Act of 1986.
- (32) Two thousand six hundred twenty-eight dollars and forty-three cents (\$2,628.43) from category (a) of Item 0860-001-001 of the Budget Act of 1986.
- (33) Thirty dollars (\$30) from category (b) of Item 0860-001-001 of the Budget Act of 1986.
- (34) Thirty-eight dollars (\$38) from Item 1640-086-001 of the Budget Act of 1986.
- (35) Five hundred twenty dollars and five cents (\$520.05) from category (a) of Item 1640-086-001 of the Budget Act of 1986.
- (36) Two hundred eighty-eight dollars and seventy-four cents (\$288.74) from Item 1655-090-702 of the Budget Act of 1986.
- (37) Twenty-two dollars (\$22) from Item 1700-001-001 of the Budget Act of 1986.
- (38) Eight thousand eight hundred thirty-eight dollars and twenty-one cents (\$8,838.21) from category (a) of Item 1710-001-001 of the Budget Act of 1986.
- (39) One thousand three hundred sixty-nine dollars and twenty cents (\$1,369.20) from category (a) of Item 1730-001-001 of the Budget Act of 1986.
- (40) Four thousand four hundred forty-six dollars and twenty-two cents (\$4,446.22) from category (b) of Item 1730-001-001 of the Budget Act of 1986.
- (41) Three thousand five hundred fifty-eight dollars and five cents (\$3,558.05) from category (a) of Item 1760-001-666 of the Budget Act of 1986.
- (42) One hundred thirty-six thousand seven hundred thirty-four dollars (\$136,734) from category (b) of Item 1760-001-666 of the Budget Act of 1986.
- (43) Three thousand seven hundred sixteen dollars and fifty-five cents (\$3,716.55) from category (a) of Item 1880-001-001 of the Budget Act of 1986.
- (44) Two thousand nine hundred thirty-one dollars and twelve cents (\$2,931.12) from category (c) of Item 1880-001-001 of the Budget Act of 1986.
- (45) One hundred seventy-nine dollars and seventy-five cents (\$179.75) from Item 1960-001-001 of the Budget Act of 1986.
- (46) Two hundred eleven dollars and thirty cents (\$211.30) from Item 1970-011-001 of the Budget Act of 1986.
- (47) Three thousand seven hundred ninety-seven dollars and eighty-one cents (\$3,797.81) from category (b) of Item 2240-001-001 of the Budget Act of 1986.
- (48) Two hundred fifteen dollars and eighty-four cents (\$215.84) from category (c) of Item 2290-001-217 of the Budget Act of 1986.
- (49) Eight thousand one hundred twenty-seven dollars and twenty-two cents (\$8,127.22) from Item 2660-001-042 of the Budget Act of 1986.
  - (50) Five thousand sixty-eight dollars and seventy-four cents

- (\$5,068.74) from category (a) of Item 2660-001-042 of the Budget Act of 1986.
- (52) Two thousand six hundred thirty-eight dollars and seventy-nine cents (\$2,638.79) from category (a) of Item 2720-001-044 of the Budget Act of 1986.
- (53) Seven thousand thirty-two dollars and seventy-six cents (\$7,032.76) from category (a) of Item 2740-001-044 of the Budget Act of 1986.
- (54) One hundred ninety-nine dollars and seventeen cents (\$199.17) from category (b) of Item 2740-001-044 of the Budget Act of 1986.
- (55) Fifty-one thousand one hundred forty-four dollars and forty-nine cents (\$51,144.49) from Item 3340-001-001 of the Budget Act of 1986.
- (56) Two thousand eight hundred fifty-three dollars (\$2,853) from category (b) of Item 3360-001-465 of the Budget Act of 1986.
- (57) Thirty-three dollars and sixty-eight cents (\$33.68) from Item 3480-001-001 of the Budget Act of 1986.
- (58) Five thousand three hundred ninety dollars and ninety-six cents (\$5,390.96) from subdivision (a) of Item 3540-001-001 of the Budget Act of 1986.
- (59) Four thousand eight hundred sixty-two dollars and thirty cents (\$4,862.30) from category (b) of Item 3600-001-200 of the Budget Act of 1986.
- (60) Two hundred fifty dollars and twenty-three cents (\$250.23) from category (b) of Item 3760-001-565 of the Budget Act of 1986.
- (61) Nine thousand six hundred eleven dollars and two cents (\$9,611.02) from Item 3790-001-001 of the Budget Act of 1986.
- (62) Five thousand four hundred seventy-one dollars and six cents (\$5,471.06) from category (a) of Item 3790-001-001 of the Budget Act of 1986.
- (63) Two thousand seven dollars and forty-one cents (\$2,007.41) from Item 3860-001-001 of the Budget Act of 1986.
- (64) One thousand twenty-six dollars and eighty-one cents (\$1,026.81) from Item 3940-001-001 of the Budget Act of 1986.
- (65) Fifty-five dollars and twenty cents (\$55.20) from Item 4180-001-001 of the Budget Act of 1986.
- (66) Nine hundred twelve dollars (\$912) from Item 4200-001-001 of the Budget Act of 1986.
- (68) Four hundred sixty-two dollars and four cents (\$462.04) from category (b) of Item 4260-001-001 of the Budget Act of 1986.
- (70) Eleven thousand three hundred fifty-four dollars and fifty-two cents (\$11,354.52) from category (a) of Item 4300-111-001 of the Budget Act of 1986.
- (71) Seventeen thousand twenty-four dollars (\$17,024) from category (b) of Item 4300-101-001 of the Budget Act of 1986.
- (72) Two thousand nine hundred thirty-seven dollars and sixty-eight cents (\$2,937.68) from category (a) of Item 4310-111-001 of the Budget Act of 1986.

- (73) One hundred eighty dollars (\$180) from category (g) of Item 4310-101-001 of the Budget Act of 1986.
- (74) Two thousand six hundred seventy-seven dollars and forty-one cents (\$2,677.41) from category (a) of Item 4360-111-001 of the Budget Act of 1986.
- (75) Six thousand one dollars and ninety-nine cents (\$6,001.99) from category (b) of Item 4440-001-001 of the Budget Act of 1986.
- (76) Nine hundred seventy-one dollars and sixty cents (\$971.60) from category (a) of Item 4440-011-001 of the Budget Act of 1986.
- (77) Four hundred thirty-six dollars and seventy cents (\$436.70) from category (b) of Item 4440-011-001 of the Budget Act of 1986.
- (78) Eight dollars and sixty-six cents (\$8.66) from Item 4440-101-001 of the Budget Act of 1986.
- (79) One thousand four hundred eighty-three dollars and sixty-four cents (\$1,483.64) from category (a) of Item 5100-001-001 of the Budget Act of 1986.
- (80) Three thousand one hundred thirty-six dollars and thirty-four cents (\$3,136.34) from Item 5100-001-870 of the Budget Act of 1986.
- (81) Two hundred twenty-eight dollars and seventy-four cents (\$228.74) from Item 5160-001-001 of the Budget Act of 1986.
- (82) Two thousand four hundred eighty-two dollars and seventy-one cents (\$2,482.71) from Item 5180-001-001 of the Budget Act of 1986.
- (83) Seven hundred fifty-two dollars (\$752) from category (b) of Item 5180-001-001 of the Budget Act of 1986.
- (84) Eight hundred ninety-one dollars and forty-five cents (\$891.45) from category (d) of Item 5180-001-001 of the Budget Act of 1986.
- (85) Four thousand one hundred seventy-five dollars and eighteen cents (\$4,175.18) from category (e) of Item 5180-001-001 of the Budget Act of 1986.
- (86) Eighteen dollars (\$18) from category (f) of Item 5180-001-001 of the Budget Act of 1986.
- (87) One thousand seven hundred ten dollars and thirty-three cents (\$1,710.33) from Item 5180-001-890 of the Budget Act of 1986.
- (89) Four hundred dollars (\$400) from category (c) of Item 5240-001-001 of the Budget Act of 1986.
- (90) Eight thousand thirty-eight dollars (\$8,038) from Item 5240-101-001 of the Budget Act of 1986.
- (96) Twenty-four thousand six hundred sixty-six dollars and fifty cents (\$24,666.50) from category (a) of Item 6100-001-001 of the Budget Act of 1986.
- (97) Four hundred ninety-one dollars and ninety cents (\$491.90) from category (a) of Item 6420-001-001 of the Budget Act of 1986.
- (98) Ten thousand eight hundred eighty-four dollars and thirty-five cents (\$10,884.35) from category (a) of Item 6440-001-001 of the Budget Act of 1986.
- (99) Seven thousand two hundred eighty-six dollars and eighty-seven cents (\$7,286.87) from category (a) of Item

6610-001-001 of the Budget Act of 1986.

- (101) One hundred twenty-one dollars (\$121) from category (e) of Item 6610-001-001 of the Budget Act of 1986.
- (102) Two thousand four hundred fifty-seven dollars and nineteen cents (\$2,457.19) from Item 6870-001-001 of the Budget Act of 1986.
- (103) Seventeen thousand five hundred eighty-seven dollars and eighteen cents (\$17,587.18) from category (b) of Item 8260-001-001 of the Budget Act of 1986.
- (104) One hundred eight dollars and seventy cents (\$108.70) from category (b) of Item 8300-001-001 of the Budget Act of 1986.
- (105) One thousand nine hundred six dollars (\$1,906) from Item 8350-001-001 of the Budget Act of 1986.
- (106) One thousand seven hundred fifty-three dollars and twenty-eight cents (\$1,753.28) from category (e) of Item 8350-001-001 of the Budget Act of 1986.
- (107) One hundred ninety-eight dollars (\$198) from category (a) of Item 8560-011-001 of the Budget Act of 1986.
- (108) Eight hundred ninety-three dollars and twelve cents (\$893.12) from Item 8570-001-001 of the Budget Act of 1986.
- (109) Four hundred ten dollars (\$410) from category (a) of Item 8660-001-412 of the Budget Act of 1986.
- (110) One thousand one hundred seventy dollars and eighty-three cents (\$1,170.83) from Item 8860-001-001 of the Budget Act of 1986.
- (111) Fifteen thousand twenty-three dollars and fifty-two cents (\$15,023.52) from category (f) of Item 8940-001-001 of the Budget Act 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:

In order to settle claims against the state and end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

# CHAPTER 1486

An act to add Sections 84043, 84044, 84045, and 84046 to, and to repeal Article 2 (commencing with Section 84309) of Chapter 3 of Part 50 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am reducing the appropriation contained in Section 6 of Assembly Bill No. 2910 from \$100,000 to \$50,000.

I support the need to develop an early warning system of districts in questionable fiscal condition and to increase the authority of the Chancellor's Office. This is the first

of a series of actions necessary if community colleges are to become a system. Unfortunately, the State's fiscal circumstances do not allow me to approve the entire \$100,000 appropriation proposed in this bill With this reduction, I approve Assembly Bill No 2910

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 84043 is added to the Education Code, to read:

84043. The superintendent of each district shall regularly report in detail to the governing board of the district the district's financial condition pursuant to subdivision (g) of Section 72413. The superintendent shall also prepare a quarterly report based on measurements and standards as established by the Board of Governors of the California Community Colleges and certified on forms provided by the chancellor. The report shall be reviewed by the district governing board at a regularly scheduled meeting and entered into the minutes of the meetings. The district shall submit a copy of the certified report to the appropriate county superintendent and the chancellor no later than five working days following the date of the governing board meeting.

The county superintendent shall review the certified report in conjunction with his or her responsibilities pursuant to Section 85237 and shall transmit to the chancellor copies of the certified reports with comments when any of the following occurs:

- (a) The district or county superintendent determines the district to be in questionable fiscal condition based on the criteria that are established by the board of governors.
- (b) The county superintendent determines the district is failing to comply to his or her satisfaction with the requirements of this section.

If the chancellor determines that a district is failing to meet these criteria or is failing to comply with the requirements of this section. he or she shall notify the district and county superintendents in writing and require both to respond within 15 days as to the specific problems relative to the criteria and state the actions the district or county office of education, or both, plan to take in response to the identified financial problems. If the chancellor determines that the response or proposed actions are inadequate, he or she shall have the authority to direct the district to prepare and adopt a detailed plan for achieving fiscal stability and an educational plan demonstrating the impact of the fiscal plan on the educational program.

- SEC. 2. Section 84044 is added to the Education Code, to read: 84044. If the chancellor determines that the district's plans prepared and adopted pursuant to Section 84043 are inadequate to solve the financial problems, or if the district fails to implement the plans, the chancellor shall have the authority to take any of the following actions:
  - (a) Conduct a comprehensive management review of the district

and its educational programs and an audit of the financial condition of the district.

- (b) Contract for, or request another appropriate agency to conduct, the review and audits described in subdivision (b).
- (c) Direct the district, with the assistance of the county office of education, to amend and readopt the fiscal and educational plans prepared pursuant to Section 84043 based on the findings of the comprehensive audits.
  - (d) Review and monitor the implementation of the plans.
- (e) Propose any modifications to the fiscal and educational plans he or she deems necessary for the district's achievement of fiscal stability.
- (f) If the district fails to adequately implement the readopted fiscal and educational plans, or any proposed modifications thereto, pursuant to this section, appoint, after consultation with the county superintendent of schools, a monitor at district expense for the period of time necessary to achieve the goals of the plans. The chancellor shall determine the duties of the monitor.
- SEC. 3. Section 84045 is added to the Education Code, to read: 84045. If the procedures pursuant to Sections 84043 and 84044 fail to achieve district financial stability, as determined by the chancellor, the chancellor or his or her designee shall do any or all of the following:
- (a) Review and monitor the plans, reports, and other financial material required under Sections 84043 and 84044.
- (b) Require that all subsequent actions of the district to implement the fiscal and educational plans be submitted for prior written approval.
- (c) Propose, at any time, modifications to the fiscal and educational plans he or she deems necessary, including, but not necessarily limited to, directing spending levels and priorities, for the district's achievement of fiscal stability.
- (d) Reduce or withhold any apportionment to the district in any amount he or she deems appropriate.
- (e) Report to the board of governors and the chairs of the educational policy and fiscal committees of both houses of the Legislature, the Director of Finance, and the Governor any actions taken against the district and any corrective action taken by the district pursuant to this section.
- SEC. 4. Section 84046 is added to the Education Code, to read: 84046. (a) If the procedures pursuant to Sections 84043, 84044, and 84045 fail to stabilize the financial condition of the district before an emergency apportionment is necessary, the chancellor may seek an appropriation for an emergency apportionment in an amount necessary to maintain the educational programs of the district as specified in the educational plan pursuant to Sections 84043 and 84044 and to preclude a negative ending balance.
- (b) For each of three fiscal years, the Controller shall deduct from apportionments paid to a community college district pursuant to law,

an amount not less than one-third of the amount actually allocated to the district pursuant to this section, together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district.

For each of three fiscal years, the amount deducted by the Controller pursuant to this subdivision shall be reapportioned to the source of the funds allocated to the district pursuant to this section. Amounts so reapportioned to Section B of the State School Fund shall be apportioned by the Chancellor of the California Community Colleges to community college districts to alleviate any deficits in state funding in the year in which the loan is made or during the period of repayment. Unless otherwise determined pursuant to subdivision (c), the three-year repayment period shall consist of three consecutive fiscal years commencing with the fiscal year following the year in which the emergency apportionment is made.

(c) Any community college district which has received an emergency apportionment pursuant to this section may request a revision of the repayment schedule. The request shall be submitted to the Chancellor of the California Community Colleges with copies submitted to the county superintendent of schools within whose jurisdiction the district is located, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, and the Director of Finance. The request shall be accompanied by appropriate justification for any deferral of repayment, including a revision to the plans adopted by the district's governing board as specified in this section, together with specified identification of the reasons that the actions were taken by the district to correct the financial problems.

The chancellor shall consult with representatives of the county superintendent of schools within whose jurisdiction the district is located, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Director of Finance, and representatives which the chancellor may select from the superintendents and presidents of the other community colleges and districts throughout the state. After consulting with these representatives, the chancellor may revise the repayment schedule, may forgive the interest payments otherwise compounded as a result of any deferral of payment, and may specify any conditions that he or she determines are necessary to assure the repayment of the emergency apportionment. The chancellor shall report his or her actions to the board of governors, the Director of Finance, the Controller, and the Joint Legislative Budget Committee. The Controller shall deduct amounts from the apportionment schedule in accordance with the revised repayment plan.

(d) The involvement of county superintendents of schools in the activities specified in Sections 84043 to 84046, inclusive, shall only apply to counties with a general population of less than 500,000 residents.

- SEC. 5. Article 2 (commencing with Section 84309) of Chapter 3 of Part 50 of the Education Code is repealed.
- SEC. 6. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges to carry out the purposes of this act.
- SEC. 7. Reimbursement to local agencies and community college 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.

An act to amend Section 14082 of, and to add Article 2.92 (commencing with Section 14090) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$80,000 appropriation contained in Assembly Bill No. 3204. While I support the concept of this bill, I believe that it is unnecessary to provide funds when the Commission already plans to look into this matter using their existing resources

With this deletion, I approve Assembly Bill No. 3204

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 14082 of the Welfare and Institutions Code is amended to read:

14082. Notwithstanding any other provision of law, the Governor shall designate a person in his office to act as a special negotiator to negotiate rates, terms, and conditions for contracts with hospitals for inpatient services to be rendered to Medi-Cal program beneficiaries. The negotiator may also, if he or she deems it expedient, call for bids, in lieu of negotiations. The special negotiator shall consider, when contracting, the total funds appropriated for inpatient hospital services.

The department and every other state agency concerned with health care or public social services shall provide such assistance as the negotiator may require. The department shall enter into contracts with hospitals and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

The negotiator shall have the powers of a head of a department

pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, except, that he or she shall adopt only such rules and regulations pursuant to Section 11152 of the Government Code as are necessary to carry out those duties specifically conferred upon the negotiator by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), 2.91 (commencing with Section 14089), and 2.92 (commencing with Section 14090) of this chapter.

The negotiator shall adopt such regulations as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted in accordance with this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

In addition to the powers specified in this section, the negotiator has the authority to negotiate contracts under Article 2.8 (commencing with Section 14087.5), Article 2.91 (commencing with Section 14089), and Article 2.92 (commencing with Section 14090) of this chapter.

Nothing in this article or the Budget Act of 1984 prohibits the negotiator from adjusting rates paid to hospitals to reflect inflation, provided that such adjustments are determined during the negotiating process.

The amendment of this section made at the 1983-84 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 2. Article 2.92 (commencing with Section 14090) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

# Article 2.92. Health Benefits Study

- 14090. (a) The commission shall conduct a study to determine the feasibility, costs, and benefits of offering persons eligible for benefits under Title XVIII of the federal Social Security Act and the state's Medi-Cal program multiple options for health benefit coverage negotiated and purchased by the state in lieu of fee-for-service Medi-Cal coverage.
- (b) The study shall include, but not be limited to, all of the following elements:
- (1) Review of other efforts that have been or are being made to provide supplemental health benefit coverage to the Medicare

population.

- (2) Determination of costs and services used by the Medicare population.
- (3) Analysis of the utilization patterns of the crossover population, including the use of hospitals by governance and peer group categories. For purposes of this paragraph "crossover population" means those persons eligible for federal and state benefits as described in subdivision (a).
- (4) Analysis of whether or not the need for various types of health benefit coverage varies if the dually eligible individual has enrolled in a Medicare health maintenance organization or competitive medical plan or has a Medi-Cal share of cost.
- (5) Consideration of health benefit coverage options that maximize the choice available to the eligible individuals. These may include, but are not limited to, any of the following, individually or collectively:
  - (A) Supplemental indemnity health insurance.
  - (B) Health insurance with a preferred provider benefit.
- (C) Health insurance through a health maintenance organization or other organized system of care.
- (6) Completion of a marketing analysis to identify organizations offering health benefit coverage and to measure their interest in providing coverage to the dually eligible population, including an evaluation of the most appropriate scope of benefits to cover.
- (7) Assessment of whether this method of coverage should be optional or mandatory.
- (8) Analysis of the utilization control measures any insurers should include in the management of their insurance plan as assurances to the state as to the fiscal integrity of their potential contractual arrangement with the state.
  - (9) Determination of the need for reinsurance or stop-loss limits.
- (10) Description of the organizational structure which would provide those persons eligible for such coverage with the appropriate state services to assist them in the purchase of and participation in the health coverage programs.
- (11) Identification of short- and long-range net savings or costs associated with the coverage arrangements being considered.
- (12) Assessment of the service and financial impact any proposed activities would have on disproportionate providers of health care in any area affected by new financing or organizational arrangements.
- (13) Analysis of the feasibility of the state providing an arrangement whereby Medicare eligible members of the general public could participate in any program established pursuant to this article.
- (c) The commission shall report to the Governor and the Legislature on the results of the study and its determination whether the study is feasible and beneficial to the persons eligible for Medicare and the state Medi-Cal program, no later than April 1, 1987.
  - 14090.1. (a) Upon a determination by the commission that the

arrangements studied under Section 14090 are feasible and beneficial to those persons eligible for Medicare and the state Medi-Cal program, the commission shall design a project in not more than three areas of the state to test the findings of the study.

- (b) The department shall not formally submit any federal waivers which might be necessary for these projects until the appropriate committees in the Legislature have had at least 60 days to review the findings of the study conducted under Section 14090 and the decision by the commission under subdivision (a) of this section.
- (c) The commission shall not proceed to negotiate in any project area until startup funds are appropriated in the Budget Act.
- 14090.2. The department shall provide such information and technical assistance as requested by the commission to conduct the study required by this article.
- 14090.3. The department shall seek whatever waivers are necessary from the federal government in order to fulfill the purposes of this article. These waivers shall include, but not be limited to, the following areas:
- (a) The provision of health benefit coverage by the state under private health insurance or under health care plans to cover all copayments and deductibles required by the Medicare program as well as those health care services not covered by Medicare but offered as benefits under the Medi-Cal program.
- (b) The provision of health benefit coverage by the state under private health insurance or health care plans for all Medicare services.
- SEC. 3. The sum of eighty thousand dollars (\$80,000) is hereby appropriated from the General Fund to the California Medical Assistance Commission for the purpose of supporting the costs associated with performing the activities required by this act.
- SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide low-income, aged, and disabled persons in this state a stable and adequate form of health benefit insurance, it is necessary that this act take effect immediately.

An act to amend Section 5007.1 of the Public Resources Code, to amend and supplement the Budget Act of 1986 by adding Item 3790-304-722 thereto, and to amend Section 12 of Chapter 1305 of the Statutes of 1980, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$66,000 appropriation contained in Section 5 of Assembly Bill No. 3984.

I believe the Department of Parks and Recreation has sufficient resources available to meet the first year's operating costs of the Seccombe Lake State Urban Recreation Area. The funding of operating cost for 1987-88 and future years will be addressed through the budget process With this deletion, I approve Assembly Bill No. 3984

CEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 5007.1 of the Public Resources Code is amended to read:

5007.1. Lands purchased or otherwise acquired by the department at the Pan Pacific project, which are to be operated and maintained by other public agencies under agreements entered into pursuant to Section 5080.30, shall not be subject to the provisions of Section 5002.1, 5002.2, 5002.3, or 5002.4, or Article 1.7 (commencing with Section 5019.50) of this chapter, during the term of those agreements. Any facility to be developed on those lands shall only be constructed in accordance with a development plan approved by the director.

SEC. 2. Item 3790-304-722 is added to the Budget Act of 1986, to read:

# PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984

3790-304-722—For Capital Outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1984 .....

2,176,000

Schedule:

(1) Seccombe Lake State Urban Recreation Area—planning, working drawings, and construction .....

2,176,000

Provisions:

1. Funds appropriated in this item may be encumbered only if the City of San Bernardino and the state enter into an operation and maintenance agreement for the Seccombe Lake State Urban Recreation Area on a cost-sharing basis for five years with the state's obligations for operation and maintenance terminating at the end of the five-year period. The city shall be responsible for an amount equal to all expenses. except the expense of enforcement incurred by the city in the operation of the park during the 1980-81 fiscal year, adjusted annually thereafter for changes in the California Consumer Price Index. The city shall be responsible for all costs of law enforcement relating to the operation and maintenance of the urban recreation area and shall furnish city police to patrol the urban recreation area during times when it is closed to public. The state's share of fiscal responsibility for operation and maintenance shall decrease 10 percent each year during the five-year period.

- Upon the expiration or termination of the agreement, the state shall transfer all title to, and operation and maintenance responsibility for, all Seccombe Lake State Urban Recreation Area property bounded by 5th Street, 7th Street, Waterman Avenue, and Sierra Way to the city for park purposes. The property transferred shall be operated, maintained, and improved by the city for park purposes in perpetuity, and no other use, sale, or disposition of the property shall be permitted except by specific act of the Legislature. Further, if authorized by specific act of the Legislature, upon a breach of any condition of this transfer. the state may reenter the property, and upon that reentry, the interest of the City of San Bernardino shall terminate and all right, title, and interest in the property shall revert to the state.
- 3. During the five-year shared-responsibility period, all revenues generated by the Seccombe Lake State Urban Recreation Area shall be retained by the city for Seccombe Lake park purposes.
- SEC. 3. (a) A long-term cost-sharing agreement between the state and City of San Bernardino for operation and maintenance expenses at Seccombe Lake State Urban Recreation Area needs reconsideration as to operational responsibility and scope of the park.

The Legislature finds and declares that it is in the best interest of the state to terminate the state's fiscal and operational responsibility within the next five years and dispose of lands that cannot feasibly be used as part of the state urban recreation area or a municipal park by transferring those lands to the city for its use. Lands within the reduced scope of the park shall continue to serve for park purposes , as required by Item 3790-304-722 of the Budget Act of 1986.

- (b) Upon the entering of the agreement required by Item 3790-304-722 of the Budget Act of 1986, full fee title to the following parcels in the Seccombe Lake State Urban Recreation Area north of 7th Street shall be transferred to the City of San Bernardino:
  - (1) Parcel No. 10; 140-241-25; 1.25+ acres.
  - (2) Parcel No. 11; 140-241-35; .22+ acres.
  - (3) Parcel No. 12; 140-241-38; .40+ acres.
- (4) Parcel No. 18; 140-241-03 (portion), 140-241-26 (portion); 5.36+ acres.
  - (5) Parcel No. 13; 140-241-48; .17+ acres.
- (c) Full fee title to Parcel No. 13 shall be transferred to the City of San Bernardino immediately upon receiving the necessary approvals from the United States Department of the Interior.
- SEC. 4. Section 12 of Chapter 1305 of the Statutes of 1980 is amended to read:
- Sec. 12. Notwithstanding Section 5019.50 of the Public Resources Code, Seccombe Lake Park in the City of San Bernardino shall remain a unit of the state park system and shall be known as Seccombe Lake State Urban Recreation Area while the agreement required by Item 3790-304-722 of the Budget Act of 1986 is in force. Upon the expiration or termination of the agreement, Seccombe Lake State Urban Recreation Area shall cease to exist as a unit of the state park system and shall become a municipal park of the City of San Bernardino, which shall thereafter have sole fiscal and operational responsibility for the park.
- SEC. 5. The sum of sixty-six thousand dollars (\$66,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation for the 1986–87 fiscal year for operation costs of the Seccombe Lake State Urban Recreation Area.

It is the intent of the Legislature that state operation costs for Seccombe Lake State Urban Recreation Area, incurred while the agreement required by Item 3790-304-722 of the Budget Act of 1986 is in force, be included in the annual Budget Act.

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

In order to open the park property affected by this act to the public at the earliest opportunity, it is necessary that this act take effect immediately.

An act to amend Item 3640-301-140 of Chapter 186 of the Statutes of 1986, relating to wildlife, and making an appropriation therefor.

> [Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

I am reducing the appropriation contained in Section 1 of Senate Bill No 805 from \$1.5 million to \$1 million.

The reduced appropriation will provide needed funding for ecological reserves. However, further augmentation should be considered during the normal budget process.

With this reduction, I approve Senate Bill No 805.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Item 3640-301-140 of Chapter 186 of the Statutes of 1986 is amended to read:

3460-301-140—For Capital Outlay, Wildlife Conservation Board, payable from the California Environmental License Plate Fund ..... Schedule:

1,500,000

(1) 80.10.100-Land acquisition and development-ecological serves .....

1,500,000

Provisions:

1. The funds in category (1) are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.

#### CHAPTER 1490

An act to amend Sections 11315, 15200, and 15204.2 of, to add Section 11023 to, and to repeal Sections 11250.5, 11316, and 11406.5 of. the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

The Budget for fiscal year 1986-87 provides approximately \$45 million to provide relief for the homeless. In addition, the Budget Act of 1986 provides a \$4 million augmentation to the Emergency Shelter Program. Given current fiscal constraints, additional resources cannot be made available at this time. As a result, I have deleted the \$3 million General Fund appropriation contained in Senate Bill No. 1567. With this deletion, I approve Senate Bill No. 1567.

GEORGE DEUKMEJIAN, Governor

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

- SECTION 1. Section 11023 is added to the Welfare and Institutions Code, to read:
- 11023. (a) To the extent federal funds are available, the department shall operate an Emergency Assistance for Needy Families with Dependent Children Program, under Section 406(e)(1) of the Social Security Act. The provisions of this section shall not be implemented until Emergency Assistance State Plan changes necessitated by this act are approved by the federal government.
- (b) Emergency assistance as specified in subdivision (c) shall be provided to needy families with minor children who are living with a relative specified in Section 406(a) (1) of the Social Security Act or have lived with such a relative within six months of the application for emergency assistance and who meet all of the following criteria:
  - (1) They meet criteria specified in federal requirements.
- (2) They are without resources immediately accessible to meet their needs.
- (3) They are in a crisis situation which did not arise because of refusal without good cause to accept employment or training for employment.
- (4) They are under the responsibility of the county welfare department for emergency assistance case management.
- (5) They have not received emergency assistance benefits as a family or as an individual family member in the 12-month period immediately preceding the application for emergency assistance.
- (c) Services shall be provided as specified in Chapter 5 (commencing with Section 16500) of Part 4.
- (1) For a child placed in out-of-home care, there shall be provided an amount equal to the cost of out-of-home care.
- (2) The department, after consulting with the counties, shall establish a standard for each respective service provided under the program. The standard shall provide the basis for county claims for reimbursement of costs of providing such services.
- (d) A family shall be determined eligible for emergency assistance services if its immediately available liquid resources are equal to or less than two thousand dollars (\$2,000).
- (e) Notwithstanding Section 11056, emergency assistance shall be effective the date of application for assistance, or the date all eligibility requirements are met, if later than the date of application.
- (f) Emergency assistance shall be provided to a family for a period of time not to exceed 30 consecutive days in any 12 consecutive months.
- SEC. 2. Section 11250.5 of the Welfare and Institutions Code is repealed.
- SEC. 3. Section 11315 of the Welfare and Institutions Code is amended to read:
  - 11315. (a) The State Department of Social Services shall

- establish a state-only unemployed parent program for those parents meeting the conditions of eligibility set forth in subdivision (b) of Section 11201. This program shall be known as the "State-only AFDC-U program." Eligibility under this program shall be limited to three months in any 12 consecutive months.
- (b) Families who receive payment under subdivision (b) of Section 11201 for June 1982, if otherwise eligible, shall be qualified for three months of aid commencing on July 1, 1982. Notwithstanding the provisions of Section 11455, families who enter the program on or after July 1, 1982, shall be eligible for aid as provided in subdivision (a) commencing on the beginning date of aid.
- (c) For the purposes of this section, if neither parent has a connection to the labor force, as defined by federal law, the family may designate the primary wage earner.
- SEC. 4. Section 11316 of the Welfare and Institutions Code is repealed.
- SEC. 5. Section 11406.5 of the Welfare and Institutions Code is repealed.
- SEC. 6. Section 15200 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 1426 of the Statutes of 1985, is amended to read:
- 15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting available federal funds, the following sums:
- (a) To each county for the support and maintenance of needy children, 89.2 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e) of Section 11450.
- (b) To each county for the support and maintenance of pregnant mothers, 89.2 percent of the sums specified in subdivisions (b) and (c) of Section 11450.
- (c) To each county for the support and maintenance of needy children, 95 percent of the sum necessary for the adequate care of each child pursuant to subdivision (d) of Section 11450 for the period July 1, 1979, to June 30, 1988.
- (d) To each county for the support and care of hard-to-place adoptive children, 100 percent of the nonfederal share of the amount specified in Section 16121.
- (e) To each county for the support of families and children, 50 percent of all benefits provided in Section 11023, subject to the limitation on county share provided in Sections 10100 and 10101.
- (f) This section shall remain in effect only until July 1, 1988, and as of that date is repealed, unless a later enacted statute which is chaptered before July 1, 1988, deletes or extends that date.
- SEC. 7. Section 15200 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 1426 of the Statutes of 1985, is amended to read:
- 15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

- (a) To each county for the support and maintenance of needy children, 89.2 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e), of Section 11450.
- (b) To each county for the support and maintenance of pregnant mothers, 89.2 percent of the sum specified in subdivisions (b) and (c) of Section 11450.
- (c) To each county for the adequate care of each child pursuant to subdivision (d) of Section 11450 the following amounts:
- (1) The sum necessary for the adequate care of each child but not to exceed in any month the product of one hundred twenty dollars (\$120) multiplied by the number of children in each county receiving foster care. The state shall pay 67.5 percent and the county shall pay 32.5 percent of the aid furnished for the adequate care of such children.
- (2) The state shall reimburse counties for the nonfederal costs of providing an additional twelve dollars and fifty cents (\$12.50) a month per eligible child to foster parents. In addition the state may, at its discretion, pay on a pro rata basis from funds specifically appropriated in the Budget Act additional aid for the adequate care of foster children receiving aid under subdivision (d) of Section 11450.

The financial benefit accruing from the additional funds available under this paragraph shall be passed on to foster parents in order to more adequately reimburse foster parents for their expense, and to enable counties to more readily recruit and retain a selection of homes suited to the diversified needs of the individual child, and the counties shall not substitute the additional state funds received under this paragraph for county funds being expended for foster care at the time when this section takes effect.

- (d) To each county for the support and care of hard-to-place adoptive children, 100 percent of the nonfederal share of the amount specified in Section 16121.
- (e) To each county for the support of families and children, 50 percent of all benefits provided in Section 11023, subject to the limitation on county share provided in Sections 10100 and 10101.
  - (f) This section shall become operative on July 1, 1988.
- SEC. 8. Section 15204.2 of the Welfare and Institutions Code is amended to read:
- 15204.2. The state shall pay 83.3 percent of the nonfederal administrative costs of administering the payment of aid grants under this part, except for the Aid to Families with Dependent Children program (AFDC). The state shall pay 50 percent of the nonfederal administrative costs of administering AFDC grants and the Emergency Assistance for Needy Families with Dependent Children Program, subject to the provisions of Section 15204.5, but not including activities related to the collection of support from noncustodial parents and the determination of paternity in the case of a child born out of wedlock. In the event that the federal government does not provide funding for the non-AFDC collection

of child support from noncustodial parents and the non-AFDC determination of paternity in the case of a child born out of wedlock, the state shall pay 75 percent of such non-AFDC administrative costs. The state shall pay 50 percent of the nonfederal share of the cost of eligibility and nonservice staff development pursuant to the regulations of the department.

- SEC. 9. (a) The State Department of Social Services shall report to the Legislature by July 1, 1987, detailing how emergency assistance programs and child welfare services have served homeless children and families.
- (b) The report shall provide data on the number, composition, and economic status of the homeless children and families served; the nature of the relief provided; the cost of the services; the duration of their provision; the number of families subsequently housed in a stable residence; the number of homeless children and families, if any, who need shelter or services but do not receive it; and barriers to service provision to homeless families.
- SEC. 10. There is hereby appropriated the sum of three million dollars (\$3,000,000) for homeless families with at least one child to augment the budget of the Emergency Housing and Assistance Fund which was established pursuant to Section 50800.5 of the Health and Safety Code.
- SEC. 11. Consistent with the Legislature's intention that emergency shelter services be provided to families with children in accordance with the provisions of Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code, the provisions of Sections 1 through 8 of this act shall not become operative unless and until the appropriation contained in Section 10 for emergency shelter is approved and allocated.
- SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the loss of federal funds under the federal emergency assistance program, and to prevent a reduction of funds available for the state's emergency response program for abused and neglected children and their families, it is necessary that this act go into effect immediately.

An act making an appropriation for the payment of claims against the State of California, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 30, 1986..Filed with Secretary of State September 30, 1986.]

I am deleting the \$3,359.97. claim to be paid from Item 2740-001-044 (DMV) contained in Senate Bill No. 1690.

It would be inappropriate to pay this claim from the Department of Motor Vehicle budget. If the claim were to be paid, it should be paid from the California Highway Patrol budget. This claim is the result of damages that occurred to private property due to negligence on the part of a private party. Therefore, reimbursement for the cost of the damages is a civil matter between the claimant and the private party which caused the damages.

With this deletion, I approve Senate Bill No 1690.

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GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of eight hundred seven thousand five hundred eight dollars and forty-three cents (\$807,508.43) is hereby appropriated to the Secretary of the State Board of Control to pay claims accepted by the State Board of Control. These funds shall be appropriated in accordance with the following schedule:

- (a) Six hundred ninety-two thousand six hundred seven dollars and eighty-one cents (\$692,607.81) from the General Fund.
- (b) One thousand three hundred sixty-six dollars and thirty cents (\$1,366.30) from the Tax Relief and Refund Account Fund.
- (c) One hundred seventy-two dollars and thirteen cents (\$172.13) from the Personal Income Tax Fund.
- (d) Two hundred seventy-six dollars (\$276) from the Unemployment Compensation Disability Fund.
- (e) One hundred dollars (\$100) from the Prison Industries Revolving Fund.
- (f) Eighty-three dollars and twenty-nine cents (\$83.29) from the Water Resources Control Board Revolving Fund.
- (g) One hundred ninety-one dollars and fourteen cents (\$191.14) from the Unemployment Fund (Federal).
  - (h) Thirty dollars (\$30) from the Federal Trust Fund.
- (i) One hundred twelve thousand six hundred eighty-one dollars and seventy-six cents (\$112,681.76) from the unencumbered balances of various items of the Budget Act of 1986, in accordance with the following paragraphs:
  - (1) Eleven dollars (\$11) from Item 0690-001-001.
- (2) Eighty dollars and eighty-five cents (\$80.85) from Item 0820-001-001.
- (3) Seven hundred six dollars and seventy-four cents (\$706.74) from Item 0860-001-001.
  - (4) One thousand seven hundred twenty-three dollars and

forty-three cents (\$1,723.43) from Item 1640-086-001.

- (5) One thousand one hundred ninety-one dollars (\$1,191) from Item 1655-090-702.
- (6) Forty-eight dollars and seventy cents (\$48.70) from Item 1730-001-001.
- (7) Twenty-seven dollars and seventy cents (\$27.70) from category (a) of Item 1760-001-666.
  - (8) Fifty dollars (\$50) from Item 2290-001-217.
- (9) Ten thousand three hundred fourteen dollars and eighty-two cents (\$10,314.82) from Item 2660-001-042.
- (11) Five thousand five hundred seventy-four dollars and seventeen cents (\$5,574.17) from Item 2740-001-044.
- (12) Fifty-nine dollars and fourteen cents (\$59.14) from Item 3340-001-001.
- (13) Six thousand two hundred seventeen dollars and four cents (\$6,217.04) from Item 3400-001-001.
- (15) Three hundred seventy-four dollars and forty-nine cents (\$374.49) from category (a) of Item 3790-001-001.
- (16) Ninety-nine dollars and twelve cents (\$99.12) from Item 3860-001-001.
- (17) Six hundred seven dollars and ninety-six cents (\$607.96) from category (a) of Item 4260-001-001.
- (18) Four thousand seven hundred eighty-four dollars and eighty-two cents (\$4,784.82) from category (b) of Item 4260-001-001.
- (19) Two hundred seventy-eight dollars and fifty-two cents (\$278.52) from Item 4300-101-001.
- (20) Two hundred fifty-nine dollars and sixty-three cents (\$259.63) from Item 4300-111-001.
- (21) Seventy-five dollars and thirty-eight cents (\$75.38) from category (a) of Item 4310-111-001.
- (22) Seven hundred ten dollars (\$710) from category (a) of Item 4360-111-001.
- (23) Twelve thousand eight hundred sixty-one dollars and eighty-five cents (\$12,861.85) from Item 4440-011-001.
- (24) Eight thousand six hundred seventy-nine dollars and sixty-seven cents (\$8,679.67) from Item 5100-001-870.
- (25) Eighty-nine dollars and fifty-three cents (\$89.53) from Item 5160-001-001.
- (26) Forty-six thousand four hundred thirty dollars and thirty-eight cents (\$46,430.38) from Item 5240-001-001.
- (27) One thousand two hundred dollars (\$1,200) from Item 5320-001-001.
- (28) Four thousand eight hundred forty-three dollars and forty-three cents (\$4,843.43) from Item 5460-001-001.
  - (29) Two hundred fifty-five dollars (\$255) from Item 5472-001-001.
- (30) One hundred thirty-nine dollars (\$139) from Item 5520-001-001.
- (31) Four hundred sixty-eight dollars and ninety-four cents (\$468.94) from Item 5600-001-001.

- (32) Forty-four dollars and twelve cents (\$44.12) from Item 6660-001-001.
- (33) Two thousand two hundred thirty dollars and seventy-two cents (\$2,230.72) from Item 6680-001-001.
- (34) One thousand two hundred forty-two dollars and thirty-seven cents (\$1,242.37) from Item 6820-001-001.
  - (35) Two hundred eleven dollars (\$211) from Item 8260-001-001.
  - (36) Five dollars (\$5) from Item 8350-001-001.
- (37) Six hundred fourteen dollars and eleven cents (\$614.11) from Item 8570-001-001.
- (38) Seventy-six dollars and sixty-one cents (\$76.61) from category (b) of Item 8820-001-001.
- (39) Ninety-five dollars and fifty-two cents (\$95.52) from Item 8940-001-001.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

# **CHAPTER 1492**

An act to amend Section 8690.4 of the Government Code, and to add Sections 2211 and 2804.6 to the Public Resources Code, relating to disaster relief, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986]

I am deleting the \$200,000 appropriation from the Insurance Fund contained in Section 5 (b) of Senate Bill No. 1238

The Insurance Fund does not have sufficient reserves to fund a study to evaluate an early warning system.

With this deletion, I approve Senate Bill No. 1238.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds and declares that there is a strong likelihood of a major earthquake occurring in California before the year 2000 and, in order to better predict building failure and other life-threatening damage during an earthquake, scientists, engineers, and other experts in the seismic safety field need access to the site of an earthquake to study the actual damage caused by an earthquake. The studying of the response of buildings to the motion of an actual earthquake will aid the identification of design standards and other measures needed to minimize potential loss of life and property damage.

It is the intent of the Legislature to provide needed funding to allow scientists and other experts to inspect earthquake damage, wherever it may occur, and to collect data for uses in protecting life and property against the damaging effects of an earthquake in California.

- SEC. 2. Section 8690.4 of the Government Code is amended to read:
- 8690.4. The Controller shall establish the following five special accounts in the Natural Disaster Assistance Fund:
- (a) The Public Facilities Account, into which shall be paid all resources of the appropriation made by Section 4 of Chapter 624 of the Statutes of 1973, any money hereafter appropriated by the Legislature for allocation for public facilities projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account, including deferred payments with charges, pursuant to Section 8686.8.
- (b) The Street and Highway Account, into which shall be paid all resources transferred from the Street and Highway Disaster Fund, any money received from the federal government as reimbursement to any city or county for expenditures from funds allocated, transferred or expended pursuant to this chapter for a street and highway project, any money hereafter appropriated by the Legislature for allocation for street and highway projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account including deferred payments with charges, pursuant to Section 8686.8.
- (c) The 1983 Natural Disasters Account, into which shall be paid all moneys appropriated by the Legislature for allocation to those who have incurred losses or expenses resulting from the Coalinga earthquake of May 2, 1983, or the Morgan Hill earthquake of April 24, 1984, as follows:
- (1) To reimburse local agencies for personnel overtime costs and for supplies used for disaster assistance.
- (2) To provide for the repair, cleanup, and reconstruction of damaged public facilities.
  - (3) To provide state matching funds for federal assistance.
- (4) To provide other assistance as the Director of the Office of Emergency Services deems necessary to carry out the provisions of this subdivision.
- (d) The 1986 Flood Disaster Account, to be established by the Controller, into which shall be paid all moneys appropriated by the Legislature for allocation to reclamation and levee maintenance districts maintaining nonproject levees damaged by the storms and floods of February 1986.
- (e) The Earthquake Emergency Investigations Account, into which shall be paid all moneys appropriated by the Legislature to the Seismic Safety Commission for allocation for the purpose of enabling

immediate investigation of damaging earthquakes. Allocations may be made by the commission to assist organizations which have incurred expenses in the course of conducting earthquake investigations. Allocations may be made to cover the following expenses:

- (1) Travel, meals, and lodging.
- (2) Publishing of findings.

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- (3) Contractor assistance in the investigation.
- (4) Other expenses which the commission may allow as necessary to assist the investigation.
- SEC. 3. Section 2211 is added to the Public Resources Code, to read:
- 2211. The department is the primary state agency responsible for geologic hazard review and investigation. In that capacity, the department is responsible for the seismological, geological, and strong motion aspects of earthquake investigations.
- SEC. 4. Section 2804.6 is added to the Public Resources Code, to read:
- 2804.6. (a) The department, in consultation with the Seismic Safety Commission, shall prepare a feasibility study evaluating the effectiveness of an early warning system to detect seismic activity along the San Andreas Fault north of the Los Angeles metropolitan area. The feasibility study shall include, but is not limited to, a study of all of the following:
- (1) Possible scenarios for the probability, strength, direction, and location of seismic activity occurring along the San Andreas Fault north of the Los Angeles metropolitan area.
- (2) Development, use, and transmission of a warning signal to announce significant seismic activity detected by the early warning system, including an analysis of the estimated lead time provided by the system.
- (3) Technical and economic feasibility of implementing the early warning system. Possible applications include automated shutdown of pipelines, transportation systems, computer systems, and other vital lifelines which would be damaged in an earthquake.
- (4) Assessment of the value of warnings to various elements of society, including public officials, schools, hospitals, police, fire stations, private industry, critical defense contractors, and gas, oil, and electrical industries. The assessment should include an estimate of the value of a warning as a function of the warning time and its reliability.
- (5) Description of the funding, management, reliability, and liability aspects of the system.
- (b) The department shall submit the feasibility study to the Governor's Office and to the Legislature by July 1, 1988.
- SEC. 5. (a) The sum of one hundred thousand dollars (\$100,000) is hereby transferred from the General Fund to the Earthquake Emergency Investigations Account in the Natural Disaster Assistance Fund and is hereby appropriated to the Seismic Safety

Commission for allocation pursuant to subdivision (e) of Section 8690.4 of the Government Code.

(b) Notwithstanding any other provision of law, the sum of two hundred thousand dollars (\$200,000) is hereby appropriated from the Insurance Fund to the Department of Conservation for the purposes of carrying out the feasibility study specified in Section 2804.6 of the Public Resources Code.

### CHAPTER 1493

An act to amend Item 3790-490 of Section 2.00 of Chapter 111 of the Statutes of 1985, relating to resources, making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Item 3790-490 of Section 2.00 of Chapter 111 of the Statutes of 1985 is amended to read:

- 3790-490—Reappropriation, Department of Parks and Recreation. Notwithstanding any other provisions of law, the unencumbered balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriations, and shall be available for expenditure until June 30, 1986.
  - 036-Special Account for Capital Outlay
  - (1) Item 3790-301-036(2), Budget Act of 1984, Ano Nuevo SR—working drawings and construction, day use, Phase II.
  - (2) Item 3790-301-036(4), Budget Act of 1984, China Camp SP—working drawings and construct sewer system.
  - (3) Item 3790-301-036(7), Budget Act of 1984, East Bay Shoreline Project—acquisition and development.
  - (4) Item 3790-301-036(8), Budget Act of 1984, Folsom Lake SRA—working drawings for Negro Bar enhancement.
  - (5) Item 3790-301-036(9), Budget Act of 1984, Fort Ross SHP—working drawings and construct campground rehabilitation.
  - (6) Item 3790-301-036(13), Budget Act of 1984,

- Humboldt Redwoods SP—working drawings and construct bank protection.
- (7) Item 3790-301-036(16), Budget Act of 1984, Malakoff Diggins SHP—sediment runoff study.
- (8). Item 3790-301-036(17d), Budget Act of 1984, Statewide Minor Projects.
- (9) Item 3790-301-036(17f), Budget Act of 1984, Natural Systems Rehabilitation.
- (10) Item 3790-301-036 (18.5), Budget Act of 1984, Motion Picture Museum—site selection study.
- (11) Item 3790-301-036(20), Budget Act of 1984, Pfeiffer Big Sur Project—working drawings and construct sewage treatment improvements.
- (12) Item 3790-301-036(23), Budget Act of 1984, San Diego Coast SB—construct day-use parking and rehabilitation.
- (13) Item 3790-301-036(24), Budget Act of 1984, San Mateo SB—construct access improvements.
- (14) Item 3790-301-036(27), Budget Act of 1984, Statewide Storm Damage Repairs.
- (15) Item 3790-301-036(28), Budget Act of 1984, Statewide Pier Inspections—working drawings and emergency repairs.
- (16) Item 3790-301-036(29), Budget Act of 1984, Statewide Replacement or Rehabilitation of Existing Facilities.
- (17) Item 3790-301-036(30), Budget Act of 1984, Woodson Bridge SRA—erosion control study.
- (18) Section 1, Chapter 1548, Statutes of 1984, John Marsh Home—restoration.
- 140-California Environmental License Plate Fund
- (1) Item 3790-301-140(1), Budget Act of 1984, Kings Beach SRA—facility improvement.
- 263-Off-Highway Vehicle Fund
- (1) Item 403.5(b), Budget Act of 1977, Hungry Valley SVRA—planning and operations.
- (2) Item 466(a), Budget Act of 1979, Pismo Dunes SVRA—acquisition.
- (3) Item 3790-301-263(a), Budget Act of 1982, Hungry Valley SVRA—equip Off-Highway vehicle area.
- (4) Item 3790-301-263 (f), Budget Act of 1982, Relocation Assistance.
- (5) Item 3790-301-263(b), Budget Act of 1983, Pismo Dunes SVRA, Dune Revegetation and Stabilization—working drawings and con-

- struction.
- (6) Section 7(a), Chapter 1298, Statutes of 1983, Capital Outlay Projects at Hungry Valley SVRA.
- (7) Item 3790-301-263(f), Budget Act of 1983, Hollister Hills SVRA—facilities development and construction.
- (8) Item 3790-301-263(g), Budget Act of 1983, Minor Projects.
- (9) Item 3790-301-263(1), Budget Act of 1984, Carnegie SVRA—construct initial development.
- (10) Item 3790-301-263(3), Budget Act of 1984, Ocotillo Wells—construct initial development.
- (11) Item 3790-301-263 (4), Budget Act of 1984, Minor Projects.
- (12) Item 3790-301-263(5), Budget Act of 1984, Preliminary Planning.
- 392-State Park and Recreation Fund
- (1) Item 379-301-392(z), Budget Act of 1981, Railtown—acquisition and development.
- (2) Item 3790-301-392(b), Budget Act of 1982, Hearst San Simeon SHM—construct road repair.
- (3) Item 3790-301-392(d), Budget Act of 1982, Hearst San Simeon SHM—construct water system improvement.
- (4) Section 8, Chapter 1421, Statutes of 1982, Malibu Bluffs Project—development.
- (5) Item 3790-301-392(a), Budget Act of 1983, as added by Chapter 37, Statutes of 1984, Sinkyone Trail Corridor—trail camps and trail construction.
- (6) Item 3790-301-392(n), Budget Act of 1983, Statewide Storm Damage.
- 721-Parklands Fund of 1980
- (1) Item 379-301-721(c), Budget Act of 1981, Sinkyone Wilderness SP—preliminary planning and construction.
- (2) Item 379-301-721 (R), Budget Act of 1981, Angel Island SP—construction of day-use facilities.
- (3) Item 379-301-721 (q), Budget Act of 1981, Malibu Creek SP—construction of day-use facilities.
- (4) Item 3790-301-721(E), Budget Act of 1982, China Camp SP—working drawings and construct village restoration.
- (5) Item 3790-301-721 (f), Budget Act of 1982, Colo-

- nel Allensworth SHP—working drawings and construct restoration and site work.
- (6) Item 3790-301-721(q), Budget Act of 1982, Old Sacramento SHP—working drawings and partial construction of 1849 scene.
- (7) Item 3790-301-721 (r), Budget Act of 1982, Old Town San Diego SHP—working drawings and construct U.S. House, Light, Freeman, and Wrightington Adobes.
- (8) Item 3790-301-721(s), Budget Act of 1982, San Simeon SB—working drawings and construct day-use, campground, and sewer hook-up.
- (9) Item 3790-301-721(u), Budget Act of 1982, Schooner Gulch Project—acquisition.
- (10) Item 3790-301-721 (aa), Budget Act of 1982, Angel Island SP—working drawings and construct sewage treatment facilities.
- (11) Item 3790-301-721(bb), Budget Act of 1982, Baldwin Hills Project—preliminary plans, working drawings, and construct Phase I development.
- (12) Item 3790-301-721 (dd), Budget Act of 1982, Columbia SHP—continuing restoration of Fallon Hotel and Theatre.
- (13) Item 3790-301-721 (ee), Budget Act of 1982, East Bay Shoreline—acquisition, planning, and development.
- (14) Item 3790-301-721 (gg), Budget Act of 1982, Monterey SHP—continuing restoration of Cooper-Molera Adobe.
- (15) Item 3790-301-721 (hh), Budget Act of 1982, Old Town San Diego SHP—working drawings and partial construction of Rose-Robinson Building, schoolroom, Alvarado family property, Alvarado Lucia House, and parking.
- (16) Item 3790-301-721 (mm), Budget Act of 1982, McGrath SB—working drawings and construct Harbor Boulevard Bridge.
- (17) Item 3790-301-721 (00), Budget Act of 1982, New Brighton SB— Porter-Sesnon and Widera acquisition. Funds reappropriated in this item for acquisition of lands for addition to New Brighton State Beach, commonly known as the Porter-Sesnon properties, and a parcel of approximately six acres, commonly known as the Widera property, Santa Cruz County Assessor No. 038-041-04, are available for expenditure for acquisition and for necessary acquisition costs, including appraisals, until June

- 30, 1988. The Porter-Sesnon properties, or a majority portion thereof, shall be acquired prior to, or at the same time as, any of the Widera property. The State Public Works Board may reduce the acreage to be acquired with the reappropriated funds if necessary to carry out the acquisition project. In carrying out the acquisition project, the State Public Works Board shall not expend any funds which would otherwise be expended on previously authorized park projects.
- (18) Item 3790-301-721 (qq), Budget Act of 1982, Citrus Heritage Park, Mockingbird Canyon Project—acquisition and planning.
- (19) Item 3790-301-721 (rr), Budget Act of 1982, Pismo SB—Grand Avenue Entrance—rehabilitation, working drawings, and construction.
- (20) Item 3790-301-721 (tt), Budget Act of 1982, Big Sur Project—acquisition.
- (21) Item 3790-301-721 (uu), Budget Act of 1982, Fort Ross SHP—construct visitor center.
- (22) Item 3790-301-721 (aaa), Budget Act of 1982, Hearst San Simeon SHM—construct visitor center.
- (23) Section 1, Chapter 1002, Statutes of 1982, Crystal Cove SP—working drawings for full park development, development and interpretation.
- (24) Item 3790-301-721(t), Budget Act of 1982, as added by Section 2, Chapter 1560, Statutes of 1982, Candlestick SRA—construction.
- (25) Item 3790-304-721 (a), Budget Act of 1982, as added by Chapter 1540, Statutes of 1982, Emma Wood State Beach—development and restoration.
- (26) Item 3790-301-721 (a), Budget Act of 1983, Angel Island SP—restoration and construct day use facilities.
- (27) Item 3790-301-721 (e), Budget Act of 1983, Old Town San Diego SHP. Construct Rose-Robinson Building, Franklin/Colorado House, Alvarado family property, and Alvarado Lucia House.
- (28) Item 3790-301-721 (h), Budget Act of 1983, San Diego Coast SB—working drawings and construct day use parking and rehabilitation.
- (29) Item 3790-301-721(r), Budget Act of 1983, Seccombe Lake SURA—acquisition and develop-

ment.

- (30) Item 3790-311-721(a), Budget Act of 1983, Seccombe Lake SURA—acquisition and development.
- (31) Item 3790-301-721(o), Budget Act of 1981, Crystal Cove SB—preliminary plans, working drawings, and construction.
- 722-Parklands Fund of 1984
- Item 3790-301-722(3), Budget Act of 1984, Candlestick Point SRA—working drawings and construct day use, parking, and landscaping.
- (2) Item 3790-301-722(6), Budget Act of 1984, Colonel Allensworth SHP—building reconstruction.
- (3) Item 3790-301-722(9.7), Budget Act of 1984, Governor's Mansion—restoration and renovation.
- (4) Item 3790-301-722(22), Budget Act of 1984, Preliminary Planning.
- (4.5) Item 3790-301-722(25), Budget Act of 1984, Seccombe Lake SURA—Phase II development, provided that this shall be the final appropriation for the development of Seccombe Lake SURA.
- (5) Item 3790-301-722 (26a), Budget Act of 1984, Acquisition Costs.
- (6) Item 3790-301-722(26b), Budget Act of 1984, Prebudget Appraisals.
- (7) Item 3790-301-722 (26c), Budget Act of 1984, Inholdings.
- (8) Item 3790-301-722 (26d), Budget Act of 1984, Opportunity Purchases.
- (9) Item 3790-301-722(27.5), Budget Act of 1984, Little Frank's Tract—storm damage repair, provided that Proviso 4 of Item 3790-301-722 of the Budget Act of 1984 regarding the expenditure of funds for levee repairs at Little Frank's Tract is null and void.
- 728-Recreation and Fish and Wildlife Enhancement Fund:
- (1) Item 3790-301-728(a), Budget Act of 1982, Lake Perris SRA—continuing recreation development—construction.
- (2) Item 3790-301-728(c), Budget Act of 1983, Lake Del Valle SRA--development, working drawings, and construction.
- (3) Item 3790-301-728(1), Budget Act of 1984, San Luis Reservoir SRA—campground improve-

ments.

- 732-State Beach, Park, Recreational, and Historic Facilities Fund of 1964:
- (1) Item 403.1J(a), Budget Act of 1976 as added by Chapter 1379, Statutes of 1976, Delta Meadows—land acquisition.
- (2) Item 573(b), Budget Act of 1980, Relocation Assistance.
- 733-State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974:
- (1) Item 503(d), Budget Act of 1978, Monterey SHP—Cooper-Molera restoration.
- (2) Item 3790-301-733(2), Budget Act of 1984, Mission Adobe-historical and archeological research.
- (3) Item 3790-301-721 (ss), Budget Act of 1982, as amended and reappropriated by Item 3790-490-721(g), Budget Act of 1984, and pursuant to Section 28 provisions. Item 3790-490-721(13), Budget Act of 1983, Fresno Agricultural Museum-development; provided that if sufficient funds are not available in the Parklands Fund of 1980, the balance of funds may be provided by other bond funds pursuant to Section 28 of this act. These funds shall be allocated and encumbered on a matching basis in incremental amounts, as determined by the Department of Parks and Recreation in order to accomplish the project, provided that up to \$250,000 of these funds may be expended without a matching requirement for stabilization and cleanup as identified in the California Agricultural Museum Study, dated June 1984, prepared by the Department of Parks and Recreation.
- 742-State Urban and Coastal Park Fund:
- (1) Item 443.2B(d), Budget Act of 1977, as added by Chapter 1109, Statutes of 1977, Garrapata Beach-acquisition.
- (2) Item 508(d), Budget Act of 1979, Little Sur river—acquisition.
- (3) Item 508(i), Budget Act of 1979, Santa Monica Mountains Zone—backbone trail, viewshed of Malibu Creek SP and Stunt Road zone.
- (4) Item 507.5B(a), Budget Act of 1979, as added by Chapter 372, Statutes of 1980—acquisition of land, leases, and other interests in land; acquisition and development of recreation facilities at Lake Elsinore SRA.

- (5) Item 585 (b), Budget Act of 1980, Candlestick Point SRA—day use construction.
- (6) Item 585(c), Budget Act of 1980, Castaic Lake SRA—working drawings and construction.
- (7) Item 585(k), Budget Act of 1980, augmentation for land acquisition, condemnation proceedings for State, Urban, and Coastal Park Fund projects.
- (8) Item 585(l), Budget Act of 1980, relocation assistance.
- (9) Item 3790-301-742(b), Budget Act of 1981, Pyramid Reservoir—construction of camping and day-use facilities.
- (10) Item 3790-301-742(c), Budget Act of 1982, as added by Section 8, Chapter 1617, Statutes of 1982, Big Sur Coast Area—acquisition (willing sellers only).
- (11) Item 3790-301-742(d), Budget Act of 1982, as added by Section 8, Chapter 1617, Statutes of 1982, Sonoma Coast SP—acquisition (willing sellers only) and development.
- (12) Item 3790-301-742(e), Budget Act of 1982, as added by Section 8, Chapter 1617, Statutes of 1982, Santa Monica Mountains (Point Mugu State Park, Malibu Creek State Park, and Topanga State Park)—development.
- (13) Item 3790-301-742(c), Budget Act of 1983, Millerton Lake SRA—working drawings and construction of day use facilities.
- (14) Item 3790-301-742(2), Budget Act of 1984, McGrath SB—working drawings and construct campground additions.
- (15) Item 3790-301-742(3), Budget Act of 1984, Santa Monica Mountains—day use and camping.
- 952-State Park Contingent Fund
- (1) Item 3790-301-952(e), Budget Act of 1982, Reimbursements—Federal Land and Water Conservation Fund.
- (2) Item 3790-301-952(f), Budget Act of 1982, Petrified Forest Project--acquisition.

An act to amend Sections 69505, 69510, 69511, 69532, 69534, 69534.1, and 69536 of, and to add Section 69532.5 to, the Education Code, relating to student financial aid.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 69505 of the Education Code is amended to read:

- 69505. (a) Except as provided for in Section 69506, the resources of an applicant's parents, and spouse where applicable, as well as those of the applicant, shall be considered in determining an applicant's financial need.
- (b) The net losses from a business, farm, rent, royalties, partnerships, estates, trusts, or any other property interest which is secondary to the principal occupation, business, or trade of the applicant or the applicant's parents or spouse shall not be considered in determining an applicant's financial need.
- (c) In no event shall an expense allowance for unreimbursed private elementary or secondary school tuition be provided in the determination of an applicant's financial need.
- SEC. 2. Section 69510 of the Education Code is amended to read: 69510. The Student Aid Commission shall be composed of the following 15 members:
- (a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.
- (b) One representative from a California independent college or university.
- (c) One representative each from the University of California, the California State University, and the California community colleges.
- (d) Two members each of whom shall be a student enrolled in a California postsecondary educational institution at the time of appointment, and shall be enrolled in a California postsecondary educational institution for the duration of the term.
  - (e) Three public members.
  - (f) One representative from a California secondary school.
- (g) Two representatives appointed by the Senate Rules Committee.
- (h) Two representatives appointed by the Speaker of the Assembly.
- SEC. 3. Section 69511 of the Education Code is amended to read: 69511. (a) Each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 69510 shall have terms of two academic years.

(b) The members appointed pursuant to subdivisions (a) and (f) of Section 69510 shall be appointed effective January 1, 1976.

The members appointed pursuant to subdivision (d) of Section 69510 shall be appointed effective June 1, 1985, and June 1, 1986, respectively.

The members appointed pursuant to subdivisions (g) and (h) of

Section 69510 shall be appointed effective January 1, 1987.

- (c) At no time shall both student representatives be enrolled in the same segment of postsecondary education in California. For purposes of this subdivision, each postsecondary education program listed in subdivisions (a), (b), and (c) of Section 69510 is a segment of postsecondary education in California.
- (d) Appointment to the commission of members appointed pursuant to subdivisions (a) to (f), inclusive, of Section 69510 shall be made by the Governor subject to confirmation by the Senate.
- (e) Any vacancy shall be filled by the appointment of a person who will have the same status as the predecessor of the appointee. The appointee shall hold office only for the balance of the unexpired term.
- (f) Each member of the commission shall receive a stipend of fifty dollars (\$50) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission. In addition, each member shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.
- (g) Whenever by the provisions of any act of Congress a program of scholarships or grants for undergraduate students is established which permits administration of the program within a state by a state agency, the Student Aid Commission, as established by Section 69510, shall administer the act within the state if the Governor and the Student Aid Commission, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under the act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 69530 to 69547, inclusive.

The commission shall constitute the state commission on federal scholarships or grants and is hereby empowered to formulate a plan for development and administration of any such federal scholarship or grant program within the state.

Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

Before adopting a state plan, the Student Aid Commission, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

- SEC. 4. Section 69532 of the Education Code is amended to read: 69532. New Cal Grant awards for first-time recipients shall be allocated as follows:
- (a) Seventeen thousand four hundred awards for the 1986–87 fiscal year, to be utilized for tuition and student fees pursuant to Section 69536.
- (b) Nine thousand two hundred fifty awards for the 1986-87 fiscal year, and for each fiscal year thereafter, to be utilized for tuition, student fees, and subsistence costs pursuant to Section 69538. Additional awards may be provided, subject to the availability of funds appropriated for that purpose in the annual Budget Act.
- (c) One thousand five hundred seventy awards for the 1985–86 fiscal year and each fiscal year thereafter, to be utilized for occupational or technical training pursuant to Sections 69539 through 69543. Additional awards may be provided, subject to the availability of funds appropriated for that purpose in the annual Budget Act.
- SEC. 5. Section 69532.5 is added to the Education Code, to read: 69532.5. The Budget required by the State Constitution to be submitted by the Governor at each regular session of the Legislature shall take into consideration the amount of federal funds available through State Student Incentive Grants for the Cal Grant awards.

SEC. 5.5. Section 69534 of the Education Code is amended to read:

- 69534. (a) The commission, in consultation with postsecondary institutions, shall make available a single, common student financial aid application form and a single, common financial statement. The form shall be utilized for the Cal Grant Program, all other programs funded by the state or a public institution of postsecondary education, and all federal programs administered by a public institution of postsecondary education. Supplemental forms may be utilized if such forms are essential to accomplishing the objectives of individual programs, as determined by the commission. All supplemental forms utilized by public postsecondary educational institutions must be approved by the commission, and such forms shall be identical for programs with similar objectives, as determined by the commission. Public postsecondary institutions may decide whether or not to use the single common application form and the single common financial statement for funds provided by private donors.
- (b) Students applying for financial aid provided pursuant to Section 19 of Chapter 1 of the 1983-84 Second Extraordinary Session may use a simplified form designed for that sole purpose, as designated by the Board of Governors of the California Community Colleges.
- SEC. 6. Section 69534.1 of the Education Code is amended to read:

- 69534.1: The Student Aid Commission may select an organization to provide financial need analysis and related services and to act as the sole processor of the form and statement specified in Section 69534. If the commission selects a sole processor, it shall do so, at least every three years, pursuant to Sections 69534.2, 69534.3, and 69534.4. The organization shall be selected through a process similar to and that generally meets the criteria of Part 1 (commencing with Section 1100) and Part 2 (commencing with Section 10100) of the Public Contract Code. The commission shall adopt regulations and guidelines to implement this section.
- SEC. 7. Section 69536 of the Education Code is amended to read: 69536. (a) A Cal Grant award for tuition and student fees as provided in subdivision (a) of Section 69532 may be utilized at any California postsecondary educational institution or program which participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant Program, provided that the award shall not be utilized by a student enrolled in an instructional program of less than two years.
- (b) (1) No Cal Grant award shall exceed the cost of tuition and fees, or the amount specified in the annual Budget Act.
- (2) Funding for the maximum Cal Grant award shall be subject to the availability of funds appropriated for that purpose in the annual Budget Act.
- (c) The awards may not be utilized for graduate study, and may be renewed for a total of four years of full-time attendance after first entering a postsecondary education institution in an instructional program or an equivalent thereof, provided that financial need continues to exist.
- If a student is enrolled in a five-year undergraduate program, the grant may be renewed for a total of five years of full-time attendance after first entering a postsecondary education institution in an undergraduate instructional program or an equivalent thereof, provided that financial need continues to exist.
- SEC. 8. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984

An act to amend Sections 17036, 17037, 17050, 17061.5, and 17062 of, and to add Sections 17022.5, 17043, 17056, and 17060.2 to, the Health and Safety Code, relating to employee housing.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. The Legislature finds declares and farmworkers are one of the worst-housed population groups in California. The Legislature further declares that the enforcement of housing standards by state and local agencies has been inadequate as a result of inadequate staffing, inefficient use of resources, and widespread refusal by some employee housing owners and operators to seek licensure of their camps. The Legislature further finds that farmworkers have been deprived of many of the rights of tenants in conventional housing and that this type of discrimination is arbitrary and not consistent with today's housing environment. The Legislature further finds that some owners and operators of farmworker housing are inappropriately paying the costs caused by violators of the Employee Housing Act, and are thwarted from improving existing housing or building new employee housing by inconsistent, duplicative, or arbitrary local interpretations and applications of state requirements.

It is the intent of the Legislature in enacting this act to provide employee housing residents and employee housing operators who are in compliance with the Employee Housing Act, with appropriate opportunities to ensure that they are not unfairly treated. In addition, it is the intent of the Legislature in enacting this act to ensure that the Department of Housing and Community Development and local enforcement agencies have the ability to provide those opportunities and to properly and promptly enforce the Employee Housing Act with respect to operators who are not in compliance with that act.

SEC. 2. Section 17022.5 is added to the Health and Safety Code, to read:

17022.5. The department shall adopt, and make available to the public, model or prototype plans for several types of employee housing, including, but not limited to, barracks, seasonal housing, family housing, and recreational vehicle parks. Any person intending to construct employee housing may adopt one or more of these models as the plans for the proposed housing.

SEC. 3. Section 17036 of the Health and Safety Code is amended to read:

17036. (a) Except as provided in Section 18930, the department shall adopt regulations which it determines are necessary for the

administration and enforcement of this part. The regulations adopted, amended, or repealed shall prescribe reasonable requirements for issuance of permits and establish procedures for suspension of permits, including appeal procedures.

(b) The department shall establish a schedule of fees to pay for

the cost of administration and enforcement of this part.

SEC. 4. Section 17037 of the Health and Safety Code is amended to read:

- 17037. (a) Every person, or the agent or officer thereof, constructing, operating, or maintaining a labor camp shall comply with the requirements of this part, building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to this part.
- (b) Any person operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay double the fees prescribed for the permit to operate the camp. Any person found for a second or subsequent time within a five-year period to be operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay four times the fees prescribed for the permit to operate such camp.

SEC. 5. 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. 5.5. Section 17050 of the Health and Safety Code is amended to read:
- 17050. (a) Except as provided in Section 18930, the Department of Housing and Community Development may promulgate rules and regulations to interpret and make specific this part and when adopted those rules and regulations shall apply to all parts of the

state.

- (b) Upon written notice to the Department of Housing and Community Development, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to this part following approval by the department for that assumption.
- (c) The Department of Housing and Community Development shall adopt regulations which shall set forth the conditions for assumption and may include required qualifications of local enforcement agencies. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of labor camps within its jurisdiction.
- (d) A city, county, or city and county may, by ordinance, establish a schedule of fees for the operation of labor camps not to exceed that which is established by the department.
- (e) In the event of nonenforcement of this part, the building standards published in the State Building Standards Code relating to labor camps, or the other rules and regulations adopted pursuant to this part, the department shall enforce this part, the building standards published in the State Building Standards Code relating to labor camps, and the rules and regulations adopted pursuant to this part in any city, county, or city and county after the department has given written notice to the governing body of the city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and has failed to initiate corrective measures to carry out its responsibility within 30 days of the date of the notice. However, on or after January 1, 1987. in the event the local enforcement agency has failed to initiate adequate and reasonable corrective measures to carry out its responsibility, as determined by the department, within 30 days of the date of notice of one or more specific examples of nonenforcement, the department, at its option, may undertake investigation and enforcement of the alleged violations of this part within the local enforcement agency's jurisdiction, and the local enforcement agency shall be liable to the department and the Attorney General for the actual costs of the investigation and enforcement by these state agencies.
- (f) The department shall conduct an annual evaluation of the enforcement of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to this part by each city, county, or city and county which has assumed responsibility for enforcement.
- (g) Except as provided in Section 18945, the department shall be sole judge as to whether the local enforcement agency is properly enforcing the provisions. Except as provided in Section 18945, the local enforcement agency shall have the right to appeal the decision

to the department.

- (h) Any city, county, or city and county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of these provisions. The department, upon receipt of that notice, shall assume the responsibility within 30 days.
  - (i) The enforcement agency may:
- (1) Enter public or private properties to determine whether there exists any labor camp to which this part applies.
- (2) Enter and inspect all labor camps wheresoever situated, and inspect all accommodations, equipment, or paraphernalia connected therewith.
- (3) Enter and inspect the land adjacent to the labor camp to determine whether the sanitary and other requirements of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other rules and regulations adopted pursuant to this part have been or are being complied with.

SEC. 6. Section 17056 is added to the Health and Safety Code, to read:

- 17056. (a) In every part of the state, notwithstanding assumption of responsibilities by local enforcement agencies pursuant to Section 17050, the department shall establish procedures and devote resources to locating and prosecuting the most serious violators of this part and those who refuse to apply for or obtain permits to operate pursuant to this part, as determined by the department.
- (b) The department shall maximize the efforts of personnel implementing this part by seeking to use new resources and nontraditional means, by coordinating with state, local, and federal agencies and by training and coordinating with local health and building departments. The department shall schedule its activities pursuant to this subdivision in a manner so as to survey the entire state on or before July 1, 1989.
- (c) All of the requirements of this part shall be performed by civil service employees of the department who, to the extent feasible, shall be bilingual in Spanish and English.
- (d) The Legislative Analyst shall provide a report to the Legislature, as part of the report on the Governor's 1987-88 Budget, and annually thereafter, as needed, as determined by the Legislative Analyst, which describes in detail the implementation of this part. The report shall also include the approximate level of personnel years allocated for the purposes of this section, the number of new permits to operate issued or number of prosecutions undertaken, all fines and civil penalities collected, and other relevant information. The department shall provide any information necessary for the Legislative Analyst to prepare this report. Each report also shall include proposed amendments to this part which would facilitate the provision and maintenance of housing consistent with the requirements of this part, and enforcement of this part.

SEC. 7. Section 17060.2 is added to the Health and Safety Code,

to read:

- 17060.2. (a) Notwithstanding any other provision of law, the operator of a labor camp shall provide a resident of every unit in the labor camp with a written copy in English and Spanish of every order or notice of violation issued by an enforcement agency. This copy may be provided by first class mail or by posting a copy of the notice in a prominent place on each residential unit.
- (b) The enforcement agency or a court of competant jurisdiction may, in cases of extreme hardship to tenants of labor camps, provide for deferral of the effective date of orders of abatement. Any deferral of the effective date of any order of abatement shall include conditions, including, but not limited to, payment of rent to an appropriate receiver, which will ensure progress towards correcting defects, or assist in relocation of tenants prior to closure of the labor camp.
- SEC. 8. Section 17061.5 of the Health and Safety Code is amended to read:
- 17061.5. (a) Any person who is convicted pursuant to Section 17061 for a second or subsequent time within a five-year period or is convicted pursuant to subdivision (d) for a first or subsequent time within a five-year period after issuance of an injunction enforcing this chapter shall be punishable by a fine not to exceed two thousand dollars (\$2,000) or by imprisonment not exceeding six months, or both such fine and imprisonment.
- (b) Any person found in contempt of a court order or injunction pursuant to Section 17060 within a five-year period from its issuance shall be subject to civil penalties not to exceed two thousand dollars (\$2,000) or by imprisonment not exceeding six months, or both such civil penalty and imprisonment.
- (c) If an injunction enforcing this chapter is issued within a five-year period after a conviction pursuant to subdivision (a), a finding of contempt pursuant to subdivision (b), or a prior injunction enforcing this chapter, the injunction shall provide for a civil penalty not to exceed two thousand dollars (\$2,000) and all costs of enforcement, including, but not limited to, investigative costs and attorneys' fees.
- (d) Any person found in contempt of a court order or injunction pursuant to Section 17060, or who is convicted pursuant to Section 17061, for a second or subsequent time within a five-year period after a prior finding of contempt, a prior conviction, or the prior issuance of an injunction relating to the enforcement of this chapter, where there are violations that are determined by the trier of fact to be so extensive and of such a nature that the immediate health and safety of residents or the public is endangered and where the extent and nature of the violations are due to the defendant's habitual neglect of customary maintenance and display a flagrant lack of concern for the health and safety of residents or the public, shall be punishable by a fine not exceeding two thousand dollars (\$2,000) and by imprisonment for not less than six months, but not exceeding one

year, if the trier of fact finds at least three serious violations of the following categories of violations are involved:

- (1) Termination, extended interruption, or serious defects of gas, water, or electric utility systems, if the interruption or termination is not caused by the tenant's failure to pay gas, water, or electric bills.
  - (2) Serious defects or lack of adequate space and water heating.
  - (3) Serious rodent, vermin, or insect infestation.
- (4) Severe deterioration, rendering significant portions of the structure unsafe or unsanitary.
  - (5) Inadequate numbers of garbage receptacles or service.
- (6) Unsanitary conditions affecting a significant portion of the structure as a result of faulty plumbing or sewage disposal.
- SEC. 9. Section 17062 of the Health and Safety Code is amended to read:
- 17062. (a) Fines and civil penalties collected pursuant to this part shall be paid to the enforcement agency which had the major responsibility for investigating and seeking correction of the violations. Any state or local agency which participated in the investigation and enforcement pursuant to this part may seek reimbursement of its costs prior to and subsequent to the judgment.
- (b) Notwithstanding any other provision of law, upon motion by the enforcement agency, the operator, or the tenants, the court may issue an order which would result in correction of defects, rather than closure of the labor camp. The order may provide, notwithstanding subdivision (a), that fines and penalties be paid for improvements, or that a lien be levied against the property to pay the costs of an independent receiver to complete repairs, or any other just and reasonable procedures.
- SEC. 10. No reimbursement is required by Sections 7 and 8 of this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.
- SEC. 11. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in Section 5 of 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 1496

An act to add Chapter 3.65 (commencing with Section 1597.80) to Division 2 of the Health and Safety Code, and to amend Section 11170 of the Penal Code, relating to child care, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 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 Phillips/Reeves In-Home Child Protection Act of 1987.

SEC. 2. Chapter 3.65 (commencing with Section 1597.80) is added to Division 2 of the Health and Safety Code, to read:

#### CHAPTER 3.65. PROFESSIONAL CHILD CARE PROVIDERS

1597.80. (a) Parents or legal guardians may submit a written request to the Department of Justice asking that the background of a prospective professional child care provider be examined as is done by the State Department of Social Services for applications which are submitted for child day care licenses pursuant to Sections 1596.871 and 1596.877.

The written request shall be accompanied by a signed letter from the prospective professional child care provider granting permission for release of the background information.

(b) "Professional child care provider" for the purposes of this chapter means a person 18 years of age or older who, at the request and consent of a parent or legal guardian, legally provides care during a part of any 24-hour period for the children of, and is compensated by, the parent or legal guardian, and who is not required to be licensed pursuant to Section 1596.80.

1597.81. The fingerprints shall be obtained in the same manner as they are obtained under Section 1596.871 and submitted to the Department of Justice for review.

1597.82. The Department of Justice may charge any necessary fees to the parent submitting the request to cover all expenses incurred by the Department of Justice in making this review.

The Department of Justice may adopt regulations establishing a fee schedule for this purpose. The amount of the fee shall be set at a level so that the revenues collected by the fees are adequate to cover the costs incurred pursuant to this chapter. Fees collected shall be deposited in the General Fund. However, a parent who is a participant in the Greater Avenues for Independence Act of 1985 (Article 3.2 (commencing with Section 11320) of Part 3 of Division 9 of the Welfare and Institutions Code), or is a recipient of aid under the families with dependent children program, county general

assistance program, or state supplementary program for the aged, blind, and disabled, shall only be charged the fingerprint processing fee by the Department of Justice.

- 1597.83. (a) If criminal conviction information is found, the Department of Justice shall notify the prospective professional child care provider in writing first that pertinent criminal conviction information has been found; however, the actual conviction information shall not be divulged.
- (b) The prospective professional child care provider shall have 15 days to request that the information not be sent to the parent so that the provider may appeal sending the information.
- (c) If the conviction was for a crime that could not be granted an exemption if the prospective professional child care provider were applying for a day care license, the parent or legal guardian shall be immediately notified that there is pertinent criminal conviction information and no appeal is possible for the provider.

In the event that the conviction was for a crime that could be granted an exemption if the prospective professional child care provider were applying for a day care license, the prospective professional child care provider shall have 15 days to appeal the release of the information. Upon receipt by the department of the appeal, the appeal shall be set for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted in that chapter.

- (d) The Department of Justice shall adopt regulations which are parallel to those used by the State Department of Social Services in determining whether a person applying for a day care license may be granted an exemption to work in a day care facility despite a criminal conviction.
- (e) If an appeal is requested, the Department of Justice shall make the determination with 30 days, based upon the regulations adopted, and then notify the parent or legal guardian whether there is pertinent criminal conviction information.
- 1597.84. (a) The Department of Justice shall maintain and continually update an index of reports and convictions of child abuse by a professional child care provider for which it has received a written request pursuant to Section 1597.80. The Department of Justice shall investigate these reports received from the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code to determine if the child abuse by the professional child care provider is substantial. Parents who submit a written request concerning a professional child care provider pursuant to Section 1597.80, as well as the professional child care provider, shall be notified of the results of any future investigation that determines the professional child care provider's child abuse is substantial and any future child abuse convictions of that provider. The Department of Justice shall not divulge actual cases in reporting information to the parents or legal guardians. Within 15 days after

the department mails notification of the results of an investigation of reports and convictions of child abuse by a professional child care provider pursuant to this section, the professional child care provider may petition the Department of Justice for a hearing. The hearing shall be set and conducted in the manner prescribed in Section 1597.83.

- (b) Notwithstanding any provision of law to the contrary, including Part 3 (commencing with Section 900) of Division 3.6 of the Government Code, state officers or employees shall not be liable for any damages caused by their conduct pursuant to this chapter except for intentional acts or gross negligence.
- 1597.85. The Department of Justice may discontinue updates of information if the professional child care provider is no longer employed by the parent or legal guardian. The appeal procedures established in Section 1597.83 shall apply to updates of information.
- 1597.86. The provisions of this chapter shall only be applied to programs established by the Department of Justice in the City and County of San Francisco and Alameda, Contra Costa, Santa Clara, and San Diego Counties for the period of July 1, 1987, to January 1, 1990.
- 1597.87. The Department of Justice shall evaluate the programs established pursuant to this chapter and report to the Legislature on or before June 1, 1989.
  - SEC. 3. Section 11170 of the Penal Code is amended to read:
- 11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.
- (b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.
- (2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.
- (3) The department shall make available to the State Department of Social Services any information received subsequent to January 1,

1981, pursuant to this section concerning any person who is an applicant for licensure or employment in a position having supervisorial or disciplinary power over a child or children, including, but not limited to, professional child care providers pursuant to Chapter 3.65 (commencing with Section 1597.80) of Division 2 of the Health and Safety Code, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.876 of the Health and Safety Code, or Section 226 of the Civil Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services any other information maintained pursuant to subdivision (a).

SEC. 4. The sum of one hundred fifty thousand dollars (\$150,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of this act. The department shall repay the amount to the General Fund from fees raised pursuant to this act.

## CHAPTER 1497

An act to amend Section 1770 of, and to add Chapter 4 (commencing with Section 1797.8) to Title 1.7 of Part 4 of Division 3 of, the Civil Code, relating to warranties.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1770 of the Civil Code is amended to read: 1770. The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

- (a) Passing off goods or services as those of another.
- (b) Misrepresenting the source, sponsorship, approval, or certification of goods or services.
- (c) Misrepresenting the affiliation, connection, or association with, or certification by, another.
- (d) Using deceptive representations or designations of geographic origin in connection with goods or services.
- (e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have.
- (f) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.

- (g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.
- (h) Disparaging the goods, services, or business of another by false or misleading representation of fact.
- (i) Advertising goods or services with intent not to sell them as advertised.
- (j) Advertising goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.
- (k) Advertising furniture without clearly indicating that it is unassembled if such is the case.
- (1) Advertising the price of unassembled furniture without clearly indicating the assembled price of such furniture if the same furniture is available assembled from the seller.
- (m) Making false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions.
- (n) Representing that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law.
- (o) Representing that a part, replacement, or repair service is needed when it is not.
- (p) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.
- (q) Representing that the consumer will receive a rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.
- (r) Misrepresenting the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction with a consumer.
  - (s) Inserting an unconscionable provision in the contract.
- (t) Advertising that a product is being offered at a specific price plus a specific percentage of that price unless (1) the total price is set forth in the advertisement, which may include, but is not limited to, shelf tags, displays, and media advertising, in a size larger than any other price in that advertisement, and (2) the specific price plus a specific percentage of that price represents a markup from the seller's costs or from the wholesale price of the product. This subdivision shall not apply to in-store advertising by businesses which are open only to members or cooperative organizations organized pursuant to Division 3 (commencing with Section 12000) of Title 1 of the Corporation Code where more than 50 percent of purchases are made at the specific price set forth in the advertisement.
- (u) Selling or leasing goods in violation of Chapter 4 (commencing with Section 1797.8) of Title 1.7.
- SEC. 2. Chapter 4 (commencing with Section 1797.8) is added to Title 1.7 of Part 4 of Division 3 of the Civil Code, to read:

## CHAPTER 4. GREY MARKET GOODS

- 1797.8. (a) As used in this chapter, the term "grey market goods" means consumer goods bearing a trademark and normally accompanied by an express written warranty valid in the United States of America which are imported into the United States through channels other than the manufacturer's authorized United States distributor and which are not accompanied by the manufacturer's express written warranty valid in the United States.
- (b) As used in this chapter, the term "sale" includes a lease of more than four months.
- 1797.81. (a) Every retail seller who offers grey market goods for sale shall post a conspicuous sign at the product's point of display and affix to the product or its package a conspicuous ticket, label, or tag disclosing any or all of the following, whichever is applicable:
- (1) The item is not covered by a manufacturer's express written warranty valid in the United States (however, any implied warranty provided by law still exists).
- (2) The item is not compatible with United States electrical currents.
- (3) The item is not compatible with United States broadcast frequencies.
- (4) Replacement parts are not available through the manufacturer's United States distributors.
- (5) Compatible accessories are not available through the manufacturer's United States distributors.
  - (6) The item is not accompanied by instructions in English.
  - (7) The item is not eligible for a manufacturer's rebate.
- (8) Any other incompatibility or nonconformity with relevant domestic standards known to the seller.
- (b) The disclosure described in paragraph (1) of subdivision (a) shall not be required to be made by a retail seller with respect to grey market goods that are accompanied by an express written warranty provided by the retail seller, provided that each of the following conditions is satisfied:
- (1) The protections and other benefits that are provided to the buyer by the express written warranty provided by the retail seller are equal to or better than the protections and other benefits that are provided to buyers in the United States of America by the manufacturer's express written warranty that normally accompanies the goods.
- (2) The express written warranty conforms to the requirements of the Song-Beverly Consumer Warranty Act, (Chapter 1 (commencing with Section 1790)), including, but not limited to, the warranty disclosure standards specified in Section 1793.1, and the standards applicable to service and repair facilities specified in Section 1793.2.
- (3) The retail seller has posted a conspicuous sign at the product's point of sale or display, or has affixed to the product or its package

a conspicuous ticket, label, or tag that informs prospective buyers that copies of all of the warranties applicable to the products offered for sale by the retail seller are available to prospective buyers for inspection upon request.

(4) The retail seller has complied with the provisions on presale availability of written warranties set forth in the regulations of the Federal Trade Commission adopted pursuant to the federal Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (see 15 U.S.C.A. Sec. 2302(b) (1) (A) and 16 C.F.R. 702.1 et seq.).

(c) Nothing in subdivision (b) shall affect the obligations of a retail seller to make the disclosures, if any, required by any other

paragraph of subdivision (a).

1797.82. Every retail dealer who offers for sale grey market goods shall be required to disclose in any advertisement of those goods the disclosures required by Section 1797.81. The disclosure shall be made in a type of conspicuous size.

1797.83. In making the disclosures prescribed by this chapter, the retail seller may use reasonably equivalent language if necessary or appropriate to achieve a clearer, or more accurate, disclosure.

1797.84. Nothing in this chapter shall be construed to authorize any sale of goods which is specifically prohibited by a federal or state statute or regulation or a local ordinance or regulation, or to relieve the seller of any responsibility for bringing the goods into compliance with any applicable federal or state statute or regulation or local ordinance or regulation.

1797.85. Any retail seller who violates this chapter shall be liable to the buyer who returns the product for a refund, or credit on credit purchases, if the product purchased has not been used in a manner inconsistent with any printed instructions provided by the seller.

1797.86. Any violation of this chapter constitutes unfair competition under Section 17200 of the Business and Professions Code, grounds for rescission under Section 1689 of this code, and an unfair method of competition or deceptive practice under Section 1770 of this code.

## CHAPTER 1498

An act to add Section 294 to the Harbors and Navigation Code, relating to liability.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) Offshore oil and natural gas exploration, production,

processing, recovery, and transportation pose a serious threat to the state's coastal environment.

- (b) Earthquakes, violent storms, and dense fog are common off the California coast, and must be anticipated by any person engaging in offshore oil or gas exploration, recovery, or transportation. Certain areas of the California coast are well known to be particularly dangerous, and accidents can be avoided by not locating offshore wells, facilities, or pipelines in these areas.
- (c) It is inevitable that there will be oil spills and other accidents as a result of undersea exploration, recovery, processing, production, and transportation of oil and natural gas, and the transportation of oil or natural gas in pipelines or vessels, off the California coast.
- SEC. 2. Section 294 is added to the Harbors and Navigation Code, to read:
- 294: (a) Any person responsible for natural gas, oil, drilling waste, or exploration, as defined in paragraph (4) of subdivision (g), shall be absolutely liable without regard to fault for any damages incurred by any injured party which arise out of, or are caused by, the discharge or leaking of natural gas, oil, or drilling waste into or onto marine waters, or by any exploration in or upon marine waters, from any of the following sources:
- (1) Any offshore well or undersea site at which there is exploration for or extraction or recovery of natural gas or oil.
- (2) Any offshore facility, oil rig, or oil platform at which there is exploration for, or extraction, recovery, processing, or storage of, natural gas or oil.
- (3) Any vessel offshore in which natural gas, oil, or drilling waste is transported, processed, or stored.
- (4) Any pipeline located offshore in which natural gas, oil, or drilling waste is transported.
- (b) A responsible person is not liable to an injured party under this section for any of the following:
- (1) Damages, other than costs of removal incurred by the state or a local government, caused solely by any act of war, hostilities, civil war, or insurrection or by an unanticipated grave natural disaster or other act of God of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight.
- (2) Damages caused solely by the negligence or intentional malfeasance of that injured party.
- (3) Damages caused solely by the criminal act of a third party other than the defendant or an agent or employee of the defendant.
  - (4) Natural seepage not caused by a responsible party.
- (5) Discharge or leaking of oil or natural gas from a private pleasure boat or vessel.
- (6) Damages which arise out of, or are caused by, a discharge which is authorized by a state or federal permit.
- (c) Upon motion and sufficient showing by a person deemed to be responsible under this section, the court shall join to the action any

other person who may be responsible under this section.

- (d) In determining whether a party is a responsible person under this section, the court shall consider the results of any chemical or other scientific tests conducted to determine whether oil or other substances produced, discharged, or controlled by the defendant matches the oil or other substance which caused the damage to the injured party. The defendant shall have the burden of producing the results of tests of samples of the substance which caused the injury and of substances for which the defendant is responsible, unless it is not possible to conduct the tests because of unavailability of samples to test or because the substance is not one for which reliable tests have been developed. At the request of any party, any other party shall provide samples of oil or other substances within its possession or control for testing.
- (e) The court may award reasonable costs of the suit, attorneys' fees, and the costs of any necessary expert witnesses, to any prevailing plaintiff. The court may award reasonable costs of the suit and attorneys' fees to any prevailing defendant if the court finds that the plaintiff commenced or prosecuted the suit under this section in bad faith or solely for purposes of harassing the defendant.
- (f) This section does not prohibit any person from bringing an action for damages caused by natural gas, oil, or drilling waste, or by exploration, under any other provision or principle of law, including, but not limited to, common law. However, damages shall not be awarded pursuant to this section to an injured party for any loss or injury for which the party is or has been awarded damages under any other provision or principle of law. Subdivision (b) does not create any defense not otherwise available regarding any action brought under any other provision or principle of law, including, but not limited to, common law.
  - (g) As used in this section, the following definitions apply:
  - (1) "Damages" are damages for any of the following:
  - (A) Injury or harm to real or personal property.
  - (B) Business loss, including loss of income.
- (C) Costs of cleanup, removal, or treatment of natural gas, oil, or drilling waste.
  - (D) Cost of wildlife rehabilitation.
- (E) When the injured party is the state, or a city, county, or district, in addition to any injury described in subparagraphs (A) to (D), inclusive, damages include all of the following:
- (i) Injury to natural resources or wildlife, and loss of use and enjoyment of public beaches and other public resources or facilities, within the jurisdiction of the state, city, county, or district.
- (ii) Costs incurred to monitor the cleanup of the natural gas, oil, or drilling waste.
  - (iii) Loss of taxes.
- (iv) Costs to assess damages to natural resources, wildlife, or habitat.
  - (2) "Injured party" means any person who suffers damages from

natural gas, oil, or drilling waste, which is discharged or leaks into marine waters, or from offshore exploration. The state, or a city, county, or district may be an injured party.

(3) "Natural gas" includes natural gas, liquified natural gas, and natural gas byproducts. "Natural gas" does not include natural gas

carried in a vessel for use as fuel in that vessel.

(4) "Exploration" means boring and soil sampling.

- (5) "Oil" and "drilling wastes" include, but are not limited to, petroleum, refined or processed petroleum, petroleum byproducts, oil sludge, oil refuse, oil mixed with wastes, and chemicals or other materials used in the exploration, recovery, or processing of oil. "Oil" does not include oil carried in a vessel for use as fuel in that vessel.
- (6) "Person" means an individual, proprietorship, firm, partnership, joint venture, corporation, or other business entity, or an association or other organization.
  - (7) "Responsible person" means any of the following:
- (A) The owner or transporter of natural gas, oil, or drilling waste which causes an injury covered by this section.
- (B) The owner, operator, or lessee of, or person who charters by demise, any offshore well, undersea site, facility, oil rig, oil platform, vessel or pipeline which is the source of natural gas, oil, drilling waste, or is the source or location of exploration which causes an injury covered by this section.

"Responsible party" does not include the United States, the state,

or any public agency.

- (i) Liability under this section shall be joint and several. However, this section does not bar a cause of action that a responsible party has or would have, by reason of subrogation or otherwise, against any person.
- (j) Section 3291 of the Civil Code shall apply to actions brought under this section.
- (k) This section does not apply to claims for damages for personal injury or wrongful death, and does not limit the right of any person to bring an action for personal injury or wrongful death under any provision or theory of law.
- SEC. 3. 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 1499

An act to amend Section 11712 of, to add Section 15277 to, and to add and repeal Section 15278 of, the Government Code, and to amend Section 12120 of the Public Contract Code, relating to communications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. The Legislature finds and declares the following:

- (a) Telecommunications costs have become a major operating expense for state government agencies.
- (b) The state requires a process that can assess its telecommunications capability and assure that it can meet its current and future needs and requirements in a cost beneficial way.
- (c) Both the rapidly developing technological innovations in the telecommunications industry and a coordinated effort to eliminate nonessential redundancies through sharing of telecommunications resources among state agencies, counties, and local organizations, offers the state many opportunities to reduce operation costs and improve the delivery of public services.
- (d) There is a clear need for adequate resources within state government to deal with this complex and rapidly changing area and to update state policies, procedures, and mandates to accommodate these changes to prevent conflicting practices while providing for maximum cost-effective operations.
- SEC. 2. Section 11712 of the Government Code is amended to read:
- 11712. The director shall develop plans and policy regarding all of the following:
- (a) The state data centers, including the optimum size and degree of centralization of the data centers.
- (b) Information management personnel, including the training and qualifications of such personnel.
- (c) Office automation, including the use of personal computing and electronic mail.
- SEC. 3. Section 15277 is added to the Government Code, to read: 15277. There is hereby established within the department a Division of Telecommunications. The division shall include a policy and planning unit whose duties shall include, but not be limited to, all of the following:
- (a) Assessing the overall long-range telecommunications needs and requirements of the state considering both routine and emergency operations, performance, cost, state-of-the-art technology, multiuser availability, security, reliability, and such

other factors deemed to be important to state needs and requirements.

- (b) Developing strategic and tactical policies and plans for telecommunications with consideration for the systems and requirements of state agencies, counties, and other local jurisdictions; and preparing an annual strategic telecommunications plan which includes the feasibility of interfaces with federal and other state telecommunications networks and services.
- (c) Recommending industry standards for telecommunications systems to assure multiuser availability and compatibility.
- (d) Providing advice and assistance in the selection of telecommunications equipment to ensure that the telecommunications needs of state agencies are met and that procurements are compatible throughout state agencies and are consistent with the state's strategic and tactical plans for telecommunications.
- (e) Providing management oversight of statewide telecommunications systems developments.
- (f) Providing for coordination of, and comment on, plans and policies and operational requirements from departments which utilize telecommunications in support of their principal function, such as the Office of Emergency Services, National Guard, health and safety agencies, and others with primary telecommunications programs.
- (g) Monitoring and participating on behalf of the state in the proceedings of federal and state regulatory agencies and in congressional and state legislative deliberations which have an impact on state government telecommunications activities.
- (h) Preparing and transmitting by March 31, 1987, a report to the Legislature which describes the actions taken by the department to plan and advocate the most advantageous use of telecommunications technology in state government operations and efforts to reduce costs.
- (i) Developing plans and policy regarding teleconferencing as an alternative to state travel and regarding emergency communications.
- SEC. 4. Section 15278 is added to the Government Code, to read: 15278. (a) There is hereby established within the department an advisory board comprised of individuals from academia, industry, and other sources of expertise outside of state government knowledgeable in telecommunications systems technology. The board shall consist of seven members appointed as follows: five by the Governor, one by the Speaker of the Assembly, and one by the Senate Rules Committee. The board shall meet monthly and shall be compensated at one hundred dollars (\$100) per day plus expenses.
- (b) The board shall advise the Director of General Services on all of the following:
  - (1) The development of policies, plans, standards, and designs.
  - (2) The operating practices of the telecommunications systems

users.

- (3) New technology, implementation, and uses of telecommunications for state government.
- (c) The board shall review and comment to the Director of General Services on the report to the Legislature required by subdivision (h) of Section 15277.
- (d) A member of the board shall not participate in the provision of any advice or recommendation to the Director of General Services which directly relates to any request for proposal, bid, contract proposal or modification, or procurement under consideration by the department in which the member has a financial interest.
- (e) This section shall remain in effect only until January 1, 1990, and as of that date is repealed unless a later enacted statute, which is enacted before that date, deletes or extends that date.
- SEC. 5. Section 12120 of the Public Contract Code is amended to read:
- The Legislature finds and declares that, with the advent of deregulation in the telecommunications industry, substantial cost savings can be realized by the state through the specialized evaluation and procurement of alternative telecommunications systems. All contracts for the acquisition of telecommunications services and all contracts for the acquisition of telecommunications goods, whether by lease or purchase, shall be made by, or under the supervision of, the Department of General Services. All procurements shall be accomplished in accordance with Chapter 3 (commencing with Section 12100), relating to the acquisition of electronic data-processing goods and services, except to the extent any directive or provision is uniquely applicable to electronic data-processing acquisitions. The Department of General Services shall have sole responsibility for the establishment of policy and procedures for telecommunications. The Department of General Services shall have sole responsibility for the establishment of tactical policy and procedures for data-processing acquisitions consistent with statewide strategic policy as established by the Department of Finance. The Department of Finance shall have review and approval responsibility of data-processing information with telecommunication acquisitions to assure consistency budgetary objectives.
- SEC. 6. The Department of General Services shall augment the current level of staff assigned to telecommunications with professional experts knowledgeable in policy and planning, systems, and telecommunications engineering.
- SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the state to avoid needless expense and for state departments and agencies to utilize as soon as possible the technology available to assist in the cost-effective execution of their duties, it is necessary for this act to take effect immediately.

#### CHAPTER 1500

An act to add and repeal Section 1203.015 of the Penal Code, relating to sentencing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 1203.015 is added to the Penal Code, to read: 1203.015. (a) With the concurrence of the board of supervisors, the presiding judge of the muncipal court or the presiding judge of the superior court, or of the criminal divisions thereof, of San Bernardino County and at least one other county, may participate in a three-year home detention pilot project authorized by this section. Any county intending to implement a pilot project pursuant to this section shall submit a written notification of that intention together with a written discription of the county project and its goals to the Board of Corrections. Participating courts shall sentence persons convicted of misdemeanors to home detention in lieu of sentencing the person to county jail. The term of detention shall not exceed the term of sentence imposed by law; and no person who has previously been convicted of a violent felony as defined in subdivision (c) of Section 667.5 shall be eligible for home detention.

(b) The board of supervisors of a participating county, in consultation with the chief of the county's probation office, shall establish procedures for the imposition of fees upon persons sentenced to home detention for the purpose of fully or partially covering the costs arising from the use by those persons of an approved electronic monitoring or supervising device.

(c) The judge, in imposing a sentence under this section, shall first obtain the consent of the defendant to participate in the project, and shall provide in the order that the home detention sentence be based on the condition that the defendant will comply with the following:

(1) Remain within the interior premises of the place for his or her detention during the hours designated by the court.

- (2) Agree to reasonable, unannounced visits into the defendant's place of detention by any person or agent designated by the court for purposes of verifying compliance with the use of the electronic monitoring or supervising device and to verify that the device is not being tampered with or otherwise altered.
- (3) Agree to the use of electronic monitoring or supervising devices for the purpose of helping to verify the defendant's compliance with the conditions imposed by the court.

- (4) Agree to obtain or retain a job during the period of detention.
- (d) "Approved electronic monitoring or supervising device" means an electronic device approved by the county probation officer which meets minimal Federal Communications Commission regulations and requirements and which is limited in capability to recording or transmitting information as to the prisoner's presence in the home.
- (e) The board of supervisors of a participating county shall provide to the Board of Corrections information regarding the selection of monitoring or supervising devices and shall reasonably assure that any agency, probation department, and county official or employee is in compliance with Section 1090 of the Government Code.
- (f) Any supplier or manufacturer of an electronic monitoring or supervising device shall provide evidence of ability to support and maintain the use of the system for duration of the pilot project. A supplier or manufacturer shall sign an affidavit of noncollusion and verify that no governmental employees are being compensated in the awarding of a contract or in the implementation of the pilot project.
- (g) The Board of Corrections shall monitor the project and shall report to the Legislature on or before December 31, 1988, regarding the effectiveness of the pilot program. That report shall include an evaluation of the costs of the program and the feasibility of charging defendants who participate in the program a fee.
- (h) This section shall remain operative only until January 1, 1990, and as of that date is repealed.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to relieve overcrowding in jails in those counties affected by this act at the earliest possible time, it is essential that this act take effect immediately.

## CHAPTER 1501

An act to amend Section 25364 of, to add Section 25364.7 to, and to add and repeal Section 25364.6 of, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 25364 of the Health and Safety Code is amended to read:

- 25364. Except as provided in Section 25364.6, no indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for cost or expenditures recoverable under this chapter. This section shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs or expenditures under this chapter.
- SEC. 2. Section 25364.6 is added to the Health and Safety Code, to read:
- 25364.6. (a) Notwithstanding any other provision of law, a response action contractor may be indemnified and held harmless pursuant to this section for acts or omissions in carrying out a removal or remedial action to any person for injuries caused by a hazardous substance release, or threatened release, or for costs, damages, or expenses incurred as a result thereof, including, but not limited to, claims for indemnification or contribution and claims by third parties, unless the contractor was a responsible party for the release which is the subject of the removal or remedial action.
- (b) This section shall apply only to a removal or remedial action at a hazardous substance release site for which one or more of the following applies:

(1) The department, after reasonable effort, has not been able to

identify a potentially responsible party.

- (2) The potentially responsible party is subject to an order issued, or an enforceable agreement entered into, pursuant to subdivision (a) of Section 25355.5 and the department has determined that the party is not in compliance with the order or agreement.
- (3) The potentially responsible party has entered into an enforceable agreement with the department, and the department has entered into a contract for removal or remedial action at the site.
- (4) The department determines that immediate corrective action is necessary, pursuant to Section 25354, and that no potentially responsible party is ready, willing, and able to take that action.
- (5) The director determines that removal or remedial action at the site is necessary because there may be an imminent and substantial endangerment to the public health or welfare, or to the environment, and that no potentially responsible party is ready, willing, and able to take that action.
- (c) The director may enter into a contract to hold harmless and indemnify any response action contractor against any liability specified in subdivision (a), including the expenses of litigation or settlement, pursuant to the determinations specified in subdivision (d) and the requirements specified in subdivision (e).
- (d) Before entering into a contract pursuant to this section, the director shall obtain the approval of the Director of Finance. The Director of Finance may authorize the director to enter into a contract to hold harmless and indemnify any response action contractor against any liability specified in subdivision (a), including the expense of litigation or settlement, upon making all of the following determinations:

- (1) The contract provides that the liability of the response action contractor is required to arise from conduct which does not constitute gross negligence or intentional misconduct.
- (2) The response action contractor demonstrates to the Department of Finance that it is not covered by insurance available at a fair and reasonable price and that this insurance is unlikely to become available. The Department of Finance may adopt regulations to implement this requirement.
- (3) The response action contractor is required to assume liability up to a fixed dollar amount which, in the opinion of the Director of Finance, is sufficiently high, in relationship to the contract amount and the work to be performed, to ensure that the contractor will use appropriate diligence to avoid careless acts or omissions, but not so high as to create such a substantial financial risk that the contractor cannot feasibly perform the work.
- (4) There is a fixed dollar amount limit to the total liability of the state to indemnify the response action contractor.
- (5) There are no other contractors which possess insurance for the costs, damages, and expenses specified in subdivision (a) and the department has determined that there are no other contractors which are available to perform the work and are as qualified as the response action contractor proposed to be indemnified.
- (e) The department may enter into a contract to indemnify and hold harmless a response action contractor pursuant to this section, only if the department also complies with all of the following requirements:
- (1) The department shall not expend any funds to provide indemnity pursuant to this section unless this indemnity is required to ensure that an approved removal and remedial action can be implemented.
- (2) The Department of General Services reviews and approves the contract.
- (3) The department notifies the Chairperson of the Joint Legislative Budget Committee within 30 days, or within the lesser period determined by the chairperson, before purchasing any indemnity, regarding the necessity for the indemnity. The notification shall contain information showing the department's compliance with this section.
- (f) The indemnity provided by this section shall not apply to claims for which the state establishes, in accordance with subdivision (g), that the response action contractor has not complied with all applicable requirements imposed by the state pursuant to the contract.
- (g) The state shall notify the response action contractor, within 30 days after work is required to be performed, whenever it alleges that the response action contractor has not complied with any contract requirements applicable to that work. Subdivision (f) shall only apply to claims arising out of work for which the notice required by this subdivision has been given.

- (h) For purposes of this section, "response action contractor" means any person who entered into a contract with the department to take removal or remedial action pursuant to this chapter in response to a release or threatened release, including any subcontractors of the response action contractor.
- (i) For purposes of this section, "removal and remedial action" includes, besides those actions specified in Sections 25322 and 25323, actions taken to characterize a site, actions taken to prepare and implement a remedial action plan, and actions taken to redispose of any waste resulting from the removal or remedial action.
- (j) 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 25364.7 is added to the Health and Safety Code, to read:
- 25364.7. The repeal of Section 25364.6 shall not affect any indemnity provided pursuant to that section for any cause of action brought because of any act or omission which occurs before the repeal of that section.

#### CHAPTER 1502

An act to amend Section 25149 of, and to add Section 25135.9 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. Section 25135.9 is added to the Health and Safety Code, to read:
- 25135.9. (a) The department shall, pursuant to this section and subdivision (c) of Section 25170, prepare and adopt a state hazardous waste management plan. The state hazardous waste management plan shall serve as a comprehensive planning document for the state and shall be prepared as a useful informational source for the public, local government, and regional councils of government. The state hazardous waste management plan shall be prepared in conjunction with, and shall take into account, hazardous waste management plans and the hazardous waste portions of county solid waste management plans adopted by counties and regional councils of governments.
- (b) The state hazardous waste management plan shall be prepared and adopted by the department on or before July 1, 1988, shall be reviewed annually, and shall be revised to reflect new information at least once every three years.
  - (c) In preparing and adopting the state hazardous waste

management plan, and in revising the plan thereafter, the department shall do all of the following:

- (1) Publish the draft plan or the revised plan and make it available to the public for review and comment at least three months before final adoption.
- (2) Conduct workshops and at least two public hearings on the plan or the draft revised plan, one in the southern part of the state and one in the northern part of the state, to solicit the views of the public, local government, regional councils of governments, and interested parties.
- (3) Include in the final state hazardous waste management plan and in revisions of the plan, a summary of the comments received and the department's responses to those comments.
- (d) The state hazardous waste management plan, and each revision of the plan, shall include, but need not be limited to, all of the following elements:
- (1) An analysis of the hazardous waste streams produced in the state, an accounting of the volumes of hazardous waste produced in each county and region of the state, by type of waste, and estimates of the expected rates of hazardous waste production, by type of waste, during the next five years.
- (2) An inventory of existing and planned hazardous waste facilities which handle, treat, recycle, dispose, or otherwise manage hazardous wastes produced in the state. The inventory shall include a description of the facilities, a determination of the capacity of each existing or planned facility to handle, treat, recycle, dispose, or otherwise manage the waste streams it is authorized to handle, treat, recycle, dispose, or otherwise manage, and a description of the current progress and status of each planned facility in achieving operational status, including a timetable for becoming operational.
- (3) An assessment of the need for additional hazardous waste facilities to manage the volumes of hazardous waste currently produced or which are expected to be produced during the next five years.
- (4) An identification of the areas or regions of the state where new or expanded capacity to manage hazardous wastes are needed and the types of facilities that should be sited and constructed.
- (5) A description of the policies, programs, incentives, requirements, prohibitions, or other measures which, if implemented, would reduce or eliminate the need for new or expanded facilities.
- (6) A statement of goals, objectives, and policies currently in effect, or in the process of development, for the siting of hazardous waste facilities and the management of hazardous wastes during the next five years.
- (7) A schedule of recommended actions, including specific dates, for carrying out state, regional, and local actions to implement the state hazardous waste management plan.
  - SEC. 2. Section 25149 of the Health and Safety Code is amended

to read:

- (a) Notwithstanding any other provision of law, except as 25149. provided in Section 25149.5 or 25181 of this code or Section 731 of the Code of Civil Procedure, no city or county, whether chartered or general law, or district may enact, issue, enforce, suspend, revoke, or modify any ordinance, regulation, law, license, or permit relating to an existing hazardous waste facility so as to prohibit or unreasonably regulate the disposal, treatment, or recovery of resources from hazardous waste or a mix of hazardous and solid wastes at that facility, unless, after public notice and hearing, the director determines that the operation of the facility may present an imminent and substantial endangerment to health and the environment. However, nothing in this section authorizes an operator of that facility to violate any term or condition of a local land use permit or any other provision of law not in conflict with this section.
- (b) The director shall, pursuant to subdivision (c), conduct the hearing specified in subdivision (a) to determine whether the operation of an existing hazardous waste facility may present an imminent and substantial endangerment to health and the environment whenever any of the following occurs:
- (1) A state or federal public agency requires any person to evacuate a residence or requires the evacuation of a school, place of employment, commercial establishment, or other facility to which the public has access, because of the release of a hazardous substance from the facility.
- (2) For more than five days in any month, the air emissions from the facility result in the violation of an emission standard for a hazardous air pollutant established pursuant to Section 7412 of Title 42 of the United States Code or the threshold exposure level for a toxic air contaminant, as defined in Section 39655.
- (3) A state or federal public agency requires that the use of a source of drinking water be discontinued because of the contamination of the source by a release of hazardous waste, hazardous substances, or leachate from the facility.
- (4) A state agency, or the board of supervisors of the county in which the facility is located, upon recommendation of its local health officer, makes a finding that the public health has been affected by a release of hazardous wastes from the facility. The finding shall be based on statistically significant data developed in a health effects study conducted according to a study design, and using a methodology, which are developed after considering the suggestions on study design and methodology made by interested parties and which are approved by the Epidemiological Studies Section in the Epidemiology and Toxicology Branch of the department before beginning the study.
- (5) The owner or operator of the facility is in violation of an order issued pursuant to Section 25187 which requires one or both of the following:

- (A) The correction of a violation or condition that has resulted, or threatens to result, in an unauthorized release of hazardous waste or a constituent of hazardous waste from the facility into either the onsite or offsite environment.
- (B) The cleanup of a release of hazardous waste or a constituent of hazardous waste, the abatement of the effects of the release, and any other necessary remedial action.
- (6) The facility is in violation of an order issued pursuant to Article 1 (commencing with Section 13300) of, or Article 2 (commencing with Section 13320) of, Chapter 5 of Division 7 of the Water Code or in violation of a temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to Article 4 (commencing with Section 13340) of Chapter 5 of Division 7 of the Water Code.
- (c) Whenever the director determines that a hearing is required, as specified in subdivision (b), the director shall immediately request the Office of Administrative Hearings to assign a hearing officer to conduct the hearing, pursuant to this subdivision.
- (1) After a hearing officer is assigned by the Office of Administrative Hearings, the director shall transmit to the hearing officer and to the operator of the existing hazardous waste facility, all relevant documents, information, and data that were the basis for the director's determination. The director shall also prepare a notice specifying the time and place of the hearing. The notice shall also include a clear statement of the reasons for conducting the hearing, a description of the facts, data, circumstances, or occurrences that are the cause for conducting the hearing, and the issues to be addressed at the hearing. The hearing shall be held as close to the location of the existing hazardous waste facility as is practicable and shall commence no later than 30 days following the director's request to the Office of Administrative Hearings to assign a hearing officer to the case.
- (2) The hearing specified in paragraph (1) shall be conducted in accordance with Sections 11510 to 11515, inclusive, and Section 11525, of the Government Code. The hearing officer's proposed decision shall be transmitted to the director within 30 days after the case is submitted.
- (3) The director may adopt the proposed decision of the hearing officer in its entirety or may decide the case upon the record, as provided in Section 11517 of the Government Code. The director's decision shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision is subject to judicial review in accordance with Section 11523 of the Government Code.

## **CHAPTER 1503**

An act to add Article 3.8 (commencing with Section 8574.11) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Article 3.8 (commencing with Section 8574.11) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 3.8. Hazardous Substances Emergency Response Training

8574.11. (a) The Legislature hereby finds and declares that, in order to protect the public health and safety and the environment, and to reduce personal injury and property loss resulting from the sudden release of hazardous substances into the environment, it is necessary to establish a single, coordinated, and standardized hazardous substances incident response training and education plan for firefighters and law enforcement, emergency rescue, and environmental health personnel. A standardized hazardous substances incident response training and education program is necessary to ensure a coordinated emergency response capability throughout the state, and to eliminate duplicative and inconsistent hazardous substances emergency response training and education programs.

(b) In enacting this article, the Legislature recognizes that it is necessary to designate a single state agency to be responsible for the development of minimum standards relative to course content and subject matter for training and education of hazardous substance incident response personnel in order to avoid duplication of effort and inconsistent applications of safety procedures and protocols. The Legislature does not intend, by enacting this article, to preempt or nullify any hazardous substance incident response procedures and protocols which take into account existing conditions peculiar to a

locality or region.

(c) For purposes of this article, "program" means the California Hazardous Substances Incident Response Training and Education Program established pursuant to Section 8574.12.

8574.12. Not later than 18 months after the effective date of this article, the Office of Emergency Services shall establish and manage the California Hazardous Substances Incident Response Training and Education Program to provide approved classes in hazardous substance response, taught by trained instructors, and to certify

students who have completed these classes. To carry out this program, the Office of Emergency Services shall do all of the following:

- (a) Adopt regulations necessary to implement the program.
- (b) Establish a training and education program by developing the curriculum to be used in the program in colleges, academies, the California Specialized Training Institute, and other educational institutions, as specified in Section 8574.13.
- (c) Establish recommended minimum standards for training emergency response personnel and instructors, including, but not limited to, fire, police, and environmental health personnel.
- (d) Make available a training and education program in the use of hazardous substances emergency rescue, safety, and monitoring equipment, on a voluntary basis, at the California Specialized Training Institute.
- (e) Train and certify instructors at the California Specialized Training Institute according to standards and procedures developed by the curriculum development advisory committee, as specified in Section 8574.13.
- (f) Approve classes, as meeting the requirements of the program, if the classes meet the curriculum developed by the Office of Emergency Services pursuant to Section 8574.13 and the instructor received training and certification at the California Specialized Training Institute, as specified in subdivision (e).
- (g) Certify students who have successfully completed a class approved as meeting the requirements of the program.
  - (h) Review and revise, as necessary, the program.
- (i) Establish and collect admission fees and other fees that may be necessary to be charged for advanced or specialized training given at the California Specialized Training Institute. These fees shall be used to offset costs incurred pursuant to this article.
- 8574.13. (a) Not later than one year after the effective date of this article, the Office of Emergency Services shall develop the curriculum to be used in classes which meet the program requirements and shall adopt standards and procedures for training instructors at the California Specialized Training Institute.
- (b) The curriculum for the training and education program established pursuant to this article shall include all of the following aspects of hazardous substance incident response actions:
  - (1) First responder training.
  - (2) On-scene manager training.
- (3) Hazardous substance incident response training for management personnel.
  - (4) Environmental monitoring.
  - (5) Hazardous substance release investigations.
  - (6) Hazardous substance incident response activities at ports.
- (c) The Office of Emergency Services shall establish a curriculum development advisory committee, which shall consist of a representative from each of the following agencies or organizations:

- (1) The Office of Emergency Services.
- (2) The Office of the State Fire Marshal.
- (3) The State Department of Health Services.
- (4) The Department of Fish and Game.
- (5) The State Water Resources Control Board.
- (6) The Department of the California Highway Patrol.
- (7) The California Police Chiefs' Association.
- (8) The California Fire Chiefs' Association.
- (9) The Commission on Police Officer Standards and Training.
- (10) The California District Attorneys' Association.
- (11) The Department of Forestry.
- (12) The Emergency Medical Services Authority.
- (13) The Department of Transportation.
- (14) The Environmental Protection Agency.
- (15) The Chemical Industry Council of California.
- (16) The California Manufacturers Association.
- (17) The California Conference of Local Health Officers.
- (18) The University of California.
- (19) The California State Fireman's Association.
- (20) The California State University.
- (21) The Federated Firefighters of California.
- (22) The California Association of Highway Patrolmen.
- (23) The California State Police Association.
- (d) The curriculum development advisory committee shall advise the Office of Emergency Services on the development of course curricula and the standards and procedures specified in subdivision (a). In advising the Office of Emergency Services, the committee shall do both of the following:
- (1) Assist, and cooperate with, representatives of the Board of Governors of the California Community Colleges in developing the course curricula.
- (2) Ensure that the curriculum developed pursuant to this section is accredited by the State Board of Fire Services.
- (e) The representative from the Office of Emergency Services shall serve as the chairperson of the curriculum development advisory committee.
- (f) After the course curricula and standards are established pursuant to subdivision (a), the curriculum development advisory committee shall meet at least once each year to review the program and advise the Office of Emergency Services on any required revisions.
- (g) The Office of Emergency Services shall make the curriculum development advisory committee a subcommittee of the Curriculum Advisory Board of the California Specialized Training Institute.
- (h) This article does not affect the authority of the State Fire Marshal granted pursuant to Section 13142.4 or 13159 of the Health and Safety Code.
- (i) Upon completion of instructor training and certification pursuant to subdivision (e) of Section 8574.12 by any employee of the

Department of the California Highway Patrol, the Commissioner of the Department of the California Highway Patrol may deem any training programs taught by that employee to be equivalent to any training program meeting the requirements established pursuant to this article.

8574.14. The Office of Emergency Services may hire professional and clerical staff pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). However, any person employed pursuant to this section shall be employed only at the California Specialized Training Institute.

8574.15. Not later than 18 months after the effective date of this article, the Office of Emergency Services shall submit a report to the Legislature concerning the implementation of this article, including the locations of any classes and any recommendations for future legislative or administrative action.

SEC. 2. The sum of two hundred forty-five thousand dollars (\$245,000) is hereby appropriated from the Hazardous Waste Control Account in the General Fund to the Office of Emergency Services for developing curriculum and standards and procedures for training instructors pursuant to Section 8574.13 of the Government Code and for carrying out Article 3.8 (commencing with Section 8547.11) of Chapter 7 of Division 1 of Title 2 of the Government Code, subject to the requirements of Section 8574.14 of the Government Code.

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

In order to develop and implement critical training and education capabilities at the earliest possible time in order to reduce threats to the safety of life and property in California, it is necessary that this act take effect immediately.

## CHAPTER 1504

An act to add Sections 65963.1 and 66780.8 to the Government Code, and to amend and renumber Section 25117.7 of, to add Sections 25117.2, 25173.5, 25200.1, and 25200.2 to, to add Article 3.5 (commencing with Section 25135) and Article 8.7 (commencing with Section 25199) to Chapter 6.5 of Division 20 of, and to repeal Sections 25135.8 and 25204 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

- (1) The quality of life of the citizens of this state is based upon a large variety of consumer goods produced by the manufacturing economy of the state. The complex industrial processes that produce these goods also generate waste byproducts, some of which are hazardous to the public health and the environment.
- (2) Safe and responsible management of hazardous wastes is one of the most important environmental problems facing the state at the present time. This management is critical to the protection of the public health and the environment and also to the economic growth of the state. If environmentally sound hazardous waste facilities are not available to effectively manage the hazardous wastes produced by the many industries of the state, the state's economic activity will be hampered and cannot prosper, public health and the environment will be threatened by the increased illegal disposal, and the use of outmoded disposal practices will continue.
- (3) A solution to the safe and responsible management of hazardous wastes requires an effective planning process that involves local and state governments, the public, and industry. The process must provide a more expeditious method than presently exists for siting needed hazardous waste management facilities and granting the necessary permits. The process also must provide a means for ensuring that needed facilities are environmentally sound, do not pose a threat to the public health and safety, and will not be rejected because of local opposition.
- (4) A solution to the safe and responsible management of hazardous wastes also requires improved programs of waste source reduction and recycling, and encouraging onsite treatment of hazardous wastes, as preferable to the siting of new land disposal facilities. The goal of this act, which recognizes the long-term health, environmental, and economic risks of hazardous waste land disposal, is to prevent hazardous waste from being permanently disposed into land, or emitted into the air, without being processed by an economically and technically feasible alternative technology. Attaining this goal will require the development of feasible programs which should result in the reduction of the volume and hazard of hazardous wastes at their source, and the development of expanded recycling programs for hazardous waste. This goal also requires that, as an alternative to traditional land disposal methods, residuals repositories be utilized for the byproducts of preferred hazardous waste treatment technologies. Because of the threat to public health and safety posed by the traditional land disposal of hazardous wastes, it is necessary that these methods of dealing with hazardous wastes

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come quickly into place.

- (5) The safe transport of hazardous wastes from the source of generation to the point of ultimate disposal is an important element in the total management of hazardous waste. Strong enforcement of existing law regarding the manifest system, vehicle safety, and emergency response preparedness must be assured to provide for the full protection of public health and the environment.
- (6) Monitoring of hazardous waste management facilities and the effective enforcement of existing federal and state hazardous waste regulations are also essential to protect the public health and environment and to meet the public's concerns regarding the acceptance of needed new hazardous waste management facilities.
- (7) An assurance of an adequate system which provides for full compensation for injury and damage found to be caused by hazardous waste is central to protecting the public health, safety, and welfare.
- (b) The Legislature, therefore, declares that it is in the public interest to establish a state policy that has the objective of ensuring that safe, effective, and economical facilities for the management of hazardous wastes are available when they are needed, and that these facilities are of a type, and operated and monitored in a manner, which protects public health and the environment. The principles underlying this policy include all of the following:
- (1) Because the state's economy and quality of life are dependent on many substances and products that result in the production of hazardous wastes, all Californians must share in the responsibility for finding safe and effective solutions to the management and disposal of hazardous wastes, including efforts to reduce the amount and hazard of this waste.
- (2) Local government, state government, the public, and industry need to form a partnership in an effort to plan for, and site, needed treatment and disposal facilities.
- (3) Even though suitable sites for treatment and disposal facilities may be limited, it is necessary that all local communities in the state be willing to share the burden of hazardous waste management and that all local governments consider the feasibility and appropriateness of identifying suitable sites for treatment and disposal facilities in their general plans.
- (4) While local land use planning and health, safety, and environmental requirements must be the basis for siting needed hazardous waste facilities, local facility siting decisions may not adequately consider the waste management needs of the region or of the state. Because of the need to consider the region's or state's waste management needs, procedures should be established for appealing the local rejection of needed and technically and environmentally sound hazardous waste facilities to a body with a regional or statewide perspective. However, an appeal of a hazardous waste facility, pursuant to Section 25199.9 of the Health and Safety Code, which is proposed for a rural area and which would

receive hazardous waste from urban areas should not be approved, unless the hazardous waste facility is found consistent with the applicable city or county general plan and the county hazardous waste management plan, as specified in subdivision (f) of Section 25199.11 of the Health and Safety Code.

- SEC. 2. Section 65963.1 is added to the Government Code, to read:
- 65963.1. Except as otherwise provided in Article 8.7 (commencing with Section 25199) of Chapter 6.5 of Division 20 of the Health and Safety Code, this chapter applies to the making of a land use decision or the issuance of a permit for a hazardous waste facility project by a public agency, as defined in Section 25199.1 of the Health and Safety Code, including, but not limited to, all of the following actions:
- (a) The approval of land use permits and conditional use permits, the granting of variances, the subdivision of property, and the modification of existing property lines pursuant to this division or Division 2 (commencing with Section 66410) of Title 7, and, for purposes of this chapter, "project" includes an activity requiring any of those actions.
- (b) The issuance of hazardous waste facility permits by the State Department of Health Services pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.
- (c) The issuance of waste discharge requirements by California regional water quality control boards pursuant to Article 4 (commencing with Section 13260) of Chapter 4 of Division 7 of the Water Code.
- (d) The issuance of authority to construct permits by the district board of an air pollution control district or an air quality management district pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code.
- (e) The issuance of solid waste facilities permits by the enforcement agency pursuant to Article 2 (commencing with Section 66796.30) of Chapter 3 of Title 7.3.
- SEC. 3. Section 66780.8 is added to the Government Code, to read:
- 66780.8. In lieu of preparing a hazardous waste portion of the county solid waste plan as provided in this article, a county may, at its discretion, prepare a county hazardous waste management plan for the management of all hazardous wastes produced in the county. If a county decides to prepare a hazardous waste management plan instead of the hazardous waste portion of a county solid waste plan, the county shall notify the department of the decision. The county hazardous waste management plan shall be prepared, adopted, and approved pursuant to Article 3.5 (commencing with Section 25135) of Chapter 6.5 of Division 20 of the Health and Safety Code.

A county may delegate the authority to prepare the county hazardous waste management plan to a city, an agency established

- by a joint powers agreement, or any other special planning agency. SEC. 4. Section 25117.2 is added to the Health and Safety Code, to read:
- 25117.2. "Hazardous waste management" means the disposal, handling, processing, storage, and treatment of hazardous waste.
- SEC. 5. Section 25117.7 of the Health and Safety Code is amended and renumbered to read:
- 25117.1. "Hazardous waste facility" means any structure, other appurtenances, and improvements on the land, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste.
- SEC. 6. Article 3.5 (commencing with Section 25135) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

# Article 3.5. Hazardous Waste Management Plans

# 25135. (a) The Legislature finds and declares as follows:

- (1) An effective planning process involving public and private sector participation exists at the county level for establishing new, or expanding existing, solid waste facilities, but an equivalent process has not been established at the local level to plan for the management of hazardous wastes.
- (2) Counties are presently required to prepare solid waste management plans for all waste disposal within each county and for all waste originating in each county. While the department has requested that counties include in their solid waste management plans a hazardous waste management element, there is not presently a clear mandate that they do so.
- (3) Hazardous waste management planning at the local level has been hampered because the department has not provided the counties with adequate and comprehensive planning guidelines, there is a lack of accurate data on hazardous waste generation, handling, and disposal practices, adequate funding has not been available, and local expertise in hazardous waste planning has not been developed.
- (4) The failure to plan for the safe and effective management of hazardous wastes has contributed to the public's general uncertainty in viewing proposals to site hazardous waste facilities at various locations throughout the state. Because advance planning has not taken place, local governments are not prepared to consider siting proposals and the public has not received adequate answers to questions concerning the need for proposed facilities.
- (5) Safe and responsible management of hazardous wastes is one of the most important environmental problems facing the state at the present time. It is critical to the protection of the public health and the environment, and to the economic growth of the state. If environmentally sound hazardous waste facilities are not available to effectively manage the hazardous wastes produced by the many industries of the state, economic activity will be hampered and the

economy cannot prosper.

- (b) The Legislature, therefore, declares that it is in the public interest to establish an effective process for hazardous waste management planning at the local level. This process is consistent with the responsibility of local governments to assure that adequate treatment and disposal capacity is available to manage the hazardous wastes generated within their jurisdictions.
- (c) It is the intent of the Legislature that the hazardous waste management plans prepared pursuant to this article serve as the primary planning document for hazardous waste management at the local level; that the plans be integrated with other local land use planning activities to ensure that suitable locations are available for needed hazardous waste facilities; that land uses adjacent to, or near, hazardous waste facilities, or proposed sites for these facilities, are compatible with their operation; and that the plans are prepared with the full and meaningful involvement of the public, environmental groups, civic associations, generators of hazardous wastes, and the hazardous waste management industry.
- (d) It is further the intent of the Legislature, in enacting this article, to define the respective responsibilities of state and local governments in hazardous waste management planning; to establish a comprehensive planning process in which state and local government, the public, and industry jointly develop safe and effective solutions for the management and disposal of hazardous wastes; to ensure that local governments are assisted adequately by the state in carrying out their responsibilities; and to provide funding for local-level planning.
- 25135.1. (a) For purposes of this article, and unless the context indicates otherwise, "county" means a county that notifies the department that it will prepare a county hazardous waste management plan in accordance with this article and receives a grant pursuant to Section 25135.8. "County" also means any city, or two or more cities within a county acting jointly, which notifies the department that it will prepare a county hazardous waste management plan in accordance with subdivision (c).
- (b) A county may, at its discretion, and after notification to the department, prepare a county hazardous waste management plan for the management of all hazardous waste produced in the county. A county hazardous waste management plan prepared pursuant to this article shall serve in lieu of the hazardous waste portion of the county solid waste plan provided for in Article 2 (commencing with Section 66780) of Chapter 2 of Title 7.3 of the Government Code. The county hazardous waste management plan shall be prepared in cooperation with the affected cities in the county and the advisory committee appointed pursuant to Section 25135.2, in accordance with the guidelines adopted by the department pursuant to Section 25135.5, and in accordance with the schedule specified in Section 25135.6.
  - (c) On or before March 31, 1987, every county shall notify the

department and the cities within the county whether the county has elected to prepare a county hazardous waste management plan pursuant to this article. A city, or two or more cities acting jointly, located within a county which elects not to prepare a county hazardous waste management plan or which fails to make an election, on or before March 31, 1987, to prepare a plan, may, at the city's or cities' discretion, elect to undertake the preparation of the plan. The city or cities shall be deemed to be acting in place of the county for purposes of this article and may apply for funding to pay the cost of preparing the plan pursuant to subdivision (c) of Section 25135.8. However, the city or cities may not receive funding pursuant to subdivision (c) of Section 25135.8, unless the proposal to prepare a county hazardous waste management plan by the city or cities is approved by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county and the proposal is received by the department on or before June 30, 1987.

- (d) The county hazardous waste management plan authorized by subdivision (b) or (c) shall serve as the primary planning document for hazardous waste management in the county and shall be prepared as a useful informational source for local government and the public. The plan shall include, but is not limited to, all of the following elements:
- (1) An analysis of the hazardous waste stream generated in the county, including an accounting of the volumes of hazardous wastes produced in the county, by type of waste, and estimates of the expected rates of hazardous waste production until 1994, by type of waste.
- (2) A description of the existing hazardous waste facilities which treat, handle, recycle, and dispose of the hazardous wastes produced in the county, including a determination of the existing capacity of each facility.
- (3) An analysis of the potential in the county for recycling hazardous waste and for reducing the volume and hazard of hazardous waste at the source of generation.
- (4) A consideration of the need to manage the small volumes of hazardous waste produced by businesses and households.
- (5) A determination of the need for additional hazardous waste facilities to properly manage the volumes of hazardous wastes currently produced or that are expected to be produced during the planning period.
- (6) An identification of those hazardous waste facilities that can be expanded to accommodate projected needs and an identification of general areas or specific sites for new hazardous waste facilities determined to be needed. In lieu of this facility and site identification, the plan may instead include siting criteria to be utilized in selecting sites for new hazardous waste facilities. If siting criteria are included in the county hazardous waste management plan, the plan shall also designate general areas where the criteria

might be applicable.

- (7) A statement of goals, objectives, and policies for the siting of hazardous waste facilities and the general management of hazardous wastes through the year 2000.
- (8) A schedule which describes county and city actions necessary to implement the hazardous waste management plan through the year 2000, including the assigning of dates for carrying out the actions.
- (e) In addition to the elements of the plan required by subdivision (d), a county may include a description of any additional local programs which the county determines to be necessary to provide for the proper management of hazardous wastes produced in the county. These programs may include, but are not limited to, public education, enforcement, surveillance, transportation, and administration.
- (f) The inclusion of an element in a county hazardous waste management plan pursuant to subdivision (d) or (e) does not authorize the county to adopt a program which the county is not otherwise authorized to adopt under any other provision of law.
- 25135.2. (a) Each county shall establish an advisory committee of at least seven members to assist the county in the preparation and administration of the county hazardous waste management plan. The board of supervisors of the county shall appoint the members who are not city representatives to the advisory committee, including at least one representative of industry, one representative of an environmental organization, and one representative of the public. The advisory committee shall also consist of at least three members to represent cities appointed by the city selection committee specified in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The board of supervisors shall, to the extent possible, appoint other members that have expertise concerning aspects of hazardous waste management planning, including, but not limited to, engineering, geology, and water quality.
  - (b) The advisory committee shall do all of the following:
- (1) Advise the county staff, the board of supervisors of the county, and the staff, mayors, and council members of the cities within the county, on issues related to the development, approval, and administration of the county hazardous waste management plan.
- (2) Hold informal public meetings and workshops to provide the public with information, and to receive comments, during the preparation of the county hazardous waste management plan.
- (c) If a city or group of cities are preparing the county hazardous waste management plan pursuant to subdivision (c) of Section 25135.1, the city or cities shall establish the advisory committee, using the qualifications and representation specified in subdivision (a).
- 25135.3. The Association of Bay Area Governments, the Southern California Association of Governments, the Sacramento Area Council of Governments, and the Association of Monterey Bay Area

Governments may, at the discretion of their governing boards, prepare a regional hazardous waste management plan to serve as a resource document and to identify hazardous waste management issues, needs, and solutions at the regional level. A council of governments specified in this subdivision shall include in the regional plan additional counties affected by the regional plan, at the request of the councils of governments for those counties. A council of governments shall prepare the regional plan pursuant to the following procedure:

- (a) A council of governments specified in this subdivision may apply to the department for funding pursuant to paragraph (3) of subdivision (b) of Section 25135.8.
- (b) On or before December 31, 1987, a council of governments which receives funding from the department shall prepare a draft regional hazardous waste management plan and submit the draft plan to the department. The council of governments shall involve the public with the preparation of the draft plan, to the fullest extent possible, by public hearings, informational meetings, and other appropriate forums that offer the public the opportunity to respond to clearly defined alternative objectives, policies, and actions.
- (c) From January 1, 1988, to March 31, 1988, the council of governments shall conduct hearings on the draft regional hazardous waste management plan, in the number determined appropriate by the council of governments. The council of governments shall provide affected local jurisdictions, the public, industry, business organizations, and the hazardous waste management industry with a full opportunity to comment orally and in writing on the draft plan.
- (d) On or before March 31, 1988, the department shall review the draft plan, and provide the council of governments with comments on the draft plan.
- (e) After conducting the review and comment period required by subdivision (c), the council of governments shall revise, as appropriate, the draft regional hazardous waste management plan.
- (f) On or before September 30, 1988, the council of governments shall complete and adopt the plan.
- (g) On or before October 1, 1988, the council of governments shall submit the final regional hazardous waste management plan adopted by its governing board to the department for review and approval. The department shall approve the regional plan if the department determines that all of the following requirements are met:
- (1) The regional plan is consistent with the guidelines for the preparation of regional hazardous waste management plans adopted by the department.
- (2) The regional plan applies the methods, techniques, and policies established by the department to analyze the waste stream and to determine whether there is a need for additional or expanded hazardous waste facilities to safely manage and properly dispose of the hazardous waste produced within the region.
  - (h) Throughout the process of preparing a regional hazardous

waste management plan, a council of governments shall cooperate and consult with representatives and staff of affected counties and cities.

- (i) Notwithstanding subdivisions (a) to (h), inclusive, of this section, if, pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, a joint powers agreement provides for the creation of the Southern California Hazardous Waste Management Authority, the Southern California Association of Governments shall, if it has elected to prepare a regional hazardous waste management plan pursuant to this section. transfer the responsibility for preparing the regional hazardous waste management plan and all funds received pursuant to subdivision (b) of Section 25135.8 to the authority, if the governing board of the authority requests the transfer by the adoption of a resolution. If the transfer takes place, the authority shall comply with this section in the same manner as this section applies to the association. If the transfer of responsibility and funds authorized by this subdivision takes place and the authority is dissolved at any time before the regional hazardous waste management plan is approved by the department, the association shall prepare the regional hazardous waste management plan and any remaining funds received pursuant to subdivision (b) of Section 25135.8 shall be transferred back to the association.
- 25135.4. (a) No person shall establish or expand an offsite facility, unless the legislative body of the city or county in which the new offsite facility, or the expansion of an existing offsite facility, is proposed makes a determination that the facility or expansion is consistent with the county hazardous waste management plan.
- (b) This section applies only to proposed new offsite facilities, or expansions of existing offsite facilities, if an approval action pursuant to Title 7 (commencing with Section 65000) of the Government Code is necessary.
- (c) This section does not apply to cities or counties which do not have an approved county hazardous waste management plan.
- 25135.5. (a) The department shall, pursuant to this section, provide direction and technical data to counties and regional councils of governments to assist them in preparing planning documents for the management of hazardous wastes produced within their jurisdictions.
  - (b) The department shall do all of the following:
- (1) On or before June 30, 1987, after conducting a workshop with county and city government officials and industry and environmental representatives, prepare and transmit to counties and regional councils of governments guidelines for the preparation and adoption of county and regional hazardous waste management plans. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the preparation and transmittal of these guidelines. The guidelines shall include, but are not limited to, all of the following:

- (A) A listing of types or categories of hazardous wastes that can be used in characterizing the hazardous waste stream in each county or region.
- (B) Methods for determining the capacity of the hazardous waste facilities that currently manage the hazardous wastes in the county or region and for assessing the capacity of these hazardous waste facilities to manage these hazardous wastes in the future.
- (C) Methods for assessing the need to establish new, or expand existing, capacity for the management of hazardous wastes produced in each county or region.
- (D) Methods for estimating the amounts of hazardous waste produced by small businesses and households.
- (2) On or before June 30, 1987, provide to each county and regional council of governments, all of the following information:
- (A) Available data on the types and quantities of hazardous wastes produced in the county or region. The department shall inform the counties and regional councils of governments of the strengths and limitations of the data.
- (B) A listing of the hazardous waste facilities that have received hazardous waste facilities permits or grants of interim status in each county or region. The listing shall specify whether the facilities are onsite or offsite facilities and whether the facilities are used for the storage, treatment, transfer, recycling, or disposal of hazardous waste.
- (C) A listing of producers of hazardous wastes known to the department in the county or region.
- (D) An assessment of overall needed capacities for treating and disposing of hazardous wastes at the state and regional levels through the year 1994.
- (É) A description of state policies and programs concerning the management of hazardous waste, including, but not limited to, the policies and programs for recycling various types of hazardous wastes, requiring the treatment of particular types of hazardous wastes, restricting the disposal to land of particular types or categories of hazardous wastes, encouraging the reduction of the amounts of hazardous waste produced at the source of production, and any other policies and programs that affect the need for additional management capacity in various types of hazardous waste facilities.
- (F) An assessment of the potential for recycling, or reducing the volume of, various types of hazardous wastes in various classes of industry.
- 25135.6. (a) A county shall prepare, review, and adopt the county hazardous waste management plan pursuant to the schedule specified in this section.
- (b) On or before December 31, 1987, each county, with the cooperation of affected local jurisdictions and the advisory committee established pursuant to Section 25135.2, shall prepare a draft county hazardous waste management plan and submit the draft

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plan to the department. The county shall involve the public with the preparation of the draft county hazardous waste management plan, to the fullest extent possible, by public hearings, informational meetings, and other appropriate forums that offer the public the opportunity to respond to clearly defined alternative objectives, policies, and actions.

- (c) From January 1, 1988, to March 31, 1988, inclusive, the county shall conduct hearings on the draft county hazardous waste management plan, in the number determined appropriate by the county. The county shall provide affected local jurisdictions, the public, industry, business organizations, and the hazardous waste management industry with the full opportunity to comment orally and in writing on the draft county hazardous waste management plan.
- (d) On or before March 31, 1988, the department shall review the draft plan, and provide each county with comments which specify the changes or additions which are required to be made to the draft plan to result in a final plan which can be approved by the department pursuant to Section 25135.7.
- (e) After conducting the review and comment period required by subdivision (c), each county shall revise, as appropriate, the draft county hazardous waste management plan.
- (f) The revised county hazardous waste management 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. On or before September 30, 1988, the county shall adopt the revised county hazardous waste management plan as the final county hazardous waste management plan.
- 25135.7. (a) A county shall submit the final county hazardous waste management plan adopted by the county to the department for review and approval on or before October 1, 1988. If a county shows the department that the county has made substantial progress towards completing the county hazardous waste management plan and needs more time to complete the plan, the department may extend this date to February 1, 1989. The department shall, on or before December 31, 1988, or on or before April 30, 1989, if the county is given a time extension, review and either approve or disapprove the county hazardous waste management plan. The department shall approve the county hazardous waste management plan if the department makes all of the following determinations:
- (1) The plan substantially complies with the guidelines for the preparation of hazardous waste management plans adopted by the department.
- (2) The plan applies the methods, techniques, and policies established by the department to analyze the waste stream and to determine whether there is a need for additional or expanded hazardous waste facilities to safely manage and properly dispose of the hazardous waste generated within the county.
  - (3) If the plan contains a determination pursuant to paragraph (5)

- of subdivision (c) of Section 25135.1 that there is a need for additional or expanded hazardous waste facilities, the plan proposes general areas, or, as determined appropriate by the county, proposes specific sites which may be suitable locations for a facility. However, if the plan instead contains siting criteria for selecting sites for new hazardous waste facilities, the plan shall propose general areas where the criteria might be applicable.
- (4) If the county preparing the plan has entered into a formal agreement with other counties to manage hazardous waste, the agreement is documented.
- (b) Within 90 days after the department approves a county hazardous waste management plan, the county shall either incorporate the plan, by reference, into the county's general plan or enact an ordinance which requires that all applicable zoning, subdivision, conditional use permit, and variance decisions are consistent with the county hazardous waste management plan.
- (c) Any amendment to an adopted county hazardous waste management plan requires the approval of the department, the county, and a majority of the cities within the county which contain a majority of the population of the incorporated area of the county.
- 25135.8. (a) There is hereby established, within the Hazardous Waste Control Account, the Hazardous Waste Management Planning Subaccount. Money deposited in the subaccount shall be used to compensate the department, and to provide grants to councils of governments and counties, for their costs in administering this article.
- (b) The moneys in the Hazardous Waste Management Planning Subaccount may be expended by the department, upon appropriation by the Legislature, to administer this article and to provide grants to councils of governments and to counties for expenses incurred in preparing regional and county hazardous waste management plans. On July 1, 1987, the department shall disburse four million dollars (\$4,000,000), upon appropriation by the Legislature, from the subaccount to counties and councils of governments, and on or before January 1, 1988, and July 1, 1988, respectively, the department shall disburse three million dollars (\$3,000,000), upon appropriation by the Legislature, from the subaccount to counties and councils of governments.

The disbursement on or before each of these dates shall be in accordance with the following formula:

- (1) Each county shall receive an allocation based on the amount of hazardous waste produced in the county. For purposes of determining the amount of the allocations, the department shall prepare an updated assessment of hazardous waste generation in each county which does not include hazardous waste resulting from site cleanup activities. Based on this assessment, the department shall allocate as follows:
- (A) Six thousand dollars (\$6,000) to each county which generates less than 100 tons per year of hazardous waste.

- (B) Nine thousand dollars (\$9,000) to each county which generates 100 or more tons, but less than 10,000 tons, per year of hazardous waste.
- (C) Thirty thousand dollars (\$30,000) to each county which generates 10,000 or more tons, but less than 30,000 tons, per year of hazardous waste.
- (D) Forty-five thousand dollars (\$45,000) to each county which generates 30,000 or more tons, but less than 100,000 tons, per year of hazardous waste.
- (E) Seventy-five thousand dollars (\$75,000) to each county which generates 100,000 or more tons, but less than 150,000 tons, per year of hazardous waste.
- (F) Ninety thousand dollars (\$90,000) to each county which generates 150,000 or more tons, but less than 350,000 tons, per year of hazardous waste.
- (G) One hundred twenty thousand dollars (\$120,000) to each county which generates 350,000 or more tons, but less than 500,000 tons, per year of hazardous waste.

(H) One hundred fifty thousand dollars (\$150,000) to each county which generates 500,000 or more tons per year of hazardous waste.

- (2) One hundred seventy-five thousand dollars (\$175,000) may be reserved by the department from the disbursements made on July 1, 1987, and on or before July 1, 1988, to pay for its costs in administering this article and to make additional allocations to counties that demonstrate the need for additional funding to complete county hazardous waste management plans in excess of the funding provided by paragraphs (1) and (3).
- (3) The amount remaining, after the allocation under paragraph (1) has been made and the amount required by paragraph (2) has been reserved, shall be distributed to the counties and to the councils of governments whose governing boards have decided to prepare a regional hazardous waste management plan pursuant to subdivision (b) of Section 25135.3 and have notified the department of that decision. The department shall do both of the following:
- (A) Distribute funds to the counties on a prorated basis based on the amount of hazardous waste produced in each county in proportion to the amount of hazardous waste produced in the state, as assessed by the department pursuant to paragraph (1).
- (B) Distribute to each council of governments one-half of the total amount allocated to the county which is located in the region represented by the council of governments and which received the largest allocation pursuant to paragraph (1) and subparagraph (A) of this paragraph, as compared to the other counties located in that region.
- (c) A city or two or more cities within a county which are eligible to receive funding pursuant to subdivision (c) of Section 25135.1 shall be allocated from the subaccount the amount specified in paragraph (1) of subdivision (a) that would be allocated to the county in which the city or cities are located if the county had elected to prepare the

plan.

- (d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.
- SEC. 7. Section 25173.5 is added to the Health and Safety Code, to read:
- 25173.5. (a) Except as provided in subdivision (b), the legislative body of a city or county may impose and enforce a tax, for general purposes, or may impose a user fee on the operation of an offsite, multiuser hazardous waste facility located within the jurisdiction of the city or county. The tax or the user fee imposed shall not exceed 10 percent of the facility's annual gross receipts for the treatment, storage, or disposal of hazardous waste at the facility.
- (b) A city or county shall not impose a tax or a user fee adopted pursuant to subdivision (a) upon any of the following:
- (1) An existing hazardous waste facility for which a tax is authorized pursuant to Section 25149.5.
- (2) An offsite, multiuser hazardous waste facility that began operations before January 1, 1987, and was issued a hazardous waste facilities permit pursuant to Section 25200, or was granted interim status pursuant to Section 25200.5, before January 1, 1987.
- (3) That portion of the gross receipts of the hazardous waste facility that derives from the recycling of hazardous wastes.
- SEC. 8. Article 8.7 (commencing with Section 25199) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

# Article 8.7. Procedures for the Approval of New Facilities.

# 25199. (a) The Legislature finds and declares as follows:

- (1) Existing laws require numerous permits before a hazardous waste facility can be constructed and operated. The permits are issued by governmental agencies, at both the state and local levels under land use planning, zoning, hazardous waste, air quality, water quality, and solid waste management laws.
- (2) The approval of hazardous waste facilities is not currently a coordinated process. The failure to coordinate the issuance of multiple permits, licenses, land use approvals, and other types of authorizations causes lengthy and costly delays. The end result of the process cannot be predicted, with any degree of certainty, by either the proponent of a project to site and construct a facility or by the concerned public.
- (3) Present procedures for approving hazardous waste facilities do not provide meaningful opportunities for public involvement and are not suitably structured to allow the public to make its concerns known and to cause these concerns to be taken into consideration.
- (4) A formal administrative process for reviewing local discretionary land use decisions on applications to site and construct a hazardous waste facility has not been established and made available to interested persons who wish to appeal these decisions.

- (b) The Legislature, therefore, declares that there is a critical need to clarify the requirements that must be met, and the basic procedures that must be followed, in connection with the approval of hazardous waste facilities.
- (c) It is the intent of the Legislature, in enacting this article, to establish the means to expedite the approval of needed hazardous waste facilities; to ensure that new hazardous waste facilities are not sited unless the facility operator provides financial assurance that the operator can respond adequately to damage claims arising out of the operation of the facility; to ensure that the facilities comply with applicable laws and regulations; to clarify the procedures to be followed in approving a facility; to establish specific means to give the concerned public a voice in decisions relating to the siting and issuance of permits for hazardous waste facilities; and to establish a process for appealing local decisions on applications for land use approval for hazardous waste facilities.
- 25199.1. Unless the context otherwise requires, the following definitions govern the construction of this article:
- (a) "Appeal board" means an appeal board established pursuant to Section 25199.10.
- (b) "Hazardous waste facility project" means a project undertaken for the purpose of siting and constructing a new hazardous waste facility or for the purpose of significantly expanding or modifying an existing hazardous waste facility that is being used or operated under a permit issued pursuant to Section 25200 or a grant of interim status pursuant to Section 25200.5. Unless expressly provided otherwise, "hazardous waste facility project" includes a specified hazardous waste facility project.
- (c) "Interested person" means a person who participated in one or more public meetings or hearings held to consider an application for a land use decision for a specified hazardous waste facility project. "Participation" includes, but is not limited to, the giving of oral or written testimony at a meeting or hearing, submission of questions at a meeting or hearing, or attendance at the meeting or hearing.
- (d) "Land disposal facility" means a hazardous waste facility where hazardous waste is disposed in, on, under, or to the land.
- (e) "Land use decision" means a discretionary decision of a local agency concerning a hazardous waste facility project, including the issuance of a land use permit or a conditional use permit, the granting of a variance, the subdivision of property, and the modification of existing property lines pursuant to Title 7 (commencing with Section 65000) of the Government Code.
- (f) "Lead agency" means the public agency that has the principal responsibility for approving a hazardous waste facility project.
- (g) "Local agency" means any public agency, other than a state agency.
- (h) "Permit" means a permit, license, certificate, requirement, or other entitlement for use required to site or construct a hazardous waste facility. "Permit" includes, but is not limited to, all of the

following:

- (1) A hazardous waste facility permit issued by the department pursuant to this chapter.
- (2) Waste discharge requirements issued by a California regional water quality control board pursuant to Article 4 (commencing with Section 13260) of Chapter 4 of Division 7 of the Water Code.
- (3) An authority to construct permit issued by an air pollution control district or air quality management district pursuant to Division 26 (commencing with Section 39000).
- (4) A solid waste facilities permit issued by the enforcement agency pursuant to Article 2 (commencing with Section 66796.30) of Chapter 3 of Title 7.3 of the Government Code.
- (i) "Proponent" means any person applying to a public agency for a permit or a land use decision concerning a specified hazardous waste facility project.
  - (j) "Public agency" means any state agency or any local agency.
- (k) "Responsible agency" means any public agency, other than the lead agency, which has the authority to issue a permit or make a land use decision.
- (1) "Significantly expand or modify" means to expand or modify an existing hazardous waste facility, including a specified hazardous waste facility, in a manner so that a land use decision and an environmental impact report are required.
- (m) "Specified hazardous waste facility" means an offsite facility which serves more than one producer of hazardous waste.
- (n) "Specified hazardous waste facility project" means a project undertaken for the purpose of siting and constructing a new specified hazardous waste facility or for the purpose of significantly expanding or modifying an existing specified hazardous waste facility that is being used or operated under a permit issued pursuant to Section 25200 or a grant of interim status pursuant to Section 25200.5.
- (o) "State agency" means any agency, board, or commission of state government. "State agency" also includes an air pollution control district and an air quality management district.
- (p) "Technical review" means the review of an application for a hazardous waste facility project by a state agency to determine if the facility meets the applicable statutes and regulations.
- 25199.2. Except as otherwise provided in this article, Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code applies to all public agencies which make a land use decision or issue a permit for a hazardous waste facility project, as specified in Section 65963.1 of the Government Code. The public agency shall perform the duties and carry out the actions required by Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code in connection with applications submitted to the public agency for a hazardous waste facility project, unless otherwise specified in this article.
- 25199.3. (a) Notwithstanding any other provision of law, an applicant for a hazardous waste facility project may submit

applications for a land use decision and for one or more permits to the appropriate public agencies simultaneously. Unless a state agency is prohibited by statute from approving a permit before the granting of a local land use decision, the state agency shall not refuse to issue a permit for a hazardous waste facility project on the grounds that the applicant has not been granted a land use permit, except that the state agency may provide that the permit shall not become effective until the applicant is granted a local land use permit.

- (b) Any public agency may request another public agency to jointly review applications for a permit or land use decision for a hazardous waste facility project. A public agency may consolidate, with other public agencies, public meetings and hearings permitted or required by law or regulation for the issuance of a permit or the making of a land use decision for a hazardous waste facility project.
- (c) The department shall coordinate the technical review of applications for permits for hazardous waste facility projects that are received by state agencies.
- (d) Upon the request of a local agency, the department, and any other state agency that is authorized to issue a permit for a hazardous waste facility project, shall provide technical assistance to a local agency that is reviewing an application for a land use decision for the project.
- 25199.4. The Office of Permit Assistance in the Office of Planning and Research shall, for any proposed hazardous waste facility project, do all of the following:
- (a) Assist in identifying state and local permits required for the proposed hazardous waste facility project.
- (b) Convene meetings or conferences, as necessary, prior to the submittal of applications for permits to state and local agencies, for the purpose of determining the scope of the hazardous waste facility project, identifying the questions that state and local agencies will have concerning the project, and determining decisionmaking schedules.
- (c) Assist state and local agencies in consolidating public meetings and hearings permitted or required by law or regulation for approval of the permits for the project.
- (d) Encourage the joint review and processing of applications for permits.
- (e) Work with the applicant and public agencies to ensure that decisionmaking deadlines are met.
- (f) Call meetings or conferences to resolve questions or mediate disputes arising from applications for a permit for a hazardous waste facility project.
- 25199.5. (a) At the request of an applicant, the legislative body of a local agency shall, within 60 calendar days after the local agency has determined that an application for a land use decision for a hazardous waste facility project is complete, issue an initial written determination on whether the hazardous waste facility project is consistent with both of the following:

- (1) The applicable local general plan and zoning ordinances in effect at the time the application was received.
- (2) The county hazardous waste management plan authorized by Article 3.5 (commencing with Section 25135), if the plan is in effect at the time of the application.
- (b) The local agency shall send a copy of the written determination made pursuant to subdivision (a) to the applicant.
- (c) The determination required by subdivision (a) does not prohibit a local agency from making a different determination when the final land use decision is made, if the final determination is based on information which was not considered at the time the initial determination was made.
- 25199.6. (a) Notwithstanding Section 65952 of the Government Code, a responsible agency for a hazardous waste facility project that is a land disposal facility shall approve or disapprove all permits for the project within one of the following periods of time, whichever is longer:
- (1) Within one year from the date on which the lead agency approved or disapproved the permit for the project.
- (2) Within one year from the date on which completed applications for permits for the project were received, and accepted as complete, by the responsible agency.
- (b) Subdivision (b) of Section 65956 of the Government Code does not apply to the failure of a lead agency or responsible agency to approve or disapprove a permit for a hazardous waste facility project within the time limits established by Sections 65950 and 65952 of the Government Code and subdivision (a) of this section. If a lead agency or a responsible agency fails to act within those time limits, the applicant may file an action pursuant to Section 1085 of the Code of Civil Procedure to compel the agency to approve or disapprove the permit for the project within a reasonable time, as the court may determine.
- 25199.7. (a) At least 90 days before filing an application for a land use decision for a specified hazardous waste facility project with a local agency, the proponent shall file a notice of intent to make the application with the Office of Permit Assistance in the Office of Planning and Research and with the applicable city or county. The notice of intent shall contain a complete description of the nature, function, and scope of the project. The Office of Permit Assistance shall immediately notify affected state agencies of the notice of intent. The local agency shall publish a notice in a newspaper of general circulation in the area affected by the proposed project, shall post notices in the location where the proposed project is located, and shall notify, by a direct mailing, the owners of contiguous property, as shown in the latest equalized assessment role. The local agency shall impose a fee upon a project applicant equal to the cost of notification required by this section.
- (b) A proponent may not file an application for a land use decision for a specified hazardous waste facility project with a local agency

unless the proponent has first complied with subdivision (a).

- (c) Within 90 days after a notice of intent is filed with the Office of Permit Assistance pursuant to subdivision (a), the office shall convene a public meeting in the affected city or county to inform the public on the nature, function, and scope of the proposed specified hazardous waste facility project and the procedures that are required for approving applications for the project.
- (d) Within 90 days after receiving a notice of the filing of a notice of intent, the legislative body of the affected local agency shall appoint a seven member local assessment committee.
- (1) The membership of the committee shall be broadly constituted to reflect the makeup of the community, and shall include three representatives of the community at large, two representatives of environmental or public interest groups, and two representatives of affected businesses and industries. Members of local assessment committees selected pursuant to this subdivision shall have no direct financial interest, as defined in Section 87103 of the Government Code, in the proposed specified hazardous waste facility project.
  - (2) The local assessment committee shall do all of the following:
- (A) Negotiate with the proponent for the proposed hazardous waste facility project on the detailed terms of, provisions of, and conditions for, project approval which would protect the public health, safety, and welfare, and the environment of the city or county and would promote the fiscal welfare of the city or county through special benefits and compensation.
- (B) Represent generally, in negotiation with the project proponent, the interests of the residents of the city or county and the interests of adjacent communities.
- (C) Receive and expend the technical assistance grants made available pursuant to subdivision (g).
- (D) Adopt rules and procedures which are necessary to perform its duties.
- (E) Advise the legislative body of the city or county of the terms, provisions, and conditions for project approval which have been agreed upon by the committee and the proponent, and of any additional information which the committee deems appropriate. The legislative body of the city or county may use this advice for its independent consideration of the project.
- (3) The legislative body of the affected jurisdiction shall provide staff resources to assist the local assessment committee in performing its duties.
- (4) A local assessment committee established pursuant to this subdivision shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications for the project for which the committee was convened.
- (e) A local agency shall notify the Office of Permit Assistance within 10 days after an application for a land use decision for a specified hazardous waste facility project is accepted as complete by

the local agency and, within 60 days after receiving this notice, the Office of Permit Assistance shall convene a meeting of the lead and responsible agencies for the project, the proponent, the local assessment committee, and the interested public, for the purpose of determining the issues which concern the agencies that are required to approve the project and the issues which concern the public. The meeting shall take place in the jurisdiction where the application has been filed.

- (f) Following the meeting required by subdivision (e), the proponent and the local assessment committee appointed pursuant to subdivision (d) shall meet and confer on the specified hazardous waste facility project proposal for the purpose of establishing the terms and conditions under which the project will be acceptable to the community.
- (g) A proponent for a specified hazardous waste facility project shall pay a fee, established by the Office of Permit Assistance, equal to the cost of hiring independent consultants to review the project. The Office of Permit Assistance shall deposit these fees in the Local Agency Technical Assistance Account, which account is hereby created within the General Fund. The moneys in that account may be expended by the Office of Permit Assistance, upon appropriation by the Legislature, to make technical assistance grants to the local assessment committee to enable the committee to hire an independent consultant to assist the committee in reviewing the project and negotiating terms and conditions with the proponent.
- (h) If the local assessment committee and the proponent cannot resolve any differences through the meetings, the Office of Permit Assistance may recommend the use of a mediator. The proponent shall pay one-half of the costs of this mediation and the remaining costs shall be paid, upon appropriation by the Legislature, from the General Fund.
- (i) This section applies only to a specified hazardous waste facility project.
- 25199.8. (a) If an action or proceeding has been commenced in any court to attack, review, set aside, void, or annul the acts or decisions of a lead agency for a specified hazardous waste facility project on the grounds of noncompliance with Division 13 (commencing with Section 21000) of the Public Resources Code, the proponent may, notwithstanding the action or proceeding, request the responsible agencies for the specified hazardous waste facility project to continue to process applications for approval of permits for the project received and accepted as complete by each responsible agency. If a responsible agency receives such a request, the time limits specified in Section 65952 of the Government Code shall apply, except that, in the case of an application for a permit for a land disposal facility, the time limits specified in subdivision (a) of Section 25199.6 shall apply.
- (b) Except as provided in subdivision (d), if any action or proceeding is commenced to review the acts or decisions of a lead

or responsible agency for a specified hazardous waste facility project, the proponent may petition the court to stay the action or proceeding. The court, in its discretion, may stay the action or proceeding until all public agencies for the project have completed reviewing and approving or disapproving the applications for permits for the project. The proponent may, at any time prior to completion of these actions by the lead or responsible agencies, file a petition with the court requesting that the action or proceeding be permitted to proceed and, upon receiving such a petition, the court shall discontinue the stay.

- (c) Notwithstanding subdivision (b), a court may enjoin a lead or responsible agency from approving a permit or license if the court finds that the approval would result in an imminent or substantial endangerment of the public health or the environment or if there are other compelling reasons that the action or proceeding should not be stayed.
- (d) Subdivision (b) does not apply to an action or proceeding which alleges that a lead or responsible agency has not complied with Division 13 (commencing with Section 21000) of the Public Resources Code.
- 25199.9. (a) A proponent may file an appeal of a land use decision made by a local agency for a specified hazardous waste facility project with the Governor or the Governor's designee pursuant to subdivision (b), (c), or (d) and any interested person may file an appeal of a land use decision made by a local agency for a specified hazardous waste facility project pursuant to subdivision (e). The proponent or an interested person shall file the appeal within 30 calendar days after the date the local agency takes final action on the land use decision. If the proposed project would accept or manage both hazardous waste and solid waste, the appeal shall relate only to the local land use decision concerning the hazardous waste portion of the proposed facility. Any decisions of an appeal board involving the proposed facility shall affect only the hazardous waste portion of the local land use decision.
- (b) If an application for a land use decision for a specified hazardous waste facility project is disapproved by a local agency, the proponent for the specified hazardous waste facility project may file an appeal of the disapproval with the Governor or the Governor's designee. The Governor or the Governor's designee may authorize an appeal of a disapproval pursuant to this subdivision only if the proponent has applied for, and obtained, all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies.
- (c) Notwithstanding subdivision (b), if an application for a land use decision for a specified hazardous waste facility project is disapproved by a local agency before an environmental impact report for the project is prepared and certified, as specified in Section 21151 of the Public Resources Code, or before a negative

declaration for the project is adopted pursuant to subdivision (c) of Section 21080 of the Public Resources Code, the proponent may file an appeal of the disapproval with the Governor or the Governor's designee.

Within 30 days after an appeal is filed pursuant to this subdivision, the Governor or the Governor's designee may convene an appeal board, pursuant to Section 25199.10. The appeal board shall thereafter be the lead agency for the specified hazardous waste facility project and shall perform the duties specified in, and carry out the actions required by, Division 13 (commencing with Section 21000) of the Public Resources Code. The proponent may apply for those permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies, at any time before or after the appeal board's compliance with actions required by Division 13 (commencing with Section 21000) of the Public Resources Code. The time limits specified in Section 65952 of the Government Code and subdivision (a) of Section 25199.6 apply to these responsible agencies except that, for the purposes of these time limits, the date when the appeal board has complied with all actions required by Division 13 (commencing with Section 21000) of the Public Resources Code shall be deemed equivalent to the date when a lead agency decides to approve or disapprove a project. After the proponent has applied for and obtained these permits, the proponent for the specified hazardous waste facility project may request the Governor or the Governor's designee to authorize the appeal. The Governor or the Governor's designee may authorize an appeal of a disapproval pursuant to this subdivision only if the proponent has applied for, and obtained, all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies.

- (d) If an application for a land use decision for a specified hazardous waste facility project is approved by a local agency, the proponent for the specified hazardous waste facility project may file an appeal of one or more conditions imposed by the land use decision with the Governor or the Governor's designee. An appeal filed under this subdivision shall specify the particular condition or conditions imposed by the land use decision that are appealed and shall be based solely on the grounds that the condition or conditions imposed on the operation of the facility by the land use decision are so onerous and restrictive that their imposition is the same as a disapproval of the application for a land use decision. However, the Governor or the Governor's designee shall not authorize an appeal pursuant to this subdivision unless the proponent has applied for, and obtained, all permits for the specified hazardous waste facility project which can be obtained prior to its construction from those responsible agencies which are state agencies.
- (e) If an application for a land use decision for a specified hazardous waste facility project is approved by a local agency, any

interested person may file an appeal of the approval with the Governor or the Governor's designee. An appeal may be filed pursuant to this subdivision only if the appeal is based solely on the grounds that the conditions imposed on the project by the land use decision do not adequately protect the public health, safety, or welfare. The Governor or the Governor's designee shall not authorize an appeal pursuant to this subdivision before the proponent for the specified hazardous waste facility project has applied for, and obtained, all permits for the project which can be obtained prior to its construction from those responsible agencies which are state agencies. An interested person filing an appeal pursuant to this subdivision shall state in the appeal why the conditions imposed by the land use decision do not adequately protect the public health, safety, or welfare and shall specify the additional condition or conditions which are necessary to provide that protection.

- 25199.10. (a) If an appeal is filed pursuant to subdivision (b), (c), (d), or (e) of Section 25199.9, the Governor or the Governor's designee shall determine whether or not the appeal is authorized within five working days after the proponent demonstrates that the proponent has obtained all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies. If, because the application for the appeal is incomplete, the Governor or the Governor's designee is unable to determine, within five working days, whether or not the appeal should be authorized pursuant to Section 25199.9, the Governor or the Governor's designee may return the application for appeal to the proponent or interested party who filed the appeal. The proponent or interested party shall resubmit the completed application for an appeal within 20 calendar days after receiving the returned appeal and if the proponent or interested party fails to do so, the Governor or the Governor's designee shall not reconsider authorizing the appeal.
- (b) If the Governor or the Governor's designee determines that the appeal is authorized, the Governor or the Governor's designee shall convene an appeal board within 30 days after the Governor or the Governor's designee determines that the filing of an appeal is authorized, by requesting the League of California Cities and the County Supervisors Association of California to each nominate persons for appointment to an appeal board, as specified in paragraphs (6) and (7) of subdivision (c).
- (c) An appeal board shall consist of seven members, five of whom shall be the members listed in paragraphs (1) to (5), inclusive, and two of whom shall be separately appointed for each particular appeal, as provided in paragraphs (6) and (7). An appeal board shall consist of the following members:
  - (1) The State Director of Health Services.
  - (2) The Chairperson of the State Air Resources Board.
  - (3) The Chairperson of the State Water Resources Control Board.

- (4) A member of a county board of supervisors appointed by the Senate Committee on Rules who shall be selected from the persons nominated by the County Supervisors Association of California. The appointment shall be for a period of four years, but shall terminate earlier if the appointee does not continue in office as a member of a board of supervisors.
- (5) A member of a city council appointed by the Speaker of the Assembly who shall be selected from the persons nominated by the League of California Cities. The appointment shall be for a period of four years, but shall terminate earlier if the appointee does not continue in office as a member of a city council.
- (6) A member of a county board of supervisors appointed by the Speaker of the Assembly who shall be selected from the persons nominated by the County Supervisors Association of California. The member shall be from the county in which the specified hazardous waste facility project which is the subject of the appeal is located. However, if the member appointed pursuant to paragraph (4) is from the county in which the specified hazardous waste facility project is located, the member appointed pursuant to this paragraph shall not be from that same county.
- (7) A member of a city council appointed by the Senate Committee on Rules who shall be selected from the persons nominated by the League of California Cities. The member shall be from the city in which the specified hazardous waste facility project which is the subject of the appeal is located, or from the city which the Governor or the Governor's designee determines to be the most directly affected by the project if the project is not located in a city. However, if the member appointed under paragraph (5) is from a city in the county in which the specified hazardous waste facility project is located, the member appointed under this paragraph shall be from a city in a different county.
- (d) The appeal board shall issue the final decision upon an appeal in writing and the members of the appeal board shall sign the decision.
- (e) The State Director of Health Services, the Chairperson of the State Air Resources Board, and the Chairperson of the State Water Resources Control Board may designate an alternate to attend any meetings or hearings of an appeal board in that person's place, except that the alternate may not vote on a final decision on an appeal or sign the written decision in place of the person for whom the person serves as alternate.
- (f) The Governor or the Governor's designee shall designate staff to serve the appeal board.
- 25199.11. (a) An appeal board established to hear an appeal authorized by the Governor or the Governor's designee pursuant to subdivision (b) or (c) of Section 25199.9 shall follow the procedures and requirements specified in this section.
- (b) Within 30 days after the Governor or the Governor's designee determines that the filing of an appeal is authorized pursuant to

- subdivision (b) or (c) of Section 25199.9, the appeal board shall be convened and a public hearing held in the city or county where the specified hazardous waste facility project is located. At the hearing, the proponent, and the local agency whose land use decision is being appealed, shall present arguments and evidence to the appeal board concerning whether or not the appeal should be accepted.
- (c) Within 15 days after the date of the public hearing specified in subdivision (b), the appeal board shall decide whether or not to accept the appeal. The appeal board may accept an appeal only by an affirmative vote of four members of the appeal board. The appeal board shall make its decision based upon the arguments and evidence presented at the hearing. The appeal board's decision shall be in writing, shall be signed by the members who voted in favor of the decision, and shall state the reasons for accepting or rejecting the appeal. The appeal board may accept the appeal if the arguments and evidence presented at the hearing tend to show that, when the local agency's reasons for disapproving the application for a land use decision are weighed against statewide, regional, or county hazardous waste management policies, goals, and objectives, there are compelling reasons to review the disapproval of the application.
- (d) If the appeal board accepts the appeal, within 30 days after this acceptance, the appeal board shall conduct an informal workshop on the subject of the appeal in the city or county where the specified hazardous waste facility project is proposed to be located. Within 45 days following acceptance of the appeal, the appeal board shall also hold a public hearing in the community to hear the arguments and evidence for the purpose of making a tentative decision on the appeal. In issuing a decision pursuant to the hearing, the appeal board shall adopt a rebuttable presumption that the land use decision of the local agency disapproving the application is supported by substantial reasons and that, when these reasons are weighed against statewide, regional, or county hazardous waste management policies, goals, and objectives, the reasons for reversing the local agency's action are not compelling. In all matters related to the appeal, including, but not limited to, matters related to the findings required by subdivision (f), the burden of proof shall be with the proponent to rebut this presumption and to establish that there are compelling reasons to reverse the local agency's land use decision.
- (e) Within 45 days after the public hearing, the appeal board shall, by an affirmative vote of at least four members, issue a written decision on the appeal. If the appeal board agrees with the land use decision of the local agency, the appeal board shall state its reasons for this position. If the appeal board agrees with the proponent's appeal, the appeal board shall issue a tentative decision stating that the local agency's land use decision should be reversed.
- (f) The appeal board shall not reverse the local agency's land use decision unless the appeal board makes all of the following findings:
  - (1) That the significant environmental impacts of the specified

hazardous waste facility project will be adequately mitigated.

- (2) That the specified hazardous waste facility project was consistent with the applicable city or county general plan when the local agency accepted, as complete, the proponent's application for a land use decision. For the purpose of this finding, a project is consistent with the applicable city or county general plan if the appeal board makes one of the following determinations:
- (A) The appeal board may determine that a specified hazardous waste facility project that is not a land disposal facility project is consistent with the general plan if the appeal board makes all of the following findings:
- (i) The project is proposed to be located in an area zoned and designated in the applicable general plan for industrial use and substantially developed with other industrial facilities which produce, treat, or dispose of hazardous waste onsite and which are served by the same transportation routes as the proposed facility. In addition, the land uses authorized in the applicable general plan and zoning ordinances in the vicinity of the project is compatible with the project.
- (ii) There is no clear and express provision in the general plan which states that such a specified hazardous waste facility project is inconsistent with the general plan, or, if there is such a provision, the provision was adopted after January 1, 1983.
- (iii) The specified hazardous waste project is consistent, as determined by the appeal board, with the general plan.
- (B) The appeal board may determine that a specified hazardous waste facility project is consistent with the applicable city or county general plan if the project is a land disposal facility project, and if all of the following apply:
- (i) There is no clear and express provision in the general plan that states that such a specified hazardous waste facility project is inconsistent with the general plan, or, if there is such a provision, the provision was adopted after January 1, 1983.
- (ii) The project is consistent, as determined by the appeal board, with the general plan.
- (3) That the specified hazardous waste facility is consistent with the county hazardous waste management plan, if such a plan has been adopted by the county, and approved by the department, pursuant to Article 3.5 (commencing with Section 25135).
- (4) That alternative locations for the specified hazardous waste facility project, as identified in the environmental impact report for the project and in the county hazardous waste management plan, if one has been approved by the department, have been adequately considered by the appeal board in determining the appropriateness of the location chosen for the project.
- (5) That reversing the local agency's land use decision is consistent with statewide, regional, and county hazardous waste management policies, goals, and objectives. In making this finding, the appeal board shall consider all of the following factors:

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- (A) Whether or not a need for the specified hazardous waste facility project has been demonstrated.
- (B) Whether or not the specified hazardous waste facility project is of a type, and in a location, that conforms to statewide, regional, or local hazardous waste management policies.
- (C) Whether or not the specified hazardous waste facility will be operated using the best feasible hazardous waste management technologies.
- (g) The local agency whose land use decision is being appealed may reconsider the action and approve the application for the land use decision, consistent with the appeal board's tentative decision, within 60 days after the appeal board issues its tentative decision. If the local agency does not approve the application for the land use decision consistent with the tentative decision within 60 days after the decision is issued, the appeal board shall, by an affirmative vote of at least four members, issue a final decision. If the final decision reverses the local agency's land use decision, the appeal board shall then require the local agency to approve the application for the land use decision and if the local agency does not approve the application for the land use decision for the land use decision for the specified hazardous waste facility project.

25199.13. (a) An appeal board established to hear an appeal authorized by the Governor or the Governor's designee pursuant to subdivision (d) or (e) of Section 25199.9 shall follow the procedures and requirements specified in this section.

(b) Within 30 days after the Governor or the Governor's designee determines that the filing of an appeal is authorized by subdivision (d) or (e) of Section 25199.9, an appeal board shall be convened and a public hearing held in the city or county where the specified hazardous waste facility project is located. At the hearing, the proponent or the interested party and the local agency whose land use decision is being appealed shall present arguments and evidence to the appeal board concerning whether or not the appeal should be accepted.

The arguments and evidence presented to the appeal board for an appeal authorized pursuant to subdivision (d) of Section 25199.9, shall only concern whether or not a condition or conditions imposed on the operation of the facility by the land use decision are so onerous and restrictive that their imposition is the same as a disapproval of the application for a land use decision. The arguments and evidence presented to the appeal board for an appeal authorized pursuant to subdivision (e) of Section 25199.9, shall only concern whether or not a condition or conditions imposed on the project by the land use decision do not adequately protect the public health, safety, and welfare.

(c) Within 15 days after the date of the public hearing, the appeal board shall decide whether or not to accept the appeal. The appeal board may accept an appeal only by an affirmative vote of five

members of the appeal board. The appeal board shall make its decision based upon the arguments and evidence presented at the hearing. The appeal board's decision shall be in writing, shall be signed by the members who voted in favor of the decision, and shall state the reasons for accepting or rejecting the appeal. The appeal board may not accept the appeal unless it finds that the proponent or interested party has demonstrated a substantial likelihood of prevailing on the merits if the appeal is accepted for hearing.

- (d) If the appeal board accepts the appeal, within 30 days after this decision, the appeal board shall hold a public hearing in the city or county where the specified hazardous waste facility project is located to hear the arguments and evidence it requires to make a decision on the appeal. The appeal board shall restrict the scope of the hearing to those matters which the appeal board determines are directly related to the subject matter of the appeal. In making a decision pursuant to the hearing, the appeal board shall adopt a rebuttable presumption that the local agency's land use decision is supported by substantial reasons and that there are no compelling reasons to modify it. In all matters related to the appeal, the burden of proof shall be with the proponent or the interested party to rebut this presumption and to establish, by clear and convincing evidence, that there are compelling reasons to modify the local agency's land use decision.
- (e) Within 30 days after the public hearing, the appeal board shall, by an affirmative vote of at least five members, issue a decision on the appeal. The decision shall be written, shall be signed by the members in favor of the decision, and shall include the reasons for the decision.
- (f) If the appeal is authorized by the Governor or the Governor's designee pursuant to subdivision (d) of Section 25199.9, the appeal board shall not issue a decision modifying the local agency land use decision, unless the appeal board finds that there is clear and convincing evidence that one or more conditions imposed on the facility by the land use decision are so onerous and restrictive that their imposition is the same as a disapproval of the application for a land use decision. If the appeal board agrees with the proponent concerning these conditions, the appeal board shall require the local agency to modify the condition or conditions imposed by the land use decision, as the appeal board deems necessary. If the local agency does not modify the terms of the local land use decision, as required by the appeal board, the Attorney General shall bring an action to require the local agency to modify the local land use decision in accordance with the determination of the appeal board.
- (g) If the appeal is authorized by the Governor or the Governor's designee pursuant to subdivision (e) of Section 25199.9, the appeal board shall not issue a decision approving the appeal of the interested person unless the appeal board finds that there is clear and convincing evidence that the land use decision approved by the local agency failed to impose one or more conditions necessary to protect

the public health, safety, or welfare. If the appeal board approves the appeal of the interested person concerning these conditions, the appeal board shall require the local agency to modify the land use decision in accordance with the appeal board's decision. If the local agency does not modify the land use decision as required by the appeal board, the Attorney General shall bring an action to require the local agency to modify the land use decision in accordance with the determination of the appeal board.

25199.14. The final decision of the appeal board concerning an appeal authorized pursuant to Section 25199.9 shall be deemed to be the final administrative action of the appeal board.

SEC. 9. Section 25200.1 is added to the Health and Safety Code, to read:

25200.1. Notwithstanding Section 25200, the department shall not issue a hazardous waste facility permit to a facility which commences operation on or after January 1, 1987, unless the department determines that the facility operator is in compliance with regulations adopted by the department pursuant to this chapter requiring that the operator provide financial assurance that the operator can respond adequately to damage claims arising out of the operation of the facility.

SEC. 10. Section 25200.2 is added to the Health and Safety Code, to read:

- 25200.2. (a) Notwithstanding Sections 25200 and 25200.5, the department shall not issue a hazardous waste facilities permit or grant interim status to any person to use and operate a facility which is a hazardous waste land disposal facility unless the facility is a treatment facility or a facility used exclusively for the disposal of treated hazardous wastes or special wastes. This subdivision applies only to hazardous waste land disposal facilities that commence operation on or after January 1, 1987.
- (b) The disposal of liquid wastes, liquid hazardous wastes, or hazardous wastes containing free liquids in hazardous waste landfills is prohibited. For purposes of this subdivision, "free liquids" means liquids that readily separate from the solid portion of a hazardous waste under ambient temperature and pressure.
- (c) Beginning on January 1, 1990, the department shall prohibit the disposal of hazardous wastes that are not treated hazardous wastes into hazardous waste landfills unless the hazardous waste is solid hazardous waste and is produced as a result of removal or remedial action at a hazardous waste site or unless the hazardous waste is a special waste.
  - (d) For purposes of this section, the following definitions apply:
- (1) "Hazardous waste landfill" means a disposal facility, or a part of a facility, where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.
- (2). "Special waste" means a waste which meets the criteria and requirements established in Section 66742 of Title 22 of the California

Administrative Code and has been classified as a special waste pursuant to Section 66744 of Title 22 of the California Administrative Code.

- (3) "Treated hazardous waste" means the solid residual portion of a hazardous waste which is produced when the hazardous waste is treated by a method, technique, or process, including incineration, that changes the physical, chemical, or biological character or composition of the waste and which is in compliance with at least one of the following:
- (A) It meets the criteria and requirements for, and may be managed as, a special waste.
- (B) It does not contain any persistent or bioaccumulative toxic substance in excess of the soluble threshold limit concentration for the substance as established in regulations adopted by the department.
- (C) It meets treatment standards established by the Environmental Protection Agency pursuant to subsection (m) of Section 201 of the Hazardous and Solid Waste Act Amendments of 1984 (42 U.S.C. Sec. 6924(m)) or, if the department has established equivalent or more stringent treatment standards pursuant to this chapter, it meets the treatment standards established by the department.
- SEC. 11. Section 25204 of the Health and Safety Code is repealed. SEC. 12. The sum of ten million dollars (\$10,000,000) appropriated by Section 21 of Chapter 1440 of the Statutes of 1985 is hereby transferred to the Hazardous Waste Management Planning Subaccount in the Hazardous Waste Control Account for purposes of funding the hazardous waste management planning activities required by Article 3.5 (commencing with Section 25135) of Chapter 6.5 of Division 20 of the Health and Safety Code.
- SEC. 13. Section 10 of this act, which adds Section 25200.2 to the Health and Safety Code, shall not become operative if Senate Bill 1500 is enacted and becomes operative.
- SEC. 14. 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 1505

An act to add Section 25158 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 25158 is added to the Health and Safety Code, to read:

- 25158. (a) Except as provided in subdivision (g), any person generating hazardous waste, or owning or operating a facility for the treatment, storage, or disposal of hazardous waste, shall file with the director, or the director's designee, on a form provided by the director, or the director's designee, a hazardous waste notification statement on or before January 1, 1988. An amended statement shall be filed with the department whenever there has been a substantial change in the information provided on the previously filed notification statement. A person shall not generate, treat, store, or dispose of hazardous waste after January 1, 1988, unless the person files a notification statement with the director pursuant to this section, unless exempted pursuant to subdivision (g).
- (b) A hazardous waste notification statement shall include all of the following information:
- (1) The name and address of the person owning the facility or conducting the activity specified in subdivision (a).
- (2) The address and location of the activity or facility, including the city and county.
- (3) The name and 24-hour phone number of the contact person in the event of an emergency involving the facility or activity.
- (4) The quantities of hazardous waste annually handled pursuant to the activity or at the facility.
- (5) A description of the hazardous waste activity being conducted, such as generation, treatment, storage, or disposal.
  - (6) A general description of the hazardous waste being handled.
- (c) The department shall prepare and distribute the hazardous waste notification statement forms on or before July 1, 1987. The form shall include a statement which clearly states who is required to file the form. The form shall also include a statement that the form is not a substitute for the federal notification required by the Environmental Protection Agency pursuant to subsection (a) of Section 6930 of Title 42 of the United States Code.
- (d) Any person who is required to submit a hazardous waste notification statement and fee to the director pursuant to subdivision (a) and who fails to do so is subject to a civil penalty of not less than fifty dollars (\$50) and not more than five hundred dollars (\$500) for each day after January 1, 1988, for which the department does not

receive a statement. Any person who knowingly submits false information to the department is subject to a civil penalty of not less than two thousand dollars (\$2,000) and not more than twenty thousand dollars (\$20,000) for each day the false information goes uncorrected.

- (e) The director shall compile and organize the statements by the city and county within which each activity and facility are located, and shall transmit the compiled statements to the appropriate regional offices, the California regional water quality control boards, and county health officers on or before July 1, 1988.
  - (f) Subdivision (a) does not apply to any of the following:
- (1) A person who has filed notification with the Administrator of the Environmental Protection Agency pursuant to subsection (a) of Section 6930 of Title 42 of the United States Code.
- (2) A person who only produces household waste, as defined in subdivision (e) of Section 25206.1.
- (3) Any person who owns property on which is taking place a cleanup of, or other removal of or remedial action to, a hazardous waste site or who is engaged in any of these activities on a hazardous waste site.
- 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, 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 1506

An act to amend Sections 25174.7, 25174.9, and 25342 of, to amend and repeal Section 25174.02 of, to add Section 25174 to, to add and repeal Section 25174.6 of, to add and repeal Article 9.1 (commencing with Section 25205.1) of Chapter 6.5 of Division 20 of, to repeal Sections 25174.1, 25174.3, 25174.4, 25174.5, and 25205.1 of, and to repeal and add Section 25178.1 of, the Health and Safety Code, and to amend Sections 43008 and 43101 of, and to add Sections 43053 and 43152.6 to, the Revenue and Taxation Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 25174 is added to the Health and Safety Code, to read:

- 25174. (a) There is in the General Fund a Hazardous Waste Control Account which shall be administered by the director. In addition to any other moneys transferred by the Legislature to the Hazardous Waste Control Account, all of the following amounts shall be deposited in the account:
- (1) The fees collected pursuant to this section and Sections 25205.2, 25205.5, and 25205.7.
- (2) Any interest earned upon the money deposited in the Hazardous Waste Control Account.
- (3) Any moneys received from the federal government pursuant to the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq).
  - (4) Any fines or penalties collected pursuant to this chapter.
- (b) Notwithstanding Section 13340 of the Government Code, the funds deposited in the Hazardous Waste Control Account are continuously appropriated, without regard to fiscal years, to the department, for expenditure for the following purposes:
- (1) The administration of this chapter by the department.
- (2) To the State Board of Equalization to pay refunds of fees collected pursuant to 43051 of the Revenue and Taxation Code.
- (3) The costs of environmental epidemiology and health effects studies related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.
- (4) The support of the Toxic Substance Enforcement Program in the Office of the Attorney General.
- (5) The costs incurred in the administration of Section 13227 of the Water Code and costs incurred as a result of inspection of underground storage tanks and related enforcement costs pursuant to Section 13301 of the Water Code. It is the intent of the Legislature that funds be annually appropriated in the Budget Act from the Hazardous Waste Control Account to the State Water Resources Control Board for all costs incurred by the board in administering Sections 13227 and 13301 of the Water Code.
  - (6) The costs of water monitoring pursuant to Section 4026.1.
- (c) Each person who disposes of hazardous wastes onsite, who annually submits more than 500 pounds of hazardous waste for disposal offsite, or who submits hazardous waste for transportation in this state for disposal outside of the state shall pay a fee directly to the State Board of Equalization for disposal of those wastes.
- (d) Each operator at any facility at which hazardous wastes are disposed shall pay a fee directly to the State Board of Equalization

for disposal of those wastes, except that the site operator is not required to pay the fee for a hazardous waste if the person submitting the waste for disposal provides the operator with a properly completed manifest for that waste which includes that person's Hazardous Waste Tax Account number, as assigned by the State Board of Equalization, and the site operator submits a copy of the manifest to the State Board of Equalization in the time and manner as it may prescribe.

- (e) The State Board of Equalization shall deposit the fees collected pursuant to this section in the Hazardous Waste Control Account in the General Fund.
- SEC. 2. Section 25174.02 of the Health and Safety Code is amended to read:

25174.02. (a) The State Board of Equalization shall set the base rate for the hazardous wastes specified in Section 25174.6 in accordance with the following formula:

Base rate = 
$$\frac{[(B-M) + .05 B] \times 0.46}{(T_1 + T_2 + T_7) .25 + (T_3 + T_4) 2.00}$$
$$+ (T_5) .05 + T_6 + (T_8) .10 + (T_9) .5$$

Where all of the following apply:

- (1) "B" is the amount appropriated annually by the Legislature for the Hazardous Waste Control Account including, but not limited to, any amounts appropriated for the compensation of employees.
- (2) "M" is any unobligated funds remaining in the fund from previous fiscal years.
- (3) "T<sub>1</sub>" is the total amount in tons of waste specified in paragraph (1) of subdivision (a) of Section 25174.6.
- (4) "T<sub>2</sub>" is the total amount in tons of waste specified in paragraph
  (2) of subdivision (a) of Section 25174.6.
- (5) "T<sub>3</sub>" is the total amount in tons of waste specified in paragraph
  (3) of subdivision (a) of Section 25174.6.
- (6) "T<sub>4</sub>" is the total amount in tons of waste specified in paragraph
  (4) of subdivision (a) of Section 25174.6.
- (7) "T<sub>5</sub>" is the total amount in tons of waste specified in paragraph (5) of subdivision (a) of Section 25174.6.
- (8) "T<sub>6</sub>" is the total amount in tons of waste specified in paragraph (6) of subdivision (a) of Section 25174.6.
- (9) "T<sub>7</sub>" is the total amount in tons of waste specified in paragraph (7) of subdivision (a) of Section 25174.6.
- (10) "T<sub>8</sub>" is the total amount in tons of waste specified in subdivision (c) of Section 25174.6.
- (11) "T<sub>9</sub>" is the total amount in tons of waste specified in paragraph (8) of subdivision (a) of Section 25174.6.
- (b) The base rate specified in subdivision (a) shall apply to persons subject to the fee specified in Section 25174. Upon the

enactment of the Budget Act of 1986, and upon the enactment of the annual Budget Act for each fiscal year thereafter, the State Board of Equalization shall determine the base rate, in accordance with the formula specified in subdivision (a), using the adjusted tonnage estimates supplied by the department for the fiscal year for that year's budget. The department shall supply these estimates to the State Board of Equalization before July 1 of each year, so as to give the Board of Equalization sufficient time to determine the base rate. Within 30 days after the enactment of the annual Budget Act, the State Board of Equalization shall send a notice of the adjusted fee rate to every person subject to the fee specified in Section 25174.

- (c) This section shall become inoperative on April 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.
  - SEC. 3. Section 25174.1 of the Health and Safety Code is repealed.
  - SEC. 4. Section 25174.3 of the Health and Safety Code is repealed.
  - SEC. 5. Section 25174.4 of the Health and Safety Code is repealed.
- SEC. 6. Section 25174.5 of the Health and Safety Code is repealed. SEC. 7. Section 25174.6 is added to the Health and Safety Code, to read:
- 25174.6. (a) The fee provided pursuant to Section 25174 to be paid by persons disposing of hazardous waste onsite, or submitting hazardous waste for disposal offsite, and by operators of hazardous waste disposal facilities, for each ton, or fraction thereof, of hazardous waste disposed of on land or applied to land on or after July 1, 1986, shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.02. The percentages of the base rate for determining these fees are as follows:
- (1) Twenty-five percent of the base rate for each ton, or fraction thereof for up to the first 5,000 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (C) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4).
- (2) Twenty-five percent of the base rate for each ton, or fraction thereof, for up to the first 5,000 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the

mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

- (3) Two hundred percent of the base rate for each ton, or fraction thereof, of extremely hazardous waste.
- (4) Two hundred percent of the base rate for each ton, or fraction thereof, of restricted hazardous wastes listed in Section 66900 of Title 22 of the California Administrative Code.
- (5) Five percent of the base rate for each ton, or fraction thereof, of solid hazardous waste residues resulting from incineration or other controlled chemical or physical treatment processes if the department determines that the processes alter the physical properties of the waste being incinerated or treated and effectively remove all free liquids and volatile organic constituents from the waste being incinerated or treated.
- (6) One hundred percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, of hazardous waste, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), (5), or (7) of this subdivision or subdivision (c).
- (7) Twenty-five percent of the base rate for each ton, or fraction thereof, of waste resulting from the shredding of automobile bodies, sheet metal, and household appliances, if the producer of the shredder waste has certified in writing, to the department, that the producer has in place an ongoing program for inspection and removal of all automobile batteries, mufflers, tailpipes, and wheelweights from the shredder feed, and if the producer meets any other regulations imposed by the department.
- (8) Fifty percent of the base rate for each ton, or fraction thereof, of hazardous waste generated in this state which is disposed of, or submitted for disposal, outside the state.
- (b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Administrative Code.
- (c) Notwithstanding subdivision (a), the fee rate for hazardous waste disposed of, or submitted for offsite disposal, into a surface impoundment which is double lined, meets the criteria specified in paragraph (1), and for which a report has not been submitted pursuant to paragraph (2), is 10 percent of the base rate for each ton, or fraction thereof, of hazardous waste so disposed of or submitted for disposal. The owner or operator of the surface impoundment shall certify to the State Board of Equalization that the requirements of paragraph (1) have been met before the fee rate specified in this subdivision may be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment.

- (1) This subdivision applies only to hazardous waste disposed of, or submitted for disposal, into a surface impoundment which meets all the following criteria:
- (A) The surface impoundment is double lined and is equipped with a leachate collection system which is in place and in operation, and complies with existing federal and state regulations and guidance documents published by the Environmental Protection Agency prior to July 1, 1984.
- (B) The surface impoundment has in place and in operation a minimum of one up-gradient and two down-gradient monitoring wells capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment.
- (C) The surface impoundment has in place and in operation a vadose zone monitoring system capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment from the impoundment into the zone between the surface and the water table.
- (D) The surface impoundment has an enforceable site closure plan which initiates closure of the impoundment within 12 years after the surface impoundment is certified pursuant to this subdivision. This plan shall require the surface impoundment, and any surrounding soils contaminated by the impoundment, to be returned to a nonhazardous condition within five years of initiating closure.
- (E) The owner or operator has submitted to the department and to the California regional water quality control board documentation demonstrating full compliance with subparagraphs (A), (B), (C), and (D).
- (2) Upon discovering that, or receiving notification that, a surface impoundment certified for the fee rate specified in this subdivision has leaked or overflowed, and that there is migration into the vadose zone or into the waters of the state, the owner or operator of the surface impoundment shall report the migration to the department and the California regional water quality control board within 24 hours after the migration or unauthorized release has been detected. The owner or operator shall transmit a full written report to the department and the regional board within five working days after the detection of the migration. The reporting requirements imposed by this paragraph are in addition to any requirements which may be imposed by Section 13271 of the Water Code. Unless the regional board, or its executive officer, determines that the presence of the hazardous waste constituents in the migration do not pose any short-term or long-term, present or potential, hazards to human health or the environment, the regional board shall issue a cease and desist order pursuant to Section 13301 of the Water Code prohibiting any discharge into the surface impoundment and shall take any other actions which are necessary.
- (3) After a surface impoundment has been the subject of a report specified in paragraph (2), the fee rate specified in this subdivision

for hazardous waste disposed of, or submitted for disposal, into that surface impoundment shall not apply and the fees shall be calculated pursuant to subdivision (a). The fee rate specified in this subdivision may again be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment only after the department and the California regional water quality control board determines that hazardous constituents are no longer migrating from the surface impoundment, and that there is no significant potential for them to migrate from the surface impoundment into the vadose zone or into the waters of the state, so that the presence of the hazardous constituents poses, or would pose, a present or potential hazard to human health or the environment.

- (4) Hazardous waste, as used in this subdivision, includes restricted hazardous waste.
- (d) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.
- (e) This section shall become inoperative on April 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. 8. Section 25174.7 of the Health and Safety Code is amended to read:
- 25174.7. (a) The fees provided for in Sections 25174, 25174.6 and 25205.5 do not apply to hazardous wastes which result when a state or local agency, or its contractor, removes or remedies a release of hazardous waste caused by another person. This subdivision applies to all acts performed by a state or local agency, or its contractor, on or after July 1, 1984.
- (b) This subdivision does not prevent the department from recovering an amount equal to the full cost of the fees specified in Sections 25174 and 25174.6 from any person responsible for a release of hazardous waste, which has been removed or remedied by a state or local agency, or its contractor. This subdivision does not limit the department's remedies pursuant to any other provision of law.
- SEC. 9. Section 25174.9 of the Health and Safety Code is amended to read:
- 25174.9. Notwithstanding any other provision of law, the department may, by emergency regulation, increase or decrease the amount of the fee established pursuant to Section 25174, 25174.6, 25205.2, or 25205.5 if it determines that the fees established are insufficient or excessive to fund the appropriations from the Hazardous Waste Control Account and to provide for a 5-percent operating reserve. The department shall notify the policy and fiscal committees of both houses of the Legislature, for their review of the basis upon which the emergency regulations are being proposed, 30 days prior to increasing or decreasing the amount of fee.

For purposes of the Administrative Procedure Act, the adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations shall not be subject to review, approval, or repeal by the Office of Administrative Law. The fees adopted pursuant to these regulations shall be consistent with the formula specified in subdivision (a) of Section 25174.02, subdivision (a) of Section 25205.4, or subdivision (b) of Section 25205.5.

- SEC. 10. Section 25178.1 of the Health and Safety Code is repealed.
- SEC. 11. Section 25178.1 is added to the Health and Safety Code, to read:
- 25178.1. (a) The Auditor General shall submit a report to the Legislature on or before November 1, 1987, on the hazardous waste fees system and the Toxic Substances Control Program of the department. The report shall include information on the following:
- (1) Data on regulatory activities paid for by previous Hazardous Waste Control Account expenditures, for the past three years, including all of the following information:
- (A) The number of hazardous waste facility permits reviewed and issued. The permits shall be classified by the type of facility, including the following data:
  - (i) The average cost to review and issue permits.
  - (ii) The average time to review and issue permits.
- (B) A listing of all hazardous waste facilities, by type of facility, which have undergone surveillance activities.
- (C) A listing of all hazardous waste facilities by type of facility, which have been subject to enforcement action.
- (2) The expenditures incurred from the Hazardous Waste Control Account and the Hazardous Substance Account for the department's regulation of specific industries.
- (3) Identification of taxes paid to the Hazardous Waste Control Account and the Hazardous Substance Account by each type of industry, and also by each type of facility.
- (4) The department's cost allocation and budget procedures for regulatory activities.
- (5) Methodologies for the department to identify generators of 500 pounds or more of hazardous waste per year in counties with memoranda of understanding with the department and in counties without memoranda of understanding with the department.

"Hazardous waste facility" for purposes of subdivisions (b) and (c) of paragraph (1) and paragraphs (2) and (3) shall include hazardous waste generators.

(b) The sum of fifty thousand dollars (\$50,000) which was appropriated to the department pursuant to Section 8 of Chapter 113 of the Statutes of 1985, is hereby reappropriated to the Joint Legislative Audit Committee of the Legislature for transfer to the Auditor General for the costs of preparing the report required by this

section.

- (c) The State Board of Equalization shall provide quarterly reports to the Legislature on the fees collected pursuant to Sections 25174, 25205.2, and 25205.5. The reports shall be due on the 15th day of the second month following each quarter.
- SEC. 12. Section 25205.1 of the Health and Safety Code is repealed.
- SEC. 13. Article 9.1 (commencing with Section 25205.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

### Article 9.1. Facilities and Generator Fees

25205.1. For purposes of this article the following definitions shall apply:

(a) "Board" means the State Board of Equalization.

- (b) "Disposal facility" means a hazardous waste facility used for the disposal of hazardous waste.
- (c) "Facility" means a hazardous waste storage, treatment, or disposal facility, including a resource recovery facility or waste transfer station, which has been issued a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200). "Facility" does not include any facility operated by a local government agency which is used exclusively for household hazardous waste collection.
- (d) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1986.
- (e) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1986.
- (f) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1986, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1986, and who does not own or operate a hazardous waste facility at that same individual site.
- (g) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.
- (h) "Small storage facility" means a storage facility which is not a large storage facility.
- (i) "Small treatment facility" means a treatment facility which is not a large treatment facility.
- 25205.2. (a) In addition to the fees specified in Section 25174, each operator of a facility shall pay a facility fee for each state fiscal year, or any portion thereof, to the board based on the size and type of the facility, as specified in Section 25205.4. The department shall notify the board of all facility operators by facility type and size at the time it establishes the facility fees pursuant to Section 25205.3.

The department shall also notify the board of any operator issued a permit after the fees are established within 30 days after a permit is issued to the operator.

- (b) The board shall deposit all fees collected pursuant to subdivision (a) in the Hazardous Waste Control Account in the General Fund. Notwithstanding Section 13340 of the Government Code, the fees so deposited are continuously appropriated for expenditure without regard to fiscal years for the purposes specified in subdivision (b) of Section 25174.
- 25205.3. The director shall establish the facility fees specified in Section 25205.2 according to the formula specified in Section 25205.4 within 30 days after the effective date of the enactment of the annual Budget Act. The director shall establish the fees so that the revenue raised will be equivalent to 25 percent of the amount which the department determines will be expended during the next fiscal year for the purposes specified in subdivision (b) of Section 25205.2. Within 30 days of the establishment of the fees, the board shall send a notice of the fees to every person subject to the fee.
- 25205.4. (a) The facility fee required by Section 25205.2 shall be determined according to the following formula:
- $F_1(R) + F_2(2R) + F_3(2R) + F_4(3R) + F_5(10R) = .25[(B-M) + .05B]$

For purposes of this subdivision, the following shall apply:

- (1) R equals base facility rate.
- (2)  $F_1$  equals the number of small storage facilities.
- (3)  $F_2$  equals the number of large storage facilities.
- (4) F<sub>3</sub> equals the number of small treatment facilities.
- (5) F<sub>4</sub> equals the number of large treatment facilities.
- (6) F<sub>5</sub> equals the number of disposal facilities.
- (7) B equals the amount appropriated annually by the Legislature for the Hazardous Waste Control Account, including, but not limited to, any amount appropriated for the compensation of employees.
- (8) "M" is any unobligated funds remaining in the fund from previous fiscal years.
- (b) The determination of the facility fee pursuant to this section, including the redetermination of the base rate for purposes of subdivision (b) of Section 25205.3, is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
  - (c) In computing the facility fees, all of the following shall apply:
- (1) The fee provided pursuant to Section 25205.2 to be paid by a small storage facility shall equal the base facility rate.
- (2) The fee charged a large storage facility shall equal twice the base facility rate.
- (3) The fee charged a small treatment facility shall equal twice the base facility rate.
- (4) The fee charged a large treatment facility shall equal three times the base facility rate.
  - (5) The fee charged a disposal facility shall equal ten times the

base facility rate.

- (d) If a facility falls into more than one category listed in subdivision (c), or multiple operations under a single hazardous waste facility permit or grant of interim status fall into more than one category listed in subdivision (c), the facility operator shall pay only the rate for the facility category which is the highest rate.
- 25205.5. (a) In addition to the fee imposed pursuant to Section 25174, every generator of hazardous waste, in the amounts specified in subdivision (b), shall pay the board a fee for each generator site for each fiscal year, or portion thereof.
- (b) The department shall establish the fee specified in subdivision (a) to be paid by generators subject to this section. The fee shall be computed according to the following formula:

Generator Fee =  $G_1(X) + G_2(2X) + G_3(10X) + G_4(20X) = .25$  (( B-M) + .05B)

for which all the following apply:

- (1) "B" is the amount appropriated annually by the Legislature for the Hazardous Waste Control Account, including, but not limited to, any amounts appropriated for the compensation of employees.
- (2) "M" is any unobligated funds remaining in the fund from previous fiscal years.
  - (3) "X" equals the base generator rate.
- (4) "G<sub>1</sub>" is the number of generators which generate more than 5 tons, but less than 50 tons, of hazardous waste during the state's current fiscal year commencing on or after July 1, 1986.
- (5) "G<sub>2</sub>" is the number of generators which generate an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the state's current fiscal year commencing on or after July 1, 1986.
- (6) "G<sub>3</sub>" is the number of generators which generate an amount equal to or more than 250 tons, but less than 2,500 tons, of hazardous waste during the state's current fiscal year commencing on or after July 1, 1986.
- (7) "G<sub>4</sub>" is the number of generators which generate more than 2,500 tons of hazardous waste during the state's current fiscal year commencing on or after July 1, 1986.
- (c) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- 25205.6. (a) The department shall compute the fees established pursuant to Section 25205.5 on or before November 1 of each year and the board shall submit a bill to each generator subject to these fees on or before December 1 of each year.
- (b) The amount of the fee in the bill submitted to each generator pursuant to subdivision (a) shall be paid by the following January 1.
- (c) The department shall notify the board of the occurance of any of the following:
- (1) The issuance of a permit to any facility operator, who has not previously been granted interim status, within 30 days after the

facility permit is issued.

- (2) When any small storage facility or small treatment facility meets the criteria for a large storage facility or large treatment facility pursuant to Section 25205.4 during the current fiscal year.
- (3) When any generator generates an amount of hazardous waste that meets a category specified in paragraphs (4), (5), (6), or (7) of subdivision (b) of Section 25205.5 during the current fiscal year and this amount is greater than the amount under which the generator had been previously classified.
  - (4) The discovery of any generator not previously identified.
- (d) The board shall submit a bill to these newly identified or reclassified facilities or generators for the fees, or difference in fees, which shall be due and payable within 30 days or by January 1 of the current fiscal year, whichever date is sooner.
- (e) If any fee is not paid in the time prescribed by this section, the generator shall pay the penalties and interest imposed pursuant to Sections 43155 and 43156 of the Revenue and Taxation Code except that the board may grant an extension pursuant to Section 43154 of the Revenue and Taxation Code.
- (f) The generator fee due under Section 25205.5 shall be offset by any fees paid by the generator during the preceeding calendar year for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department. The amount of the credit provided under this subdivision shall not exceed an amount equal to the fees paid to the local agency or the generator fee due under Section 25205.5, whichever is less. The credit for local fees paid shall not include fees required under Chapter 6.7 (commencing with Section 25280) or Chapter 6.95 (commencing with Section 25500).
- 25205.7. (a) In addition to the fees imposed pursuant to Sections 25168, 25174, 25205.2, and 25205.5, the department may charge any person who generates, handles, treats, stores, recycles, or disposes of hazardous waste, the reasonable cost of services provided by the department concerning that person's activities which are in addition to any routine inspection, surveillance, and consultation services which are funded by the other fees specified in this section.
- (b) The department may impose a fee for routine inspection, surveillance, and consultation services upon any person who is subject to, and refuses to pay, the fees imposed pursuant to Section 25168, 25174, 25205.2, or 25205.5.
- (c) Services which are not routine inspection, surveillance, or consultation services include, the carrying out, or oversight of, site mitigation activities which are necessary to bring the person receiving the service into compliance with this chapter and does not include processing of permits and variances.
- (d) No person shall be charged a fee under this section unless written notice has been provided to that person of the department's statutory authority to charge a fee for that service.
  - (e) Any person producing a hazardous waste shall provide the

person who will transport the hazardous waste with an applicable Uniform Hazardous Waste Manifest, completed as required by the department pursuant to Section 25160. The producer shall provide the manifest to the driver if the hazardous waste will be transported by vehicle, or to the person designated by the railroad corporation or vessel operator if the hazardous waste will be transported by rail or vessel, as specified in Section 25160. The producer shall send a copy of the manifest to the department within 30 days after submitting the hazardous waste for transport, as specified in Section 25160. If a manifest is improperly completed and the department returns the manifest to the person who completed the manifest, the resubmitted manifest shall be accompanied with a twenty dollar (\$20) resubmittal fee.

25205.8. This article shall become inoperative on April 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. 14. Section 25342 of the Health and Safety Code is amended to read:

- 25342. On or before March 1 of each year, every person who submitted for disposal offsite, or who disposed of onsite, more than 500 pounds of hazardous waste in the state during the preceding calendar year shall report to the board the following information on forms prescribed by the board:
- (a) The total amount of hazardous waste, as defined by Section 25117, the federal regulation of which has been suspended under the Solid Waste Disposal Act (42 U.S.C. Sec. 6901 et seq.) by act of Congress, which that person has disposed of, or submitted for disposal, in the state, plus the total amount of hazardous waste, which that person has transferred to a surface impoundment in the state for purposes of reducing the water content of the waste and material by evaporation, plus the total amount of hazardous waste disposed of into an injection well or landfarm, as defined in subdivision (g) of Section 25345, exclusive of that waste specified in subdivisions (d) and (e).
- (b) The total amount of hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (c), (d), and (e).
- (c) The total amount of extremely hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (b), (d), and (e).
- (d) The total amount of hazardous or extremely hazardous waste that person has disposed of, or submitted for disposal, in the state from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from mining of uranium ore.
- (e) The total amount of hazardous waste that person has disposed of, or submitted for disposal, in the state that is a solid hazardous waste residue resulting from incineration.

SEC. 15. Section 43008 of the Revenue and Taxation Code is amended to read:

43008. Any fee administered and collected by the board pursuant to this part is a tax for purposes of this part.

SEC. 16. Section 43053 is added to the Revenue and Taxation Code, to read:

43053. The fees imposed pursuant to Sections 25205.2 and 25205.5 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 17. Section 43101 of the Revenue and Taxation Code is

amended to read:

43101. Every person, as defined in Section 25118 of the Health and Safety Code, who is subject to the fees imposed pursuant to Section 25174, 25205.2, or 25205.5 of the Health and Safety Code shall register with the board on forms provided by the board.

SEC. 18. Section 43152.6 is added to the Revenue and Taxation

Code, to read:

43152.6. The fee imposed pursuant to Section 25205.2 of the Health and Safety Code which is collected and administered under Section 43053 of this code is due and payable to the board in two equal installments, on or before October 1 and April 1 of each fiscal year.

- 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, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.
- SEC. 20. The sum of eight hundred thousand dollars (\$800,000) is hereby appropriated from the Hazardous Waste Control Account in the General Fund for allocation in the 1986–87 fiscal year to carry out Sections 25174, 25174.02, and 25174.6 of, and Article 9.1 (commencing with Section 25205.1) of Chapter 6.5 of Division 20 of, the Health and Safety Code as follows:

(a) The sum of seven hundred thousand dollars (\$700,000) to the State Board of Equalization.

(b) The sum of one hundred thousand dollars (\$100,000) to the State Department of Health Services.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure adequate financial resources for the 1986-87

fiscal year for the regulation of hazardous waste, it is necessary that this act take effect immediately.

#### CHAPTER 1507

An act to add Chapter 6.98 (commencing with Section 25570) to Division 20 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Chapter 6.98 (commencing with Section 25570) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.98. ENVIRONMENTAL QUALITY ASSESSMENT

25570. (a) The Legislature hereby finds and declares all of the following:

- (1) The public has a low level of confidence in the ability of government or the private sector to ensure that manufacturers, users and disposers of hazardous substances comply fully with legal requirements for the management of these substances.
- (2) Recent federal studies by Congress and executive agencies document that voluntary compliance with environmental regulations nationwide is at an all time low of 25 percent. Such factors as inadequate enforcement and inadequate understanding of complex requirements result in a level of compliance with environmental requirements which is lower than in the early 1970's.
- (3) Another report documents that private sector investment in pollution control equipment has dropped 38 percent nationwide since 1980. Investment levels have dropped at the same time that legal requirements for hazardous substance management are taking effect.
- (4) Small businesses which are faced with complex regulations often do not know how to most effectively manage chemicals, or how to comply with these regulations at the least cost to the business.
  - (b) The Legislature further declares all of the following:
- (1) An Environmental Protection Agency policy statement issued in November of 1985 endorses the use of environmental quality assessments, which are also called environmental audits, and recommends that state and local governments initiate programs to encourage the broader use of the assessment process, and while the state should take steps to actively encourage the private sector use of environmental assessments, it is not the intention of the Legislature to require that any person or business utilize

environmental assessors.

- (2) Environmental assessments can encourage voluntary compliance with both the letter and the spirit of the law as well as encourage cost-effective process improvements. By reducing potential liability, assessments can reduce the long-term costs of hazardous substance management. In addition, the use of assessments can help to build public confidence that hazardous substances are being managed in an increasingly safe manner. The use of independent environmental assessments is an important emerging feature of specific state hazardous substance management programs.
- (3) Many of California's major businesses have internal environmental assessment programs. Larger firms often maintain in-house staffs.
- (4) The state should provide a list of registered independent third-party assessors for use by small- and medium-sized firms seeking technical assistance to achieve and maintain regulatory compliance.
- 25570.1. This chapter shall be known and cited as the "Environmental Quality Assessment Act of 1986."
- 25570.2. For purposes of this chapter the following definitions apply:
  - (a) "Air board" means the State Air Resources Board.
- (b) "Cal-OSHA" means the Division of Occupational Safety and Health in the Department of Industrial Relations.
- (c) "Department" means the State Department of Health Services.
- (d) "Environmental quality assessment" or "assessment" means a systematic, documented, periodic, and objective review of the operations and practices, used by any commercial or industrial business or individual whose activities are regulated under Chapter 6.5 (commencing with Section 25100) or Chapter 6.95 (commencing with Section 25500), to achieve, monitor, maintain, and where feasible exceed, compliance with state environmental, worker health and safety, and public health requirements for the manufacture and use of hazardous substances and the generation and disposal of hazardous wastes. A complete environmental assessment includes a number of different components related to hazardous substance and hazardous waste management and requires the expertise of a variety of assessors. An environmental assessment includes technical or managerial recommendations or actions, of a general or specific nature, in one or more of the following areas:
- (1) Recommendations or specific actions for complying with, and where feasible, exceeding legal requirements in areas related to hazardous substance and hazardous waste management, including, but not limited to, air quality, water quality, emergency preparedness and response, hazard communications, and occupational safety and health.
  - (2) A qualitative review, or where feasible, a quantitative review,

of the risks resulting from occupational, public or environmental exposure to hazardous substances.

- (3) Recommendations or actions for anticipating and minimizing the risks specified in paragraph (2), including any potential liability, associated with regulated and unregulated hazardous substances, and any suggested management procedures or practices.
- (e) "Environmental assessor" or "assessor" means an individual who, through academic training, occupational experience, and reputation, is qualified to objectively conduct one or more aspects of an environmental assessment. Environmental assessors are not employees of a state, local, or federal agency. Environmental assessors may include, but shall not be limited to, specialists trained as analytical chemists, professional engineers, epidemiologists, hydrologists, attorneys with expertise in hazardous substance law, physicians, industrial hygienists, toxicologists, and environmental program managers.
- (f) "Hazardous substance" shall have the same meaning as found in Chapter 6.8 (commencing with Section 25300) and "hazardous waste" shall have the same meaning as found in Chapter 6.5 (commencing with Section 25100).
  - (g) "Secretary" means the Secretary of Environmental Affairs.
- (h) "Water board" means the State Water Resources Control Board.
- 25570.3. (a) On or before September 1, 1987, the secretary in consultation with the department, the water board, the air board, and Cal-OSHA, shall develop, adopt, by regulation, and publicize criteria for the voluntary registration of environmental assessors who have the experience or other qualifications sufficient to conduct environmental assessments.

In specifying criteria for registration the secretary shall consider the following:

- (1) A minimum of two years of experience in successfully assisting businesses, government agencies, or labor organizations within the assessor's general field of expertise.
- (2) Recommendations from clients, colleagues, and professional associations.
- (3) Skills or expertise that represent an area of specialty within a field, such as professional engineering or engineering geology, for which the state now offers a certification, licensing, or registration process.
- (4) Pertinent specialized certification, licensing, or registration programs offered by professional associations or other private sector organizations.
- (5) Specific areas of expertise, including, but not limited to, underground tank checks or removal, small generator waste reduction, recycling, treatment and disposal, and prevention and control of air and water emissions or releases, assessment of soil or groundwater contamination, risk assessment and risk reduction recommendations, or occupational health and safety reviews.

- (b) The secretary may appoint an ad hoc advisory committee to assist in developing the requirements for registration. The members of the committee shall be representative of the range of professional skills that may be possessed by environmental assessors.
- (c) On and after October 1, 1987, any person may apply to the secretary to be registered as an environmental assessor. The secretary shall register as an environmental assessor any person who meets the criteria adopted pursuant to subdivision (a).
- (d) The secretary shall require each applicant for registration to pay the following fees:
- (1) An application fee of up to fifty dollars (\$50) for each applicant seeking registration.
- (2) An annual fee of up to one hundred dollars (\$100) for being listed as a registered assessor.
- (e) To the maximum extent feasible, the secretary shall assess the fees specified in subdivision (d) at a level sufficient to meet the costs of registration and the cost of listing pursuant to subdivision (g).
- (f) Any applicant denied registration shall be notified in writing of the reasons for denial.
- (g) On or before March 1, 1988, and annually thereafter, the secretary shall publish, and work with associations representing small- and medium-sized businesses to widely disseminate, a list of registered environmental assessors. The list shall be arranged according to types of tasks, and at a minimum, shall specify the professional and employment affiliations and the specific area of expertise of the assessor, and whether the assessor is a sales representative, owner, or part owner of a business that manufactures or distributes technology for hazardous substance or hazardous waste management. In addition, the list shall provide an alphabetical listing of firms that provide environmental assessment services and that employ registered assessors. The registered assessors employed by each firm shall be listed with the firm's name.
- (h) Each environmental assessor shall obtain a renewal of registration every five years following the date of initial registration. The secretary shall determine a renewal fee sufficient to cover the costs incurred in reassessing the qualifications of the applicant for renewal. In considering whether to renew the registration, the secretary shall also consider any complaints regarding the work of the assessor.
- (i) Notwithstanding any other provision of law, no state agency, or employee of a state agency, shall be held liable for any injury or damages resulting from the services provided by a registered environmental assessor listed pursuant to subdivision (g). In any litigation regarding the registration process or the list of assessors, the Attorney General shall defend any state employee or state agency involved with the development or implementation of the program specified in this chapter. The secretary shall include a written disclaimer of liability as part of the published list of registered assessors.

- 25570.4. On or before April 1, 1988, the secretary shall report to the Legislature on all of the following:
- (a) The registration criteria developed pursuant to Section 25570.3.
- (b) Recommendations for statutory or regulatory modifications in the requirements for environmental assessors, including whether a minimum education or testing requirement is desirable.
- (c) The number, and areas of specialty, of applicants for registration.
- (d) The number, and areas of specialty, of registered environmental assessors listed pursuant to subdivision (g) of Section 25570.3.
- (e) The percentage of applicants denied registration, and recommendations as to the need for, and means for establishing, an appeal mechanism for these applicants.
- (f) An assessment of the success of the registration program in assisting small- and medium-sized businesses.

#### CHAPTER 1508

An act to amend Sections 25356 and 25356.1 of, and to add Section 25327 to, the Health and Safety Code, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. (a) The Legislature hereby finds and declares as follows:

- (1) The priority site ranking process for hazardous substance release sites includes factors other than the actual threat to public health or the environment, or the probability of a rapid cost escalation.
- (2) In ranking sites, the estimated cost of cleanup has been given too great a weight, so that inexpensive sites of relatively low risk are frequently scheduled for early cleanup.
- (3) Serious California sites that appear on the Environmental Protection Agency's National Priority List are often assigned a low rank on the state priority list.
- (4) The department's present process for the numerical ranking of sites is based on a site characterization process that is capable of determining the absolute, but not the relative, differences in severity between any two sites. Precise site ranking implies a greater ability to precisely characterize site contamination than is presently possible, resulting in public confusion about the state's cleanup

intentions.

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- (b) The Legislature therefore declares all of the following:
- (1) Site priority ranking for removal and remedial actions should be based primarily on an assessment of the site's direct risk to public health and on the avoidance of rapid cost escalation if removal and remedial action is deferred.
- (2) Estimated cost of cleanup should not be a major criterion in setting priorities for removal and remedial action and should be considered only in determining the relative priority for removal and remedial action between two or more sites that have similar characteristics and pose substantially equivalent risks.
- (3) State sites should be assigned priority ranking solely on the basis of actual threat, regardless of whether the site is ranked on the Environmental Protection Agency's National Priority List.
- (4) Sites that have been at least partially characterized and that have been listed for removal and remedial action shall, for the purpose of informing the public of state priorities, be assigned to one of three tiers and shall be listed by alphabetical order within each tier but shall not be numerically ranked.
- SEC. 2. Section 25327 is added to the Health and Safety Code, to read:
- 25327. "Tier" means a grouping of hazardous substance release sites that require removal and remedial actions, that are listed alphabetically, and that are of a roughly equivalent priority for removal and remedial action.
- SEC. 3. Section 25356 of the Health and Safety Code is amended to read:
- (a) The department shall adopt, by regulation, the criteria for the selection and for the priority ranking of sites pursuant to subdivision (b), for removal and remedial action under this chapter, and shall adopt criteria for the assignment of sites to one of the three tiers pursuant to subdivision (c). The criteria shall take into account the pertinent factors relating to the public health and the environment, which shall include, but are not limited to, potential hazards to public health and environment, the risk of fire or explosion, toxic hazards, the extent to which the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost, or in hazard to human health and the environment, and the criteria-established pursuant to Section 105(8) of the federal act (42 U.S.C. Sec. 9605(8)). The criteria may include a minimum hazard threshold, below which sites shall not be listed pursuant to this section, if the sites are subject to the authority of the department to order removal or remedial action, or similar action, pursuant to Chapter 6.5 (commencing with Section 25100).
- (b) The department shall publish and revise, at least annually, a listing of the sites subject to this chapter. The sites shall be categorized and placed on one of the following lists:
- (1) A list of the hazardous substance release sites for which the department has identified a responsible party, and the responsible

party is in compliance, as determined by the department, with an order issued, or an enforceable agreement entered into, pursuant to subdivision (a) of Section 25355.5. The department shall publish the list of sites under this paragraph in an appendix to the site-specific plan of expenditures prepared pursuant to Section 25334.5.

- (2) A list of the hazardous substance release sites for which all of the following apply:
- (A) The department has not been able to identify a responsible party or the responsible party is not in compliance, as determined by the department, with an order issued, or an enforceable agreement entered into, pursuant to subdivision (a) of Section 25355.5.
- (B) The nature and extent of the hazardous substance release at the site has not been adequately characterized by the responsible party or the department.

The department shall characterize a site on the list before ranking the site on the list described in paragraph (3).

- (3) A list of the hazardous substance release sites which were previously listed pursuant to paragraph (1), if the sites have been adequately characterized but the responsible parties are not in compliance with an order or enforceable agreement issued or entered into pursuant to subdivision (a) of Section 25355.5, or sites which were previously listed pursuant to paragraph (2) but which have since been adequately characterized by the department. Sites on the list specified in this paragraph shall be ranked numerically in accordance with the criteria adopted for the priority ranking of sites.
- (c) The department shall assign each site listed pursuant to paragraphs (2) and (3) of subdivision (b), sites listed on the National Priorities List pursuant to the federal act, and sites which are federal military facilities to one of three tiers for the purpose of informing the public of the relative hazard of the sites. The listing of sites by tiers shall be widely disseminated to the public. The "priority one" tier shall include any site that poses a known or probable immediate threat to public health through direct human contact, explosions, fires, or acutely serious air emissions, has a high potential to contaminate or to continue to contaminate groundwater resources that are present or possible future sources of drinking water, or any site for which the costs for removal and remedial action pose the risk of increasing rapidly if removal or remedial action is deferred. The "priority two" tier shall include any site that poses a substantial but less immediate threat to public health and safety or the environment. The "priority three" tier shall include any site that will require removal and remedial action, but presents only a limited and defined threat to human health or the environment. Priority two and three tiers may contain sites formerly listed in tiers one or two for which direct human health threats have been removed and at which physical deterioration in environmental quality has been stabilized. For the purpose of this subdivision, in informing the public of the relative environmental and public health threats posed by a site, the department shall list sites alphabetically within each of the three

tiers. The department shall periodically update the list of sites by tiers to reflect new information regarding existing sites or the addition of new sites requiring removal and remedial action. No site listed pursuant to paragraph (1) of subdivision (b) shall be listed pursuant to this subdivision.

- (d) The department's development and publication of the listings of sites, pursuant to subdivision (b) and the adoption of a minimum hazard threshold and the classification of a site as within that threshold pursuant to subdivision (a), are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (e) Funds appropriated to the department for remedial action shall be expended in conformance with the priority ranking of sites, as established on the list of sites specified in paragraph (3) of subdivision (b), except that funds appropriated for remedial action may be expended without conforming to the priority ranking if both of the following apply:
- (1) The funds are necessary to monitor removal or remedial actions conducted by private parties listed pursuant to paragraph (1) of subdivision (b) or the state funds are necessary for the state share of a removal or remedial action pursuant to Section 104(c) (3) of the federal act (42 U.S.C. Sec. 9604(c) (3)).
  - (2) The funds are used for either of the following purposes:
- (A) To assess, evaluate, and characterize the nature and extent of a hazardous substance release on sites listed pursuant to paragraph (2) of subdivision (b).
- (B) To carry out activities pursuant to paragraph (2) or (3) of subdivision (b), or subdivision (c) or (d) of, Section 25355.5.

  (f) Funds may be expended on more than one site on the list
- (f) Funds may be expended on more than one site on the list specified in paragraphs (2) and (3) of subdivision (b) at any one time. In addition, funds may be expended for oversight of any activities conducted by a responsible party on more than one site on the list specified in paragraph (1) of subdivision (b) at any one time.
- (g) This section does not require the department to characterize every site listed pursuant to paragraph (2) of subdivision (b) before the department may begin removal or remedial actions at sites listed pursuant to paragraph (3) of subdivision (b).
- SEC. 4. Section 25356.1 of the Health and Safety Code is amended to read:
- 25356.1. (a) The department, or, if appropriate, the regional water quality control board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.
- (b) A potentially responsible party may request the department or the regional water quality control board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356 if the department or the State Water Resources Control Board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the state board shall respond to a request to

prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional water quality control board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

- (c) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Sec. 300.61 et seq.), and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:
- (1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional water quality control board shall consider scientific data and reports which may have a relationship to the site.
- (2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.
- (3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or regional water quality control board shall consider the extent to which remedial action measures are available which use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions which do not use this treatment. The department or regional water quality control board shall not select remedial action measures which use offsite transport and disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.
- (4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.
- (5) Cost effectiveness of alternative remedial action measures. In evaluating the cost effectiveness of proposed alternative remedial action measures, the department or regional water quality control board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.
- (6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or

mobility prior to disposal.

- (d) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional water quality control board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (c) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional water quality control board shall prepare or approve a draft remedial action plan and shall do all of the following:
- (1) Circulate the draft plan for at least 30 days for public comment.
- (2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional water quality control board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.
- (3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.
  - (4) Comply with Section 25358.7.
- (e) After complying with subdivision (d), the department or the regional water quality control board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional water quality control board shall then issue the final remedial action plan.
- (f) A potentially responsible party named in the final remedial action plan issued by the department or the regional water quality control board may seek judicial review of the final remedial action

plan pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final plan is issued. The filing of a petition seeking judicial review of a final remedial action plan shall not stay any removal or remedial action specified in the final plan.

For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional water quality control board, as the case may be. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

- (g) This section does not require the department or a regional water quality control board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment.
- (h) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional water quality control board pursuant to this section.
- 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.
- SEC. 6. (a) Notwithstanding the criterion for the eligibility for connection to the permanent, alternative water supply to be provided in Glen Avon, as specified in category (1) of subdivision (a) of Section 3 of Chapter 1428 of the Statutes of 1985, funds appropriated pursuant to Section 3 of Chapter 1428 and approved pursuant to an expenditure plan submitted pursuant to Section 6 of Chapter 1428 shall instead be expended in accordance with the criteria and requirements set forth in this section.
- (b) (1) Any residential or commercial structure in Glen Avon, whose construction was completed on or before October 1, 1985, which had relied on a private well supply for domestic use, is eligible to be connected to a permanent, alternative water supply pursuant to this subdivision, regardless of whether persons residing in or occupying the structure are receiving bottled water, if it is located within the area bounded on the north by a line 1,000 feet north of, and parallel to, the centerline of State Highway Route 60; bounded on the east by the centerline of Soto Street; bounded on the south by the Riverside-Jurupa Canal and Limonite Avenue between the canal and Van Buren Boulevard; and bounded on the west by the centerlines of Van Buren Boulevard, Felspar Street, and Kenneth Street and the extension thereof north of State Highway Route 60; or if it fronts on Soto Street south of Jurupa Road or fronts on Galena Street between Felspar Street and a line 3,000 feet west of, and

parallel to, the centerline of Felspar Street.

The basis for eligibility specified in this subdivision shall cease January 1, 1987, and any connection made to a residential or commercial structure occupied subsequent to that date shall be subject to any charges for the connection imposed by the Jurupa Community Services District.

- (2) Notwithstanding the establishment of eligibility pursuant to paragraph (1), in any instance in which a residential or commercial structure located in the area specified in paragraph (1) was constructed in violation of state law or regulation or local ordinance or regulation, as determined by the County of Riverside, the determination of whether the structure shall be connected to a permanent, alternative water supply shall be made by the County of Riverside on or before November 1, 1986. The County of Riverside may not authorize this connection to such a structure if the determination is made after November 1, 1986.
- (3) Any person occupying, owning, or leasing a residential or commercial structure located within the area described in paragraph (1) who had relied on a private well supply for domestic use, and who, between June 1, 1984, and January 1, 1987, connected the structure to the Jurupa Community Services District's water system at the person's own expense, may submit a claim to the district for reimbursement of all fees and charges paid to the district for the connection, plus an amount which is the lesser of the actual costs incurred by the person in completing the connection from the district water meter to the structure in making the connection or the average cost of completing such a connection pursuant to this section, as determined by the district. To be eligible for consideration for reimbursement, no claim may be submitted to the district after March 1, 1987. The district shall evaluate the claim and submit the amount approved for the claim to the State Department of Health Services. The State Department of Health Services shall disburse to the Jurupa Community Services District, from the funds reappropriated in subdivision (a) of this section, an amount sufficient to reimburse a claim submitted pursuant to this paragraph. Any costs incurred by the district in evaluating the claim shall be borne by the district. The department shall report to the Chairperson of the Joint Legislative Budget Committee the amount of, and circumstances concerning, any reimbursement authorized pursuant to this paragraph.
- (c) In exceptional cases arising from any inaccuracy in the description in paragraph (1) of subdivision (b), the State Director of Health Services may authorize a connection to a structure that does not meet the eligibility requirements set forth in paragraph (1) of subdivision (b) if the director determines that not making the connection would be inequitable and unreasonable. No exceptions may be made, however, for the requirements set forth in paragraph (2) or (3) of subdivision (b).

SEC. 7. (a) The sum of one million dollars (\$1,000,000) is hereby

appropriated from the General Fund to the State Department of Health Services to commence removal and remedial actions at the ASARCO hazardous substance release site in Contra Costa County.

- (b) The appropriation made by this section is not an admission by the state for any responsibility for any specific portion of the total removal and remedial action costs for that site.
- (c) If the state is awarded any funds from ASARCO in any action to determine liability for the costs of removal and remedial action at the ASARCO hazardous substance release site, these funds shall be used to reimburse the General Fund for the appropriation made pursuant to this section.
- (d) If any funds, other than funds from the Hazardous Substance Account in the General Fund, are made available to fund the portion of the removal and remedial action at the ASARCO hazardous substance release site for which the state is determined by the court to be liable, these funds shall be used to reimburse the General Fund for the appropriation made pursuant to this section.
- 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 resolve issues of eligibility for connection to a water system at Glen Avon so that installation of the water system can proceed without delay, to clarify the source of funds to be used in removal or remedial action at a hazardous release site on state property, to provide for the publication of more useful information about hazardous substance release sites, and to make funds available for removal and remedial at the ASARCO hazardous substance release site at the earliest opportunity, it is necessary that this act take effect immediately.

#### CHAPTER 1509

An act to add Article 7.7 (commencing with Section 25179.1) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Article 7.7 (commencing with Section 25179.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

## Article 7.7. Hazardous Waste Management Act of 1986

25179.1. This article shall be known and may be cited as the Hazardous Waste Management Act of 1986.

25179.2. The Legislature finds and declares as follows:

- (a) Most of the hazardous waste generated in California continues to be deposited using landfills, land treatment, and other land applications.
- (b) State permitted land disposal facilities, once considered secure, are increasingly found to have problems containing the waste deposited therein, making it impossible to guarantee long-term security. Hazardous wastes have been shown to migrate from land disposal facilities and contaminate the environment through leakage and runoff in landfills, seepage, runoff, and air emissions from ponds, percolation from improper land applications, leaks in the equipment used for injection wells, and leaks from buried drums and tanks.
- (c) The disposal of untreated hazardous waste in or onto land without adequate technical safeguards threatens not only the quality of the state's land, air, and water resources, but poses a direct hazard to health and safety by exposing the public to substances that have been found to cause cancer, birth defects, miscarriages, nervous disorders, blood diseases, and damage to vital organs and genes.
- (d) The number of contaminated hazardous waste sites in the state continues to grow. Cleaning up the contamination and eliminating the threat to public health and the environment will be very costly.
- (e) It is, therefore, in the public interest to establish a program to limit the use of land disposal practices which do not meet certain prescribed standards and promote alternatives for hazardous waste management.
- (f) It is the intent of the Legislature to guide hazardous waste management toward more efficient and secure methods by establishing management priorities for future legislative and administrative action.
- (g) It is also the intent of the Legislature to adopt reasonable and realistic methods for addressing the environmental risks associated with land disposal of hazardous waste. However, it is not the Legislature's intent to impose hazardous waste management requirements upon hazardous waste generators and hazardous waste storage, treatment, and disposal facilities located within the state which could, if so imposed, encourage illegal disposal practices or force California generators to seek hazardous waste disposal solutions in other states or countries, thereby shifting the state's hazardous waste treatment and disposal burdens to other jurisdictions.
- (h) Nothing in this article affects the authority of the department to regulate facilities used for the management of nonhazardous agricultural drainage water.
- 25179.3. For the purposes of this article, the following definitions apply:

- (a) "Agricultural drainage water" means subsurface water or perched groundwater which is drained from beneath agricultural lands and which results from agricultural irrigation.
  - (b) "Board" means the State Water Resources Control Board.
- (c) "Free liquids" mean liquids which readily separate from the solid portion of a hazardous waste under ambient temperature and pressure.
- (d) "Hazardous waste constituent" means an element, chemical compound, or mixture of compounds which is a component of a hazardous waste or leachate and which has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department.
- (e) "Hazardous waste facility" means all contiguous land, structures, and other appurtenances and improvements on the land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste.
- (f) "Hazardous waste facilities permit" means a permit issued by the department pursuant to Section 25200.
- (g) "Hazardous waste landfill" means a disposal facility, or part of a facility, where hazardous waste is placed in or onto land and which is not a land treatment facility, a surface impoundment, or an injection well.
- (h) "Land disposal" means any placement of hazardous waste in or onto land at a hazardous waste facility, including, but not limited to, disposal using a landfill, a waste pile, commingling with municipal garbage, a surface impoundment, pit, pond, lagoon, sump, a land treatment facility, land spreading, injection wells, or any other land application technique.
- (i) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.
- (j) Notwithstanding Section 25123.5, and for the purposes of this article only, "treatment" means any method, technique, or process, including incineration, occurring at authorized facilities which changes the physical, chemical, or biological character or composition of any hazardous waste and, by that change, the waste becomes nonhazardous, significantly less hazardous, or more suitable for land disposal because of removal or substantial reduction of undesirable properties, such as toxicity, mobility, persistence, reactivity, bioaccumulation, flammability, or corrosivity. "Treatment" does not include any of the following, to the extent that one or more of the following are the only methods which are used:
- (1) Solidification of hazardous waste by the addition of absorbent material which produces a change only in the physical character of the waste without a corresponding change in the chemical character of the waste.
- (2) Treatment occurring directly in or on the land, such as land treatment, except that treatment may include in situ treatment necessary for site mitigation.

- (3) Dilution of hazardous waste by the addition of nonhazardous material.
  - (4) Evaporation in a surface impoundment.
- (k) "Small containers of hazardous waste in lab packs" means a container meeting the requirements of Section 66910 of Title 22 of the California Administrative Code.
- (1) "Treated hazardous waste" means a hazardous waste which has been subject to treatment, as specified in subdivision (j), and which meets treatment standards established by the department pursuant to Section 25179.6.

"Treated hazardous waste" also includes a hazardous waste which meets the treatment standards established by the department pursuant to Section 25179.6 without prior treatment. If a treatment standard has not been established for a hazardous waste, the hazardous waste shall be considered a treated hazardous waste if the waste complies with one of the following:

- (1) The waste complies with the criteria and requirements established in Section 66742 of Title 22 of the California Administrative Code and has been classified as a special waste pursuant to Section 66744 of Title 22 of the California Administrative Code.
- (2) The waste does not contain any persistent or bioaccumulative toxic substances in excess of the soluble threshold limit concentration for the substance, as established in regulations adopted by the department.
- 25179.4. In developing new programs and carrying out this chapter, the department and the board shall promote the following waste management practices in order of priority:
  - (a) Reduction of hazardous waste generated.
  - (b) Recycling of hazardous waste.
  - (c) Treatment of hazardous waste.
- (d) Land disposal of residuals from hazardous waste recycling and treatment.
- 25179.5. (a) Notwithstanding any other provision of law, except as provided in Section 25179.9, no person shall dispose of liquid waste, liquid hazardous waste, or hazardous waste containing free liquids in a hazardous waste landfill.
- (b) On or before January 1, 1988, the department shall adopt criteria for the disposal of nonliquid hazardous wastes in a hazardous waste landfill including, where appropriate, standards for load bearing capacity, leachability, and permeability, which minimize the formation and migration of leachate which poses a threat to human health or which pollutes or threatens to pollute waters of the state.
- 25179.6. (a) Notwithstanding any other provision of law, except as provided in Sections 25179.7, 25179.8, 25179.9, 25179.10, 25179.11, and 25179.12, on or before May 8, 1990, the department shall prohibit the land disposal of any hazardous waste after the effective date of the department's action, unless the waste is either a treated hazardous waste or unless the waste is a solid hazardous waste

generated in the cleanup or decontamination of any site contaminated by hazardous waste which does not meet the treatment standards established by the department pursuant to this section, if the disposal of the waste has been approved by the department or other agency authorized to approve the cleanup or decontamination after considering those factors specified in subdivision (c) of Section 25356.1, regardless of whether a remedial action plan has been, or will be, prepared for the cleanup or decontamination.

(b) (1) As closely as possible with, but not later than six months following the dates specified in, the schedules required by subsection (g) of Section 6924 of Title 42 of the United States Code, the department shall adopt, on or before May 8, 1990, treatment standards specifying a method or methods of treatment, and the associated performance level, or the level of treatment required prior to the land disposal of each hazardous waste which meets the criteria adopted by the department pursuant to Section 25141.

If the department specifies a method or methods of treatment and an associated performance level, unless the hazardous waste is subject to subdivision (a) of Section 25155.5, any person may use an alternative treatment method if the person demonstrates to the satisfaction of the department that the alternative treatment method will result in a level of performance substantially equivalent or greater than that achievable using the method or methods specified by the department.

- (2) The treatment standards adopted pursuant to paragraph (1) shall be designed to minimize the hazardous characteristics of the waste and minimize the potential for bioaccumulation or migration of hazardous waste constituents from the waste into the air, land, and water resources of the state. In adopting these standards, the department shall consider applicable federal standards adopted by the Environmental Protection Agency pursuant to subsection (m) of Section 201 of the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. Sec. 6924 (m)) to the extent that the federal treatment standards minimize the hazardous characteristics of the waste and the potential for bioaccumulation or migration of hazardous waste constituents. The department shall adopt treatment standards for any hazardous waste for which the Environmental Protection Agency has failed to adopt a treatment standard in accordance with the schedules required by subsection (g) of Section 6924 of Title 42 of the United States Code and for any hazardous waste for which a federal treatment standard does not minimize the hazardous characteristics of the waste and the potential for bioaccumulation or migration of hazardous waste constituents.
  - (3) For the purposes of this subdivision, the following shall apply:
- (A) "Minimization of hazardous characteristics and the potential for bioaccumulation or migration" means that level of treatment which is achievable using the best demonstrated available technology.

- (B) "Best demonstrated available technology" means a method of treatment which is available, or can be made available in a reasonable time, on a commercial scale and the performance of which has been demonstrated through reliable test data and project development sufficient in scope to ensure consistent results and standardized applicability.
- (c) Regulations establishing treatment standards adopted by the department pursuant to this section shall be deemed a necessity for purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and the Office of Administrative Law shall not disapprove the regulations on the grounds that they do not meet the requirements of paragraph (1) of subdivision (a) of Section 11349.1 of the Government Code.
- (d) At least every seven years from the date of adoption of regulations pursuant to subdivision (b), the department shall review each treatment standard and shall revise the treatment standard if the revised treatment standard will provide substantial additional protection to human health and the environment and the department finds that the cost of compliance to those industries which are required to replace or retrofit existing hazardous waste treatment units or processes is necessary to protect human health and the environment.

A revised treatment standard adopted pursuant to this subdivision shall be applicable to any hazardous waste treatment unit or process constructed after the revised treatment standard is adopted. The land disposal of hazardous waste treated in an existing treatment unit or process which does not provide a level of performance equivalent to the revised treatment standard shall not be prohibited by the department until two years following the adoption of the revised treatment standard, by which time the existing treatment unit or process shall be replaced or retrofitted to provide a level of performance equivalent to the revised treatment standard. The department may, on a case by case basis, extend the date by which an existing treatment unit or process shall be replaced or retrofitted, but not more than 10 additional years, if an extension is needed to avoid significant economic disruption to a specific firm or hazardous waste treatment facility.

25179.7. The department may extend the implementation date after which the land disposal of a hazardous waste is prohibited, pursuant to Section 25179.6, for a specific hazardous waste, if recycling and treatment capacity to process substantially all of the specific hazardous waste to meet the treatment standards adopted pursuant to subdivision (b) of Section 25179.6 will not be provided at the site of generation or at a commercial offsite hazardous waste facility in the state. The department shall establish this date based upon the earliest date on which the department projects that adequate recycling and treatment capacity will be available, but not later than two years following the date the prohibition on land disposal of the waste would otherwise be implemented.

- 25179.8. (a) The department may grant a variance from the requirements of Section 25179.6 for a hazardous waste only if the person demonstrates, to the satisfaction of the department, that all of the following conditions apply to the waste:
- (1) The hazardous waste cannot be recycled, reused, or treated to meet the standards adopted by the department pursuant to Section 25179.6 at a commercial offsite hazardous waste facility in the state.
- (2) Recycling or treatment alternatives cannot be provided at the site of generation.
- (3) Measures have been, or will be, taken to reduce the generation of the hazardous waste.
- (4) Land disposal of the hazardous waste is in compliance with all existing statutes and regulations.
- (b) If the department, pursuant to Section 25179.7, extends the date to prohibit the use of a land disposal method for a specific hazardous waste, as specified in Section 25179.6, a person applying for a variance for the specified waste shall demonstrate that circumstances beyond the control of the applicant, such as delays in the issuance of a permit, have prevented the development of the needed capacity by the date established by the department.
- (c) A variance granted by the department pursuant to subdivision (a) shall remain in effect for one year. The department may renew the variance once for an additional period of one year, if the applicant demonstrates, to the satisfaction of the department, that the needed capacity can be provided by the end of the period of renewal. No variance or renewal of a variance shall remain in effect beyond the two-year period following the effective date after which land disposal of a hazardous waste is prohibited pursuant to Section 25179.6.
- (d) The department may grant a variance from the requirements of Section 25179.6 for agricultural drainage waters which meet the criteria established by the department pursuant to Section 25141 if a person demonstrates, to the satisfaction of the department, that all of the following conditions apply to the waste:
- (1) There are no technically and economically feasible treatment, reuse, or recycling alternatives available to render the agricultural drainage water nonhazardous.
- (2) The applicant can demonstrate that the continued disposal of agricultural drainage waters does not pose an immediate or significant long-term risk to public health or the environment.
- (3) The disposal of the agricultural drainage waters is in compliance with the requirements of Section 25179.5.

Notwithstanding subdivision (c), a variance granted by the department pursuant to this subdivision shall remain in effect for three years. The variance may be renewed during or before 1993 for an additional three years, but not beyond 1996, if the applicant demonstrates that treatment, reuse, or recycling capacity may be available within three years from the date of renewal to render the agricultural drainage waters nonhazardous.

- (e) When granting a variance pursuant to this section, the department may specify, where appropriate, any treatment which shall be required prior to land disposal of the waste, and may impose requirements which may be necessary to protect the public health and the environment.
- 25179.9. Small containers of hazardous waste in lab packs are exempt from the requirements of Sections 25179.5 and 25179.6 if they are disposed of in accordance with the requirements of Section 66910 of Title 22 of the California Administrative Code.
- 25179.10. (a) The department may grant an exemption from the requirements of Section 25179.6 pursuant to subdivision (b) for either of the following:
- (1) Any special waste which meets the criteria and requirements established in Section 66742 of Title 22 of the California Administrative Code and has been classified as a special waste pursuant to Section 66744 of Title 22 of the California Administrative Code but does not meet the treatment standards established by the department pursuant to Section 25179.6.
- (2) Any hazardous waste generated in the extraction, beneficiation, or processing of ores and minerals.
- (b) The department may grant an exemption for a waste specified in subdivision (a) if a person, upon application, demonstrates to the satisfaction of the department that no economically and technologically feasible alternatives exist to recycle, reuse, or treat the waste to meet the treatment standards adopted by the department pursuant to Section 25179.6 and that there will be no migration of hazardous waste constituents in concentrations which pollute or threaten to pollute the waters of the state from the disposal unit where the waste is to be disposed. An exemption granted pursuant to this subdivision shall remain in effect for five years. The department may renew the exemption if, upon application, it determines that the findings required by this subdivision still apply.
- 25179.11. (a) A person discharging a hazardous waste into a surface impoundment which was constructed before July 1, 1986, and for which an application for waste discharge requirements was submitted on or before September 1, 1986, is exempt from the requirements of Section 25179.6 if all of the following conditions apply to the surface impoundment:
- (1) The surface impoundment is in compliance with Article 9.5 (commencing with Section 25208).
- (2) Hazardous waste is discharged into the impoundment for the purposes of treating the waste to comply with the treatment standard adopted by the department pursuant to subdivision (b) of Section 25179.6 for that hazardous waste, and the residues which result from the treatment of that hazardous waste which do not meet that treatment standard are removed for subsequent management within one year of the date of placement of the hazardous waste into the surface impoundment, or the operator has received an exemption pursuant to Section 25208.16.

- (b) A person discharging hazardous waste into a surface impoundment which was constructed after July 1, 1986, and for which an application for waste discharge requirements is submitted after September 1, 1986, is exempt from the requirements of Section 25179.6 if all of the following conditions apply to the surface impoundment:
- (1) The surface impoundment is in compliance with Article 9.5 (commencing with Section 25208).
- (2) Hazardous waste is discharged into the surface impoundment for the purposes of treating the waste to comply with the treatment standard adopted by the department pursuant to subdivision (b) of Section 25179.6 for that hazardous waste, and the residues which result from the treatment of that hazardous waste which do not meet that treatment standard are removed for subsequent management within one year of the date of placement of the hazardous waste into the surface impoundment.
- (3) The department determines that the use of the surface impoundment to treat the hazardous waste is the only means by which the hazardous waste can be treated using the best demonstrated available technology.
- 25179.12. (a) Except as provided in subdivision (b), a person operating a land treatment facility is exempt from the requirements of Section 25179.6 if the facility is in compliance with the requirements of all state and federal statutes and regulations applicable to land treatment facilities, including, but not limited to, subdivision (b), and the facility has either been issued a final permit or is operating under, and in compliance with, the requirements of interim status and the facility operator has submitted an application for a final permit.
- (b) Land treatment facilities at which hazardous waste constituents have migrated from the treatment zone shall not be eligible for an exemption pursuant to subdivision (a) until the contamination has been removed to the satisfaction of the department. In order for the department to determine whether hazardous waste constituents have migrated from the treatment zone, the owner or operator of the land treatment facility shall provide data to the department on at least all of the following:
  - (1) Soil cores taken from below the treatment zone.
  - (2) Groundwater monitoring.
  - (3) Unsaturated zone monitoring.
  - (4) Waste analysis.
  - (5) Historical activities at the facility.
- 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, 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 1510

An act to amend Sections 6140.1, 6140.3, 6140.5, and 6141 of, to add Sections 6060.3 and 6140.6 to, and to add and repeal Section 6140 of, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 6060.3 is added to the Business and Professions Code, to read:

- 6060.3. (a) The fee imposed on nonattorney applicants for late filing of the application to take the general bar examination shall be fixed by the board as follows:
- (1) The late fee applicable until 14 days after the timely filing deadline shall not exceed fifty dollars (\$50).
- (2) The late fee for applications received subsequent to 14 days after the timely filing deadline until 70 days prior to the examination shall not exceed two hundred dollars (\$200).
- (3) The late fee for applications received subsequent to 70 days prior to the examination until 30 days prior to the examination shall not exceed two hundred fifty dollars (\$250).
- (4) The late fee for applications received subsequent to 30 days prior to the examination until 14 days prior to the examination shall not exceed three hundred fifty dollars (\$350).
- (b) Application fees for the general bar examination, including fees for late filing, shall be refunded if the applicant does not take the general bar examination because of the death of an immediate family member or the serious illness or disabling injury of the applicant or a member of his or her immediate family. A deduction may be made from the refund for administrative costs. The board shall adopt regulations for the administration of this subdivision. This subdivision shall not be construed to prohibit the refund of fees in instances other than those specified.
- SEC. 2. Section 6140.1 of the Business and Professions Code is amended to read:
- 6140.1. The State Bar annually shall submit its proposed baseline budget for the following fiscal year to the appropriate fiscal committees of the Legislature and the Joint Legislative Budget

Committee by November 15, and its proposed final budget by February 15, so that the budget can be reviewed and approved in conjunction with any bill that would authorize the imposition of membership dues.

The State Bar shall submit the budget documents in a form comparable to the documents prepared by state departments for inclusion in the Governor's Budget and the salaries and wages supplement. In addition, the bar shall provide supplementary schedules detailing operating expenses and equipment, all revenue sources, any reimbursements or interfund transfers, fund balances, and other related supporting documentation. The bar shall submit budget change proposals with its final budget, explaining the need for any differences between the current and proposed budgets.

- SEC. 3. Section 6140 is added to the Business and Professions Code, to read:
- 6140. (a) The board shall fix the annual membership fee for 1987 as follows:
- (1) For active members who have been admitted to the practice of law in this state for three years or longer preceding the first day of February of the year for which the fee is payable, at the sum of two hundred dollars (\$200).
- (2) For active members who have been admitted to the practice of law in this state for less than three years but more than one year preceding the first day of February of the year for which the fee is payable, at the sum of one hundred forty dollars (\$140).
- (3) For active members who have been admitted to the practice of law in this state during, or for less than one year preceding the first day of February of, the year for which the fee is payable, at a sum not exceeding one hundred ten dollars (\$110).
- (b) The annual membership fee for active members is payable on or before the first day of February of each 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 chaptered before January 1, 1988, deletes or extends that date.

- SEC. 4. Section 6140.3 of the Business and Professions Code is amended to read:
- 6140.3. The board may increase the annual membership fee fixed by subdivision (a) of Section 6140 and the annual membership fee specified in Section 6141 by an additional amount not exceeding ten dollars (\$10). This additional amount may only be applied to the cost of land and buildings to be used to conduct the operations of the State Bar, including furniture, furnishings, equipment, architects' fees, construction and financing costs, landscaping, and other expenditures incident to the acquisition, construction, furnishing, and equipping of the land and buildings; the payment of interest on and the repayment of moneys borrowed for those purposes; and the reimbursement of the State Bar's treasury for funds expended for those purposes.
  - SEC. 5. Section 6140.5 of the Business and Professions Code is

amended to read:

- 6140.5. (a) The board may establish and administer a Client Security Fund to relieve or mitigate pecuniary losses caused by the dishonest conduct of the active members of the State Bar. Any payments from the fund shall be discretionary and shall be subject to such regulation and conditions as the board shall prescribe. The board may delegate the administration of the fund to the State Bar Court, or to any board or committee created by the board of governors.
- (b) Commencing January 1, 1972, the board may increase the annual membership fees fixed by it pursuant to Section 6140 by an additional amount per active member not to exceed twenty-five dollars (\$25) in any year, the additional amount to be applied only for the purposes of the fund and the costs of its administration, including, but not limited to, the costs of processing, determining, defending, or insuring claims against the fund.
- SEC. 6. Section 6140.6 is added to the Business and Professions Code, to read:
- 6140.6. The board may increase the annual membership fee fixed by subdivision (a) of Section 6140 by an additional amount not to exceed twenty-five dollars (\$25) to be applied to the costs of the disciplinary system.
- SEC. 7. Section 6141 of the Business and Professions Code is amended to read:
- 6141. (a) The board shall fix the annual membership fee for inactive members at a sum not exceeding forty dollars (\$40). The annual membership fee for inactive members is payable on or before the first day of February of each year.
- (b) An inactive member shall not be required to pay the annual membership fee for inactive members for any calendar year following the calendar year in which the member attains the age of 70 years.

#### CHAPTER 1511

An act to add Section 408.3 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

- SECTION 1. Section 408.3 is added to the Revenue and Taxation Code, to read:
- 408.3. (a) Except as otherwise provided in Sections 451 and 481 of this code and in Section 6254 of the Government Code, property characteristics information maintained by the assessor is a public

record and shall be open to public inspection.

(b) For purposes of this section, "property characteristics," includes, but is not limited to, the year of construction of improvements to the property, their square footage, the number of bedrooms and bathrooms of all dwellings, the property's acreage, and other attributes of or amenities to the property, such as swimming pools, views, zoning classifications or restrictions, use code designations, and the number of dwelling units of multiple family properties.

(c) Notwithstanding Section 6257 of the Government Code or any other provision of law, if the assessor provides property characteristics information at the request of any party, the assessor may require that a fee reasonably related to the actual cost of developing and providing the information be paid by the party

receiving the information.

The actual cost of providing the information is not limited to duplication or production costs, but may include recovery of developmental and indirect costs, such as overhead, personnel, supply, material, office, storage, and computer costs. All revenue collected by the assessor for providing information under this section shall be used solely to support, maintain, improve, and provide for the creation, retention, automation, and retrieval of assessor information.

- (d) The Legislature finds and declares that information concerning property characteristics is maintained solely for assessment purposes and is not continuously updated by the assessor. Therefore, neither the county nor the assessor shall incur any liability for errors, omissions, or approximations with respect to property characteristics information provided by the assessor to any party pursuant to this section. Further, this subdivision shall not be construed to imply liability on the part of the county or the assessor for errors, omissions, or other defects in any other information or records provided by the assessor pursuant to the provisions of this part.
- (e) Except as provided in subdivision (f), this section shall apply only to a county with a population which exceeds 715,000.
- (f) In any county with a population of 715,000 or less, the assessor may make property characteristics information open to public inspection.
- 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 1512

An act to add Chapter 1.5 (commencing with Section 53175) to Part 1 of Division 2 of Title 5 of the Government Code, relating to public facilities.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Chapter 1.5 (commencing with Section 53175) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

#### CHAPTER 1.5. INTEGRATED FINANCING DISTRICT ACT

#### Article 1. Definitions and General Provisions

53175. This chapter shall be known and may be cited as the Integrated Financing District Act.

53175.5. This chapter provides an alternative method of financing public facilities. This chapter does not limit the application of any other laws that provide for financing governmental facilities. A local agency may use the provisions of this chapter instead of, or in conjunction with, any other method of financing part or all of the cost of providing capital facilities. The provisions of this chapter governing the establishment and operation of an integrated financing district shall, to the extent of any conflict, prevail over any other provision of law.

53176. This chapter shall be liberally construed in order to effectuate its purposes. No inadvertent error, irregularity, informality, or the inadvertent neglect or omission of any officer, in any procedure taken under this chapter, other than fraud, shall void or invalidate that proceeding, any levy imposed to finance the cost of a public facility, or any reimbursement agreement.

53176.5. The inadvertent failure of any person to receive a notice, resolution, order, or other matter shall not affect in any way whatsoever the validity of any proceedings taken under this chapter, or prevent the legislative body from proceeding with any hearing so noticed.

53177. This chapter applies to all local agencies insofar as those entities have the authority to use any of the financing acts specified in subdivision (b) of Section 53179. The officers of local agencies who have similar powers and duties as the municipal officers referred to in this chapter shall have the powers and duties given by this chapter to municipal officials. Where no similar officer exists, the legislative body of the local agency shall, by resolution, appoint a person or designate an officer to perform the duties required to be performed

by this chapter.

53177.5. This chapter does not apply to the construction of any interchange which serves to connect two interstate freeways.

53178. Division 4 (commencing with Section 2800) of the Streets and Highways Code does not apply to proceedings taken under or in conjunction with this chapter.

53178.5. Division 4.5 (commencing with Section 3100) of the Streets and Highways Code applies with respect to any contingent assessment levied pursuant to this chapter. This chapter is a "principal act" as that term is defined in Section 3100 of the Streets and Highways Code. Contingent assessments levied pursuant to this chapter are "assessments" within the meaning of Section 3100 of the Streets and Highways Code. All notices required by Division 4.5 (commencing with Section 3100) of the Streets and Highways Code shall be modified to clearly state the contingency conditions which apply to contingent assessments.

53179. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

- (a) "District" means the area of land included within an integrated financing district established pursuant to this chapter, which shall be the same as the area of land included within the associated financing district authorized by a financing act.
- (b) "Financing act" means the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code), the Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code), the Parking District Law of 1951 (Part 4) (commencing with Section 35100) of Division 18 of the Streets and Highways Code), the Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of this code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of this title), the Benefit Assessment Act of 1982 (Chapter 6.4) (commencing with Section 54703) of Part 1 of Division 2 of this title), and the so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.
- (c) "Fund" means the District Reimbursement Fund created pursuant to Section 53197.
- (d) "Landowner" or "owner of land" has the same meaning as in the financing act employed in conjunction with this chapter.
  - (e) "Legislative body" means the legislative body, governing

board, or board of directors of any local agency.

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

# Article 2. Proceedings to Create an Integrated Financing District

53180. Proceedings for the establishment of an integrated financing district may be instituted by the legislative body of any local agency authorized to use any financing act.

• 53181. Proceedings to create an integrated financing district which will include a noncontingent levy made pursuant to a financing act shall be instituted by the local agency by including in the resolution of intention to create the financing district all of the following, in addition to those items required in the financing act:

(a) A statement that the local agency will proceed under the authority of this chapter.

(b) A description of the boundaries of the proposed integrated financing district, which need not be the same as the boundaries of the district created pursuant to the financing act.

- (c) A description of the rates and methods of apportionment over time of any levy proposed under this chapter, and the contingencies under which each levy will be made. A contingent assessment shall be specified as a fixed dollar amount per unit of area for parcels developed into each of several land use categories, as determined by the legislative body, except that the legislative body may provide that the fixed dollar amount may be adjusted annually by an interest rate, as determined by the legislative body. The cumulative interest rate adjustment shall not exceed 100 percent.
- (d) A description of the proposed uses of funds arising from any levy made pursuant to this chapter, including a description of any facilities to be constructed with the funds, and an estimate of the cost of those facilities.
  - (e) A description of any proposed reimbursement agreement.
- (f) A statement that a public hearing on proposals made under this chapter will be combined with the hearing or hearings required under the financing act, and a description of the procedures for interested persons to protest against the proposals.
- 53182. Notice of the hearing and of the contents of the resolution of intention shall be made in the same manner as required under the financing act.
- 53183. (a) At any time not later than the hour set for hearing objections to the proposed work, any owner of property liable to be assessed pursuant to this chapter may make a written protest against the proposed work, the extent of the territory to be assessed, the proposed rate and method of apportionment of any contingent assessments, any levy proposed to be made pursuant to a financing

act, any agreement entered into pursuant to the financing act or pursuant to this chapter, or any combination thereof. Any protest pertaining to an assessment made pursuant to a financing act shall be heard and shall have the force and effect provided in the financing act. Any protest pertaining to a contingent assessment shall be in writing, contain a description of the property in which each signer is interested, sufficient to identify the property, and, if the signers are not shown on the last equalized assessment roll as the owners of the property, contain, or be accompanied by, written evidence that the signers are the owners of the property. All of the protests shall be delivered to the clerk and no other protests or objections shall be considered.

- (b) At the time set for hearing protests, the legislative body shall proceed to hear and pass upon all protests so made and its decision shall be final and conclusive. The legislative body may adjourn the hearings from time to time. Any protest may be withdrawn, in writing, by the owner making the protest at any time prior to the conclusion of the protest hearing.
- (c) In lieu of hearing and passing upon protests, the legislative body may continue the hearing of protests to a day certain and refer the protests to the superintendent of streets for investigation, report, and recommendation as to the improvement and matters included in the protests. The report and recommendation of the superintendent of streets shall be in writing, and a copy thereof shall be mailed not less than five days prior to the continued hearing date for protests to each person owning property liable to be assessed who has made a written protest. At the time set for the continued hearing, the legislative body shall hear and pass upon the report and recommendation of the superintendent of streets and its decision shall be final and conclusive. The legislative body may adjourn the hearing from time to time. Protests may be withdrawn in the same manner as provided in subdivision (b).
- (d) If the protest is against the proposed contingent assessment and the legislative body finds that the protest is made by the owners of more than one-half of the area of the property within the proposed integrated financing district which is proposed to be subject to the contingent assessment immediately or in the future, or which is proposed to be subject to a levy made pursuant to a financing act immediately or in the future, and protests are not withdrawn so as to reduce the same to less than a majority, no further proceedings to levy the specified contingent assessment shall be taken pursuant to this chapter for a period of one year from the date of the decision of the legislative body on the hearing.
- (e) If it is necessary to determine whether any or all of the signers of written protests are the owners of property to be assessed, in order to find whether a majority protest exists, the legislative body shall make that determination from the last equalized assessment roll, any written evidence submitted with a written protest, and any other evidence received at the hearing. The legislative body shall be under

no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership shall be final and conclusive.

- (f) If no written protests have been delivered to the clerk up to the hour set for hearing protests, if protests have been found by the legislative body to be insufficient or have been overruled, or if protests against the extent of the proposed district have been heard and denied, the legislative body shall immediately have jurisdiction to order the contingent assessment to be levied, and to enter into a proposed reimbursement agreement.
- (g) Nothing in this chapter prohibits the legislative body, within the one-year period referred to in subdivision (d), from commencing and carrying on new proceedings for the levy of the proposed contingent assessment or entry into the proposed reimbursement agreement which was subject to protest if the legislative body finds, by the affirmative vote of four-fifths of its members, that the owners of a majority of the property within the area of the integrated financing district are in favor of commencing and carrying on those proceedings.
- 53184. The legislative body may modify the resolution of intention at the hearing. At the conclusion of the hearing, the legislative body may do either of the following:
  - (a) Abandon the proposed establishment of the district.
- (b) In the absence of a protest requiring abandonment, determine by ordinance to proceed with the establishment of the district as set out in the resolution of intention, as modified. The financing district shall be combined with the district created pursuant to this chapter and the combined districts shall be known as an Integrated Financing District.

# Article 3. Purposes and Powers

- 53185. A district may be established to assist in financing any work which may be financed pursuant to a financing act.
- 53186. The powers of an integrated financing district shall be in addition to those of each financing act, and may be used instead of, in addition to, or in conjunction with, the powers contained in the financing act.
  - 53187. A district may do any of the following:
- (a) Levy an assessment which is contingent upon the development of land and which may be made payable at the time of approval of a tentative subdivision map, vesting tentative subdivision map, final subdivision map, or zoning change that makes or proposes to make a significant change in the use of the land, as determined by the legislative body by ordinance. The contingent assessment may be made payable upon receipt of a building permit for any parcels which have already received all other required approvals for development. The developer shall pay for any contingent assessment payable over time while the developer holds title to the property.

The amount of the contingent assessment shall be in proportion to the benefit to be received by each parcel, and shall be specified as a fixed dollar amount per unit of area for parcels developed into each of several land use categories, as determined by the legislative body, except that the legislative body may provide that the fixed dollar amount may be adjusted annually by an interest rate, as determined by the legislative body by ordinance. The amount of the cumulative interest rate adjustment shall not exceed 100 percent of the fixed dollar amount. The contingent assessment may be made payable as a capital amount or over time, with interest as provided by the legislative body by ordinance.

- (b) Levy a contingent assessment pursuant to subdivision (a) together with a noncontingent assessment or special tax levied pursuant to the financing act such that after all levies have been paid, the total of contingent assessments and levies made pursuant to the financing act which are expected to be paid on behalf of each parcel will be in proportion to the portion of project benefits expected to be received by each parcel, as determined by the legislative body.
- (c) The proceeds of a contingent assessment may be used for any of the following purposes:
- (1) To pay the cost of planning, designing, and constructing capital facilities and related incidental expenses which are allowable uses of proceeds of the levy made pursuant to the financing act, or accumulated for these purposes, in which case all interest earned on the funds shall be used for these same purposes.
- (2) To pay all or part of the principal and interest on debt incurred pursuant to the financing act, relieving the obligation to pay the levy made pursuant to the financing act in whole or part in a manner determined by the legislative body, but only to the degree that proceeds of the contingent assessment are actually collected and available for this purpose.
- (3) To repay amounts paid pursuant to a financing act in order to help achieve the balance of levies which is specified in subdivision (b) in a manner determined by the legislative body.
- (4) To make payments to an investor pursuant to a reimbursement agreement entered into pursuant to Article 4 (commencing with Section 53190).
- (5) For any combination of the above purposes, as determined by the legislative body.
- (d) Enter into and enforce a reimbursement agreement pursuant to Article 4 (commencing with Section 53190).

### Article 4. Reimbursement Agreements

53190. If the legislative body determines by ordinance to proceed with the establishment of the district pursuant to subdivision (b) of Section 53184, the legislative body, or its designated representative, may enter into a reimbursement agreement with any private person or entity, or with any public entity, hereafter referred to as the

investor.

53190.5. A reimbursement agreement shall contain both of the following provisions:

- (a) A requirement that the investor advance funds to the local agency to be used by the local agency exclusively to pay the costs of the work described in the resolution of intention adopted pursuant to Section 53181, or that the investor perform the work in whole or in part, or any combination thereof.
- (b) A requirement that the local agency issue the investor a warrant entitling the investor to all or a specified amount or portion of the moneys deposited in the fund, determined pursuant to the resolution of intention, and payable at the time or times specified in the reimbursement agreement. The reimbursement agreement shall state that the general fund of the local agency, its credit, or its taxing power is not liable for payment of any obligation arising from the reimbursement agreement.

The warrants issued pursuant to this subdivision shall include all of the following provisions:

- (1) A designation of the place at which the warrant shall be paid.
- (2) The source of revenue securing the warrant.
- (3) The issuance and expiration date of the warrant.
- (4) A specification that the warrant is a negotiable instrument.
- (5) The schedule of payments to the investor, including the date of the first payment, the number of payments, and the frequency of payments.
  - (6) The purpose for which the warrant is issued.
  - (7) The maximum principal amount of the warrant.
- (8) The rate of interest payable upon the warrant. The interest rate shall not exceed the maximum rate permitted by Section 53531 or any other applicable provision of law.
- (9) A statement of findings that, in the opinion of the legislative body, the interest paid on the warrant to the investor is excluded from income in determining the investor's federal income tax liability.
- 53191. The investor's interest in a reimbursement agreement may be negotiable and divisible, as specified in the agreement.
- 53191.5. The obligations of the local agency arising from the reimbursement agreement shall be secured by a pledge of the revenues arising from the contingent or noncontingent assessments or levies made pursuant to a financing act levied within the integrated financing district. The general fund of the local agency is not liable for the payment of any obligations arising from the reimbursement agreement and the credit or taxing power of the local agency shall not be pledged for the payment of any obligations arising from the agreement except pursuant to the financing act. The investor may not compel the exercise of the taxing power of the local agency or the forfeiture of any of its property to satisfy any obligations arising from the agreement. However, notwithstanding these provisions, the local agency is financially responsible for the

revenues which are collected pursuant to a contingent or noncontingent assessment or levy made pursuant to a financing act, or which ought to have been collected by the legislative body, or its designated representative, pursuant to a reimbursement agreement.

53192. Any obligations arising from the reimbursement agreement are not a debt of the local agency, or a legal or equitable pledge, charge, lien, or encumbrance upon any of its property, or upon any of its income, receipts, or revenues, except the revenues arising from the contingent assessments or levies made pursuant to the financing act levied within the district and specificially designated for that purpose.

53192.5. All income received by the investor from the fund is exempt from taxation in this state, except gift, inheritance, and estate taxes.

53193. The reimbursement agreement may provide for the terms and conditions under which the investor may enforce the convenants and duties imposed by the agreement.

53193.5. The local agency shall preserve and protect the security of the reimbursement agreement and the rights of the investor against all claims and demands of all persons.

53194. The investor may enforce his or her rights against the local agency, its legislative body, or any of its officers, agents, or employees, and compel them to perform and carry out their duties under this chapter and any reimbursement agreement with the investor.

53194.5. The remedies conferred upon the investor by this chapter do not exclude any other remedy. Each remedy is cumulative and in addition to every other remedy and may be exercised without exhausting, and without regard to, any other remedy conferred by this chapter or other law.

# Article 5. Confirmation and Collection of Levy

53195. The local agency may obtain funds from any source authorized by law to pay for the work described in the resolution of intention adopted pursuant to Section 53181, and may solicit bids, award construction contracts, or perform the work itself, in any manner authorized by law.

53196. The legislative body shall, by resolution, determine the rate of and shall levy the contingent assessment as specified in the resolution of intention adopted pursuant to Section 53181. The legislative body shall levy and collect the noncontingent assessment or special tax in the manner set out in the financing act.

53196.5. The local agency may do all of the following:

- (a) Prescribe procedures for determining and notifying landowners when the contingent assessment is due and payable and for collecting the assessment.
- (b) Prescribe a penalty for nonpayment of the contingent assessment within the time and in the manner specified.

- (c) Provide for an additional penalty not to exceed 2 percent per month for nonpayment of the contingent assessment and the penalty.
  - (d) Provide for collection of those penalties.
- 53197. (a) The legislative body may request the county in which the district is located to collect the contingent assessment on behalf of the district. If the assessment is collected by the county, the county may deduct its reasonable costs incurred for that service before remitting the balance to the district.
- (b) The legislative body of each local agency which enters into a reimbursement agreement pursuant to this chapter shall create a district reimbursement fund. All revenue collected within the district pursuant to this chapter, including penalties, shall be deposited in the fund and disbursed, as provided by the legislative body, subject to the terms of any reimbursement agreement.
- 53197.5. The local agency may bring an action in any court of competent jurisdiction against the owners of any property to collect delinquent contingent assessments and penalties.
- 53198. Any contingent assessments including any penalties, when recorded in accordance with Division 4.5 (commencing with Section 3100) of the Streets and Highways Code, shall constitute a lien upon the real property, except that no lien shall be created against any publicly owned property, and the lien shall continue until the charge and all penalties are fully paid or the property is sold to satisfy the lien. The lien shall have the same force, effect, priority, and duration as would a delinquent lien under the particular financing act utilized.
- 53198.5. As a separate, distinct, and cumulative remedy established for the collection of the contingent assessment and any penalties, an action may be brought in the name of the local agency in any court of competent jurisdiction to enforce the lien provided pursuant to Section 53198. The court shall include an award of reasonable attorney's fees to the prevailing party in the action.
- 53199. Remedies for collecting and enforcing the contingent assessments and penalties are cumulative and may be pursued alternatively, or consecutively, as determined by the legislative body. If any one of the remedies is or may be invalid, all valid remedies shall remain effective until the contingent assessments and penalties have been fully collected and the terms of any reimbursement agreement have been satisfied. The costs of collection and enforcement of the remedies for the collection of the contingent assessments and penalties may be paid from the proceeds collected from the contingent assessments and penalties if the legislative body so provides, and if that payment does not violate the terms of any reimbursement agreement.

### CHAPTER 1513

An act to add Sections 18000.5 and 19990.5 to the Government Code, relating to state officers and employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

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

SECTION 1. Section 18000.5 is added to the Government Code, to read:

18000.5. Notwithstanding Sections 18000 and 19990, any officer or employee of the state may receive for his or her personal use compensation from any nonprofit corporation formed exclusively to aid and assist a state museum for services rendered to the nonprofit corporation and for his or her expenses of performing these services, provided that the nonprofit corporation obtains the prior written approval of the Department of Personnel Administration to provide the compensation and files with the Controller by September 30 of each year a statement disclosing the names of state officers and employees compensated and their respective amounts of compensation for the preceding fiscal year, and the giving or receipt of the compensation is not in violation of any state or federal law.

The board of directors of the museum shall determine whether the services are incompatible with the state responsibilities of the officer or employee and whether the services rendered to the nonprofit corporation interfere with the officer's or employee's full-time obligation to the state. The board of directors of the museum also shall review any issues of compliance of the nonprofit corporation with the terms of any contractual arrangements with the state independently of the officer's or employee's receiving compensation from the nonprofit corporation.

SEC. 2. Section 19990.5 is added to the Government Code, to read:

19990.5. Notwithstanding Sections 18000 and 19990, state officers and employees may render services during their office hours, or hours of work for the state, if compensation for these services may be made pursuant to Section 18000.5.

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 clarify the law as soon as possible regarding the additional compensation extended to the Director and the Chief Deputy Director of Exposition Park and Museum Programs, it is necessary that this act take effect immediately.

#### CHAPTER 1514

An act relating to milk and dairy products, and making an appropriation therefor.

[Approved by Governor September 30, 1986 Filed with Secretary of State September 30, 1986 ]

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

SECTION 1. (a) Milk production in the United States is approximately 140 billion pounds per year. Of this amount, California produces more than 10 percent. For some time the leading cash agricultural commodity in California has been milk. Value of milk sales from California farms totals nearly two billion dollars (\$2,000,000,000) per year. After it has been processed and sold to the consumer, it more than doubles in value. During the decade, milk production in California is expected to exceed that of Wisconsin, the leading producer in 1985.

California's population of 26 million people continues to grow and all indications point to a continued growth of the dairy industry to provide an adequate, wholesome milk supply here in the state.

- (b) New technology, along with favorable weather, has added to California's ability to produce milk efficiently. When the milk is transported to the dairy plant for processing into consumer products, we observe a highly sophisticated portion of the industry. Our ability to concentrate, fractionate, and manipulate milk components with new advancements in technology has opened untapped opportunities to the industry. With on-farm ultrafiltration, cheese plants are making changes to use the retentate instead of whole milk. The various milk products are moved through the plant, tested for quality and quantity by computer systems adapted to the specialized production needs of the plant. The genetic engineering of milk-clotting enzymes and many other innovative dairy technology developments requiring coordinated research, teaching, training, information extension, and outreach activities are on the horizon.
- (c) The University of California has made great progress in basic and applied research and continues to make contributions to the dairy industry. Research results in dairy science are delivered to the dairyman, farmer, dairy products processor and, ultimately, the consumer through extension and other proven outreach services. California Polytechnic State University, San Luis Obispo, which has a dairy science department that teaches dairy processing technology, is qualified to contribute to applied research, training, and educating students, developing new food products, and testing consumer acceptance of these products. Establishing a Dairy Products Technology Center at California Polytechnic State University, San Luis Obispo, would complement the basic and applied research advances and extension services provided by the University of

California and enhance the dairy industry in this state.

The Legislature hereby declares that there is a need to accelerate the recruiting and education of people to fill the void now evident in dairy processing and that the establishment of a Dairy Products Technology Center is the best way to fulfill this need in California.

- SEC. 2. (a) The sum of two hundred thousand dollars (\$200,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture for allocation to the Trustees of the California State University for use by California Polytechnic State University, San Luis Obispo, to establish a Dairy Products Technology Center.
- (b) None of the funds appropriated in this section, or in subsequent budget acts for the Dairy Products Technology Center, may be disbursed unless and until the Director of Food and Agriculture determines that funds from nonstate sources in an amount at least equal to the amount appropriated in this section have been received by California Polytechnic State University, San Luis Obispo, for the establishment of a Dairy Products Technology Center for the 1986–87 fiscal year.

#### CHAPTER 1515

An act to add Section 6379.5 to the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986]

I am deleting the \$300,000 appropriation contained in Section 3 of Senate Bill No 2527.

Section 2230 of the Revenue and Taxation Code provides that the State shall annually reimburse cities and counties for the net loss of revenues from legislation creating sales tax exemptions. I am opposed to reimbursement for the revenues lost due to the enactment of Senate Bill 2527 because legislation impacting local property and sales tax revenue has on balance resulted in a net revenue gain to local government.

With this deletion, I approve Senate Bill No. 2527

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 6379.5 is added to the Revenue and Taxation Code, to read:

6379.5. There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of catalogs, letters, circulars, brochures, and pamphlets consisting substantially of printed sales messages for goods and services printed to the special order of the purchaser and mailed or delivered by the seller, the seller's agent, or a mailing house, acting as the agent for the purchaser, through the United States

Postal Service or by common carrier to any other person at no cost to that person who becomes the owner thereof.

- SEC. 2. On or after January 1, 1991, the Legislative Analyst shall conduct a study of the effects of the exemption provided by this act on the state's printing industry during the four preceding years. The study shall include an estimate of the revenue effect, a discussion of whether the exemption has assisted the California printing industry in increasing its share of the direct mail and catalog market, and recommendations for any necessary modifications in the governing statute. The Legislative Analyst shall report to the Legislature on the results of this study no later than June 30, 1991.
- SEC. 3. The sum of three hundred thousand dollars (\$300,000) is hereby appropriated to the Controller from the General Fund to make the payments to counties and cities required by Section 2230 of the Revenue and Taxation Code to reimburse them for revenue losses caused by Section 1 of this act in the initial fiscal year in which this act is effective. The appropriation made by this section shall be allocated in the manner specified in Section 2230.
- SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on January 1, 1987.

#### CHAPTER 1516

An act to amend Section 12024.5 of the Business and Professions Code, relating to food and agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am deleting the \$180,000 appropriation contained in Section 3 of Senate Bill No 2110

The appropriation is intended to be used for continuation of research to identify alternative to the banned fumigant EDB. \$556,000 has already been made available for this purpose in prior years and a significant amount of research has already been performed on the issue, resulting in the identification of some potentially successful alternatives. The Department of Food and Agriculture may choose to engage in additional EDB research contracts with existing resources, if it appears there is a need to do so.

With this deletion, I approve Senate Bill No 2110.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 12024.5 of the Business and Professions Code is amended to read:

12024.5. It is unlawful for any person to sell or advertise for sale any dressed poultry or any other fowl or rabbit in dressed form,

either cooked or uncooked, or smoked, fresh, frozen, cooked, dried, or pickled meats or fish other than by weight determined at the time of sale on a scale properly sealed in accordance with this division. Any commodity specified in this section, however, need not be weighed at the time of sale if at that time it is packed in a package or container upon which appears the net weight of the commodity therein. Except as provided below, any person, including, but not limited to, a manufacturer, processor, packer, wholesaler, or jobber that packs any commodity specified in this section in any package which is intended for retail sale, shall mark the net weight of the commodity therein upon the package. Packages of these products intended for retail sale need not be marked by the packer with the net weight of the commodity if they are to be marked with the net weight of the commodity by the retailer who purchases or receives the packages from the packer. This section does not apply to any of the following ready-to-eat food items:

- (a) Items sold for consumption on the premises.
- (b) Items sold as one of three or more different elements, excluding condiments, comprising a ready-to-eat meal sold as a unit, for consumption elsewhere than on the premises where sold.
- (c) Ready-to-eat meat, poultry, or seafood cooked or heated on the premises but not packaged in advance of sale.

(d) Sandwiches when offered or exposed for sale on the premises where packed or produced and not intended for resale.

- SEC. 2. The Director of Food and Agriculture shall request, through the normal budget process, upon the recommendation of the Pest Control Research Committee, appropriate funding for the 1987–88 and 1988–89 fiscal years for the program established pursuant to Article 2.5 (commencing with Section 12786) of Chapter 2 of Division 7 of the Food and Agricultural Code.
- SEC. 3. The sum of one hundred eighty thousand dollars (\$180,000) is hereby transferred from the General Fund to the Agricultural Pest Control Research Account in the Department of Food and Agriculture Fund, and is hereby appropriated to the Department of Food and Agriculture for expenditure in accordance with Article 2.5 (commencing with Section 12786) of Chapter 2 of Division 7 of the Food and Agricultural Code.
- SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the supply of both raw unprocessed food and prepared processed food is continually available to the residents of the state, it is necessary that this act take effect immediately.

### CHAPTER 1517

An act to amend Sections 16115.5, 16116, 16118, 16120, and 16122 of, and to repeal Section 16155 of, the Welfare and Institutions Code, relating to adoptions, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

> [Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am reducing the appropriation contained in Section 7 of Assembly Bill No. 3168 from \$109,500 to \$54,700 in order to limit the level of funding to an amount that can reasonably be expended by the Private Adoption Agencies to meet the responsibility of placing special needs children during the 1986-87 Fiscal Year With this reduction, I approve Assembly Bill No. 3168.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. 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. 2. 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. 3. 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. 4. 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. 5. Section 16122 of the Welfare and Institutions Code is amended to read:
- (a) It is the intent of the Legislature in enacting this chapter to provide special needs children with permanent adoptive homes. It is also the intent of this Legislature to encourage private adoption agencies to continue placing special needs children, and in so doing, to achieve a substantial savings to the state in foster care costs.
- (b) 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 for special needs children, less the amount of fees received by the agencies from adoptive parents.

These agencies shall be reimbursed for the placement of special needs children in an amount not to exceed an average cost of three thousand five hundred dollars (\$3,500) per placement for the agency's claims submitted for a fiscal year. This amount shall be based upon the agency's actual costs per placement, less the amount of fees received by the agency from adoptive parents. Requests for reimbursement shall conform to claims procedures established by the department. Nothing in this section shall be construed to authorize reimbursement to private agencies for intercountry adoption services.

SEC. 6. Section 16155 of the Welfare and Institutions Code is repealed.

SEC. 7. The sum of one hundred nine thousand five hundred dollars (\$109,500) is hereby appropriated from the General Fund to the State Department of Social Services for the purposes of this act.

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:

Due to the extreme need to facilitate the placement of special needs children in adoptive homes and in view of the limited ability of private adoption agencies to place all special needs children who have been freed for adoption, it is necessary that this act take effect immediately.

#### CHAPTER 1518

An act to amend Section 14672 of, and to add Sections 14669.2, 14670.7 and 14670.75 to, the Government Code, relating to state property.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1986.]

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

SECTION 1. Section 14669.2 is added to the Government Code, to read:

14669.2. Notwithstanding any other provision of law, the Director of General Services may enter into a joint powers agreement with the Oakland Redevelopment Agency and a land lease and a lease-purchase agreement with the joint powers agency created under the joint powers agreement, for the purpose of financing and acquiring state office and parking facilities to be constructed in the downtown redevelopment area of the City of Oakland, County of

Alameda. The Director of General Services shall notify the Chairperson of the Joint Legislative Budget Committee or his or her designee of his or her intention to enter into each of the proposed agreements at least 20 days prior to entering into the agreements.

SEC. 2. The Legislature finds and declares that the Sunspot Motel, located in Potrero Canyon, which was the site of the first major port facility in the City of Los Angeles, is an important recreational asset.

The Legislature further finds and declares that the operation of the Sunspot Motel as a restaurant, by an entity contracting with the City of Los Angeles, would be of great recreational value and public benefit.

The Legislature further finds and declares that, without the use of state property adjacent to the Sunspot Motel, adequate parking facilities would not be available for its operation.

- SEC. 3. Section 14670.7 is added to the Government Code, to read:
- 14670.7. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Parks and Recreation and the Department of Transportation, may let to the City of Los Angeles, for a period not to exceed 20 years, and for fair market value, property adjacent to the Sunspot Motel, and which is between that motel and the Pacific Coast Highway, in Pacific Palisades, for the purpose of providing parking for the Sunspot Motel, subject to all of the following conditions:
- (a) All rental proceeds from the Department of Parks and Recreation property shall be deposited in the State Parks and Recreation Fund. All rental proceeds from the Department of Transportation property shall be deposited in the State Highway Account within the State Transportation Fund.
- (b) The City of Los Angeles shall construct a pedestrian overcrossing at this location over the Pacific Coast Highway. If construction is not completed within five years of the signing of the lease, the lease may be terminated at the option of the state. Prior to the end of the five-year period, the Department of Parks and Recreation may consider extending this term if the department determines it is necessary and the City of Los Angeles has taken active efforts to facilitate construction of the overcrossing.
- (c) The parking facilities and pedestrian overcrossing provided for in this section shall be available to the beach and park public.
- SEC. 4. Section 14670.75 is added to the Government Code, to read:

14670.75. The Director of General Services may enter into a lease-purchase agreement, an agreement for the appointment of a bond trustee, an amendment to the existing Joint Powers Agreement to provide for a parking structure, and an agreement for the Department of General Services to act as agent for construction matters, all of which shall be with the Joint Powers Authority created under the Joint Powers Agreement dated June 30, 1982, entered into

with the Community Redevelopment Agency of the City of Los Angeles in connection with the financing and construction of an office building and parking facilities in the City of Los Angeles. The lease-purchase agreement may provide for space to be used for private commercial purposes. The director shall notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house which consider appropriations, of his or her intention to execute the lease-purchase agreement at least 20 days prior to its execution.

SEC. 5. Section 14672 of the Government Code is amended to read:

14672. Notwithstanding Section 14670, the Director of General Services with the consent of the Department of Corrections, may let to the City of Vacaville for a public purpose, for a period not to exceed 20 years, real property which belongs to the state and which is retained by the state primarily to provide a peripheral buffer area, or zone, between real property upon which is located the medical facility and adjacent real property, where the director deems such letting is in the best interests of the state.

The lease provided for by this section may be renewed, upon its expiration, for an additional period not to exceed 20 years.

## CHAPTER 1519

An act to amend Sections 6025 and 6031.4 of the Penal Code, relating to the Board of Corrections, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1986]

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

SECTION 1. Section 6025 of the Penal Code is amended to read: 6025. (a) The Board of Corrections shall be composed of 11 members, one of whom shall be the Secretary of the Youth and Adult Correctional Agency who shall be designated as the chairperson, one of whom shall be the Director of Corrections, one of whom shall be the Director of the Youth Authority, and eight of whom shall be appointed by the Governor after consultation with, and with the advice of, the Secretary of the Youth and Adult Correctional Agency, and with the advice and consent of the Senate. The gubernatorial appointments shall include:

- (1) An employee of a local detention facility whose primary responsibility is staff training.
  - (2) A county sheriff.
  - (3) A county supervisor or county administrative officer.

- (4) A chief probation officer.
- (5) A manager or administrator of a county local detention facility.
- (6) An administrator of a local community-based correctional program.
  - (7) Two public members.
- (b) Of the members first appointed by the Governor, two shall be appointed for a term of two years, three for a term of three years, and three for a term of four years. The length of the original term to be served by each such member first appointed shall be determined by lot. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor. The terms of the two persons last appointed as qualified persons, by the Governor with the advice and consent of the Senate, under the provisions of this section as it read prior to January 1, 1977, shall expire on that date.
- (c) The board shall select a vice chairperson from among its members. Six members of the board shall constitute a quorum.
- (d) When the Board of Corrections is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.
- (e) If any appointed member is not in attendance for three consecutive meetings the board shall recommend to the Governor that the member be removed and the Governor shall make a new appointment, with the advice and consent of the Senate, for the remainder of the term.
  - SEC. 2. Section 6031.4 of the Penal Code is amended to read:
- 6031.4. (a) For the purpose of this title, "local detention facility" means any city, county, city and county, or regional facility used for the confinement for more than 24 hours of adults, or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors.
- (b) In addition to those provided for in subdivision (a), for the purposes of this title, "local detention facility" also includes any city, county, city and county, or regional facility, constructed on or after January 1, 1978, used for the confinement, regardless of the length of confinement, of adults or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors.
- (c) For purposes of this title, a local detention facility does not include those rooms that are used for holding persons for interviews, interrogations, or investigations, and are either separate from a jail or located in the administrative area of a law enforcement facility.
- SEC. 3. (a) The Legislature finds and declares that approval by the electors of the County Correctional Facility Capital Expenditure Bond Act of 1986 has made new funds available for the construction

and renovation of county jails and county juvenile facilities. The Legislature hereby directs the Board of Corrections to allocate and administer the moneys intended in the County Correctional Facility Capital Expenditure Bond Act of 1986 for county jails, and the Department of the Youth Authority to allocate and administer the moneys intended in the County Correctional Facility Capital Expenditure Bond Act of 1986 for juvenile facilities, in accordance with the provisions of this act.

- (b) Money appropriated by this act may be used for the renovation, replacement, reconstruction, or construction of county jail facilities, county medical facilities designated to house persons charged with or convicted of a crime and who are mentally ill, and county juvenile facilities. Money appropriated by this act may also be used for construction of separate local detention facility space for detoxification of persons arrested because of intoxication.
- (c) It is the Legislature's intention to make the money appropriated by this act available to counties with established and documented needs for capital projects for jail and juvenile facilities. However, money appropriated by this act shall not be used to build facilities that the counties cannot afford to operate fully and safely.
  - SEC. 4. (a) For the purpose of this act:
  - (1) "Board" means the Board of Corrections.
- (2) "Committee" means the Ad Hoc Advisory Committee established pursuant to Section 5.5.
- (3) "Fund" means the 1986 County Correctional Facility Expenditure Fund.
- (b) The Board of Corrections shall not itself be deemed a responsible agency, as defined by Section 21069 of the Public Resources Code, or otherwise be subject to the California Environmental Quality Act for any activities under this act, the County Jail Capital Expenditure Bond Act of 1981, or the County Jail Capital Expenditure Bond Act of 1984. This subdivision does not exempt any local agency from the requirements of the California Environmental Quality Act.
- SEC. 5. Money appropriated to the Board of Corrections by this act shall be allocated as follows:
- (a) Funding shall be provided for those projects entitled to be funded under subdivision (c) of Section 3 of Chapter 444 of the Statutes of 1984, as amended, to the extent that those projects have not received full funding.
- (b) The following additional amounts shall be allocated to the counties for the construction, reconstruction, replacement, or renovation of county jail facilities or medical facilities for mentally ill prisoners. These funds shall not be used to supplant local funds directed to previously approved state funded projects. These funds may be used for allocations specified in subdivisions (c) and (d) of Chapter 444, Statutes of 1984, as amended, or for new projects.

Alameda	\$	8,796,941
Alpine		92,832
Amador		0
Butte		5,911,957
Calaveras		0
Colusa		0
Contra Costa		2,338,176
Del Norte		154,720
El Dorado		6,305,500
Fresno		11,998,924
Glenn		1,267,284
Humboldt		5,820,195
Imperial		0
Inyo		3,500
Kern		7,408,064
Kings		1,264,284
Lake		1,731,391
Lassen		926,847
Los Angeles	ī	161,417,153
Madera		3,567,403
Marin		7,028,712
Mariposa		30,966
Mendocino		2,588,983
Merced		
Modoc		4,180,214 278,496
Mono		
· · · · · · · · · · · · · · · · · · ·		209,241
Monterey		8,248,790
Napa Nevada		1,726,971
		2,754,017
Orange		18,274,305
Placer		1,298,897
Plumas		0
Riverside		16,895,432
Sacramento		3,775,170
San Benito		2,290,152
San Bernardino		15,000,000
San Diego		32,996,795
San Francisco		22,472,766
San Joaquin		26,383,482
San Luis Obispo		3,107,231
San Mateo		6,998,573
Santa Barbara		2,756,964
Santa Clara		29,209,970
Santa Cruz		1,307,164
Shasta		0
Sierra		278,842
Siskiyou		1,391,007
Solano		1,653,589

\$471,615,899

(c) If any county declares that it is unable to use the funds allocated to it, or if any county is unable to satisfy the prerequisites for funding listed in Section 6, the amount allocated to the county in this section shall revert to the state, to be reallocated by the board as follows:

First priority for reallocation shall be given to counties on the following list subject to the following limits:

Orange County	\$ 7,000,000
Sacramento County	3,000,000
San Diego County	2,000,000
San Francisco City and County	10,000,000
Santa Clara County	1,000,000
Ventura County	4,000,000

Among these counties, reallocated funds shall be awarded to each on a pro rata basis based on the amounts listed in this subdivision. Funds shall be distributed twice. The first distribution shall occur on July 1, 1988; the second distribution shall occur on December 31, 1990. If any county on this list has not completed architectural drawings at the time reallocation funds become available for it, the county shall be removed from the reallocation list until it has completed architectural drawings.

- (d) If funds beyond those needed for the itemized amounts become available for reallocation, the board shall propose a reallocation formula or procedure for legislative review.
- (e) It is the Legislature's intention that in any subsequent state bond measures for county jail construction assistance, first priority for the new moneys shall go for a grant of thirty-six million dollars (\$36,000,000) for Los Angeles County; second, to any unfunded allocations under subdivision (b); and third, to any unfunded allocation among those listed in subdivision (c).
- SEC. 5.5. (a) The Board of Corrections shall appoint three ad hoc advisory committees consisting of not more than nine members for each committee. At least two members of each committee shall be administrators of local detention facilities administering programs corresponding to their committee assignment. The advisory committees shall include each of the following:

- (1) A mental health committee comprised of state and local representatives with expertise in the mental health field and representatives administering mental health programs or facilities. In making appointments to the committee, the board shall consult with the State Director of Mental Health, and shall ensure that the committee includes representatives from counties with both large and small populations.
- (2) A committee on public inebriates comprised of state and local representatives with expertise in the treatment of public inebriates and representatives administering programs or facilities for public inebriates. In making appointments to the committee, the board shall consult with the Director of Alcohol and Drug Programs, and shall ensure that the committee includes representatives from counties with both large and small populations.
- (3) A committee on alternatives to incarceration comprised of state and local representatives with expertise in the field of incarceration alternatives and representatives administering programs or facilities utilizing alternatives to incarceration. In making appointments to the committee, the board shall ensure that the committee includes representatives from counties with both large and small populations.
- (b) Each of the committees described in subdivision (a) shall establish standards within its subject area of expertise for purposes of determining whether county jail project proposals comply with the requirements of Section 4485.6 of the Penal Code. The board shall adopt these standards by regulation and shall ensure that participating counties do all of the following:
- (1) Provide adequate facilities for mentally ill inmates and detainees.
- (2) Provide adequate facilities for persons who are arrested solely for public inebriation.
- (3) Demonstrate utilization, to the greatest extent feasible, of alternatives to incarceration.
- (c) The board may modify the standards established by the advisory committees pursuant to subdivision (b) if it determines, after conducting a public hearing, that the standards are unworkable and impractical.
- (d) The board shall apply the standards established by the advisory committees pursuant to subdivision (b) in the approval or disapproval of county jail project proposals, except that the board may approve a proposal if the board finds, after conducting a public hearing, that although the county cannot feasibly meet the standards, the county will nonetheless comply with Section 4485.6 of the Penal Code.
- SEC. 6. No state moneys shall be encumbered in contracts with a county, nor released to a county, for construction or renovation of a local jail facility pursuant to this act until the following conditions have been fulfilled by the county:
  - (a) Architectural drawings shall be approved by the board for

compliance with minimum jail standards and by the State Fire Marshal for compliance with fire safety requirements. If the board concludes that a county's proposed construction or renovation contains serious design deficiencies which, while they would not require a refusal to enter into the contract, would seriously impair the facility's functioning, it shall notify the sheriff and the board of supervisors of that county of the deficiencies and shall delay entering into a contract with the county for at least 30 days after mailing the letter. This letter shall be a public record.

- (b) The county shall have filed a final notice of determination on its environmental impact report with the board.
- (c) The county shall have submitted a preliminary staffing plan for the proposed facility, along with an analysis of other operating costs anticipated for the facility, to the board for review and comment. Prior to submission of the staffing plan and operating costs analysis to the board, the county board of supervisors shall have reviewed and approved the submittal in or following public hearings. The sheriff shall also have reviewed and commented on the preliminary staffing plan and the operating costs analysis. The board shall comment in writing to the sheriff and board of supervisors. This letter shall be a public record.
- (d) The county shall submit a needs assessment documenting the need for and purpose of the proposed project. The needs assessment shall meet all requirements listed in applicable existing County Jail Capital Expenditure Fund regulations as they may be amended.
- (e) The county shall document the existence of, or plans for, separate housing for juveniles, unless otherwise authorized by law, for persons detained or arrested because of intoxication, and for mentally ill defendants or convicted prisoners, which will prevent mixing of these categories of prisoners with other, adult, jail prisoners. The county shall also document county policies and procedures for screening, identifying, and classifying inebriates and mentally ill prisoners.

If the county has no existing provisions for detoxification housing for public inebriates and for housing of mentally ill prisoners and juveniles, it shall make provisions for that housing as part of its proposed project.

- (f) The county shall also document that it uses alternatives to incarceration to the greatest practicable extent. The following procedure shall be implemented by the board:
- (1) The board shall collect annually from all counties information on county incarceration rates (average daily jail populations as a proportion of the total county population or total arrests or both); pretrial misdemeanant ratios (the percentage which unsentenced prisoners charged only with misdemeanors constitute of the total average daily unsentenced jail population); and sentenced alternatives ratios (for example, average daily populations in work-in-lieu of jail programs and county parole as a percentage of the total average daily sentenced misdemeanant prisoner population).

All counties that have received or will receive state funds for jail construction shall supply the board the information necessary to comply with this section.

- (2) The board shall supply the information required by this subdivision, as well as any other information requested by the committees.
- (g) The county shall submit a formal project proposal to the board within one year of passage of this act. The project proposal shall describe the construction or renovation project to be undertaken and shall include an estimated budget for the project. The proposal shall also identify how county funding obligations, both for construction and operation of the facility, will be met. The project proposal shall be consistent with the needs and priorites identified in the needs assessment by the county.

Failure to submit a project proposal shall be deemed a declaration by the county that it does not intend to request its allocation under subdivisions (a) and (b) of Section 5, and the amounts allocated in those sections to the county shall be available for reallocation by the board. The board may waive this requirement for submission of a proposal within one year if it determines there are unavoidable delays in the county's preparation of a project proposal.

If a county determines that it is in its best interest to defer its allocation under subdivision (b) of Section 5, and it notifies the board within one year of the effective date of this section of that decision, then the county shall have second priority under subdivision (e) of Section 5.

- (h) To be eligible for funding under this act, the county shall begin construction or renovation work within three years of the passage of this act. If a county fails to meet this requirement, any allocations to the county under this act shall be deemed void and any moneys allocated to the county shall revert to the board for reallocation. The board may waive this requirement if it determines that there are unavoidable delays in the initiation of construction activities.
- SEC. 6.5. The Board of Corrections shall not approve the expenditure of funds appropriated by this act for the construction of county detention facilities until a master plan for county detention facilities has been prepared and adopted by the board of supervisors of the county proposing to construct the facility. In developing the plan, the board of supervisors shall consider alternatives to additional detention facilities and the specific concerns of incorporated cities and other community representatives, and shall give special consideration to existing federal, state, and local detention facilities in order to avoid overconcentration of inmates in one geographic area of the county. If the board of supervisors decides to locate new or expanded detention facilities near existing detention facilities, the board shall publicly state its reasons for that decision.

The Board of Corrections shall only approve expenditure of funds appropriated by this act for the construction of detention facilities in accordance with the plan adopted pursuant to this section.

- SEC. 7. (a) County match on projects funded under this act shall be a minimum of 25 percent of the total project costs. Costs eligible for state funding and as county match shall be those defined in applicable existing sections of the County Jail Capital Expenditure Fund regulations, which regulations may be amended.
- (b) The board shall establish construction cost controls and shall set forth in regulation procedures for setting maximum state funding levels for appropriate construction unit costs, including cost per bed for specified categories of facilities and cost per square foot. These cost norms shall be based on average costs in recently constructed facilities in California that are comparable in size, use, location, and other relevant factors.

Allocations listed in Section 5 notwithstanding, the state contribution shall be up to 75 percent of total project costs or up to 75 percent of the applicable construction cost norms, whichever is lower. Nothing in this section is intended, however, to prescribe maximum limits on county funding levels for the projects.

- (c) The board shall administer the funds allocated in this act to adult jail facilities, according to existing County Jail Capital Expenditure Fund regulations, except as those regulations may be amended to comply with the provisions of this act.
- (d) Prior to entering into a contract with a county, the board shall review and approve the following county submissions regarding the facility proposed for funding:
- (1) The compliance of architectural plans with minimum jail standards.
- (2) County compliance with legal requirements for exclusion of juveniles from adult facilities.
- (3) County plans for provision of separate housing for inebriates and mentally ill prisoners.
- (4) County documentation of its use of alternatives to incarceration.
  - (5) County project proposals.
- (e) The board shall review and, if necessary, comment on the following county submissions prior to entering into a contract for funds under this act:
  - (1) County needs assessment.
- (2) Project proposals and drawings, to evaluate the workability and appropriateness of the approach chosen by the county.
  - (3) Project staffing plans and life cycle cost analysis.
- (f) Prior to releasing any funds to a county, the board shall also review construction cost levels in the funded projects for compliance with cost control regulations.
- SEC. 7.5. If after a hearing, the Board of Corrections makes a finding that a county has failed to comply with a condition or plan approved by the Board of Corrections relating to the requirements of Section 4485.6 of the Penal Code, the Board of Corrections may require the county to pay an amount equal to the pro rata portion

of the principal and interest, paid by the state on bonds the proceeds of which were allocated pursuant to this act to the county for the period of noncompliance. The repayment provisions shall not be applicable if the noncompliance with the condition or plain is the result of circumstances beyond the control of the county, or the Board of Corrections finds the county cannot reasonably comply under the circumstances.

- SEC. 8. (a) As part of its annual report to the Legislature, the board shall provide to the Legislature a report on the status of funds expended, interest being earned, actions implementing the prerequisites for funding listed in Section 5, and any reallocations of funds pursuant to Section 5. The report shall contain a complete listing of funds allocated to each county. The board shall also submit appropriate recommendations, if any, on needed changes in the program and on other matters pertinent to jail funding on which the board wishes to inform the Legislature.
- (b) In order to provide information pertinent to the performance of this funding program and to any additional funding needs, counties receiving funds under this act shall, as a condition of the funding contract, report to the board, at intervals and in a manner to be determined by the board. The sheriff or other official in charge of operating the adult detention system in a county receiving funds under this act shall maintain an inmate accounting system. Data to be maintained on an annual basis includes the following:
- (1) Average daily population of sentenced and unsentenced prisoners by categories of male, female, and juvenile.
- (2) Jail admissions of sentenced and unsentenced prisoners by categories of male and female, booking charge, date and time of booking, date and time of release, and method of release.
  - (3) Detention system capital and operating expenses.
- SEC. 9. (a) The Department of the Youth Authority shall allocate funds for juvenile facilities derived from the County Correctional Facilities Capital Expenditure Bond Act of 1986 as provided by this section. The allocation shall be completed before March 1, 1988.
- (b) Except as provided in subdivision (d), funds allocated under this section shall be expended for the following purposes, based on current juvenile overcrowding or significant health and safety deficiencies, as noted in the most recent annual California Youth Authority inspection report:
  - (1) To relieve juvenile facilities overcrowding.
- (2) To remedy fire and life and safety deficiencies in juvenile facilities.
  - (3) For performance of deferred maintenance.
- (c) In order to be eligible for funding under this section, a county shall comply with standards for maximum use of alternatives to incarceration and adequate facilities for mentally ill detained minors and minors detained because of intoxication adopted by the board under Section 5.5.

The Department of the Youth Authority shall make findings of project eligibility which shall be based upon the standards adopted by the board.

(d) Two million five hundred thousand dollars (\$2,500,000) of the funds allocated under this section shall be reserved for the following counties: Alpine, Amador, Calaveras, Colusa, Glenn, Inyo, Lassen, Mariposa, Modoc, Mono, Plumas, San Benito, Sierra, Trinity, and Tuolumne.

The funds shall be distributed on a per capita basis for the construction or development of county juvenile facilities, secure detention alternatives, or development of secure facilities within existing nonadult facilities. Any unencumbered funds shall revert to the Department of the Youth Authority for distribution on a pro rata basis to all counties eligible under this subdivision.

- (e) The balance of the funds allocated under this section shall be available for construction of county juvenile facilities in the counties other than those specified in subdivision (d) provided that the maximum allocation for any of the counties eligible under this subdivision shall not exceed that county's per capita share of available funds. To the extent that any county eligible under this subdivision does not apply for funds under this section or is declared ineligible, the allocation limit for the remaining counties shall be increased according to a pro rata formula.
- (f) An application for funds shall be made by a county in the manner and form prescribed by the Department of the Youth Authority. A county shall submit a needs assessment documenting the need for and purpose of the proposed project.
- (g) Expenditure shall be made only if county matching funds of 25 percent are provided.
- (h) The Department of the Youth Authority shall report to the Legislature by July 1, 1988, on the status of funds expended and a complete listing of funds allocated to each county.
- (i) The Department of the Youth Authority shall develop a statewide needs assessment which shall be completed before July 1, 1988.
- SEC. 10. The adoption of any regulation necessary to implement this act shall be considered the adoption of an emergency regulation within the meaning of Section 11346.1 of the Government Code without compliance with any requirement of a finding or statement of need for immediate action.
- SEC. 10.5. Notwithstanding any other provisions of law, no state funds from any source shall be disbursed for the construction of an adult jail facility in a charter city on a site that is adjacent to or within two miles of a major league baseball and football stadium and is within three miles of a major amusement park.
- SEC. 11. All money in the 1986 County Correctional Facility Expenditure Fund is appropriated without regard to fiscal year for allocation as follows:
  - (a) Twenty million dollars (\$20,000,000) is appropriated to the

Department of the Youth Authority for allocation as provided by Section 9 provided that not more than two hundred thousand dollars (\$200,000) shall be expended by the Department of the Youth Authority for administrative costs and for performing a statewide needs assessment under subdivision (i) of Section 9.

- (b) The remainder is appropriated to the Board of Corrections for allocation in accordance with Sections 5 and 5.5 and for the administrative costs of the Board of Corrections and the Ad Hoc Jail Standards Committee, but the administrative costs shall not exceed 1 percent of the amount allocated, provided, that for any amount disbursed for a project entitled to receive funds under Section 3 of Chapter 444 of the Statutes of 1984, as amended, from the County Jail Capital Expenditure Bond Act of 1981 or the County Jail Capital Expenditure Bond Act of 1984, that amount shall be repaid to the fund from any amounts that may become available under those earlier bond acts including amounts derived under Section 4 of Chapter 444 of the Statutes of 1984.
- SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to alleviate overcrowding in county correctional facilities at the earliest possible time and to facilitate that goal by clarifying the duties and makeup of the Board of Corrections, it is necessary that this act take effect immediately.

## **CHAPTER 1520**

An act to amend Sections 69596, 69900, and 73773 of, and to repeal and add Sections 74502, 74503, and 74504 of, the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State October 1, 1986.]

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

SECTION 1. Section 69596 of the Government Code is amended to read:

69596. In the City and County of San Francisco there shall be 28 judges of the superior court, any one or more of whom may hold court.

However, the amendments to this section made at the 1986 portion of the 1985–86 Regular Session shall not result in the loss of office of any judge holding office immediately prior to January 1, 1987. Consequently, if immediately prior to January 1, 1987, there are 29 persons holding office as judges of the Superior Court in the City and County of San Francisco, there shall continue to be 29 judges of that

court until such time as a vacancy occurs in any of those offices, at which time there shall be 28 judges of that court.

SEC. 1.5. Section 69900 of the Government Code is amended to read:

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose monthly salaries shall be as set forth hereafter:

Title	Class Number
One executive officer	0555
One assistant executive officer	0584
One administrative assistant	0585
One civil courts coordinator	0588
One criminal courts coordinator	0638
One mental health coordinator	0657
One pre-trial assistant and statistician	0636
One civil jury coordinator	0586
One criminal jury coordinator	0587
Six court commissioners	0620
Four assistant court commissioners	0635
One director, family court services	0640
Five counselors family court services	0655
One chief court calendar clerk	0670
One assistant court calendar clerk	0672
Three court investigators	0648
Three probate examiners	0649
Three court assistants senior	0590
Five court assistants	0589
One research assistant to presiding judge	0735
Eight research assistants	0676
One secretary to executive officer	0679
Four judicial secretaries	0680
Nine judicial clerks senior	0681
Two information clerks	0705
Three judicial clerks	0697
Twenty-eight court reporters	0710

The class numbers set forth in the previous paragraph refer to the superior court position classifications contained in the salary ordinance of the City and County of San Francisco. Those positions shall be paid monthly the equivalent amount as specified in the salary ordinance.

All salaries for original appointments shall be at step 1, provided that on the first of the month following the first anniversary of appointment the employee shall advance to the second step, and thereafter on the first of the month following the second anniversary of appointment the employee shall advance to step 3, and thereafter on the first of the month following the third anniversary of appointment the employee shall advance to step 4, and thereafter

shall be paid at the rate established by step 4.

Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1985–86 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is to be paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the city and county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the city and county for miscellaneous employees.

With the approval of the board of supervisors the court 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 and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members.

Rates of compensation of all officers and assistants and other employees may be altered by joint action and approval of the board of supervisors and a majority of the judges of the court. Such appointments or changes in compensation made pursuant to this paragraph shall be on an interim basis and shall expire on January 1 of the second year following the date of the appointment or change in compensation unless ratified by the Legislature.

The salaries of the employees of the superior court shall be paid by the city and county.

SEC. 2. Section 73773 of the Government Code is amended to read:

73773. (a) The clerk, with the approval of the judges of the court, may appoint one chief deputy clerk, one administrative services assistant I, 14 deputy clerks grade IV, 17 deputy clerks grade III, 13.3 deputy clerks grade II, 10 deputy clerks grade I, 6.5 intermediate typists, 1 secretary, 1 CRT/key operator, 5 court reporters, and such other employees as the board of supervisors approve upon the recommendation of the municipal court, each of whom shall receive a salary recommended by the municipal court and approved by the board of supervisors. Any appointee shall be compensated at the first step and advance to each higher step upon completion of each year of service. Upon the recommendation of the municipal court and approval of the board of supervisors, such employees may be employed at or may be granted a special step increase to any step within the salary range on the basis of experience or qualifications.

(b) Any change in the salaries in effect immediately prior to January 1, 1984, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

- SEC. 3. Section 74502 of the Government Code is repealed.
- SEC. 4. Section 74502 is added to the Government Code, to read: 74502. (a) Notwithstanding any other provision of this code, the municipal court positions specified in this section shall be paid at a minimum the monthly equivalent amount specified.

Whenever any vacancy occurs in a position specified in this section, the judges, or a majority of the judges of the court, shall appoint a person to the vacancy, who shall hold office at their pleasure, and who shall receive the salary specified in this section. The appointing authority, in its discretion, may appoint two part-time appointees to a class number, who shall each receive a salary equal to the pro rata share of the salary specified in this section.

The salary at initial appointment to a class number shall be at step one during the first year of service in that class number, except the appointing authority, in its discretion and excluding positions specified in subdivision (b), when the appointee is qualified may start an appointee at a step level other than step one. After the first year of permanent certification and commencing on the first day of the month following the next anniversary of the appointment, the appointee shall advance to the next step of the class number until the top step in the class is reached.

- (b) There shall be one clerk-administrator who shall serve as secretary to the judges, perform duties specified in the law and those assigned by the judges, and who shall be paid a salary, as class number 0210, of four thousand nine hundred fourteen dollars (\$4,914) for step one, of five thousand one hundred eighty-four dollars (\$5,184) for step two, and of five thousand four hundred seventy dollars (\$5,470) for step three.
- (c) Notwithstanding the provisions of Section 72400, there shall be three traffic referees who shall have the powers and duties specified in Sections 72401, 72402, and 72403, who shall perform such duties as assigned by the presiding judge and who shall be paid a salary, as class number 0250, equal to 50 percent of the salary of a judge of the municipal court during the first year of service; subject to approval of the judges, or a majority of them, a salary equal to 65 percent of the salary of a judge of the municipal court after the first year of permanent certification, commencing on the first day of the month following the first anniversary of appointment; and subject to the approval of the judges, or a majority of them, a maximum salary equal to 75 percent of the salary of a judge of the municipal court after the second year of permanent certification, commencing on the first day of the month following the second anniversary of appointment.
- (d) There shall be two chief deputies, one with overall responsibility for the civil small claims and administrative divisions, and one with overall responsibility for the criminal and traffic divisions, each of whom shall also serve as jury commissioner and who shall exercise insofar as applicable to the municipal court, the powers of a jury commissioner of a superior court and who shall be

- paid a salary, as class number 0220, of four thousand one hundred eighty-five dollars (\$4,185) for step one, of four thousand four hundred fifteen dollars (\$4,415) for step two, and of four thousand six hundred fifty-eight dollars (\$4,658) for step three.
- (e) There shall be one executive assistant to the presiding judge who shall be paid a salary, as class number 0221, of three thousand nine hundred sixty-seven dollars (\$3,967) for step one, of four thousand one hundred eighty-five dollars (\$4,185) for step two, and of four thousand four hundred fifteen dollars (\$4,415) for step three, and who shall perform such duties as are assigned by the presiding judge. When the executive assistant to the presiding judge is a member of the State Bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars (\$400) monthly.
- (f) There shall be one executive secretary to the presiding judge who shall serve as confidential executive secretary to the presiding judge and the executive assistant, who shall perform such duties as assigned by the presiding judge or the executive assistant, and who shall be paid the salary, as class number 0285, of two thousand four hundred twelve dollars (\$2,412) for step one, of two thousand five hundred fifty-seven dollars (\$2,557) for step two, and of two thousand seven hundred ten dollars (\$2,710) for step three.
- (g) There shall be one small claims legal advisor who shall be paid a salary, as class number 0260, of three thousand two hundred forty-five dollars (\$3,245) for step one, of three thousand three hundred seventy dollars (\$3,370) for step two, of three thousand five hundred sixty-nine dollars (\$3,569) for step three, of three thousand seven hundred forty-three dollars (\$3,743) for step four, and of three thousand nine hundred twenty-four dollars (\$3,924) for step five, and who shall perform such duties as are assigned by the clerk-administrator.
- (h) There shall be one deputy clerk who shall be appointed criminal courts calendar coordinator who shall be paid a salary, as class number 0225, of three thousand five hundred sixty-four dollars (\$3,564) for step one, of three thousand seven hundred sixty dollars (\$3,760) for step two, and of three thousand nine hundred sixty-seven dollars (\$3,967) for step three, and who shall perform such duties as are assigned by the judges of the court.
  - SEC. 5. Section 74503 of the Government Code is repealed.
- SEC. 6. Section 74503 is added to the Government Code, to read: 74503. (a) Notwithstanding any other provisions of this code, the municipal court positions specified in this section shall be paid at a minimum the monthly equivalent amount specified.

Whenever any vacancy occurs in a position specified in this section, the clerk-administrator shall appoint, upon the consent of a majority of the judges, or a majority of the judges of the court may appoint, a person to the vacancy who shall hold office at the pleasure

of the appointing authority, and who shall receive the salary specified in this section. The appointing authority, in its discretion, may appoint two part-time appointees to a class number, who shall each receive a salary equal to the pro rata share of the salary specified in this section.

The salary at initial appointment to a class number shall be at step one during the first year of service in that class number, except the appointing authority, in its discretion and when the appointee is so qualified, may start an appointee at a step level other than step one. After the first year of permanent certification and commencing on the first day of the month following the next anniversary of the appointment, the appointee shall advance to the next step of the class number until the top step in the class is reached.

- (b) There shall be one court training coordinator who shall be paid a salary, as class number 0222, of three thousand five hundred sixty-four dollars (\$3,564) for step one, of three thousand seven hundred sixty dollars (\$3,760) for step two, and of three thousand nine hundred sixty-seven dollars (\$3,967) for step three, and who shall perform such duties as are assigned by the clerk-administrator.
- (c) There shall be one deputy clerk who shall be appointed court systems coordinator who shall be paid a salary, as class number 0222, of three thousand five hundred sixty-four dollars (\$3,564) for step one, of three thousand seven hundred sixty dollars (\$3,760) for step two, and of three thousand nine hundred sixty-seven dollars (\$3,967) for step three, and who shall perform such duties as are assigned by the clerk-administrator.
- (d) There shall be one deputy clerk who shall be appointed assistant court systems coordinator, who shall be paid a salary, as class number 0273, of three thousand thirty-five dollars (\$3,035) for step one, of three thousand two hundred two dollars (\$3,202) for step two, and of three thousand three hundred seventy-eight dollars (\$3,378) for step three, and who shall perform such duties as are assigned by the clerk-administrator.
- (e) There shall be one court fiscal officer who shall be paid a salary, as class number 0223, of three thousand seven hundred sixty dollars (\$3,760) for step one, of three thousand nine hundred sixty-seven dollars (\$3,967) for step two, and of four thousand one hundred eighty-five dollars (\$4,185) for step three, and who shall perform such duties as are assigned by the clerk-administrator.
- (f) There shall be one court program analyst manager who shall be paid a salary, as class number 0240, of three thousand four hundred fifty-four dollars (\$3,454) for step one, of three thousand six hundred thirty-two dollars (\$3,632) for step two, of three thousand eight hundred sixteen dollars (\$3,816) for step three, of four thousand seven dollars (\$4,007) for step four, and of four thousand two hundred six dollars (\$4,206) for step five, and who shall perform such duties as are assigned by the clerk-administrator.
- (g) There shall be one assistant court program analyst manager who shall be paid a salary, as class number 0278, of two thousand six

hundred thirty-four dollars (\$2,634) for step one, of two thousand nine hundred eight dollars (\$2,908) for step two, of three thousand fifty-two dollars (\$3,052) for step three, of three thousand two hundred five dollars (\$3,205) for step four, and of three thousand three hundred sixty-seven dollars (\$3,367) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

- (h) There shall be one confidential administrative legal stenographer who shall be paid a salary, as class number 0287, of two thousand four hundred twelve dollars (\$2,412) for step one, of two thousand five hundred fifty-seven dollars (\$2,557) for step two, and of two thousand seven hundred ten dollars (\$2,710) for step three, and who shall perform such duties as are assigned by the clerk-administrator.
- (i) There shall be one personnel-payroll clerk who shall be paid a salary, as class number 0289 of, two thousand four hundred twelve dollars (\$2,412) for step one, of two thousand five hundred fifty-seven dollars (\$2,557) for step two, and of two thousand seven hundred ten dollars (\$2,710) for step three, and who shall perform such duties as are assigned by the clerk-administrator.
- (j) There shall be seven information clerks who shall be paid a salary, as class number 0340, of one thousand four hundred eighty-seven dollars (\$1,487) for step one, of one thousand six hundred ninety dollars (\$1,690) for step two, of one thousand eight hundred ninety-nine dollars (\$1,899) for step three, and of one thousand nine hundred sixty-two dollars (\$1,962) for step four, and who shall perform such duties as are assigned by the clerk-administrator.
- (k) There shall be one law and motion clerk who shall be paid a salary, as class number 0360, of two thousand four hundred twelve dollars (\$2,412) for step one, of two thousand five hundred fifty-seven dollars (\$2,557) for step two, and of two thousand seven hundred ten dollars (\$2,710) for step three, and who shall perform such duties as are assigned by the clerk-administrator.
  - SEC. 7. Section 74504 of the Government Code is repealed.
- SEC. 8. Section 74504 is added to the Government Code, to read: 74504. Notwithstanding any other provisions of this code, the municipal court positions specified in this section shall be paid at a minimum the monthly equivalent amount specified.

The salary at initial appointment to a class number shall be at step one during the first year of service in that class number, except when the appointee is qualified by current civil service classification for other than step one. After the first year of permanent certification and commencing on the first day of the month following the next anniversary of the appointment, the appointee shall advance to the next step of the class number until the top step in the class is reached.

The clerk-administrator shall appoint and assign the duties and responsibility for the following:

(a) Three deputy clerks who shall be the division chiefs in the civil, criminal, and traffic divisions of the court, who shall be paid a

- salary, as class number 0230, of three thousand five hundred sixty-four dollars (\$3,564) for step one, of three thousand seven hundred sixty dollars (\$3,760) for step two, and of three thousand nine hundred sixty-seven dollars (\$3,967) for step three.
- (b) Seven deputy clerks who shall be assistant division chiefs and who shall be paid a salary, as class number 0270, of three thousand thirty-five dollars (\$3,035) for step one, of three thousand two hundred two dollars (\$3,202) for step two, and of three thousand three hundred seventy-eight dollars (\$3,378) for step three.
- (c) Thirty-four deputy clerks who shall be paid a salary, as class number 0280, of two thousand four hundred twelve dollars (\$2,412) for step one, of two thousand five hundred fifty-seven dollars (\$2,557) for step two, and of two thousand seven hundred ten dollars (\$2,710) for step three.
- (d) Twenty-five deputy clerks who shall be paid a salary, as class number 0290, of two thousand twenty-five dollars (\$2,025) for step one, of two thousand one hundred forty-seven dollars (\$2,147) for step two, and of two thousand two hundred seventy-five dollars (\$2,275) for step three.
- (e) Thirty-eight deputy clerks who shall be paid a salary, as class number 0320, of one thousand seven hundred dollars (\$1,700) for step one, of one thousand eight hundred two dollars (\$1,802) for step two, and one thousand nine hundred ten dollars (\$1,910) for step three.
- (f) Seventy-six deputy clerks who shall be paid a salary, as class number 0330, of one thousand four hundred twenty-eight dollars (\$1,428) for step one, of one thousand five hundred thirteen dollars (\$1,513) for step two, and of one thousand six hundred four dollars (\$1,604) for step three.
- (g) Eight half-time deputy clerks who shall be paid a salary, as class number 0331, of seven hundred fourteen dollars (\$714) for step one, of seven hundred fifty-seven dollars (\$757) for step two, and of eight hundred two dollars (\$802) for step three.
- (h) One principal accountant who shall be paid a salary, as class number 1654, of two thousand four hundred forty-seven dollars (\$2,447) for step one, of two thousand five hundred sixty-seven dollars (\$2,567) for step two, of two thousand six hundred ninety dollars (\$2,690) for step three, of two thousand eight hundred twenty-three dollars (\$2,823) for step four, and of two thousand nine hundred sixty-two dollars (\$2,962) for step five.
- (i) Two accountants who shall be paid a salary, as class number 1650, of one thousand six hundred seventy-three dollars (\$1,673) for step one, of one thousand seven hundred fifty-five dollars (\$1,755) for step two, of one thousand eight hundred forty dollars (\$1,840) for step three, of one thousand nine hundred twenty-nine dollars (\$1,929) for step four, and of two thousand twenty-one dollars (\$2,021) for step five.
- (j) One senior account clerk who shall be paid a salary, as class number 1632, of one thousand five hundred sixty-eight dollars

- (\$1,568) for step one, of one thousand six hundred forty-two dollars (\$1,642) for step two, of one thousand seven hundred twenty-three dollars (\$1,723) for step three, of one thousand eight hundred five dollars (\$1,805) for step four, and of one thousand eight hundred ninety-two dollars (\$1,892) for step five.
- (k) Two account clerks who shall be paid a salary, as class number 1630, of one thousand three hundred fifty-nine dollars (\$1,359) for step one, of one thousand four hundred twenty-five dollars (\$1,425) for step two, of one thousand four hundred ninety-six dollars (\$1,496) for step three, of one thousand five hundred sixty-eight dollars (\$1,568) for step four, and of one thousand six hundred forty-two dollars (\$1,642) for step five.
- (1) One deputy clerk and while assigned by the clerk-administrator as assistant personnel-payroll deputy shall be paid, in addition to the salary provided by this article, the additional sum of one hundred dollars (\$100) monthly.
- (m) One deputy clerk and while assigned by the clerk-administrator as budget-purchasing deputy to the court fiscal officer shall be paid, in addition to the salary provided by this article, the additional sum of fifty dollars (\$50) monthly.
- (n) Two deputy clerks who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk-administrator, shall be paid, in addition to the salary provided by this article, the additional sum of one hundred dollars (\$100) monthly.
- (o) Six deputy clerks and while assigned by the clerk-administrator and where specific duties merit may be paid at the discretion of the appointing authority, in addition to the salary provided by this article, the additional sum of fifty dollars (\$50) monthly.
- (p) Two deputy clerks who shall serve as master jury calendar clerk, civil, and master jury calendar clerk, criminal, and while assigned to such position by the clerk-administrator shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars (\$100) monthly.
- (q) Deputy clerks who are required and authorized to work more than 40 hours a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.
- SEC. 9. The superior court judgeship eliminated by Section 1 of this act is the judgeship created by Section 12 of Chapter 1607 of the Statutes of 1985.
- 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 1521

An act to add Division 15 (commencing with Section 150000) to the Public Utilities Code, and to add and repeal Section 7252.13 of the Revenue and Taxation Code, relating to the Tuolumne County Traffic Authority.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1986.]

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

SECTION 1. Division 15 (commencing with Section 150000) is added to the Public Utilities Code, to read:

## DIVISION 15. TUOLUMNE COUNTY TRAFFIC AUTHORITY

CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS

150000. This division shall be known and may be cited as the Tuolumne County Road Facilities Improvement Act.

150001. The Legislature hereby finds and declares all of the following:

- (a) Recognizing the scarcity of resources available for all transportation development, the alternative methods of financing provided in this division are needed to finance the cost of maintaining, acquiring, constructing, and developing facilities for transportation systems in the County of Tuolumne and these methods will increase economic opportunities, contribute to economic development, be in the public interest and serve a public purpose, and promote the health, safety, and welfare of the citizens within the County of Tuolumne.
- (b) It is in the public interest to allow the voters of Tuolumne County to create the Tuolumne County Traffic Authority so that local decisions can be implemented in a timely manner to provide improvements to the transportation system.

150002. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

150003. "Authority" means the Tuolumne County Traffic Authority created pursuant to this division in the County of Tuolumne.

150004. "City" means the City of Sonora in the County of Tuolumne.

150005. "County" means the unincorporated area of the County of Tuolumne.

150006. "County of Tuolumne" and "Tuolumne County" mean the entire territory of the County of Tuolumne, including the territory of incorporated cities within the county. 150007. "Electors" means the electors of the city with respect to a city ordinance, or the electors of the county with respect to a county ordinance.

150008. "Ordinance" means either a city ordinance or a county ordinance, adopted pursuant to Section 150201, which imposes a retail transactions and use tax within the city or the county, respectively.

150009. "Tuolumne County LTC" means the Tuolumne County and Cities Area Planning Council, the transportation planning agency for the county established pursuant to Section 29535 of the Government Code. Any board, commission, department, or officer succeeding to the functions of the LTC is granted the powers and duties of the LTC under this division.

150010. "Voters" means the voters of the city with respect to a city ordinance, or the voters of the county with respect to a county ordinance.

### CHAPTER 2. CREATION OF THE AUTHORITY

150050. There is hereby created the Tuolumne County Traffic Authority in the County of Tuolumne.

150051. The appointed Commissioners of the Tuolumne County LTC shall serve as the Tuolumne County Traffic Authority.

150052. The authority shall hire only that staff as may be necessary to meet its responsibilities, but shall strive to use the existing Tuolumne County LTC staff and committees to the greatest extent possible. The Tuolumne County LTC shall be reimbursed by the authority for any staff services it provides.

# CHAPTER 3. ADMINISTRATION

150100. The organization and procedures manual of the Tuolumne County LTC shall be the established rules for the proceedings and administration of the authority except as provided otherwise in this division.

150101. Meetings of the authority shall be held at least annually and as often as determined necessary by the authority.

All meetings of the authority shall be conducted pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

150102. The acts of the authority shall be expressed by motion, resolution, or ordinance.

150103. The authority shall expend only that amount of the funds generated pursuant to this division for staff support, audit, administrative expenses, and contract services that are necessary and reasonable to carry out its responsibilities pursuant to this division.

The authority shall not expend more than 5 percent of the funds generated pursuant to this division in any year for salaries and benefits of its staff.

- 150104. The authority shall do all of the following:
- (a) Adopt an annual budget.
- (b) Cause a postaudit of the financial transactions and records of the authority and of all revenues expended pursuant to this division to be made at least annually by a certified public accountant.
- (c) Do any and all things necessary to carry out the purposes of this division.
- 150105. (a) The authority shall publish, pursuant to Section 6061 of the Government Code, notice of the time and place of the public hearing for the adoption of the annual budget not later than 15 days prior to the hearing.
- (b) The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

## CHAPTER 4. POWERS AND FUNCTIONS

150150. The authority may adopt a seal and alter it at its pleasure. 150151. The authority may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all court tribunals of competent jurisdiction.

150152. All claims for money or damages against the authority are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

150153. The authority may make contracts and enter into stipulations of any nature whatsoever, including, but not limited to, contracts and stipulations to indemnify and hold harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this division.

150154. The authority may contract with any department or agency of the United States of America, with any public agency, including, but not limited to, the Department of Transportation, the Tuolumne County LTC, or with any person upon any terms and conditions that the authority finds is in its best interest.

150155. The authority may provide and maintain, by contract with a public agency or by other means, a security force to enforce its regulations, preserve and protect any project financed pursuant to this division, and preserve and protect the public peace, health, and safety with respect to its projects.

# CHAPTER 5. TRANSACTIONS AND USE TAX

150200. The Legislature, by the enactment of this chapter, intends the additional funds provided government agencies by this chapter to supplement existing local revenues being used for public transportation purposes. The government agencies are further encouraged to maintain their existing commitment of local funds for public transportation purposes.

150201. A retail transactions and use tax ordinance shall be

imposed by the authority in accordance with Section 150206 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if a majority of the electors voting on the measure vote to approve its imposition at special elections called for that purpose by the county and city, respectively. Those elections shall be consolidated. The ordinances shall take effect at the close of the polls on the day of election at which the measures are adopted, to impose the tax at the same rate.

The initial collection of the retail transactions and use tax shall take place in accordance with Section 150204.

If, at any time, the voters do not approve an ordinance imposing the retail transactions and use tax, the same or a different measure imposing that tax may, at any time thereafter, be submitted to the voters.

150202. The retail transactions and use tax ordinance shall state the nature of the tax to be imposed, the tax rate or the maximum tax rate, the purposes for which the revenue derived from the tax will be used, and may set a term, not to exceed 15 years, during which the tax will be imposed. The purposes for which the tax revenues will be used may include, but are not limited to, the administration of this division, including legal actions related thereto, the construction, capital acquisition, maintenance, and operation of streets, roads, and highways, including state highways. These purposes include expenditures for the planning, environmental reviews, engineering and design costs, and related right-of-way acquisition. The ordinance shall reference an expenditure plan which shall include the allocation of revenues for the purposes authorized by this section.

150203. (a) The county shall conduct the elections called pursuant to Section 150201.

- (b) The elections shall be called and conducted in the same manner as provided by law for the conduct of elections by a county.
- 150204. (a) Any retail transactions and use tax ordinance adopted pursuant to this chapter shall be operative on the first day of the first calendar quarter commencing more than 120 days after adoption of the ordinance.
- (b) An increase in the tax rate, adopted by the electors' approval of an ordinance pursuant to subdivision (b) of Section 150206, or a decrease in the tax rate adopted by the authority pursuant to Section 150207, shall be operative on the first day of the first calendar quarter commencing more than 120 days after approval by the electors or adoption by the authority, as the case may be.
- (c) Prior to the operative date of the ordinance, the authority shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.
- 150205. (a) Revenues from the retail transactions and use tax imposed pursuant to this chapter shall be allocated by the authority for public transportation purposes consistent with the expenditure plan referenced in the ordinance imposing the tax. The authority, by

a four-fifths vote of its members, may revise that expenditure plan after conducting noticed public hearings on the proposed revision.

(b) The amounts allocated to projects within the county and the city, respectively, shall be proportionate to the revenues derived from the tax collected within each of the respective jurisdictions.

- 150206. (a) The authority, subject to the approval of the voters, may impose a maximum tax rate of 1 percent under this division and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and the authority may state the maximum tax rate at 1 percent or one-half of 1 percent. The authority shall not levy the retail transactions and use tax at a rate other than 1 percent or one-half of 1 percent, unless specifically authorized by the Legislature.
- (b) The tax rate adopted pursuant to this chapter, unless otherwise prohibited, may be increased by the authority by ordinance adopted in the manner and by the vote stated in Sections 150201 and approved by a majority of the electors voting on the measure at an election called for that purpose.

150207. The authority may reduce the tax rate to a percentage lower than that approved by the voters and may further provide for an increase of the tax rate if it has previously been lowered. However, the tax rate may not be increased to a rate above the tax rate approved by the voters.

Any revised tax rate may be adopted only if the authority determines, by a four-fifths vote of its members, that the proceeds of the taxes with the altered tax rate will be sufficient to provide for the payment of the principal of, and interest on, any limited tax bonds and any other indebtedness incurred by the authority which was to be payable from the proceeds of the retail transactions and use tax

- 150208. (a) A ballot proposition to approve an ordinance for the imposition of a retail transactions and use tax, shall seek authorization to issue bonds payable from the proceeds of the tax and establish the appropriations limit of the authority.
- (b) The maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax for a period of not more than the number of years for which the tax authorized by this chapter is to be imposed.
- 150209. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the authority at any time, and from time to time, payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax.
- (b) The pledge of the tax to the limited tax bonds authorized under this chapter shall have priority over the use of any of the taxes for "pay-as-you-go" financing, except to the extent that the priority

is expressly restricted in the resolution authorizing the issuance of the bonds.

150210. The authority may provide for the bonds to bear a variable interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

150211. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the authority by a four-fifths vote of all of its members.

The authority 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 purposes set forth in the ordinance adopted pursuant to Section 150202, which shall constitute an "enterprise" within the meaning of Section 54309 of the Government Code. Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code and the limitations on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code do not apply to the issuance of the sale of bonds pursuant to this division. Instead, the authority shall authorize the issuance of bonds by resolution, which shall specify all of the following:

- (a) The purposes for which the bonds are to be issued.
- (b) The maximum principal amount of the bonds.
- (c) The maximum term for the bonds.
- (d) The maximum rate of interest to be payable upon the bonds shall not exceed the maximum rate permitted by Section 53531 of the Government Code or any other applicable provisions of law. In the case of bonds bearing a variable interest rate, the variable rate shall on no day exceed the maximum rate permitted on that day by Section 53531 of the Government Code or any other applicable provisions of law.
- (e) The maximum discount on the sale of the bonds. However, the bonds shall not be sold at less than 95 percent of the principal amount in the manner determined by the authority. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of the bonds authorized has been issued. The full amount of bonds may be divided into two or more series with different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

150212. Any bonds issued pursuant to this chapter are a legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within this state, that money or funds may be invested in the bonds issued under this chapter, and whenever bonds of cities, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money,

the bonds issued pursuant to this chapter may be so used. The provisions of this chapter are in addition to all other laws relating to legal investment and shall be controlling as the latest expression of the Legislature with respect thereto.

150213. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this chapter or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within six months from the date of the election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and incontestable.

150214. The commission may not impose any tax other than the retail transactions and use tax imposed upon approval of the voters in accordance with this division.

SEC. 2.. Section 7252.13 is added to the Revenue and Taxation Code, to read:

7252.13. "District," as used in this part, also means the Tuolumne County Traffic Authority, if authorized to impose transactions and use taxes pursuant to this part.

This section shall remain in effect as long as Division 15 (commencing with Section 150000) of the Public Utilities Code remains in effect, but shall be repealed upon the repeal of that division.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because 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.

# CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

1985-86

**REGULAR SESSION** 

1986 RESOLUTION CHAPTERS



Assembly Constitutional Amendment No. 7—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of Article II thereof, relating to elections.

[Filed with Secretary of State January 28, 1986]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1985–86 Regular Session commencing on the third day of December, 1984, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending Section 6 of Article II thereof, as follows:

- SEC. 6. (a) All judicial, school, county, and city offices shall be nonpartisan.
- (b) No political party or party central committee may endorse, support, or oppose a candidate for nonpartisan office.

#### RESOLUTION CHAPTER 2

Senate Constitutional Amendment No. 28—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding subdivisions (e) and (f) to Section 2 of Article XIII A thereof, relating to property taxation.

[Filed with Secretary of State January 30, 1986]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1985–86 Regular Session commencing on the third day of December 1984, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That subdivision (e) is added to Section 2 of Article XIII A thereof. to read:

(e) Notwithstanding any other provision of this section, the Legislature shall provide that 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, that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

This subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base-year values for the 1985–86 fiscal year and fiscal years thereafter.

Second—That subdivision (f) is added to Section 2 of Article XIII A thereof, to read:

- (f) For the purposes of subdivision (e):
- (1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.
- (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, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

# RESOLUTION CHAPTER 3

Senate Concurrent Resolution No. 57—Relative to Rural Crime Prevention Month.

[Filed with Secretary of State February 3, 1986.]

WHEREAS, It has come to the attention of the Legislature that February 1986 is designated as Rural Crime Prevention Month, and it is appropriate at this time that the California Rural Crime Prevention Task Force be extended the special honor and commendations of the people of California in recognition of its many contributions to the citizens of California; and

WHEREAS, It is the duty of government, private industry, and the citizens of California to assist in protecting themselves and others from crime; and

WHEREAS, Crime prevention programs implemented at the local level inspire citizens to actively participate; and

WHEREAS, Private industry, governmental agencies, law enforcement organizations, agricultural organizations, and the citizens of California have joined in cooperation and sponsorship with the California Rural Crime Prevention Task Force to recognize California's second annual Rural Crime Prevention Month in February 1986; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature designates February 1986 as Rural Crime Prevention Month, commends the California Rural Crime Prevention Task Force, and encourages the people of California to support this worthwhile effort; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the California Rural Crime Prevention Task Force.

Senate Concurrent Resolution No. 52—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State February 4, 1986.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the State's Economy is continued in existence through November 30, 1986, notwithstanding the provisions of any prior concurrent resolution affecting the committee. The committee shall continue to have the powers and duties granted and imposed by the resolution creating or continuing it. The committee may expend any funds heretofore or hereafter made available and further allocations may be made by the Joint Rules Committee; provided, that in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

#### RESOLUTION CHAPTER 5

Senate Concurrent Resolution No. 51—Relative to the Joint Rules.

[Filed with Secretary of State February 7, 1986]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Temporary Joint Rules of the Senate and the Assembly for the 1985–86 Regular Session be amended as follows:

FIRST—That Rule 51 is amended to read:

# Legislative Calendar

- 51. (a) The Legislature shall observe the following calendar during the first year of the regular session:
- (1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Tuesday.
- (2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.
- (3) Summer Recess—The Legislature shall be in recess from July 19 until August 19. This recess shall not commence until the Budget Bill is enacted.
  - (4) Interim Study Recess—The Legislature shall be in recess from

September 13 until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Tuesday.

- (b) The Legislature shall observe the following calendar for the remainder of the legislative session:
- (1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.
- (2) Summer Recess—The Legislature shall be in recess from July 11 until August 11. This recess shall not commence until the Budget Bill is enacted.
- (3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30.
- (c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses
- (d) The recesses specified by this rule shall be designated as joint recesses.

SECOND—That Rule 61 is amended to read:

(a

# **Deadlines**

61. The following deadlines shall be observed by the Senate and Assembly. After each deadline, the Secretary of the Senate and the Chief Clerk of the Assembly shall not accept committee reports from their respective committees except as otherwise provided in this rule:

ι)	Odd-numbered year:		,
	(1) Mar 8	-	Last day for bills to be intro- duced.
	(2) May 3	-	Last day for policy committees to report to fiscal committees fis- cal bills introduced in their house.
	(3) May 24	-	Last day for policy committees to report to the floor nonfiscal bills introduced in their house.
	(4) June 14	-	Last day for policy committees to meet prior to July 1.
	(5) June 21	-	Last day for fiscal committees to report to the floor bills introduced in their house.
	(6) June 21	-	Last day for fiscal committees to meet and report bills prior to July 1.
	(7) June 28	-	Last day for each house to pass bills introduced in their house.
	(8) July 1	-	Committee meetings may resume.

	(9) July 19	-	Last day for policy committees to report to fiscal committees fis- cal bills introduced in the other
	(10) Aug 23	-	house.  Last day for policy committees
	(11) Aug 30	-	to meet and report bills.  Last day for fiscal committees to meet and report fiscal bills.
	(12) Sept 13	-	Last day for each house to pass bills.
(b)	Even-numbered year: (1) Jan 17	-	Last day for policy committees to hear and report to fiscal com- mittees fiscal bills introduced in their house in the odd-numbered year.
	(2) Jan 24	-	Last day for any committee to hear and report to the floor bills introduced in their house in the odd-numbered year.
	(3) Jan 30	-	Last day for each house to pass bills introduced in their house in the odd-numbered year.
	(4) Feb 21	-	Last day for bills to be introduced.
	(5) Apr 18	-	Last day for policy committees to hear and report to fiscal com- mittees fiscal bills introduced in their house.
	(6) May 9	-	Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.
	(7) May 30	-	Last day for policy committees to meet and report bills prior to June 16.
	(8) June 6	•	Last day for fiscal committees to hear and report to the floor bills introduced in their house.
	(9) June 6	-	Last day for fiscal committees to meet and report bills prior to June 16.
	(10) June 13	-	Last day for each house to pass bills introduced in their house.
	(11) June 16	-	Committee meetings may resume.
	(12) July 3	-	Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in the other house.

- (13) July 11
- (14) Aug 15
- (15) Aug 29
- Last day for policy committees to meet and report bills.
- Last day for fiscal committees to meet and report fiscal bills.
- Last day for each house to pass bills.
- (c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may subsequently receive a report recommending the bill for passage or for rereferral together with the amendments at any time within two legislative days after the deadline.
- (d) Notwithstanding subdivisions (a) and (b), a policy committee may report a bill to a fiscal committee on or before the relevant deadline for reporting nonfiscal bills to the floor, if, after the policy committee deadline for reporting the bill to fiscal committee, the Legislative Counsel's Digest is changed to indicate reference to fiscal committee.
- (e) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines imposed in subdivision (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from the interim study joint recess.
- (f) The deadlines imposed by this rule shall not apply to the rules committees of the respective houses.
- (g) The deadlines imposed by this rule shall not apply in instances where a bill is referred to committee under Rule 26.5.
- (h) (1) Notwithstanding subdivisions (a) and (b), a policy committee or fiscal committee may meet for the purpose of hearing and reporting a constitutional amendment, or a bill which would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California, at any time other than those periods when no committee may meet for any purpose.
- (2) Notwithstanding subdivisions (a) and (b), either house may meet for the purpose of considering and passing a constitutional amendment, or a bill which would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California, at any time during the session.
- (i) This rule may be suspended as to any particular bill by approval of the Committee on Rules and two-thirds vote of the membership of the house.

Senate Joint Resolution No. 39—Relative to harbor emergency response services.

[Filed with Secretary of State February 7, 1986]

WHEREAS, Currently, local fire departments are responsible for fighting fires on ships in ports; and

WHEREAS, The personnel of these departments are inadequately trained for this task, and there is a lack of resources to purchase necessary equipment, such as fireboats; and

WHEREAS, Legislation is pending before Congress to authorize urgently needed grants to local fire departments for these purposes; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States and the President to include in the Water Resources Development Act of 1985 (S. 1567) the provisions contained in Section 109 (a) (1) (B) and Section 113 of H.R. 6 concerning financial assistance for emergency response services in ports and to enact those provisions into law; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

# RESOLUTION CHAPTER 7

Assembly Joint Resolution No. 82—Relative to memorializing the 10 astronauts who have died in the service of the United States of America.

[Filed with Secretary of State February 18, 1986]

WHEREAS, On January 28, 1986, the seven-person crew of the space shuttle Challenger was tragically killed in an explosion just after lift-off from Cape Canaveral, Florida, and these astronauts were: Gregory B. Jarvis, Sharon Christa McAuliffe, Ronald E. McNair, Ellison S. Onizuka, Judith A. Resnik, Francis R. Scobee, and Michael J. Smith; and

WHEREAS, On January 27, 1967, the only other deaths in the history of the United States manned space program occurred when Roger B. Chaffee, Virgil I. (Gus) Grissom, and Edward H. White II were killed when a flash fire swept through their Apollo capsule during a ground test; and

WHEREAS, It is appropriate to honor the memories of those 10 brave Americans who sacrificed their lives for the advancement of human knowledge through the peaceful exploration of space; and

WHEREAS, Continuing on a mission which began in 1977, the unmanned Voyager-2 spacecraft has recently sent back information about the planet Uranus, and 10 hitherto unknown moons of that planet have been discovered as a result; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby proposes that the 10 recently discovered moons of Uranus be named for the 10 astronauts who have died in the service of the United States of America; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the International Astronomical Union, the President and Vice President of the United States, the Speaker of the United States House of Representatives, each Senator and Representative from California in the Congress of the United States, the Director of the Jet Propulsion Laboratory in Pasadena, and the Administrator of the National Aeronautics and Space Administration.

#### RESOLUTION CHAPTER 8

Assembly Joint Resolution No. 60—Relative to the National Historical Trail System.

[Filed with Secretary of State February 18, 1986.]

WHEREAS, During 1775 and 1776, Colonel Juan Bautista de Anza brought 240 men, women, and children from the northern provinces of Mexico across southern Arizona and California to Monterey, California, traveling some 1,600 miles of rugged desert and mountainous terrain to open the first land route to California; and

WHEREAS, Some of the members of the expedition would be the founders of a mission and presidio at Yerba Buena (San Francisco) and other colonizers would help found California's first pueblo at San Iose; and

WHEREAS, Colonel de Anza's accomplishment exemplified the finest attributes of leadership, courage, skill, and determination, worthy of the great American heroes of our past; and

WHEREAS, The de Anza Expedition itself was a "remarkable record, never excelled—perhaps never equaled—in the history of the pioneer treks of peoples to the Pacific Coast, before, during, or after the Gold Rush"; and

WHEREAS, The de Anza Expedition was reenacted through special symbolic observances throughout California and in conjunction with Spain, Mexico, and the State of Arizona during 1975 and 1976; and

WHEREAS, The period from August 1, 1975, to July 4, 1976, was proclaimed "The 200th Anniversary of the de Anza Expedition," and was celebrated as a reaffirmation of the unique multicultural and bountiful heritage of the State of California; and

WHEREAS, The historic use of the de Anza Trail has had a far-reaching effect on broad patterns of American culture and on the culture of the people of California; and

WHEREAS, The de Anza Trail has significant potential for public recreational use and historic interest for the people of California; and

WHEREAS, The designation of the Juan Bautista de Anza Trail as a component of the National Trails System would benefit the people of California culturally, economically, and enrich the general quality of life; and

WHEREAS, The National Park Service, in 1984 and 1985, pursuant to Public Law 98-11, studied the feasibility of establishing the de Anza Trail as a component of the National Trails System; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact appropriate legislation designating the Juan Bautista de Anza Trail as a component of the National Trails System; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 99—Relative to Women's History Week.

[Filed with Secretary of State February 21, 1986]

WHEREAS, American women of every class and ethnic background participated in the founding of our nation and have played a critical role in shaping the economic, cultural, and social fabric of our society through their participation in the labor force, working both inside and outside the home; and

WHEREAS, Women have been leaders in every movement for progressive social change, including their own suffragette movement, the fight for emancipation, the struggle to organize labor unions, and the civil rights movement; and

WHEREAS, Despite these contributions, the role of American women in history has been consistently overlooked and undervalued; and

WHEREAS, The celebration of Women's History Week each year provides an opportunity for schools and communities to focus attention on the heritage of women's contribution in the United States, and for students, in particular, to benefit from an awareness of these contributions; and

WHEREAS, Women's History Week coincides with International Women's Day, March 8, originally proclaimed in 1910 to recognize and commemorate the valuable contributions women have made to the labor movement to improve working conditions and thus better peoples' lives; and

WHEREAS, The observance of Women's History Week was begun by the Sonoma County Commission on the Status of Women in 1978, and has since been commemorated throughout the nation by schools, historians, and community groups; and

WHEREAS, Women's History Week is not only a call to acknowledge the outstanding American women whose names we know, but also a call to pay homage to the nameless women who have shaped our collective past; and

WHEREAS, The strides made by our foremothers enable contempory women to make tomorrow's history by advocating an end to physical and sexual assault, discrimination in the workforce, and the feminization of poverty, and by advocating the full participation of women in the political arena, adequate child care, and equal access to all the opportunities this nation has to offer; and

WHEREAS, Because of the significance and scope of women's role in making history and shaping American culture and society, it is important that the State of California recognize the many contributions of women; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members take pleasure in joining with the Sonoma County Commission on the Status of Women and the California Commission on the Status of Women in honoring the contributions of women, and urge all Californians to join in the celebration of International Women's Day on March 8, 1986; and be it further

*Resolved*, That the week of March 2 through 8 be designated as Women's History Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chair of the Sonoma County Commission on the Status of Women and the Chair of the California State Commission on the Status of Women for distribution to appropriate organizations.

Assembly Joint Resolution No. 10—Relative to the Pacific Fishery Management Council and the Magnuson Fishery Conservation and Management Act.

[Filed with Secretary of State February 21, 1986.]

WHEREAS, Pacific Coast fishing interests supported the passage of the Magnuson Fishery Conservation and Management Act of 1976 by the United States Congress because they believed it would reduce or phase out major foreign fishing fleets working off the Pacific Coast: and

WHEREAS, Pacific Fishery Management Council regulation has not resulted in a significant reduction or phaseout of foreign fishing, but has allowed foreign fleets as close as three miles to the Pacific Coast instead of the pre-1976 limit of 12 miles; and

WHEREAS, American fishermen have been subjected to increasing regulation and a dramatic economic decline; and

WHEREAS, The salmon resource has declined continually since the creation of the Pacific Fishery Management Council, and the council's approach to salmon management has been dramatic reductions in ocean harvest aimed at the single goal of escapement; and

WHEREAS, The council has done nothing to help correct severe salmon habitat problems that are presently the major factor limiting the rebuilding of salmon stocks; and

WHEREAS, The council's approach to harvest management has led to a steady decline in all phases of the fishing industry (including commercial, sport, charter, and American Indian), with a full 50 percent of the commercial fishermen out of business or on the verge of bankruptcy, and coastal communities dependent on income from commercial and sport fisheries totally devastated; and

WHEREAS, There is presently no statutory requirement that fishery user groups be represented on the council; and

WHEREAS, The council is not involved in any habitat restoration or fishery resource enhancement; and

WHEREAS, The council has no plans to phase out foreign fishing off the Pacific Coast; and

WHEREAS, Idaho is the only noncoastal state with voting powers on ocean fisheries on any fishery management council in this country; and

WHEREAS, The Magnuson Fishery Conservation and Management Act has led to an attempt by the federal government to permanently preempt Oregon's authority to manage fishery resources within Oregon's state waters, with California as the threatened next target for permanent preemption; and

WHEREAS, Congress is scheduled to consider reauthorization and possible reform of the Magnuson Fishery Conservation and

Management Act in 1986, and responsible organizations including Fishermen's Solidarity, the National Wildlife Federation, the Fisheries Resources Task Force of the Oregon House of Representatives, and the Pacific Marine Fisheries Commission have made positive proposals for reform; and

WHEREAS, The House of Representatives Merchant Marine and Fisheries Committee has passed legislation incorporating most of the recommendations of the Pacific Coast Fisheries organizations on habitat and representation issues; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation in order to amend the Magnuson Fishery Conservation and Management Act in 1986 to meet the goals and objectives of the united Pacific Coast fishing community; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California, Oregon, and Washington in the Congress of the United States, to the Chairperson of the House of Representatives Merchant Marine and Fisheries Committee, to the Secretary of Commerce, and to the Director of Fish and Game of the State of California.

# RESOLUTION CHAPTER 11

Assembly Joint Resolution No. 61—Relative to the Santa Ana River Basin.

[Filed with Secretary of State February 21, 1986]

WHEREAS, One of the greatest flooding threats in the United States lies within the overflow path of the Santa Ana River in Orange, Riverside, and San Bernardino Counties, affecting the Cities of San Bernardino, Riverside, Fullerton, Anaheim, Orange, Stanton, Santa Ana, Garden Grove, Westminster, Fountain Valley, Costa Mesa, Newport Beach, and Huntington Beach; and

WHERE'AS, Within this century there have been 14 medium to severe winter floods in the Santa Ana River Basin, including one in 1938 which devastated central Orange County and killed 45 persons; and

WHEREAS, The Congress of the United States acted quickly after the 1938 flood and authorized construction of Prado Dam near Corona which was completed in 1941; and

WHEREAS, Subsequent study by the United States Army Corps of Engineers has estimated that a flood like the one which occurred in 1862, a flood not included in the design of Prado Dam, would fill the reservoir beyond its capacity with the uncontrolled flow over the spillway harming more than one million people and causing damage and economic loss of more than \$9,000,000,000, and would cover 110,000 acres of Central Orange County to an average depth of 3 feet; and

WHEREAS, The Boards of Supervisors of Orange, Riverside, and San Bernardino Counties have requested the Corps of Engineers to remedy this great flood hazard, but construction has not yet been authorized by Congress; and

WHEREAS, If authorized by Congress in 1986, the earliest anticipated completion for the Santa Ana River Basin Project would be no sooner than the year 2000, and in this interim period residents and businesses will continue to be exposed to this great flood hazard; and

WHEREAS, The upper basin of the Santa Ana River in Riverside and San Bernardino Counties is the fastest growing region of California, and this rapid urbanization is increasing the flood hazard to Orange County through increases in both peak and total storm runoff; and

WHEREAS, Given the need of flood control to mitigate the great hazard posed by the Santa Ana River to millions of residents and businesses, it is necessary for the Legislature to express to the federal government the Legislature's policy for flood control in the Santa Ana River Basin; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, and the Chief of the United States Army Corps of Engineers to authorize, and move expeditiously to complete, the Santa Ana River Basin Project; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Chief of the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 12

Senate Concurrent Resolution No. 54—Relative to California State University.

[Filed with Secretary of State February 21, 1986.]

WHEREAS, The 1960 Master Plan for Higher Education, authored by the late Assemblywoman Dorothy Donahoe, created the original

system of the California State Colleges; and

WHEREAS, July 1, 1986, marks the 25th Anniversary of the California State University, and 1985–86 as its 25th year of service to the people of California; and

WHEREAS, The mission of the California State University is to advance and extend knowledge, learning, and culture throughout California; and

WHEREAS, The California State University provides opportunities for individuals to develop intellectually, personally, and professionally; and

WHEREAS, The California State University prepares significant numbers of educated, responsible people who contribute to California's schools, economy, culture, and future; and

WHEREAS, The California State University offers undergraduate and graduate instruction leading to undergraduate and graduate degrees in the liberal arts and sciences, the applied fields, and the professions, and prepares students for an international, multicultural society; and

WHEREAS, The California State University stresses the importance of the liberal arts and sciences as the indispensable foundation of the baccalaureate degree; and

WHEREAS, The California State University requires of its advanced degree and credential recipients a depth of knowledge, completeness of understanding, and appreciation of excellence that enables them to contribute continuously to the advancement of their fields and professions; and

WHEREAS, The California State University is the state's foremost teacher training institution, and prepares more than 60 percent of California's teachers; and

WHEREAS, The California State University seeks out individuals with collegiate promise who face cultural, geographical, physical, educational, financial, or personal barriers to assist them in advancing to the highest educational levels they can reach; and

WHEREAS, The California State University serves communities as educational, public service, cultural, and artistic centers in ways appropriate to individual campus locations and emphases; and

WHEREAS, The California State University encourages free scholarly inquiry and protects the university as a forum for the discussion and critical examination of ideas, findings, and conclusions, according to the principles of collegiality with the University's Academic Senate; and

WHEREAS, The California State University today constitutes the largest system of senior university education in the nation, with 325,000 students and 38,000 faculty and staff located on 19 campuses, with 1.2 million alumni; and

WHEREAS, The California State University each year awards more than half of all the bachelor's degrees earned within the State of California and one-third of all the master's degrees and has conferred more than a million degrees in the past quarter century; and

WHEREAS, The California State University has proved over and over to be a sound investment and pays enormous dividends to the people of this state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California State University be congratulated and commended upon the occasion of its Silver Jubilee and extended best wishes for its service to the people of the State of California in the next quarter century and beyond; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Chancellor of California State University.

# RESOLUTION CHAPTER 13

Senate Concurrent Resolution No. 58-Relative to alcohol and drug abuse.

[Filed with Secretary of State February 21, 1986.]

WHEREAS, An estimated 1.5 million Californians are problem drinkers: and

WHEREAS, As many as 90 percent of our youth have reportedly tried alcohol and 64 percent have reportedly experimented with illicit substances by their senior year of high school; and

WHEREAS, The cost to California for treatment, lost productivity, crime, and property loss associated with alcohol and drug abuse is \$17.7 billion annually; and

WHEREAS, General public awareness of the dangers of drug and alcohol abuse is necessary to combat this serious problem, now, therefore be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby declares that the month of March 1986 is designated Drug and Alcohol Abuse Awareness Month in this state.

#### RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 104—Relative to Delta Sigma Theta Sorority.

[Filed with Secretary of State February 28, 1986]

WHEREAS, The Delta Sigma Theta Sorority was founded in 1913 at Howard University by 22 coeds, who envisioned an organization of college women pledged to serious endeavors and community service; and

WHEREAS, In 1930, Delta Sigma Theta was incorporated, and the record of incorporation is filed in the Library of Congress in Washington, D.C.; and

WHEREAS, Delta Sigma Theta demonstrates a vital concern for social welfare, academic excellence, and cultural enrichment, and its five point program includes educational development, economic development, international awareness and involvement, physical and mental health, and political awareness and involvement; and

WHEREAS, There are 120,000 members and more than 580 chapters across the nation and in the Republic of Haiti, in Liberia, and in West Germany; and

WHEREAS, The Far West Region of Delta Sigma Theta will hold its first Regionwide Social Action Conference; and

WHEREAS, The Far West Region of Delta Sigma Theta will hold simultaneous Social Action Conferences in the seven states of the Far West Region, including Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington; and

WHEREAS, Representatives of the 43 California Chapters of Delta Sigma Theta will meet in Sacramento at the State Capitol Building from March 8 through 10, 1986, for the California Social Action Conference, "Empowerment and Politics — The DST Connection"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Delta Sigma Theta Sorority be commended on its exemplary record of civic leadership and participation, and that the delegates to the California Action Conference, "Empowerment and Politics — The DST Connection" be extended a warm welcome to Sacramento; and be it further

Resolved, That March 10, 1986, is hereby proclaimed as "Delta Day" in recognition of Delta Sigma Theta Sorority's many achievements and contributions to the common good; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to Delta Sigma Theta Sorority.

# **RESOLUTION CHAPTER 15**

Assembly Concurrent Resolution No. 87—Relative to the Allen Frederick Lehman Bridge.

[Filed with Secretary of State March 10, 1986.]

WHEREAS, Allen Frederick Lehman resided in the County of Del Norte for nearly three-quarters of a century; and

WHEREAS, He is intimately identified with the life and history of the county by its residents; and

WHEREAS, He contributed greatly to the life and well-being of

the people of the county through his membership in various fraternal and civic organizations, including the Elk's Club of Crescent City, the Crescent City Rotary Club, and the Ingomar Club in Eureka; and

WHEREAS, He served on the Crescent City Harbor Commission during its early developmental days and was chairman of the commission in 1949; and

WHEREAS, In 1953, Crescent City's centennial year, he played a critical role in the yearlong preparation for the celebration by serving as Chairman of the Centennial Committee; and

WHEREAS, He devoted much of his time to the recording and preservation of the county and its people and, through his efforts, has left a lasting mark on that history; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Bridge 1-16 on State Highway Route 199 in Del Norte County be designated as the Allen Frederick Lehman Memorial Bridge; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

#### RESOLUTION CHAPTER 16

Assembly Concurrent Resolution No. 88—Relative to the Moon Lim Lee Safety Roadside Rest Area.

[Filed with Secretary of State March 10, 1986]

WHEREAS, Moon Lim Lee, born July 21, 1903, is a native and lifelong resident of Weaverville; and

WHEREAS, Mr. Lee is a descendent of a pioneer Chinese who came to Trinity County in the 1860's in search of gold, representing a large settlement during the gold era, and today he and his wife are the sole remaining Chinese family in Trinity County; and

WHEREAS, A merchant in Weaverville for many years, Mr. Lee began his retailing experience as a young boy of 7 years, delivering vegetables for his family's business in a horse-drawn cart; and

WHEREAS, Mr. Lee has been very active in the community, such as helping to organize the Weaverville Rotary Club, serving as a founding trustee of the Trinity County Historical Society, and leading the effort in making the historic "Joss House" a state park; and

WHEREAS, Mr. Lee has taken a leadership role in programs for the improvement of the highways serving northern California, and in 1967, was appointed to the California Highway Commission by then Governor Ronald Reagan and reappointed in 1971; and

WHEREAS, Mr. Lee's contributions to, and accomplishments for, the people of the State of California have been many; and

WHEREAS, Designation of the safety roadside rest area on State Highway Route 299, five miles east of Weaverville, as the Moon Lim Lee Safety Roadside Rest Area, would appropriately memorialize and reflect the numerous and substantial contributions of Mr. Lee to the community and to the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the safety roadside rest area five miles east of Weaverville on State Highway Route 299 is hereby designated the "Moon Lim Lee Safety Roadside Rest Area;" and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation and a suitably prepared copy to Mr. Moon Lim Lee.

# RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 123—Relative to the United States Military Academy Cadet Gospel Choir.

[Filed with Secretary of State March 10, 1986]

WHEREAS, The United States Military Academy Cadet Gospel Choir, which was formed by Cadet Carl South and Cadet Joseph Floyd in 1974, was originally a satellite of the Protestant Chapel Choir and consisted of only five cadets and, since its founding, the choir has become an independent group with a membership of over 150; and

WHEREAS, The purpose of the cadet choir is threefold, to sing praises to the Lord through song, to support the mission of the academy, and to serve as a support structure for its members; and

WHEREAS, The choir presents and participates in programs designed to enhance understanding and appreciation of the gospel through song, and proudly represents the values and talents for which the United States Military Academy is known; and

WHEREAS, The choir attempts to create an awareness of the academy in communities and congregations that do not normally have the opportunity to benefit from such relationships; and

WHEREAS, During the past 10 years, the choir has appeared at many churches in the West Point area and throughout the

continental United States; and

WHEREAS, The choir provides a process through which its members can support each other's spiritual, professional, and social development; and since the members of the choir plan, coordinate, and administer the choir's programs, it complements their religious, academic, and military growth; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature takes great pleasure in honoring and commending the United States Military Academy Cadet Gospel Choir on its exemplary record of representing the values and talents of the United States Military Academy and enhancing the understanding and appreciation of the gospel through song to the citizens of the United States and extend best wishes for continued success in the future; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the United States Military Academy Cadet Gospel Choir.

# **RESOLUTION CHAPTER 18**

Assembly Concurrent Resolution No. 108—Relative to National Agriculture Week.

[Filed with Secretary of State March 12, 1986]

WHEREAS, Over 24 million men and women in California make up the food service chain which produces and delivers over 250 different crops and livestock products throughout the world; and

WHEREAS, Agriculture remains California's largest industry and its largest source of both jobs and income from exports, with one out of every four jobs in California related to agriculture; and

WHEREAS, California is the leading agricultural state in the United States, with nine of the nation's top 12 agriculture producing counties located in the state, and California's food and fiber is a vital ingredient in our strength as a nation, both domestically and on the world scene; and

WHEREAS, California, recognizing the importance of youth in agriculture, boasts one of the finest agricultural educational systems in the world, with its universities and colleges being leading innovators of research and development in everything from agricultural equipment to improved crops; and

WHEREAS, Farmworkers from all corners of the world have come to California and have become indispensable partners in the achievements of California's most important industry; and

WHEREAS, These workers have provided food and fiber in abundance to the people in the cities, the nation, and the world and have, thus, contributed greatly to the economy of California; and WHEREAS, To maintain a healthy industry and promote a better economy, it is necessary that all of the people of the United States should become aware of, and have an interest in, the manner in which agriculture affects their everyday lives; and

WHEREAS, California's agriculture remains the cornerstone of the state's economy but is experiencing fundamental structural changes, and as we observe National Agriculture Week, we need to keep in mind the importance of structuring an economy that enables many of our farmers to return to profitability; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of March 16 through March 22, 1986, as "National Agriculture Week" and March 20, 1986, as "Agriculture Day"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and to the President of the United States.

# RESOLUTION CHAPTER 19

Assembly Joint Resolution No. 67—Relative to federal income taxation.

[Filed with Secretary of State March 14, 1986]

WHEREAS, The President of the United States has proposed a federal income tax reform plan to promote "fairness, simplicity, and growth"; and

WHEREAS, The President's plan for tax reform would tax the unrealized appreciation in the value of a life insurance policy (other than a term insurance policy), which is often referred to as the inside build-up; and

WHEREAS, The taxation of the inside build-up would impose a disproportionate tax burden on the elderly; and

WHEREAS, Other tax reform proposals have proposed to treat as taxable income, rather than as a loan, any borrowing against a life insurance policy, while denying the deductibility of interest paid on those loans; and

WHEREAS, The ability of a policyholder to borrow against the policy's cash surrender value and to deduct the interest payments is a critically important feature inasmuch as it relieves the anxiety often associated with the making of a long-term financial commitment and, moreover, enables policyholders to keep their insurance in force in the event of financial emergency; and

WHEREAS, Other tax reform proposals have proposed to eliminate the limited exclusion of group term life insurance provided by an employer; and

WHEREAS, Historically, the appreciation or inside build-up of a

life insurance policy has never been taxed, unless the policy is surrendered, just as the appreciation on the value of a home is not taxed until the home is sold; and

WHEREAS, The disincentive to purchase life insurance policies resulting from the adoption of any of those proposals would have the result of significantly reducing a major source of capital formation; and

WHEREAS, The enactment of any of those proposals would produce confusion and administrative problems; and

WHEREAS, If enacted, those proposals are likely to produce results which are contrary to the stated goals of fairness, simplicity, and economic growth; and now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to continue the current tax treatment of life insurance in any revision of federal income tax law which is enacted; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 78—Relative to state highways.

[Filed with Secretary of State March 21, 1986]

WHEREAS, State Highway Route 79 in Riverside County carries state highway thru traffic into the heart of the San Jacinto and Hemet business districts: and

WHEREAS, The combination of state highway and local traffic on Route 79 creates severe traffic congestion in San Jacinto and Hemet; and

WHEREAS, State highways should be designed to carry thru traffic around commercial centers and provide the most direct service to motorists as is possible; and

WHEREAS, A realignment of Route 79 around San Jacinto and Hemet, along the route now taken by Sanderson Avenue, would provide a more direct connection with Route 74 and avoid traffic conflicts in the downtown commercial districts; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to study the feasibility and cost of changing State Highway Route 79 from its current alignment through San Jacinto and Hemet to an alignment which generally follows Sanderson Avenue from Ramona Boulevard to State Highway Route 74; and be it further

Resolved, That the Director of Transportation report the results of this study to the Legislature and the California Transportation Commission by July 1, 1986; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

# RESOLUTION CHAPTER 21

Assembly Concurrent Resolution No. 130—Relative to the tenth anniversary of the California Coastal Act of 1976.

[Filed with Secretary of State March 21, 1986]

WHEREAS, The people of California have made protection of the state's coast one of their highest priorities, as evidenced by the passage of Proposition 20 in 1972; and

WHEREAS, The policies set forth in Proposition 20 served as the basis for the development of the California Coastal Act of 1976; and

WHEREAS, Public opinion polls indicate that people still support the clause in the California Coastal Act of 1976 which states "the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation"; and

WHEREAS, The California coast, one of the most beautiful and resource-rich in the world, has been protected and enhanced by the enactment of the California Coastal Act of 1976; and

WHEREAS, The California coast has continued to be the basis for significant economic benefit to the state in the form of tourism, fishing, forestry, coastal-dependent agriculture, and other business activities; and

WHEREAS, The California Coastal Act of 1976 has provided for continued economic development of the coast in a manner which is protective of coastal resources; and

WHEREAS, The California Coastal Act of 1976 has encouraged coastal-dependent planning policies and is largely responsible for successful projects, such as the internationally acclaimed Monterey Bay Aquarium; and

WHEREAS, The California Coastal Act of 1976 has succeeded in making thousands of acres available to the residents of the state and is responsible for 2,000 development permits containing public access requirements; and

WHEREAS, The California Coastal Act of 1976 has encouraged the development of local government policies which protect and

preserve the coast's original character for future generations; and WHEREAS, The full goals of the California Coastal Act of 1976

have not yet been achieved and will require continued application of the act's policies; and

WHEREAS, The resources and quality of the California coastline are being challenged by toxic contaminants, pollution, and previously unforeseen threats; and

WHEREAS, Approximately 80 percent of California's population

lives within 50 miles of the coastline; and

WHEREAS, The California coastal economy and culture are largely dependent on the health and vitality of the coast's resources and natural qualities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature and the State of California hereby designate 1986 as the "Tenth Anniversary Year of the California Coastal Act of 1976"; and be it further

Resolved, That April be designated as the "Month of the Coast" to celebrate and honor one of the state's and the country's greatest resources, the California coast.

#### RESOLUTION CHAPTER 22

Concurrent Resolution No. 72—Relative Assembly to transportation.

[Filed with Secretary of State April 2, 1986]

WHEREAS, The economy of the north coast area of California has not fully shared in the recovery now underway in the rest of the state and nation; and

WHEREAS, Economic growth and vitality are difficult to achieve in the absence of an adequate transportation network; and

WHEREAS, The north coast area has been adversely affected by the trend toward deregulation of air, bus, and rail transportation which has allowed a reduction in those services and placed a greater burden on existing roads and highways in the area; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to study the availability of transportation services in the north coast area, with particular emphasis on the State Highway Route 101 corridor from Santa Rosa to Eureka, and the impact of those services on the local economy; and be it further

Resolved, That the study draw upon existing sources of information already developed for the department's Highway System Plan study and from data available from the Departments of Commerce, Employment Development, and Business

Economic Development, and other public and private agencies; and be it further

Resolved, That the department report its findings from the study and any recommendations it may develop to the Legislature and the California Transportation Commission not later than January 1, 1987; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

#### RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 109—Relative to the Joint Oversight Committee on GAIN Implementation.

[Filed with Secretary of State April 8, 1986]

WHEREAS, The Legislature enacted major welfare reform legislation that established a statewide program, Greater Avenues for Independence (GAIN), to help persons receiving assistance pursuant to the Aid to Families with Dependent Children program become economically independent and self-sufficient; and

WHEREAS, GAIN is a statewide effort requiring the active participation and cooperation of state, local, and private agencies, including the State Department of Social Services, the State Department of Education, the Employment Development Department, the State Job Training Coordination Council, the Chancellor's Office of the Community Colleges, county welfare departments, private industry councils, JTPA service delivery areas, school districts, community colleges, and public and private child care providers; and

WHEREAS, The success of the GAIN program depends on the ability of these organizations to foster and encourage the active participation of the persons they represent, including (a) AFDC benefits recipients, so that they may benefit from the wide array of educational and training opportunities available to them, (b) county welfare line staff, so that they will help GAIN participants become economically self-sufficient, (c) private industry employers, so that they will provide on-the-job training and unsubsidized jobs to GAIN participants, (d) public and private job training providers so that they will develop training programs that are linked to unsubsidized jobs, and (e) educational institutions so that they will provide GAIN participants with the educational achievement necessary to compete effectively in the labor market; and

WHEREAS, Participation in the GAIN program depends on the availability of safe and adequate child care to be provided by programs cooperatively developed by the State Department of Education, the State Department of Social Services, county welfare

departments, local child care resource and referral networks, and public and private child care providers; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Oversight Committee on GAIN Implementation is hereby established and authorized to do all of the following:

- 1. Conduct hearings and develop recommendations to address concerns in the implementation of the GAIN program.
- 2. Develop policy recommendations on GAIN-related issues for consideration by the Legislature.
- 3. Develop recommendations on better coordination of public and private resources to more effectively help persons receiving AFDC benefits become economically independent and self-sufficient.
- 4. Develop recommendations on the level of funding required to effectively implement methods of achieving the goals for which the GAIN program is designed to meet; and be it further

Resolved, That the committee shall consist of six Members of the Assembly, appointed by the Speaker thereof, and six Members of the Senate, appointed by the Senate Rules Committee; and be it further

Resolved, That the committee and its members shall have and exercise all rights, duties, and powers conferred upon joint committees and their members by the provisions of the Joint Rules of the Assembly and Senate, as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

Resolved, That the committee has the powers and duties to do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the Assembly Committee on Rules may make such money available from the Contingent Fund of the Assembly as it deems necessary for the expenses of the committee and its members. Any such expenditure of funds shall be made in compliance with policies set forth by the Assembly Committee on Rules and shall be subject to the approval of the Assembly Committee on Rules; and be it further

Resolved, That the committee shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Joint Committee on Rules for its review and comment; and be it further

Resolved, That the committee is authorized to act during this session of the Legislature, including any recess, until the end of the 1985–86 Regular Session.

Assembly Joint Resolution No. 55—Relative to research and development federal income tax credit.

[Filed with Secretary of State April 8, 1986.]

WHEREAS, Technological leadership is one of this nation's most important resources; and

WHEREAS, Governmental policies that encourage the expansion of industrial research and development in the United States are appropriate and necessary; and

WHEREAS, The federal government enacted the research and development tax credit in 1981 to stimulate the essential investment

by private industry in research and development; and

WHEREAS, Foreign governments frequently provide tax incentives, special allowances, export subsidies, and government sponsorship of collaborative research efforts in key technological fields; and

WHEREAS, An analysis conducted by the Congressional Research Service, dated January 1985, and a study conducted by the Brookings Institution, dated February 1985, confirm that the research and development federal income tax credit has produced tangible increases in research and development spending; and

WHEREAS, Research and development helps drive this nation's economy and is essential to the United States remaining competitive in international marketplaces; and

WHEREAS, It is in the national interest to promote the research and development federal income tax credit because it directly benefits the American consumer by reducing the cost of goods and creating jobs; and

WHEREAS, The existing research and development federal income tax credit is due to expire in 1985; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation to make permanent the research and development federal income tax credit; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

Assembly Joint Resolution No. 51—Relative to the extension of the federal solar energy tax credit.

[Filed with Secretary of State April 11, 1986]

WHEREAS, Federal and state solar energy tax credits have been an effective stimulus for the development of a new industry in the State of California, providing jobs and otherwise contributing to the state's economic development; and

WHEREAS, Since the enactment of the California solar tax credit, the combined federal/state incentive has resulted in the dramatic growth of the solar industry in California; and

WHEREAS, The benefits to the citizens of California from this growing solar industry include increased energy supply, a cleaner environment, and new job opportunities; and

WHEREAS, The solar energy tax credits have been an effective economic incentive to encourage individuals and businesses to invest in renewable energy technologies; and

WHEREAS, The utilization of solar energy offers an opportunity to lessen dependence upon our country's limited energy resources and foreign imports; and

WHEREAS, Solar energy is an environmentally clean, safe, and sound form of energy development; and

WHEREAS, The interest of the people of the State of California is served by keeping the combined strength of the federal/state solar tax incentives; and

WHEREAS, The federal solar tax credit expires on December 31, 1985, and the California state tax credit has been extended on a reduced basis through December 31, 1986; and

WHEREAS, The State of California supports a balanced United States energy policy; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support extension of the federal solar tax credit with a graduated phaseout of the credit; and, be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of the resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairpersons of the House and Senate Committees of Ways and Means and Finance, and to each Senator and Representative from California in the Congress of the United States.

Assembly Concurrent Resolution No. 127—Relative to Earthquake Preparedness Week.

[Filed with Secretary of State April 15, 1986]

WHEREAS, Most seismologists predict that there will be a major earthquake somewhere in California in the coming decades; and

WHEREAS, A primary means for minimizing the risks of injury and loss of life and damage to property is to make the public aware of all possible earthquake safety measures and precautions; and

WHEREAS, A cooperative effort between the Legislature and the state and local governments will be most effective in developing that public awareness; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of April 14 to 18, 1986, as California Earthquake Preparedness Week and urges all Californians to engage in appropriate earthquake safety-related activities during that week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Seismic Safety Commission, the Office of Emergency Services, the Board of Supervisors of the County of Los Angeles, and the City Council of the City of Los Angeles.

# RESOLUTION CHAPTER 27

Assembly Concurrent Resolution 105—Relative to the National Day of Prayer.

[Filed with Secretary of State April 21, 1986]

WHEREAS, Deep religious beliefs inspired many of the early settlers of our country, providing them with the strength, character, convictions, and faith necessary to withstand great hardship and danger in this new and rugged land; and

WHEREAS, These shared beliefs helped forge a sense of common purpose among the widely dispersed colonies—a sense of community which laid the foundation for the spirit of nationhood that was to develop in later decades; and

WHEREAS, Whether at the landing of our forebears in New England and Virginia, the ordeal of the Revolutionary War, the stormy days of binding the 13 Colonies into one country, the Civil War, or other moments of trial over the years, we have turned to God in prayer for His help; and

WHEREAS, As we crossed and settled a continent, built a nation in freedom, and endured war and critical struggles to become the leader of the Free World and a sentinel of liberty, we repeatedly turned to our Maker for strength and guidance in achieving the awesome tasks before us; and

WHEREAS, The attitudes we have as people united together, caring for each other, committed to freedom, holding high the dignity of each person, we practice through prayer that which we derived from our religious heritage; and

WHEREAS, Since April 17, 1952, the recognition of a particular day each year as a National Day of Prayer has become part of the traditions we have as a people and is a day on which we are invited to turn to God in prayer and meditation in places of worship, in groups, and as individuals; and

WHEREAS, Ronald Reagan, President of the United States of America, has proclaimed Thursday, May 1, 1986, as "National Day of Prayer"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes Thursday, May 1, 1986, as "National Day of Prayer" and calls upon the people of California, each according to his or her faith, to gather together on that day in homes and places of worship to pray for unity of the hearts of all mankind, and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

#### RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 115—Relative to Holocaust Memorial Week.

[Filed with Secretary of State April 28, 1986]

WHEREAS, More than forty years have passed since the tragic events we now call the Holocaust; and

WHEREAS, The Holocaust was a tragedy of proportions the world had never before witnessed; and

WHEREAS, There are some who dispute that the Holocaust ever occurred, but we must be reminded of the reality of the Holocaust's horrors so they will never be repeated; and

WHEREAS, The United States Holocaust Memorial Council has designated the week of May 4 through May 11, 1986, as Holocaust Memorial Week Days of Remembrance for Victims of the Holocaust; and

WHEREAS, May 6, 1986, is Yom HaSho'ah, and it has been designated internationally as a day of remembrance for victims of the Holocaust; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the week of May 4 through May 11, 1986, is proclaimed as Holocaust Memorial Week in California, and that Californians are urged to observe appropriately these Days of Remembrance for Victims of the Holocaust; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

# **RESOLUTION CHAPTER 29**

Assembly Concurrent Resolution No. 128—Relative to California Small Business Week

[Filed with Secretary of State April 28, 1986]

WHEREAS, The President of the United States of America, by proclamation, will designate the week of May 19 through May 23, 1986, as Small Business Week in special tribute to the outstanding contributions of small businesswomen and businessmen of this nation; and

WHEREAS, Two million of the nation's 14 million small businesses are here in California, employing 10 million people; and

WHEREAS, These small businesses provide industrial innovation which gives California its competitive edge; and

WHEREAS, The entrepreneurship and productivity of small businesswomen and businessmen constitute the core of the American free enterprise system; and

WHEREAS, Small businesses provide the vast majority of the job opportunities for women, youth, minorities, and displaced workers; and

WHEREAS, The economic health of California depends, in large measure, on the prospects of the state's small businesses; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested, in conjunction with the national designation thereof, to proclaim the week of May 19 through May 23, 1986, as California Small Business Week, in special recognition of the contributions which small businesswomen and businessmen have made, and will continue to make, to our state; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

Assembly Concurrent Resolution No. 137—Relative to the month of May, Better Hearing and Speech Month.

[Filed with Secretary of State April 28, 1986]

WHEREAS, The attitudes of society are influenced by limited understanding and limited contact with deaf and otherwise hearing-impaired persons; and

WHEREAS, Hearing impairment, though not visible, is always a serious communication handicap, and especially when it occurs in a bilingual era; and

WHEREAS, These attitudinal and communication circumstances accompanying hearing impairment are barriers to human relationships and full participation in community services and activities shared routinely by society in general; and

WHEREAS, Through the efforts of Quota Clubs, these attitudinal and communication barriers are being steadily reduced; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby takes pleasure in joining the President of the United States and the Council for Better Hearing and Speech Month in proclaiming May as Better Hearing and Speech Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Lilly Telles Simmons, Governor of the 25th District of Quota International, Inc., for distribution to appropriate organizations.

#### RESOLUTION CHAPTER 31

Assembly Joint Resolution No. 83—Relative to the firing of Lee Iacocca from the Statue of Liberty-Ellis Island Centennial Commission.

[Filed with Secretary of State April 28, 1986.]

WHEREAS, On February 12, 1986, Secretary of the Interior Donald Hodel fired Lee Iacocca from his position as Chairman of the Statue of Liberty-Ellis Island Centennial Commission; and

WHEREAS, Mr. Iacocca, who is the chief executive officer of the Chrysler Corporation, has headed the private fundraising effort for the restoration of the Statue of Liberty and Ellis Island, two of America's most significant historic shrines; and

WHEREAS, Under Mr. Iacocca's leadership, a private foundation has raised more than \$233,000,000 for the restoration project, already exceeding the goal which it had set; and

WHEREAS, The firing of Mr. Iacocca comes just a few months before the Fourth of July Weekend, 1986, when four days of ceremonies will mark the 100th anniversary of the Statue of Liberty; and

WHEREAS, Mr. Iacocca has stated he opposes a proposal, favored by certain officials in the Department of Interior, to commercialize Ellis Island through the construction of a conference center and hotel complex; and

WHEREAS, Secretary Hodel has offered no convincing justification for the firing of Mr. Iacocca; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California requests that the Secretary of Interior immediately reinstate Lee Iacocca to the position of Chairman of the Statue of Liberty-Ellis Island Centennial Commission; and be it further

Resolved, That the Legislature opposes any development project which would commercialize Ellis Island; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of the United States Department of Interior, the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

# RESOLUTION CHAPTER 32

Senate Concurrent Resolution No. 87—Relative to Working Women's Awareness Week.

[Filed with Secretary of State May 5, 1986]

WHEREAS, Working women now comprise 44 percent of the labor force in the United States and will account for nearly 50 percent of all workers by 1990; and

WHEREAS, Working women are an integral and permanent part of California's history; and

WHEREAS, The increasing number of women in the work force requires ongoing efforts by leaders of government, labor, and business to develop long-range solutions to address child and dependent care needs, employment and wage discrimination, training and retraining needs, social security and pension inequities, and other barriers to equality encountered by women workers; and

WHEREAS, The Coalition of Labor Union Women, an organization comprising workers from all unions and dedicated to improving conditions for working women, has developed Working Women's Awareness Week, to be commemorated annually during the second week in May; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members take pleasure in joining with the Coalition of Labor Union Women in recognition of the contributions of its working women, and urge all Californians to join in the celebration of Working Women's Awareness Week; and be it further

Resolved, That the week of May 4-10, 1986, be designated as Working Women's Awareness Week; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Coalition of Labor Union Women, the Commission on the Status of Women, and other appropriate organizations and agencies.

# RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 135—Relative to Toxic Awareness Week.

[Filed with Secretary of State May 6, 1986.]

WHEREAS, Two years ago, on May 14, 1984, a hazardous waste spill occurred in the City of Santa Barbara, California; and

WHEREAS, This hazardous waste spill resulted in the evacuation of 3,500 people from the center of town; and

WHEREAS, The training and preparedness of the emergency response to this disaster averted tragedy; and

WHEREAS, This hazardous waste accident has been the largest metropolitan hazardous waste accident in recent California history; and

WHEREAS, The transportation of hazardous materials through densely populated areas is a daily and frequent occurrence; and

WHEREAS, The transporters of these materials do not always employ all possible safety precautions; and

WHEREAS, A hazardous material accident could result in injuries or deaths, or in the evacuation, of the residents of the cities through which the transporters of hazardous materials must pass; and

WHEREAS, Maintaining public health and safety is a prime responsibility of the State of California; and

WHEREAS, Hazardous wastes and hazardous materials are a threat to the health and safety of the citizens of California; and

WHEREAS, Despite the care taken by producers and transporters of hazardous materials, accidents and unforeseen dangers may occur; and

WHEREAS, It is critical that all individuals be aware of the dangers of hazardous materials and the safety precautions necessitated by the use of these materials; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate

thereof concurring, That the Legislature hereby proclaims the week of May 11, 1986, as "Toxic Awareness Week," to commemorate the toxic spill of May 14, 1984, in the City of Santa Barbara; and be it further

Resolved, That the Legislature urges all Californians to reflect upon the role that hazardous materials play in the state's daily domestic and commercial existence; and be it further

Resolved, That the Legislature encourages California's public schools and businesses to sponsor programs to inform students and employees of those accident prevention measures that should be taken when dealing with hazardous materials and proper emergency responses to hazardous waste accidents; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Mayor and City Council of the City of Santa Barbara and to the Board of Supervisors of the County of Santa Barbara.

# RESOLUTION CHAPTER 34

Senate Joint Resolution No. 53—Relative to the United Nations.

[Filed with Secretary of State May 12, 1986.]

WHEREAS, On November 10, 1975, the United Nations General Assembly passed an infamous resolution equating Zionism with racism: and

WHEREAS, Zionism, the movement which brought the State of Israel into being, is based on a commitment to freedom, human rights, and the fundamental equality of all people; and

WHEREAS, Like the United States, Israel has welcomed refugees fleeing persecution from around the world, such as its most recent absorption of thousands of Ethiopians, thus demonstrating its belief in racial equality; and

WHEREAS, Over the years, the State of Israel has proven to be a consistent ally of the United States, as well as an example of human dignity and social justice for the entire Middle East; and

WHEREAS, Resolution 3379 was an attempt to question the legitimacy of the very existence of the State of Israel and was promoted by an array of dictatorial governments, hostile to the principles of democracy and peaceful coexistence among nations; and

WHEREAS, Since its passage, this resolution has been used as a justification by terrorist organizations to commit acts of violence, and has fostered a pernicious brand of anti-Semitism by falsely accusing the Jewish people, so often victims of racial hatred, of themselves collectively perpetrating a systematic form of racism; and

WHEREAS, Americans of conscience, including the President,

Senate, and House of Representatives of the United States, have unequivocally condemned Resolution 3379; and

WHEREAS, The State of California is a home to individuals of all races and creeds; and

WHEREAS, Californians, like all Americans, understand the importance of tolerance and mutual respect among peoples and believe that Resolution 3379 directly contradicts that understanding; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California condemns any linkage between Zionism and racism, and considers Resolution 3379 to be itself a form of bigotry and, therefore, inconsistent with the declared purposes of the United Nations; and be it further

Resolved, That the Legislature urges the General Assembly of the United Nations to repudiate Resolution 3379 forthwith; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the World Zionist Organization, the Union of Orthodox Jewish Congregations of America, and to representatives of the government of the State of Israel.

## **RESOLUTION CHAPTER 35**

Assembly Concurrent Resolution No. 134—Relative to the employment of veterans.

[Filed with Secretary of State May 13, 1986.]

WHEREAS, Over 3,000,000 veterans reside in the State of California; and

WHEREAS, These men and women served their country at great personal sacrifice in time of need; and

WHEREAS, The people of California recognize a special obligation to those who have risked their lives in the defense of this nation's freedom and honor; and

WHEREAS, The California economy is the seventh greatest in the world; and

WHEREAS, Despite the capacity of this state's economy, veterans, especially Vietnam veterans, suffer a disproportionate share of unemployment; and

WHEREAS, The employment prospects for disabled veterans is even more bleak because their access to the means of suitable job opportunities is limited and restricted; and

WHEREAS, It is essential that employment be provided for these veterans who, through no fault of their own, find themselves without work despite occupational skills and work histories; and

WHEREAS, Incentives exist for those employers who are able to

hire veterans; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby encourages all California employers to do everything possible to hire veterans, especially disabled veterans; and be it further

Resolved, That the week of May 4, 1986, to May 10, 1986, inclusive, is hereby designated and shall be observed as "Hire a Veteran Week."

# **RESOLUTION CHAPTER 36**

Senate Concurrent Resolution No. 72—Relative to hunger in America.

[Filed with Secretary of State May 16, 1986]

WHEREAS, In 1985 the U.S. Physician Task Force found that hunger in America is a national health epidemic; and

WHEREAS, Gains made in eradicating hunger in America between 1967 and 1977 have seriously eroded in the past eight years; and

WHEREAS, Evidence indicates that up to 20,000,000 Americans may be hungry at least some period of time each month; and

WHEREAS, Malnutrition and ill-health are associated with hunger, particularly among young children, child-bearing women, and elderly adults; and

WHEREAS, California food pantries report an increase of at least 300 percent in the number of people served since 1982; and

WHEREAS, More than 1,500,000 Californians must depend on food stamps, the school lunch program, food pantries, and soup kitchens for their food and nutrition; and

WHEREAS, Government and charitable organizations work together in many ways to allay the hunger of Americans; and

WHEREAS, U.S.A. for Africa has helped Americans understand and respond with generosity to world hunger; and

WHEREAS, U.S.A. for Africa is now organizing Hands Across America to raise funds for emergency relief of hunger in America and to raise funds to plan long-term feeding programs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urges all Californians to join in the Hands Across America event May 25, 1986, or to join in the many local supportive activities on that day; and be it further

Resolved, That the Legislature hereby requests that the Governor of California proclaim May 25, 1986, "Hands Across America for Hunger Day."

Assembly Joint Resolution No. 56—Relative to log homes.

[Filed with Secretary of State May 19, 1986]

WHEREAS, Log homes are an important source of affordable housing; and

WHEREAS, Log homes provide natural insulation recognized by the California Energy Commission as a method of compliance with its residential energy standards; and

WHEREAS, The federal Department of Energy does not recognize the mass value of logs; and

WHEREAS, The Federal Housing Administration and Veterans Administration will approve subsidy guarantees for loans to build log homes provided those homes meet federal energy standards; and

WHEREAS, The federal energy standards require six inches of wall insulation which, in the case of log homes, is unworkable since the logs form the entire wall structure; and

WHEREAS, California recognizes the value of log homes as an affordable housing alternative to conventionally built homes in many situations; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature memorializes the Congress and the President to enact legislation to facilitate the financing of log home acquisition; and be it further

Resolved, That the California Legislature memorializes the federal Department of Energy to recognize the mass value of log homes in determining appropriate energy standards; and be it further

Resolved, That the Federal Housing Administration and Veterans Administration guarantees be available to loans for purchase of log homes, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 38

Senate Concurrent Resolution No. 71—Relative to a California-Catalonia sister region/state relationship.

[Filed with Secretary of State May 23, 1986.]

WHEREAS, The history, culture, art, and architecture of California owe much to the influence of Spanish civilization; and WHEREAS, The contributions of Father Junipero Serra to the

culture, geography, and religious institutions of California are remarkable and unique in our state's history; and

WHEREAS, The Bicentennial Celebration of Gaspar De Portola's death will be celebrated in 1986 both in California and in his native Spanish Region of Catalonia; and

WHEREAS, Gaspar De Portola's contributions to the exploration of California's coast were significant in bringing Spanish culture to California: and

WHEREAS, The President of the Spanish Region of Catalonia is scheduled to visit California during 1986 to sign an agreement between the University of California, Berkeley and the University of Barcelona; and

WHEREAS, The people of California and Catalonia share similar geography, natural beauty, and common culture; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That California recognize, honor, and celebrate the contributions Father Junipero Serra and Gaspar De Portola have made to California's history as well as the contribution that Spanish culture has made to the language, art, and architecture of California; and be it further

Resolved. That the Legislature, on behalf of the people of the State of California, extends to the people of the Spanish Region of Catalonia an invitation to join California as a sister region/state in order to encourage artistic, academic, and cultural exchanges and to lead to a more indelible friendship and lasting relationship between Californians and the citizens of Catalonia; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President of the Spanish Region of Catalonia.

## **RESOLUTION CHAPTER 39**

Senate Concurrent Resolution No. 93—Relative to California Chiropractic Wellness Week.

[Filed with Secretary of State May 23, 1986]

WHEREAS, Good physical health and a sense of wellness are essential elements of a productive and enjoyable life; and

WHEREAS, The chiropractic profession has for several decades helped Californians achieve and maintain good health through the use of the body's own restorative powers; and

WHEREAS, The achievements and advancements the chiropractic profession has made to the improvement of the quality of life in its community is in the highest traditions of health care services; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the Members recognize the care which chiropractors have provided to health care consumers of this state; and be it further

Resolved, That the Members designate the week of May 26 - June 1, 1986, as "California Chiropractic Wellness Week"; and be it further Resolved, That a suitably prepared copy of this resolution be transmitted to the President of the California Chiropractic Association, and to the Chair of the Board of Chiropractic Examiners.

# RESOLUTION CHAPTER 40

Senate Joint Resolution No. 26—Relative to Filipino war veterans.

[Filed with Secretary of State May 23, 1986]

WHEREAS, During World War II, Filipino members of the United States Armed Forces in the Far East valiantly fought on the side of the United States and its allies; and

WHEREAS, The promise of United States citizenship was held out to these fighters for democracy, but the United States has never fulfilled that pledge, and after more than 40 years, justice is still denied to these war veterans; and

WHEREAS, Legislation to remedy this broken promise has been introduced in the United States Congress, to grant United States citizenship to all Filipino war veterans; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress of the United States are respectfully memorialized to support and enact legislation extending United States citizenship to Filipino veterans of World War II; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## **RESOLUTION CHAPTER 41**

Senate Concurrent Resolution No. 83—Relative to skin cancer and melanoma detection.

[Filed with Secretary of State May 23, 1986]

WHEREAS, It is critical to detect the presence of skin cancer and melanoma as early as possible, particularly in a high-risk population such as the elderly; and WHEREAS, The American Academy of Dermatology will sponsor free skin cancer and melanoma detection clinics throughout the country as part of a national melanoma skin cancer detection and prevention program that will be coordinated by volunteer dermatologists during the period from May 26, 1986, to June 1, 1986, inclusive; and

WHEREAS, The program this year is intended to focus the greatest amount of attention on the more elderly population who of course represent the population greater at risk in terms of skin cancer; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the period from May 26, 1986, to June 1, 1986, inclusive, be declared Skin Cancer and Melanoma Detection Week; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the American Academy of Dermatology.

## **RESOLUTION CHAPTER 42**

Assembly Concurrent Resolution No. 101—Relative to safe housing.

[Filed with Secretary of State May 30, 1986]

WHEREAS, There is increasing public concern over the 1.8 million missing or kidnapped children reported each year; and

WHEREAS, The mobility of modern day society enables missing or kidnapped children to be transported from one end of the state to another in a short period of time; and

WHEREAS, There is a need for "safe house" programs to establish homes in local communities that would serve as a safe refuge for children who are frightened, harassed, injured, lost, in danger, crime victims, or in any emergency situation; and

WHEREAS, The National Crime Prevention Council has adopted "McGruff," the crime fighting dog, as its official symbol of safety for safe houses: and

WHEREAS, "McGruff" is a nationally recognized symbol as well known for crime prevention as "Smokey the Bear" is for fire prevention; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature encourages, supports, and recommends that local communities establish a Safe House program for the protection of our children; and be it further

Resolved, That only one symbol should be utilized to enable such children to readily recognize the symbol regardless of what part of the state the child is from; and be it further

Resolved, That the Legislature encourages, supports, and

recommends that the crime prevention dog, "McGruff" be the symbol used to represent safe houses; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of the National Crime Prevention Council and the Attorney General of California.

## **RESOLUTION CHAPTER 43**

Assembly Concurrent Resolution No. 125—Relative to marine recreational fishing.

[Filed with Secretary of State May 30, 1986.]

WHEREAS, Southern California has a unique 100-year tradition of being one of the finest marine recreational fishing areas in the United States; and

WHEREAS, Marine recreational fishing in southern California is dependent upon adequately maintained and managed living marine resources; and

WHEREAS, Many of those resources have been in decline in recent years because of overfishing, pollution, habitat loss, failure to jointly manage the resources we share with Mexico, lack of enforcement of marine regulations, and inadequate data to assess marine populations; and

WHEREAS, The gross economic value of marine recreational fishing in southern California in 1983 was 953 million dollars; and

WHEREAS, 1,149,000 resident anglers and 343,000 nonresident anglers fished in the ocean waters off southern California in 1983; and

WHEREAS, Those anglers spent between 633 and 889 million dollars in 1983 on marine recreational fishing, resulting in sales tax revenues to the General Fund of between 27 and 42 million dollars; and

WHEREAS, Between 17,400 and 24,900 jobs were directly involved in marine recreational fishing in southern California in 1983, resulting in wages and salaries in excess of between 200 and 282 million dollars and state income taxes in excess of one million dollars; and

WHEREAS, The gross output of goods and services, because of marine recreational fishing in 1983, was between 2.1 and 2.9 billion dollars, creating between 30,000 and 42,500 jobs paying wages and salaries between 567 and 792 million dollars; and

WHEREAS, Marine recreational fishermen pay between 5 and 12 million dollars in California state fishing license fees and stamps annually; and

WHEREAS, Federal taxes on fishing equipment and marine fuel will bring over 5 million dollars to the state annually, 38 percent of which is allocated to marine programs based on the number of

marine recreational anglers in the state; and

WHEREAS, Marine recreational fishing provides southern California residents relief from urban stress and is enjoyed by all sectors of our society without regard to race, religion, creed, age, political preference, or economic level; and

WHEREAS, Marine recreational fishing provides an opportunity for families to pursue a traditional outdoor activity together and creates a reason for citizens to form clubs whose activities center around saltwater fishing, both of which further the participating individuals' sense of community; and

WHEREAS, Marine recreational fishing provides an opportunity for participants to learn about and to respect the ocean; and

WHEREAS, Marine recreational fishing brings tourists to southern California coastal areas; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That state agencies with appropriate jurisdiction be advised that marine recreational fishing in southern California is an important source of jobs, taxes, recreation, and revenues to the state; and be it further

Resolved, That these agencies also be informed that it is in the best interest of the state to maintain each species of marine fish at population levels which will support successful marine recreational fishing so that more residents and tourists can participate in marine recreational fishing, thereby increasing social and economic benefits to the state; and be it further

Resolved, That living marine resources population be managed in accordance with the state's policy on the conservation of aquatic resources as stated in Section 1700 of the Fish and Game Code; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Directors of Commerce, Fish and Game, Parks and Recreation, and Finance, and to the Fish and Game Commission, the California Coastal Commission, the State Lands Commission, the State Water Resources Control Board, and to the Secretary of the Resources Agency.

#### RESOLUTION CHAPTER 44

Assembly Concurrent Resolution No. 132—Relative to child abuse.

[Filed with Secretary of State June 2, 1986.]

WHEREAS, The problem of child abuse is rapidly growing both in size and severity; and

WHEREAS, Children are a precious resource of this state; and WHEREAS, Persons abused as children are prone to developmental and educational disabilities and more likely to

commit violent crimes as adults; and

WHEREAS, Child abuse and neglect prevention and intervention programs help protect children, stabilize families, and contribute to a reduction in crime; and

WHEREAS, Effective child abuse prevention programs can save lives and avoid physical and emotional suffering; and

WHEREAS, The California Legislature is deeply concerned about the plight of the victims of child abuse in the state, and has made a commitment to combating child abuse; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of April 1986 shall be designated Child Abuse Prevention Month in the State of California.

## **RESOLUTION CHAPTER 45**

Assembly Joint Resolution No. 74—Relative to the Social Security Act.

[Filed with Secretary of State June 2, 1986]

WHEREAS, The benefit payment procedures under Title II of the Social Security Act which are followed upon the death of an insured individual or beneficiary, including a dependent or survivor, are in need of reformation by providing for the payment of a lump-sum death benefit, in an equitable manner and in a realistic amount; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to enact legislation to amend Title II of the Social Security Act to reform the benefit payment procedures which are followed upon the death of an insured individual or beneficiary by providing for the payment of a realistic lump-sum death benefit to the surviving spouse, dependents, other survivors, or to any other person or persons assuming responsibility for the burial expenses of the insured individual or beneficiary; and be it further

Resolved, That the President and the Congress of the United States enact legislation to amend Title II of the Social Security Act to provide final payment of Social Security benefits for the month during which an insured individual or beneficiary dies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairperson of the House Select Committee on Aging, to the Chairperson of the Senate Special Committee on Aging, and to each Senator and Representative from California in the Congress of the

United States.

#### **RESOLUTION CHAPTER 46**

Assembly Joint Resolution No. 86—Relative to preventative health care for children.

[Filed with Secretary of State June 2, 1986.]

WHEREAS, Hundreds of thousands of children in the United States are victims of preventable diseases and other serious illnesses;

WHEREAS, Many of these children are hospitalized each year for treatment at enormous emotional and financial cost; and

WHEREAS, Preventive health care is a proven means by which to help prevent potentially crippling and sometimes fatal childhood diseases and illnesses by changing the way health care is provided;

WHEREAS, The advantages of preventive health care for children are evident as well as compelling; and

WHEREAS, Preventive health care promotes long-term health care cost containment and carries only a minimal cost in the short run: and

WHEREAS, Preventive health care will protect children from unnecessary illness and save their lives; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That it is the goal of the Legislature of the State of California to ensure that all children have available preventive health care coverage; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the . United States to also ensure that all children have available preventive health care coverage; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## **RESOLUTION CHAPTER 47**

Senate Ioint Resolution No. 41—Relative to the Mediterranean fruit fly.

[Filed with Secretary of State June 2, 1986]

WHEREAS, Since the late 1970's, Central America has suffered from annual recurrence of Mediterranean fruit fly infestations, damaging its ability to produce many food crops for its consumption and for export; and

WHEREAS, These export commodities are increasingly finding their way into California markets, sometimes causing pest outbreaks, despite efforts of plant quarantine organizations; and

WHEREAS, The eradication of these infestations is increasingly expensive, as well as increasingly objectionable to the general public, due to the necessity of the use of pesticides; and

WHEREAS, The technology now exists to accomplish eradication at the infestation source using the male sterile release technique, involving minimal use of pesticide sprays; and

WHEREAS, The Animal and Plant Health Inspection Service of the United States Department of Agriculture has formulated a program to continue its successful eradication effort in Mexico and Guatemala, southward to southern Panama, where a free zone can be maintained at a reasonable cost; and

WHEREAS, This program is encouraged and supported by the Plant Protection and Quarantine Service of the United States Department of Agriculture, which is recommending a \$10 million budget appropriation for it in the 1987 federal budget; and

WHEREAS, This program also has the support of, and is encouraged by, participating countries in Central America and their trading partners, which are also willing to support the program financially; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to fund the Animal and Plant Health Inspection Service of the United States Department of Agriculture so that it may continue the Guatemala Mediterranean fruit fly program and undertake further eradication efforts of this pest in Central America; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Agriculture.

# **RESOLUTION CHAPTER 48**

Assembly Joint Resolution No. 93—Relative to recent military actions of the United States in Libya.

[Filed with Secretary of State June 10, 1986.]

WHEREAS, The Libyan head of state, Colonel Moammar Khadafy, has repeatedly assisted and supported terrorist activities throughout the world; and

WHEREAS, Moammar Khadafy supported the terrorist slaying of TWA and El Al passengers at the Vienna and Rome airports on December 27, 1985; and

WHEREAS, At the direction of Libyan authorities, a bombing occurred in a West Berlin disco on April 5, 1986, killing United States Army Sergeant Kenneth Ford and wounding 50 other military personnel; and

WHEREAS, Terrorist attacks in Western Europe have claimed 19 lives and wounded nearly 400 people since January 1985; and

WHEREAS, The President of the United States took all due care to ensure that there was proof of Khadafy's involvement in these acts; and

WHEREAS, State-sponsored terrorism represents an unacceptable threat to the freedom and security of all people; and WHEREAS, Khadafy has repeatedly ignored all peaceful appeals by the United Nations to stop offering sanctuary to terrorists; and

WHEREAS, All diplomatic efforts by the United States of America and its allies have not persuaded Colonel Khadafy to halt his aiding and abetting of terrorist activities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California, realizing that the necessity for the use of military force on any occasion is regrettable, supports the difficult decision of the President of the United States to order air strikes on Libya; and be it further

Resolved, That the Legislature acknowledges that these military actions came only after repeated and sincere attempts by the United States at peaceful, nonmilitary pressure to resolve the growing tide of terrorism against Americans abroad; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### **RESOLUTION CHAPTER 49**

Senate Concurrent Resolution No. 73—Relative to the John F. Foran Freeway.

[Filed with Secretary of State June 12, 1986]

WHEREAS, John Francis Foran was first elected to the Assembly in 1962 and served the people of San Francisco and California for seven consecutive terms as an Assemblyman; and

WHEREAS, He served as the Chairman of the Assembly Committee on Transportation and the Chairman of the Assembly Committee on Ways and Means; and

WHEREAS, He was first elected to the Senate in 1976 and has served as Chairman of the Senate Committee on Transportation since 1978; and

WHEREAS, John Francis Foran has been the recognized expert and the leader in the development of transportation policies in California for more than two decades; and

WHEREAS, He has authored much legislation initiating innovative transportation programs and policies, including the first clean air bill and the bill creating the Metropolitan Transportation Commission and numerous pieces of legislation to improve funding for public transportation and highway programs in California; and

WHEREAS, He is personally responsible for reviving the California highway programs from decay and neglect; and

WHEREAS, John Francis Foran is known by his colleagues and nationwide as the leading authority in the development and implementation of innovative transportation policies; and

WHEREAS, His expertise and skills have been instrumental in making California the leader in the field of transportation; and

WHEREAS, His retirement from the Senate is a significant loss for his constituents in San Francisco and San Mateo and for the people of California; and

WHEREAS, It is only fitting as a tribute to his long years of service rendered to the people of San Francisco and the state that Interstate 280 in San Francisco be named in his honor; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Interstate 280 from the San Francisco-San Mateo county line to Sixth Street in San Francisco is hereby designated the John F. Foran Freeway; and be it further

Resolved, That the Department of Transportation is hereby requested to determine the cost of appropriate signs, consistent with signing requirements for the state highway system showing this official designation and, upon receiving donations from private sources to cover that cost, to erect those signs; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to John Francis Foran.

Assembly Concurrent Resolution No. 38—Relative to educational costs in technical fields of study.

[Filed with Secretary of State June 17, 1986]

WHEREAS, The education of students by the University of California and the California State University in technical fields of study including, but not limited to, engineering, medicine, dentistry, veterinary medicine, and architecture involves costs that are unique to those fields of study; and

WHEREAS, The University of California and California State University, for the most part, consider the unique needs of different technical disciplines with regard to the determination of budgets and the allocation of institutional resources for academic support; and

WHEREAS, Staff support services, overhead functions, space allocation, differential faculty salaries, and other budgetary considerations should reflect the unique needs of different disciplines; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring. That the University of California and the California State University are hereby requested to report to the California Postsecondary Education Commission those policies and procedures which are used to allocate faculty, equipment, and other resources related to academic support among various technical and specialized fields including, but not limited to, engineering, computer science, medicine, dentistry, veterinary medicine, and architecture. The report shall include the extent to which those budget allocation policies and procedures include reference to all appropriate cost elements, including office space, laboratories, equipment acquisition and maintenance support personnel, class size, differential salaries for selected disciplines, and research support; and be it further

Resolved, That the California Postsecondary Education Commission is hereby requested to convey the results of these segmental reports, together with those recommendations which the commission finds necessary, to the Legislature and the Governor no later than nine months following adoption of this resolution; and be it further

Resolved, That the University of California and the California State University are hereby requested to cooperate with and assist the California Postsecondary Education Commission in preparing this report as a basis for possible revision of the budgetary process employed by each institution with regard to funding requirements of technical fields of study; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of the California Postsecondary Education, the Regents of the University of California, and the Trustees of the California State University.

## RESOLUTION CHAPTER 51

Assembly Concurrent Resolution No. 95—Relative to the Ort J. Lofthus Freeway.

[Filed with Secretary of State June 17, 1986]

WHEREAS, Mr. Ort J. Lofthus, a native of Minnesota and a graduate of the University of Washington, has achieved prominence in the Stockton business community, having established himself as a leader in the radio, television, and cablevision industry; and

WHEREAS, His steadfast and unselfish participation and leadership in business, educational, and civic endeavors have contributed greatly to the betterment of Stockton and San Joaquin County; and

WHEREAS, As chairman of the committee to close the Interstate Highway 5 gap, and as organizer and chairman of the Stockton Crosstown Freeway committee (F.O.C.U.S. - Finish Our Crosstown Unite Stockton), Mr. Lofthus has been a principal force in the efforts to improve local highway facilities; and

WHEREAS, It is fitting that the contributions of Mr. Ort J. Lofthus to Stockton and San Joaquin County, including his leadership in securing the construction of the Stockton Crosstown Freeway, be appropriately recognized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 4 from Interstate Highway 5 to State Highway Route 99 is hereby officially designated the Ort J. Lofthus Freeway; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Mr. Ort J. Lofthus.

Assembly Concurrent Resolution No. 96—Relative to Interstate Route 80.

[Filed with Secretary of State June 17, 1986]

WHEREAS, The Metropolitan Transportation Commission is the transportation planning agency responsible for the planning of transportation services in the nine San Francisco Bay area counties, including the Counties of Alameda, Contra Costa, and Solano; and

WHEREAS, Travel demand in the San Pablo corridor portion of Interstate Route 80, from the San Francisco-Oakland Bay Bridge through Solano County, at this time exceeds the highway's capacity, and that travel demand is expected to continue to grow; and

WHEREAS, A comprehensive and complete transportation study, including highway, Bay Area Rapid Transit, buses, light rail, ridesharing, and vanpools for the corridor is not available to guide future transportation improvements for the San Pablo corridor; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Metropolitan Transportation Commission is hereby requested to conduct a comprehensive transportation study of the San Pablo corridor portion of Interstate Route 80 from the San Francisco-Oakland Bay Bridge through Solano County in cooperation with the Department of Transportation, local transit operators, cities and counties in the corridor, transportation advisory groups, and interested citizens; and be it further

Resolved, That in preparing the study, the commission should, at a minimum, consider each of the following:

- (a) Studies which have previously been done by the commission, transit operators, and local governments on the San Pablo corridor.
- (b) Existing and future travel on highways and other transit operations within the corridor.
- (c) An examination of projected growth patterns along the corridor; and be it further

*Resolved,* That, based on the commission's examination, the study shall address, at a minimum, each the following:

- (a) Identification of deficiencies in the Interstate Route 80 San Pablo corridor transportation system.
- (b) Long-and short-term alternatives and solutions to improving highway and transit operations in the corridor.
- (c) Long-and short-term financial alternatives and solutions to implement the transportation alternatives and solutions; and be it further

Resolved, That the study shall in no way be used to inhibit or delay, or be regarded as inhibiting or delaying, highway improvement projects within the corridor that are currently programmed in the State Transportation Improvement Program or for which all

environmental review requirements have been completed; and be it further

Resolved, That the commission is requested to submit its transportation study of the San Pablo corridor to the Legislature within 18 months of adoption of this resolution; and be it further

Resolved, That the Clerk of the Assembly transmit copies of this resolution to the Metropolitan Transportation Commission, Department of Transportation, Bay Area Rapid Transit District, Alameda-Contra Costa Transit District, West Contra Costa County Transit Authority, City of Fairfield Transit District, City of Vallejo Transit District, boards of supervisors of Alameda, Contra Costa, and Solano Counties, and to each of the cities along the San Pablo corridor portion of Interstate Route 80 from the San Francisco-Oakland Bay Bridge through Solano County.

## **RESOLUTION CHAPTER 53**

Assembly Concurrent Resolution No. 102—Relative to the Bernard A. Hemenway Memorial Bridge.

[Filed with Secretary of State June 17, 1986]

WHEREAS, Bernard A. "Bernie" Hemenway was born on December 26, 1907, in Fortuna, California, and was educated in Scotia and Eureka; and

WHEREAS, He worked for the California Department of Transportation for 40 years, taking two years off to serve with the United States Army in the Philippines and New Guinea during World War II; and

WHEREAS, His work with the department involved tree maintenance in Humboldt, Mendocino, Del Norte, Trinity, and Lake Counties, and he spent many long hours after floods opening roads and repairing slides; and

WHEREAS, He owned property on the Van Duzen River and as an avid hunter and fisherman he traveled Highway 36 as often as he could; and

WHEREAS, The original CSEA Crab Feeds began in his backyard with he and some friends catching the crab in Trinidad and cooking them; and

WHEREAS, Bernard A. "Bernie" Hemenway was intimately identified with the life of his community and left a lasting mark on its history; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the bridge crossing the Van Duzen River at post mile marker 13.7 on State Highway 36 in Humboldt County be designated as the Bernard A. Hemenway Memorial Bridge; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this special designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

#### RESOLUTION CHAPTER 54

Assembly Concurrent Resolution No. 103—Relative to the Silvio "Botchie" Santi Memorial Bridge.

[Filed with Secretary of State June 17, 1986.]

WHEREAS, Silvio "Botchie" Santi immigrated to America from Italy when he was 19 years old and spent his life in Humboldt County; and

WHEREAS, He worked in the quarry at Essex, in the woods for the Arcata Barrel Factory, and later owned the Fields Landing Hotel; and

WHEREAS, He started "Botchie's Crab Stand" in Fields Landing in 1928, selling the finest quality Humboldt crab, and the reputation of the business continues to grow today; and

WHEREAS, He was affectionally known as "Botchie" by generations of Humboldters and was one of the most widely known and respected individuals of Humboldt County; and

WHEREAS, He hunted the McClellan, McGowan, and Dinsmore Ranches bounded by State Highway Route 36 for years and left a lasting mark on the history of Humboldt County; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the bridge crossing the Van Duzen River at post mile 18.3 on State Highway Route 36 in Humboldt County be designated as the Silvio "Botchie" Santi Memorial Bridge; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

Assembly Concurrent Resolution No. 152—Relative to proclaiming "Anne Frank Day."

[Filed with Secretary of State June 17, 1986]

WHEREAS, On June 12, 1929, Anne Frank was born in Frankfurt, Germany; and

WHEREAS, Anne Frank's tragically brief life ended in the Bergen-Belsen concentration camp in 1945; and

WHEREAS, Anne Frank's diary, which was discovered and published after her death, told the story of the concealment of her family from Nazi occupation forces in the Netherlands and expressed her optimistic, life-affirming personal philosophy, to which she remained true despite her desperate situation; and

WHEREAS, The life of Anne Frank continues to be an inspiration to millions of people all over the world; and

WHEREAS, The month beginning on June 12, 1986 has been declared "Anne Frank Month" in Los Angeles County, and a broadbased coalition of community institutions and organizations is planning an ambitious schedule of countywide public programs, including "Anne Frank in the World: 1929–1945," an exhibit of Anne Frank memorabilia; in Beverly Hills; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature proclaims June 12, 1986 to be "Anne Frank Day" in California, and urges all Californians to participate in appropriate observances of this day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Martyrs Memorial and Museum of the Holocaust of the Jewish Federation Council in Los Angeles.

## **RESOLUTION CHAPTER 56**

Senate Joint Resolution No. 56—Relative to memorializing Congress to proclaim June 21, 1986, as Save American Industry and Jobs Day.

[Filed with Secretary of State June 19, 1986]

WHEREAS, For more than 200 years, American business, industry, and workers have displayed the willingness, capability, and flexibility to meet the challenges of the ever-changing world; and

WHEREAS, American business, industry, and workers have generated a model economy and strength that has become the envy of the world and have produced a higher standard of living in this country than in any other nation in the world; and

WHEREAS, American workers and manufacturers, through their

accomplishments in production, assembly, and transportation of goods to and for consumers and government, have produced more consumer products than ever before imagined; and

WHEREAS, American industry and workers, during times of peace and national or global emergency, have met the call from home and from abroad and saved many allied nations from aggressors; and

WHEREAS, American democratic institutions, industry, and workers have displayed the intent to strive in the future to improve the quality of life in the United States and throughout the world, and to continue to balance the pursuit of profit with competition, while advancing their long-held values of social justice and fairness in the community; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Congress to proclaim June 21, 1986, as Save American Industry and Jobs Day, a day of national recognition of the accomplishments of workers, businesses, and manufacturing industries; and be it further

Resolved, That the Legislature ask all Americans to join in a national salute to the combined achievements of these workers, businesses, and manufacturing industries, and in so doing, encourage all appropriate national, state, and local activity that will broaden the recognition of Save American Industry and Jobs Day; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, each Senator and Representative from California in the Congress of the United States, and the Capitol Press Corps.

## RESOLUTION CHAPTER 57

Senate Constitutional Amendment No. 32—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 7 to Article III thereof, relating to the Legislators' Retirement System.

[Filed with Secretary of State June 20, 1986]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1985–86 Regular Session commencing on the third day of December, 1984, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 7 to

Article III thereof, as follows:

- Sec. 7. (a) The retirement allowance for any person, all of whose credited service in the Legislators' Retirement System was rendered or was deemed to have been rendered as an elective officer of the state whose office is provided for by the California Constitution, other than a judge and other than a Member of the Senate or Assembly, and all or any part of whose retirement allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement, or for the survivor or beneficiary of such a person, shall not be increased or affected in any manner by changes on or after November 5, 1986, in the compensation payable to the officer holding the office which the member last held prior to retirement.
- (b) This section shall apply to any person, survivor, or beneficiary described in subdivision (a) who receives, or is receiving, from the Legislators' Retirement System a retirement allowance on or after November 5, 1986, all or any part of which allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement.
- (c) It is the intent of the people, in adopting this section, to restrict retirement allowances to amounts reasonably to be expected by certain members and retired members of the Legislators' Retirement System and to preserve the basic character of earned retirement benefits while prohibiting windfalls and unforeseen advantages which have no relation to the real theory and objective of a sound retirement system. It is not the intent of this section to deny any member, retired member, survivor, or beneficiary a reasonable retirement allowance. Thus, this section shall not be construed as a repudiation of a debt nor the impairment of a contract for a substantial and reasonable retirement allowance from the Legislators' Retirement System.
- (d) The people and the Legislature hereby find and declare that the dramatic increase in the retirement allowances of persons described in subdivision (a) which would otherwise result when the compensation for those offices increases on November 5, 1986, or January 5, 1987, are not benefits which could have reasonably been expected. The people and the Legislature further find and declare that the Legislature did not intend to provide in its scheme of compensation for those offices such windfall benefits.

#### **RESOLUTION CHAPTER 58**

Senate Joint Resolution No. 42—Relative to the Veterans' Administration.

[Filed with Secretary of State June 20, 1986.]

WHEREAS, For 17 years, the Mission Hills Little League, Inc., and the Veterans' Administration have carried out a cooperative agreement which allows the league to use perimeter areas of the Sepulveda Veterans' Hospital facility to maintain playing fields for which, in exchange, the league administers, operates, and maintains the fields as well as a nine-hole golf course located on the same grounds for use by convalescing patients and the public; and

WHEREAS, Under recent federal legislation mandating reductions in government expenditures, the United States General Accounting Office has recommended that the Veterans' Adminstration dispose of what is referred to as "excess land" which directly threatens the use by Mission Hills Little League, Inc., of the

land on which these playing fields are situated; and

WHEREAS, Mission Hills Little League, Inc., has been operating quality programs for youth since 1957, the backbone of which are involved with these playing fields operated under the agreement with the Veterans' Administration; and

WHEREAS, The program operated by Mission Hills Little League, Inc., is financially self-sustaining through donations, fund raising activities, local business sponsors, and snackbar revenues with administration and operation of the league accomplished entirely by volunteers; and

WHEREAS, All girls and boys ages six to 15 are eligible to play little league ball since no one is ever turned away by Mission Hills Little League, Inc., because of inability to pay, unlike most private

organizations; and

WHEREAS, In the 29 years since its beginning, approximately 12,000 youths have participated in the Little League program operated by Mission Hills Little League, Inc., and while attaining the physical skills and fitness benefits of a baseball program, the children are learning other important skills such as social interaction, sportsmanship, teamwork, community pride, and responsibility, and these benefits far outweigh the value of one-time revenue from the sale of the acreage on which the fields are situated; and

WHEREAS, There is no feasible alternative site for these playing fields in the densely-populated Mission Hills area, so that this popular program which is so important and constructive for the development and well-being of our young people is threatened with curtailment if these fields are no longer available for use; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urgently memorializes the President, Congress, and the Veterans' Administration to do everything possible to preserve the right of Mission Hills Little League, Inc., to continue to use the playing fields on the Sepulveda Veterans' Hospital facility pursuant to that agreement which has worked so well and has been a benefit both to the Little League and the hospital for 17 years; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Veterans' Administration.

#### RESOLUTION CHAPTER 59

Assembly Concurrent Resolution No. 146—Relative to inviting Her Excellency, Madame President Corazon C. Aquino, President of the Republic of the Philippines, to address the houses of the Legislature in joint convention.

[Filed with Secretary of State June 23, 1986.]

WHEREAS, The Republic of the Philippines has just gone through

a historic and peaceful transition of power; and

WHEREAS, The newly elected President of the Republic of the Philippines, Her Excellency, Madame President Corazon C. Aquino, has earned the overwhelming confidence and support of the 52,000,000 people of the Philippines; and

WHEREAS, President Aquino has courageously pursued a course of nonviolence and has aggressively promoted the traditional

democratic values of a free society; and

WHEREAS, The United States of America and the Republic of the Philippines share a common love for democracy that binds the hearts and minds of the American and Filipino peoples—a love which has led to the building of a vast reservoir of goodwill between the two peoples; and

WHEREAS, The State of California has the largest Filipino-American population of any state in the Union; now,

therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby invites Her Excellency, Madame President Corazon C. Aquino, President of the Republic of the Philippines, to address the houses of the Legislature in joint convention during any state visit which Her Excellency may make to the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Her Excellency, Madame President Corazon C. Aquino, President of the Republic of the Philippines, and to the Governor.

Assembly Joint Resolution No. 97—Relative to memorializing Congress to proclaim June 21, 1986, as Save American Industry/Jobs Day.

[Filed with Secretary of State June 23, 1986.]

WHEREAS, Throughout more than 200 years of development, American business, industry, and workers have generated a model economy and strength that has become the envy of the world; and

WHEREAS, The willingness of business and industry to be flexible, able to change and to create change, and an American workforce, willing and capable to meet the challenge, has produced a higher standard of living in this country than in any other nation in the world; and

WHEREAS, American workers and manufacturers have produced more consumer products than could have been imagined 200 years ago, and have excelled in production, assembly, and transportation of those goods to and for consumers and government; and

WHEREAS, During times of peace and national or global emergency, American industry and workers have met the call from home and from abroad, saving many allied nations from aggressors; and

WHEREAS, We have faith in our democratic institutions, industry, and workers, to improve the quality of life here and everywhere, to blend the pursuit of profit with competition, without forgetting to advance our long-held values of social justice and fairness in the community; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Members of the Assembly and the Senate of the State of California, in adopting this resolution, request the United States Congress to proclaim June 21, 1986, as Save American Industry/Jobs Day, a day of national recognition of the accomplishments of workers, businesses, and manufacturing industries; and be it further

Resolved, That we ask all Americans to join in a national salute to the combined achievements of these workers, businesses, and manufacturing industries, and in so doing, we encourage all appropriate national, state, and local activity that will broaden the recognition of Save American Industry/Jobs Day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, each Senator and Representative from California in the Congress of the United States, and the Capitol Press Corps.

Assembly Constitutional Amendment No. 2—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding subdivisions (g), (h), and (i) to Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State June 26, 1986]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1985–86 Regular Session commencing on the third day of December 1984, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding subdivisions (g), (h), and (i) to Section 2 of Article XIII A thereof, to read:

- (g) For purposes of subdivision (a), the terms "purchased" and "change in ownership" shall not include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:
- (1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.
- (2) Transfers to a spouse which take effect upon the death of a spouse.
- (3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.
- (4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.
- (5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.
- (h) For purposes of subdivision (a), the terms "purchased" and "change of ownership" shall not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first \$1,000,000 of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.
- (i) Unless specifically provided otherwise, amendments to this section shall be effective for change of ownerships which occur, and new construction which is completed, after the effective date of the amendment.

Assembly Joint Resolution No. 90—Relative to the confirmation of Richard E. Lyng.

[Filed with Secretary of State June 27, 1986]

WHEREAS, The United States Department of Agriculture (USDA) is the entity of the federal government primarily responsible for developing programs which promote a viable agricultural economy in our nation; and

WHEREAS, The USDA, which was established in 1862 by President Lincoln, today employs over 110,000 individuals and administers an annual budget of over fifty-four billion dollars (\$54,000,000,000); and

WHEREAS, Richard E. Lyng is a native of the State of California, the leading agricultural state in the nation, and he is a longtime resident of Stanislaus County; and

WHEREAS, Richard E. Lyng was president of the Ed J. Lyng Company from 1945 to 1967 which is a family-owned seed and bean production and processing company; and

WHEREAS, Richard E. Lyng was Director of Tri-Valley Growers, from 1975 until January 1981; Chicago Mercantile Exchange, from 1975 to 1979; Refrigeration Research Foundation, from 1974 to 1979; and the Animal Health Committee, National Academy of Science, from 1976 to 1980; and

WHEREAS, Richard E. Lyng has served with distinction in a number of positions within state and federal government including Deputy Director and Director of the California Department of Food and Agriculture from 1967 to 1969; transition team leader for the USDA from November 1980 to February 1981; and Deputy Secretary of the USDA from February 1981 to January 1986; and

WHEREAS, Richard E. Lyng has recently been confirmed by the United State Senate to serve as Secretary of Agriculture, and is the first Californian to be named to that position; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That Richard E. Lyng has served with distinction in his numerous positions and deserves our heartfelt congratulations on his confirmation as Secretary of Agriculture; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Richard E. Lyng.

Senate Joint Resolution No. 40-Relative to food.

[Filed with Secretary of State June 30, 1986]

WHEREAS, Agriculture is a vital sector of the United States economy, particularly in California where it accounts for nearly 15 billion dollars in gross receipts from the production of 250 different crops and livestock; and

WHEREAS, The prosperity of California agriculture depends directly upon healthy export markets which account for 25 percent of California agricultural sales and nearly one-third of the state's farm acreage; and

WHEREAS, The preservation and development of export markets is necessary in order for California to utilize its long-term comparative advantage in the production of food and fiber for world markets; and

WHEREAS, The federal government has imposed food and trade embargoes as a political weapon against unfriendly nations; and

WHEREAS, Unilateral embargoes have typically been ineffective because the targeted nations have succeeded in establishing alternative suppliers in other counties; and

WHEREAS, Embargoes have placed an unfair and disproportionate burden on the trade and agricultural sectors and have damaged the reputation of the United States as a reliable supplier on world markets; and

WHEREAS, The ability of agriculture in the United States and California to compete effectively in world export markets in the long run depends critically upon developing its reputation as a reliable supplier; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to refrain from using food embargoes as a unilateral sanction against unfriendly nations when such an action would be likely to cause harm to the agricultural and trade sectors of the United States and California, unless it can be shown that the action has widespread, multilateral support which will preclude the offending nation from simply turning to alternative suppliers in other countries and causing a further deterioration in the reputation of United States agriculture as a reliable supplier of food and fiber products to world markets, or unless it can be shown that such an embargo is vital to the security of the citizens of the United States; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of State and

the Secretary of Agriculture.

## RESOLUTION CHAPTER 64

Senate Joint Resolution No. 45—Relative to the evacuation, relocation, and internment of persons of Japanese ancestry.

[Filed with Secretary of State June 30, 1986.]

WHEREAS, The findings of the Commission on Wartime Relocation and Internment of Civilians, established by the federal Commission on Wartime Relocation and Internment of Civilians Act, describe the circumstances of the evacuation, relocation, and internment of in excess of 110,000 United States citizens and permanent resident aliens of Japanese ancestry during World War II pursuant to Executive Order No. 9066 issued by President Roosevelt on February 19, 1942; and

WHEREAS, The evacuation, relocation, and internment of individuals of Japanese ancestry was carried out notwithstanding that there were no documented acts of espionage or sabotage, or other acts of disloyalty by any citizens or permanent resident aliens of Japanese ancestry on the west coast; and

WHEREAS, There was no military or security reason for the evacuation, relocation, and internment; and

WHEREAS, The evacuation, relocation, and internment of the individuals of Japanese ancestry was caused by racial prejudice, war hysteria, and a failure of political leadership; and

WHEREAS, The excluded individuals of Japanese ancestry suffered enormous damages and losses, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which full and appropriate compensation has not been made; and

WHEREAS, The basic civil liberties and constitutional rights of those individuals of Japanese ancestry interned were fundamentally violated by that evacuation and internment; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact House Resolution 442, the "Civil Liberties Act of 1985," which would, among other things, acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry; apologize on behalf of the people of the United States for the evacuation, relocation, and internment of such citizens and permanent resident aliens; provide for a public education fund to finance efforts to inform the public about the internment of those individuals so as to prevent the recurrence of any similar event; and

make restitution to those individuals of Japanese ancestry who were interned; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

# RESOLUTION CHAPTER 65

Assembly Concurrent Resolution No. 93—Relative to the California Law Revision Commission.

[Filed with Secretary of State July 1, 1986]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Governor and the Legislature which are thereafter approved for study by concurrent resolution of the Legislature, and topics which have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission, in its annual report covering its activities for 1985, lists 23 topics, all of which the Legislature has previously authorized or directed the commission to study; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

- (1) Whether the law relating to creditors' remedies (including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters) should be revised;
- (2) Whether the California Probate Code should be revised, including, but not limited to, whether California should adopt, in whole or in part, the Uniform Probate Code;
- (3) Whether the law relating to real and personal property (including, but not limited to, a Marketable Title Act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or

abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon termination or abandonment of a lease, powers of appointment, and related matters) should be revised:

- (4) Whether the law relating to family law (including, but not limited to, community property) should be revised;
- (5) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised:
  - (6) Whether the law relating to class actions should be revised;
- (7) Whether the law relating to offers of compromise should be
- (8) Whether the law relating to discovery in civil cases should be revised:
- (9) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney's fees to the prevailing party;
- (10) Whether acts governing special assessments for public improvements should be simplified and unified;
- (11) Whether the law on injunctions and related matters should be revised:
- (12) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;
- (13) Whether the law relating to statutes of limitations applicable to felonies should be revised:
- (14) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;
- (15) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised:
  - (16) Whether the Evidence Code should be revised;
  - (17) Whether the law relating to arbitration should be revised;
- (18) Whether the law relating to modification of contracts should be revised:
- (19) Whether the law relating to sovereign or governmental immunity in California should be revised;
- (20) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;
- (21) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised;
  - (22) Whether the parole evidence rule should be revised;
- (23) Whether the law relating to pleadings in civil actions and proceedings should be revised; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of

this resolution to the California Law Revision Commission.

## **RESOLUTION CHAPTER 66**

Senate Constitutional Amendment No. 26—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XI thereof, relating to county officers.

[Filed with Secretary of State July 1, 1986]

Resolved by the Senate, the Assembly concurring. That the Legislature of the State of California at its 1985–86 Regular Session commencing on the third day of December 1984, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That Section 1 of Article XI thereof is amended to read:

- SEC. 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.
- (b) The Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees.

Second—That Section 4 of Article XI thereof is amended to read: SEC. 4. County charters shall provide for:

- (a) A governing body of 5 or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.
- (b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to

prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

- (c) An elected sheriff, an elected district attorney, other officers, their election or appointment, compensation, terms and removal.
  - (d) The performance of functions required by statute.
- (e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.
- (f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attachés, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.
- (g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.
- (h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties.

# **RESOLUTION CHAPTER 67**

Senate Concurrent Resolution No. 62—Relative to arts instruction.

[Filed with Secretary of State July 1, 1986]

WHEREAS, There have been significant cutbacks in arts programs in the public schools over recent years; and

WHEREAS, Exposure to the arts and arts instruction for students are important components in a well-rounded education; and

WHEREAS, Arts in the community instill a sense of community pride; and

WHEREAS, A greater understanding of the arts enhances students' understanding of their community, their culture, and the cultures of others: and

WHEREAS, California schools have traditionally recognized the value of the arts; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urge the public schools to attempt, wherever possible, to restore arts instruction to the school curriculum and to consider the use of a portion of available lottery funds for this purpose; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to each county school superintendent in the State of California.

#### RESOLUTION CHAPTER 68

Senate Concurrent Resolution No. 77—Relative to the Governor Hiram W. Johnson Memorial Parkway.

[Filed with Secretary of State July 1, 1986]

WHEREAS, Hiram W. Johnson was born in Sacramento in 1866 to a family active in civic and political affairs; and

WHEREAS, Hiram W. Johnson attended Sacramento public schools and later studied at the University of California; and

WHEREAS, Hiram W. Johnson distinguished himself in the legal profession as a fearless prosecutor who attacked public corruption in the name of the people's right to honest government; and

WHEREAS, Hiram W. Johnson was elected in November 1910 as the 23rd Governor of the State of California, after campaigning vigorously against the "shame of California" and ending an era marked by the control of government by narrow special interests; and

WHEREAS, Hiram W. Johnson's first term as Governor remains one of the most productive periods of state government, with the enactment of laws establishing the direct primary, the secret Australian ballot, the popular election of United States Senators, the nonpartisan election of judges and school boards, the power to enforce fair railroad rates, the reform of water law, flood control legislation, improved harbor administration, teachers' pensions, free school textbooks, mandatory kindergartens, an eight-hour working day, minimum wage for women, and reforms in child labor laws; and

WHEREAS, Hiram W. Johnson served Californians as Governor and later as a United States Senator until his death in 1945; and

WHEREAS, The flowering of legislative activity in 1911 marked the beginning of California's Progressive Era; and

WHEREAS, It is appropriate for the people and the Legislature of California to commemorate the 75th anniversary of the marvelous outpouring of creativity and concern displayed by Hiram W. Johnson during his tenure as a political servant to the people of this state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the section of roadway on the grounds of the State Capitol in the City of Sacramento which is the extension of Capitol Avenue between 15th Street and the State Capitol is hereby designated the "Governor Hiram W. Johnson Memorial Parkway;"

and be it further

Resolved, That the Department of General Services determine the cost of erecting two appropriate plaques or markers, consistent with the design of Capitol Park, displaying this official designation and, upon receiving donations covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of General Services and a suitably prepared copy to the representative of the descendants of Governor Hiram W. Johnson.

# RESOLUTION CHAPTER 69

Senate Concurrent Resolution No. 88—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State July 1, 1986.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, in addition to any money heretofore made available to the Joint Legislative Budget Committee, there is hereby transferred for support of that committee, pursuant to Provision 2 of Item 0130-021-001 of the Budget Act of 1986, the sum of three million fifteen thousand dollars (\$3,015,000), or so much thereof as may be necessary, from the Senate Contingent Fund, as provided by Provision 4 of Item 0110-001-001 of that act, and three million fifteen thousand dollars (\$3,015,000), or so much thereof as may be necessary, from the Assembly Contingent Fund, as provided by Provision 4 of Item 0120-011-001 of that act.

# RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 116—Relative to enforcement of state litter laws.

[Filed with Secretary of State July 9, 1986]

WHEREAS, Broken bottles and discarded cans on our highways, beaches, and parks are dangerous to the health and welfare of the people and an eyesore; and

WHEREAS, Discarded refuse causes 225,000 litter-related injuries a year in California, and costs more than three million dollars in medical bills; and

WHEREAS, In states that have strong antilitter laws, injuries to pedestrians and bicyclists are down as much as 75 percent; and WHEREAS, The dumping of bottles and cans has caused great

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economic harm, particularly by causing litter-related injuries to farmers and their livestock in addition to damage to farm machinery that costs farmers 1.4 million dollars a year; and

WHEREAS, There is a growing recognition that Californians deserve the protection of strict enforcement of litter laws, as is evidenced by the statement of the California Farm Bureau that "Existing laws pertaining to littering should be enforced with greater vigor"; and

WHEREAS, Strict enforcement of litter laws will help clean up our highways, beaches, and parks, and will act as the strongest and most effective deterrent to the crime of littering; now, therefore, be it

Resolved, that the Assembly of the State of California, the Senate thereof concurring, That the Department of the California Highway Patrol and all local law enforcement agencies are requested to diligently enforce the litter laws of this state; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Department of the California Highway Patrol.

## RESOLUTION CHAPTER 71

Assembly Concurrent Resolution No. 119—Relative to employment discrimination clinics.

[Filed with Secretary of State July 9, 1986]

WHEREAS, An employment discrimination clinic has been established at the University of California School of Law in Berkeley (Boalt Hall) in conjunction with the Department of Fair Employment and Housing; and

WHEREAS, Funded jointly by the university and the department, students study employment discrimination law and participate in clinical and advocacy programs; and

WHEREAS, Now in its third year, it has been successful in its goals of training law students in the law of discrimination and trial advocacy, as shown by its success in numerous cases litigated by the clinic; at the same time it has improved the productivity of the department and thus effected substantial savings in public funds; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Fair Employment and Housing continue to operate that clinic and that it is desirable that similar programs should be established at each law school of the University of California; and be it further

Resolved, That private law schools should also be encouraged to establish similar programs.

Assembly Joint Resolution No. 80—Relative to the federal census.

[Filed with Secretary of State July 9, 1986.]

WHEREAS, Affirmative action goals for ethnic minorities and women for the California state civil service are established utilizing state labor force statistics published in the United States Census; and

WHEREAS, Affirmative action goals for disabled workers in state civil service for all types of disabilities should similarly reflect their representation in the labor force; and

WHEREAS, The United States Census does not uniformly collect

or publish labor force statistics on disabled workers; and

WHEREAS, There is a need for an accurate accounting of the number of potential workers who are disabled in order to establish meaningful affirmative action goals as is done for ethnic minorities and women; now, therefore, be it

Resolved, By the Assembly and Senate of the State of California, jointly, That the Legislature memorializes the Congress and the President of the United States to require the collection of information on all forms of disabilities in the 1990 census; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 73

Assembly Joint Resolution No. 88—Relative to rental assistance.

[Filed with Secretary of State July 9, 1986]

WHEREAS, Under the existing federal Section 8 housing program (42 U.S.C. 1437f), rental assistance is provided with federal funds to low-income persons throughout the nation; and

WHEREAS, Over 140,000 low-income households in California receive benefits from this program; and

WHEREAS, While this program is federally funded, it is administered primarily by local housing authorities; and

WHEREAS, Since the inception of the existing Section 8 program, local housing authorities have been paid a set fee to administer this important program; and

WHEREAS, Effective July 1, 1985, the federal Department of Housing and Urban Development cut the fees for administering the program by 10 percent so that now those fees amount to 7.65 percent

of the permissible rent for a two bedroom unit; and

WHEREAS, Without waiting to see the effects of the 1985 reduction on the ability of local housing authorities to administer the program efficiently, the President, in his 1987 budget message, has announced that HUD will further reduce the fee effective in June 1986, to 6.5 percent and, starting October 1, 1986, HUD will reduce its contribution to 3.2 percent and request state and local governments to assume the remainder of those fees; and

WHEREAS, This action constitutes a serious breach of the original understanding between local housing authorities and HUD; and

WHEREAS, Local housing authorities do not have the funds necessary to subsidize the responsibility of the federal government to pay for the administration of this federal program; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation to provide the funds necessary to enable local housing authorities to administer this federal program in an efficient and effective manner; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 74

Assembly Joint Resolution No. 92—Relative to the 100-mile Western States Trail Ride and the 100-mile Western States Endurance Run.

[Filed with Secretary of State July 9, 1986]

WHEREAS, The 100-mile Western States Trail Ride (Tevis Cup) has been conducted for more than 30 years along that portion of the historic Pioneer Western States Trail between Squaw Valley and Auburn, California; and

WHEREAS, The 100-mile Western States Endurance Run grew out of the Tevis Cup Ride in 1974 and has been conducted for more than a decade along the same portion of the historic Western States Trail; and

WHEREAS, The 100-mile ride and the run includes the historic Bob Watson Trails at the American River headwaters in the Granite Chief Wilderness so that the participants may experience the wilderness and historic values of following the route of the pioneers on horseback and foot more than a century ago; and WHEREAS, The ride and the run honor all who complete the events, presenting coveted awards that emphasize successful participation rather than competition; and

WHEREAS, These events have enabled riders and runners from around the world to be introduced to the unique beauty and history of this region of California; and

WHEREAS, These events have encouraged public education and awareness of wilderness and historic values, preservation and maintenance of the Western States Trail, and medical and veterinary research leading to expanded knowledge of human and animal physiology; and

WHEREAS, The Western States Trail Foundation, originators of the ride and the run and sponsors of the ride, has over the years contributed more than \$150,000 and thousands of volunteer hours to restore the historic trails and to make them available for use by all who would appreciate them; and

WHEREAS, The events are restricted in size to approximately 250 riders and 300 runners for each event once a year, and have been conducted with a sensitivity to natural values that has preserved the wilderness areas through which they pass; and

WHEREAS, The ride and the run traverse the Granite Chief Wilderness area for a few hours in the early morning once each year, at a time when other visitor use is virtually nonexistent in the area, and does not require or maintain any checkpoint, aid stations, mechanical or commercial intrusion, or media coverage in this area; and

WHEREAS, The ride the run as described above have brought great credit to the Tahoe National Forest, the State of California, and the County of Placer; and

WHEREAS, In 1984 the Congress of the United States designated as the Granite Chief Wilderness the area through which the Western States Trail runs from the fourth to eighth mile of the ride and the run, finding that this area after years of use by the ride and the run, was worthy of that designation; and

WHEREAS, While the ride and the run are consistent and compatible with congressional designation of the Granite Chief Wilderness, the application of current United States Forest Service policy to the ride and the run would categorically prohibit these events in the Granite Chief Wilderness; and

WHEREAS, The United States Forest Service has expressed its willingness to reconsider its policy of categorically excluding endurance events from wilderness areas and to consider evaluating these events on a case-by-case basis; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature urges all of the following actions by the United States Forest Service:

- (1) Adoption of a policy that evaluates endurance events in wilderness areas on a case-by-case basis.
  - (2) Permitting the continued use of the Granite Chief Wilderness

for the 100-mile Western States Trail Ride and the 100-mile Western States Endurance Run.

(3) Continue, along with other responsible governmental entities, their valued cooperation to ensure that the ride and the run continue their traditional use of the historic Pioneer Western States Trail; and be it further

Resolved, That the California Legislature urges the United States Forest Service and Congress not to consider modification of existing wilderness boundaries as an appropriate alternative to allowing the 100-mile Western States Trail Ride or the 100-mile Western States Endurance Run to use the traditional route through the existing Granite Chief Wilderness area; and be it be further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Mr. R. Max Peterson, the Chief of the United States Forest Service, to the congressional sponsors of the 1984 California Wilderness Act, Senators Alan Cranston and Pete Wilson and Representative Sala Burton, and to Representative Norman Shumway, the Congressman for Placer County.

# RESOLUTION CHAPTER 75

Assembly Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (a) of Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State July 11, 1986.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1985–86 Regular Session commencing on the third day of December, 1984, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending subdivision (a) of Section 2 of Article XIII A thereof, to read:

SEC. 2. (a) The full cash value means the county assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, "newly constructed" does not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term "newly constructed" shall not include the portion of reconstruction or improvement to a structure,

constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

However, the Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property which is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years after the sale of the original property. For purposes of this section, "any person over the age of 55 years" includes a married couple one member of which is over the age of 55 years. For purposes of this section, "replacement 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. This paragraph shall not apply to any replacement dwelling which was purchased or newly constructed prior to the effective date of this paragraph.

# **RESOLUTION CHAPTER 76**

Assembly Concurrent Resolution No. 118—Relative to osteoporosis.

[Filed with Secretary of State July 11, 1986.]

WHEREAS, Osteoporosis is a bone disorder caused by an excessive or prolonged loss of bone mass mainly experienced by women; and WHEREAS, It is projected that there are over 20 million American women who have osteoporosis; and

WHEREAS, Osteoporosis in older women can lead to bone fractures of the ribs, vertebrae, hips, and arms; and

WHEREAS, Hip fractures cost on the average \$14,000 per patient and the United States is currently spending between \$3.6 and \$6 billion on hip fractures; and

WHEREAS, Current research has not provided a cure for osteoporosis but shows that osteoporosis might be preventable in many women; and

WHEREAS, Sound public health policies can prevent or reduce the incidence of osteoporosis and subsequent bone fractures; and WHEREAS, There appears to be a significant need for trained personnel in osteoporosis disorders and its effects; and

WHEREAS, The State of California has one of the finest universities in the world which has the designated responsibility for research or graduate education; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the University of California is requested to assess by January 1, 1987, the need for further research on osteoporosis, including potential early diagnosis techniques, preventive programs for premenopausal women and preventive treatment programs for postmenopausal women. This assessment should include a consideration of the need for an increased program concerning osteoporosis for the teaching of health science students, both physicians and nurses, to meet the state's needs for appropriately trained personnel in public health and other related medical fields; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California.

#### RESOLUTION CHAPTER 77

Assembly Concurrent Resolution No. 122—Relative to athletic endorsements.

[Filed with Secretary of State July 11, 1986.]

WHEREAS, The professional athletic community of California has given generously of its time and talents to the children of this state; and

WHEREAS, These athletes are deserving of our sincere appreciation for their efforts on behalf of handicapped children, terminally ill and hospitalized children, underprivileged children and those with behavioral problems; and

WHEREAS, Children from all ranges of society admire sports figures both on and off the playing field; and

WHEREAS, Many sports figures are often called upon to endorse substances which may be harmful to children, or otherwise may unwittingly encourage minors to use these products; now, therefore, be it

Resolved by the Assembly of the State of California, The Senate thereof concurring, That the Legislature extends its commendation and appreciation to those athletes who have given so unselfishly of their time and energy to the children of the state of California, and urges the athletic community to realize the role it plays in influencing the actions and manners of these children.

Assembly Concurrent Resolution No. 117—Relative to California Teachers of Tomorrow Clubs.

[Filed with Secretary of State July 15, 1986.]

WHEREAS, California faces a teacher shortage whose true magnitude is not yet known; and

WHEREAS, The demand for new and qualified teachers in California public schools is expected to be 85,000 by the year 1990 and may be significantly higher; and

WHEREAS, California is committed to placing highly qualified, trained and motivated teachers in all California classrooms; and

WHEREAS, The representation of ethnic and racial minorities among teachers, counselors and administrators in California public schools is alarmingly low and decreasing; and

WHEREAS, The California Commission on the Teaching Profession recommends initiating a statewide recruitment campaign for new teachers and further recommends recruiting minority teacher prospects at the high school level; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That local school teachers, administrators, and education organizations are hereby requested to initiate the formation of California Teachers of Tomorrow Clubs for students in grades 7 through 12; and be it further

Resolved, That the California Teachers of Tomorrow Clubs encourage and support students in pursuing a career in the teaching profession; and be it further

Resolved, That the State Department of Education is hereby requested to develop suggestions and guidelines for the formation and continuation of California Teachers of Tomorrow Clubs; and be it further

Resolved, That teacher associations, representatives of private business and prominent leaders are hereby requested to encourage, support, and participate in the formation and continuation of California Teachers of Tomorrow Clubs; and be it further

Resolved, That postsecondary education institutions are hereby requested to initiate recruitment programs at high schools with large minority populations to counsel and assist talented students to complete courses preparatory to college, and to interest them in teaching as a career; and be it further

Resolved, That the State Department of Education is hereby requested to transmit a copy of this resolution to all public schools maintaining two or more of grades 7 through 12; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Department of Education, the California community colleges, and public and private postsecondary institutions maintaining teacher preparation programs.

Assembly Concurrent Resolution No. 133—Relative to student financial aid.

[Filed with Secretary of State July 15, 1986]

WHEREAS, The State of California has a strong commitment to ensuring access to a postsecondary education for any California student regardless of economic status; and

WHEREAS, That commitment is demonstrated, in part, through funding and administering a variety of scholarship, grant, loan, and work-study programs; and

WHEREAS, Increasing educational costs, growing student enrollments, and shrinking student aid funds have all resulted in an implicit public policy of shifting college costs from one generation to another; and

WHEREAS, This policy shift is most evident in the phenomenal growth of the State Guaranteed Loan Program, which has become a \$3 billion-plus program since its inception in 1979; and

WHEREAS, The State Guaranteed Loan Program is merely the largest of approximately a dozen educational loan programs available to students; and

WHEREAS, The rate of default for students borrowing educational loans continues to rise; and

WHEREAS, The Legislature declares that each student borrower should receive personalized counseling about borrowing and its implications when the initial loan is first granted and also when the student completes his or her educational program; and

WHEREAS, The Legislature concurs with a 1985 California Postsecondary Education Commission report, entitled Mortgaging a Generation, which states that "the increasing use of borrowing by some students to finance their educations raises questions about the total accumulated indebtedness of students and the effects it has on their ability to continue their education, choose among career options, and participate fully in California's economy;" and

WHEREAS, It is the intent of the Legislature, in enacting this resolution, to collect adequate information for use in evaluating the educational equity and economic policy implications of this increased dependency on indebtedness; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby directs the Student Aid Commission to conduct a study of total cumulative student debt burdens, the role student loans play in financing a postsecondary education, the long-term societal and economic impact of student indebtedness, and creative alternatives to student borrowing; and be it further

*Resolved*, That this study include, but not necessarily be limited to, an examination of each of the following:

- (1) Individual cumulative student debt burdens from all educational loans upon completing or leaving school.
- (2) Segmental and institutional student aid policies relating to the role of loans in student aid and the level of student loan burdens.
- (3) The relationship between student borrowing, academic disciplines, and career choices.
- (4) The relationship between debt burdens and default for all educational loans.
- (5) The economic efficiencies and consequences of debt financing.
  - (6) Alternative financial aid strategies to borrowing.
- (7) Options for long-term financing by students and their families of higher education costs.
- (8) The type and extent of debt counseling, information on long-term obligations of borrowing, and debt management information provided to student loan applicants and recipients; and be it further

Resolved, That the Student Aid Commission appoint, and call on the assistance of, a Task Force on the Implications of Student Indebtedness, which would be composed of, but need not be limited to, representatives of the California Postsecondary Education Commission; students, student aid officers, and public policy specialists from each of the educational entities listed below; lenders; and economic policy analysts; and be it further

Resolved, That no later than nine months after the enactment of this resolution, the Student Aid Commission submit the results of its study, complete with its recommendations, to the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, the Association of Independent California Colleges and Universities, and the Council on Private Postsecondary Educational Institutions for their respective consideration and action; and be it further

Resolved, That no later than 12 months after the enactment of this resolution, the Student Aid Commission submit the results of its study, together with appropriate recommendations, and the response to the study by each of the educational entities listed above, to the Governor and the educational policy committees of the Legislature.

# RESOLUTION CHAPTER 80

Assembly Joint Resolution No. 72—Relative to telephone service rate regulation.

[Filed with Secretary of State July 15, 1986.]

WHEREAS, The Legislature has declared telephone service to be a modern necessity of life in California, as it is throughout this country; and

WHEREAS, The cost of telephone service for California businesses and residents is a matter of particular state and local concern; and

WHEREAS, The Federal Communications Commission has attempted to usurp the traditional ratemaking authority of California and the other states by prescribing accounting methods and rules for intrastate telephone service in violation of the letter, spirit, and intent of the specific delegation of authority to the states made by the Communications Act of 1934; and

WHEREAS, This usurpation by the Federal Communications Commission is intended to, and will, raise local telephone rates for California businesses and residents, as well as for businesses and residents in other states; and

WHEREAS, The Public Utilities Commission has regulated intrastate telephone service in California effectively without interference from the federal government; and

WHEREAS, The preservation of the power of the several states to affect rates and practices of public utilities, including telephone corporations, is a fundamental element of the federal structure of the United States, which ought to be preserved against the depredations of federal agencies; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to investigate the usurpation of state authority by the Federal Communications Commission and to amend the Communications Act of 1934, as necessary, to preserve state authority over intrastate telephone service to enable the states to protect the interests of their residents and ratepayers; and be it further

Resolved, That the Legislature hereby supports the position of the Public Utilities Commission before the Federal Communications Commission, and in the federal courts, that the Communications Act of 1934 does not deprive the states of the power to regulate accounting methods and other details of the utility regulation process that directly affect local telephone rates; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Chairperson of the Committee on Commerce, Transportation, and Science of the United States Senate, to the Chairperson of the Committee on Energy and Commerce and to the Chairperson of the Subcommittee on Telecommunications, Consumer Protection, and Finance of the United States House of Representatives, and to the Public Utilities Commission.

Assembly Joint Resolution No. 84—Relative to federal income taxation.

[Filed with Secretary of State July 15, 1986.]

WHEREAS, The existence of a productive forest resource on private lands in California is critical to all Californians; and

WHEREAS, The timber industry provides nearly 60,000 direct jobs in lumber and wood products; and

WHEREAS, The timber industry is in its deepest downturn since the depression; and

WHEREAS, Twelve thousand timber industry jobs have been lost in California in the last six years; and

WHEREAS, The lost jobs have been in rural areas where timber is the base of the economy and unemployment rates are highest; and WHEREAS, Competing with Canadian lumber imports is extremely difficult; and

WHEREAS, Private timber growers meet stringent forest practice rules and are under continuing pressure to provide nontimber benefits from their lands: and

WHEREAS, Continuing private investment is essential to keep forests healthy, to provide the forest industrial base with raw material, and to support provision and consideration of nontimber values: and

WHEREAS, Existing federal tax policy for over four decades has allowed for long investment recovery periods and substantially encourages timber growing; and

WHEREAS, The tax reform bill passed by the U.S. House of Representatives approximately doubles taxes on timber companies by repealing capital gains treatment of timber income for corporations and requiring the capitalization of timber management expenses; and now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the California Legislature memorializes the Congress of the United States to support maintenance of the current rules for deducting timber management expenses and to support continuation of capital gains treatment of timber income; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States and to each member of the Senate Finance Committee.

Senate Joint Resolution No. 65—Relative to Cyprus.

[Filed with Secretary of State July 15, 1986]

WHEREAS, Twelve years have passed since the Turkish invasion and the Cyprus problem remains one of denied redress; and

WHEREAS, The humanitarian crisis involving two hundred thousand refugees and two thousand missing persons grows increasingly more desperate; and

WHEREAS, The Government of the Republic of Cyprus rendered substantive assistance to our wounded marines in Lebanon while Turkey refused to do so though requested; and

WHEREAS, President Reagan has declared that human rights shall be the hallmark of United States foreign policy; and

WHEREAS, By the illegal use of United States supplied military weapons in violation of the United States Foreign Assistance and Sales Acts, and in violation of the Charter of the United Nations Organization, Turkey has attacked, seized and continues to occupy 38% of the territory of the independent nation of Cyprus; and

WHEREAS, Turkey is currently the recipient of financial and military assistance approaching \$1 billion per annum; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the President and the Congress of the United States:

- 1. To assist the United Nations Secretary General in finding a solution to the Cyprus problem based on the Charter and the relevant resolutions of the United Nations, with international guarantees for the unity, sovereignty and independence of the Republic of Cyprus;
- 2. To stop subsidizing, through its aid to Turkey, the illegal occupation of Cyprus until a mutually acceptable solution is found:
- 3. To exert their best efforts with Turkey to effectuate, prior to a final agreement,
- a. The return of the FAMAGUSTA-VAROSHA and MORPHOU regions under Greek Cypriot control;
- b. The removal of the 35,000 Turkish occupation troops and 60,000 colonizers from the island;
- c. To restore to the people of Cyprus majority rule with minority rights guaranteed, freedom of movement, freedom of settlement and the right to own property anywhere in the republic; and be it further

Resolved, That the Members urge the President and the Congress to give generous support to the Cypriot refugees; and be it further

Resolved, That the Members urge the President and the Congress to review the current policies of Turkey regarding its treatment of the ethnic and religious minorities residing in Turkey, in the light of President Reagan's repeated expressions of concern for human rights; and be if further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to the presiding officer of each House of the Congress of the United States, to the Secretary of State and to each Senator and Representative from California in the Congress of the United States.

# **RESOLUTION CHAPTER 83**

Senate Concurrent Resolution No. 98—Relative to Sexual Violence Awareness Week.

[Filed with Secretary of State July 15, 1986]

WHEREAS, One in three women will be raped in her lifetime; and WHEREAS, Sexual violence against women and children occurs in vast proportions in our society and causes devastating dehumanizing effects; and

WHEREAS, Rape is a crime of violence, aggression, and power; and

WHEREAS, Sexual violence crosses all barriers of class, age, and race; and

WHEREAS, Myths perpetuated by a lack of understanding of sexual violence place the responsibility for sexual violence on the victim, instead of the perpetrator of the crime; and

WHEREAS, Rape is most often perpetrated by an acquaintance of the victim; and

WHEREAS, Only an estimated 1 in 10 victims of sexual violence reports the crime; and

WHEREAS, All people have the right to live free of the threat of sexual violence: and

WHEREAS, The public at large needs to be educated as to the statistics of their vulnerability to becoming a victim of sexual assault; and

WHEREAS, All people have the right to protect their own bodies from sexual violence; and

WHEREAS, Rape crisis prevention and support programs have educated the public about sexual violence and are working to heal and empower victims of sexual violence; and

WHEREAS, Effective sexual violence prevention and awareness programs can save lives, avoid physical and emotional suffering, and make communities safer for all; and

WHEREAS, The Legislature is committed to working toward a society free of sexual violence; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members recognize the second week of October 1986, and the second week of October of each year thereafter, as Sexual Violence Awareness Week; and be it further *Resolved*, That a suitably prepared copy of this resolution be transmitted by the Secretary of the Senate to the author for appropriate distribution.

## **RESOLUTION CHAPTER 84**

Senate Joint Resolution No. 48—Relative to Santa Monica Bay.

[Filed with Secretary of State July 15, 1986]

WHEREAS, Santa Monica Bay is a state and national treasure, where the beaches are among the most popular in the country, and the water provides a variety of recreational and commercial activities to residents and tourists of the state and country; and

WHEREAS, The dumping of DDT, cyanide, polychloronated biphenyls (PCBs), and other hazardous wastes into Santa Monica Bay has created a potentially hazardous health and environmental problem to the citizens in the greater Los Angeles area; and

WHEREAS, Reports of the contamination of Santa Monica Bay have been verified by the health officials of the County of Los Angeles, the California Regional Water Quality Board (Los Angeles Region), and the State Department of Health Services; and

WHEREAS, The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) provides that those hazardous substance release sites placed on its priority list will qualify for federal cleanup funds to quickly alleviate these problems; and

WHEREAS, It is imperative to assess the contamination of Santa Monica Bay and the potential health consequences and to act as soon as possible to correct this contamination which could affect the public health of the large population of the greater Los Angeles area; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature supports and endorses the effort by the Representatives from California in Congress to place Santa Monica Bay on the Environmental Protection Agency's "National Priorities List" for removal and remedial action funding pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and thus expedite the cleanup of Santa Monica Bay, and also supports and endorses the agreement by the Environmental Protection Agency to conduct a preliminary assessment of the condition of Santa Monica Bay; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Administrator of the Environmental Protection Agency and to each Senator and Representative from California in the Congress of the United States.

Senate Joint Resolution No. 63—Relative to federal disaster assistance.

[Filed with Secretary of State July 15, 1986.]

WHEREAS, Federal disaster assistance to supplement state and local efforts is available under Public Law 93-288, the Disaster Relief Act of 1974; and

WHEREAS, Since 1976, 20 of the 38 states of emergency in California caused by storms, fires, floods, earthquakes, and other natural calamities received declarations of disaster by the President of the United States and thus warranted federal aid for losses to public property; and

WHEREAS, Under Public Law 93-288, federal aid of \$288.7 million in these 20 disasters helped cushion the total public loss of \$775 million to state and local government; and

WHEREAS, New regulations proposed by the Federal Emergency Management Agency to implement Public Law 93-288 will impose a financial burden on California and local governments by increasing the local percentage of the cost-sharing ratio; and

WHEREAS, Under the proposed regulations for capability indicators for assistance based on per capita income and damage liability, California must first incur damages of \$30 million before any federal assistance can become available; and

WHEREAS, This level of loss would have made state and local governments totally responsible for losses incurred in 10 of the 20 presidentially-declared disasters since 1976; and

WHEREAS, The eligibility of local governments for federal assistance will also be severely curtailed under the capability indicators established by the proposed regulations; and

WHEREAS, The proposed regulations establish criteria for federal assistance which are ambiguous and unclear and which, therefore, can be subjectively interpreted; and

WHEREAS, Restrictions of eligibility pertaining to special districts are intentionally discriminatory and are unacceptable because of fiscal or insurance consequences; and

WHEREAS, Other restrictions in the proposed regulations would subject individual local governments or the state to unreasonable financial commitments and would not finance corrective measures meant to prevent the recurrence of problems; and

WHEREAS, The proposed regulations interfere with state autonomy by requiring the Governor and the Legislature to impose additional mandates on local governments in order to qualify for federal assistance; and

WHEREAS, In imposing those requirements and adopting capability indicators based on per capita income, the federal government fails to recognize the state constitutional limits on public

expenditures and revenue collection by both state and local governments; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to prohibit the adoption of the proposed changes in 44 Code of Federal Regulations Part 205 pertaining to the disaster declaration process, public assistance eligibility, public assistance program administration, and hazard mitigation as published in the Federal Register Volume 51, No. 75, April 16, 1986; and be it further

Resolved, That the Legislature of the State of California further memorializes the Congress of the United States to convene oversight hearings on the proposed changes in regulations governing the work of the federal Emergency Management Agency in order to properly evaluate the need to the federal government and the impact to the states and local governments of the proposals; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

# **RESOLUTION CHAPTER 86**

Senate Concurrent Resolution No. 68—Relative to state employees.

[Filed with Secretary of State August 13, 1986.]

WHEREAS, Over 70,000 state employees work in the Counties of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Santa Clara, Sacramento, Santa Cruz, Sierra, Solano, Sonoma, Sutter, San Joaquin, Tehama, Tuolumne, Yolo, and Yuba; and

WHEREAS, Governor George Deukmejian has proclaimed the existence of a state of emergency in these counties as a result of heavy rains, high winds, flooding, and mudslides commencing on February 12, 1986; and

WHEREAS, Many of these state employees have been seriously impacted by the emergency, and as a result have been unable to get to their jobs or to get to their jobs in a timely manner; and

WHEREAS, Many of these state employees have had their lives and the lives of their families placed in serious jeopardy as a result of this emergency situation; and

WHEREAS, Many of these state employees have provided valuable service to their neighbors and communities in this time of

emergency; and

WHEREAS, The efforts of many state employees during this time of emergency has benefited the State of California and its citizens; and

WHEREAS, The Department of Personnel Administration has provided accommodations to employees subject to its appointing power while some other state agencies have not; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That these state employees, including those in the California State University system, who are able to provide clear evidence of their inability to attend their state positions in a timely manner as a result of this emergency situation, be granted paid leaves of absence for unavoidable time off from work, pursuant to provisions of state law; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Personnel Administration, the California State University, the University of California, and other appropriate state agencies.

## **RESOLUTION CHAPTER 87**

Senate Joint Resolution No. 60—Relative to individual retirement accounts.

[Filed with Secretary of State August 13, 1986]

WHEREAS, Congress is currently considering a tax reform bill which could have a profound effect on the lives and pocketbooks of millions of Americans; and

WHEREAS, As part of its deliberations on this tax reform bill, the Congress is weighing various proposals regarding the treatment of individual retirement accounts (IRA's) under the federal Internal Revenue Code; and

WHEREAS, According to a recent study, 28 million American families are currently taking advantage of the deduction for IRA contributions and the deferral of taxation on interest earned by IRA's, which are available to them pursuant to existing law; and

WHEREAS, Statistics indicate that approximately 65% of the households with IRA's have annual incomes of \$40,000 or less; and

WHEREAS, Another recent study indicates that IRA contributions have significantly increased the amount of savings deposited in financial institutions, and a higher rate of savings helps to stimulate the economy by keeping money in productive circulation; and

WHEREAS, The current treatment of IRA's under the federal tax laws has proved to be beneficial both for a large number of individual taxpayers and for the economy as a whole; now, therefore, be it Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and President of the United States to maintain the current availability of the deduction for individual retirement accounts in any tax reform statute which they may enact; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker and the Chairperson of the Committee on Ways and Means of the United States House of Representatives, the Chairperson of the Committee on Finance of the United States Senate, and each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 92—Relative to the State Highway Route 65.

[Filed with Secretary of State August 14, 1986]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Highway Route 65 bypass near Roseville is hereby officially designated the Harold T. "Bizz" Johnson Expressway; and be it further

Resolved, That the overcrossing on Route 65 near Roseville is hereby designated the Charles J. La Porte Memorial Bridge; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing these official designations and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

## **RESOLUTION CHAPTER 89**

Senate Joint Resolution No. 33—Relative to hospital care.

[Filed with Secretary of State August 19, 1986]

WHEREAS, The federal Medicare Prospective Payment System reimburses hospitals for services rendered to Medicare beneficiaries according to rates which are currently established in a manner reflecting hospital-specific and regional economic factors that affect the cost of providing hospital services; and

WHEREAS, After October 1, 1987, hospitals will be reimbursed using a single, national rate which will be calculated without regard to the profound economic differences among hospitals and the various regions of the country, but will merely adjust for differences between "urban" and "rural" hospital wage factors; and

WHEREAS, The adoption of a national rate under the Medicare Prospective Payment System will not necessarily result in a reduction of total federal spending for Medicare, but will impose a severe and unjust economic burden on the State of California by transferring millions of Medicare dollars currently being received for patient care in California to other states; and

WHEREAS, Because the citizens of California pay 25 percent more federal income tax per capita than the citizens of less industrialized states that will benefit from the adoption of a national Medicare Prospective Payment System rate, California will, in fact, be subsidizing these other states for their Medicare expenditures; and

WHEREAS, The adoption of a national rate will create an inequitable shift of federal tax dollars to other states since the cost to hospitals of caring for Medicare beneficiaries in California and the rest of the West and Midwest will significantly exceed the national reimbursement rate, while the cost of providing the same care in the Southern states will fall well below the national rate, resulting in a substantial loss in federal funds from California each year under the national rate; and

WHEREAS, This loss of federal support will seriously affect California hospitals' efforts to adapt and survive in a pro-competitive environment such as that prescribed by the Medi-Cal contracting program and the private sector's price competitive markets; and

WHEREAS, California hospitals, especially those serving a disproportionate number of the poor, the near poor, and the aged, are already staggering under an ever increasing financial burden of uncompensated care; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the Congress of the United States and the United States Department of Health and Human Services, when formulating the cost of providing hospital care to Medicare recipients, to establish hospital reimbursement rates, under the Medicare Prospective Payment System, that will fairly and equitably reflect the unique economic conditions which affect the cost of providing hospital care to Medicare recipients in higher-cost states such as California, Illinois, and Massachusetts, and regions such as the West, Midwest, and Northeast; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator

and Representative from California in the Congress of the United States, and to the Secretary of Health and Human Services.

## RESOLUTION CHAPTER 90

Senate Joint Resolution No. 50-Relative to exporting new drugs.

[Filed with Secretary of State August 19, 1986]

WHEREAS, California is the intellectual center of the nation's biotechnology industry; and

WHEREAS, Approximately 35 percent of the nation's biotechnology companies, including the leading companies, are headquartered in California; and

WHEREAS, California companies have already developed many pharmaceutical products, such as human insulin and proinsulin, human growth hormone, and interferon, which have the potential to alleviate human suffering and illness; and

WHEREAS, The United States Patent and Trademark Office has received in recent years nearly one thousand patent applications based on biotechnological research; and

WHEREAS, The biotechnology field is growing more competitive, particularly with respect to Pacific Rim and European countries where, according to the Congressional Office of Technology Assessment, private and public companies sometimes benefit from government subsidies; and

WHEREAS, Current federal law forces American pharmaceutical biotechnology companies to export new technologies, jobs, and economic development opportunities to other developed countries because of an error in federal law which does not allow distribution of new drugs in certain foreign countries if our own government has not approved the distribution; and

WHEREAS, These countries, such as Japan, Germany, Switzerland, France, Sweden, and Great Britain have at least as sophisticated and rigorous a testing program prior to the distribution of new drugs as does the United States; and

WHEREAS, It is these countries which offer the stiffest competition to American biotechnology companies, often with the direct assistance of their government; and

WHEREAS, American companies, in order to compete in these other markets, must export the production of new drugs to the countries which approve distribution and, thus, take that technology and employment abroad; and

WHEREAS, Congress is considering corrective legislation to eliminate this error in the Federal Food, Drug and Cosmetic Act, which governs the exportation of pharmaceuticals; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the State of California views the biotechnology industry in California as one which represents new economic growth, new jobs, new research opportunities, and new means to better the health of both individuals and the state, and as an industry fully deserves the encouragement of the state whenever and however possible; and be it further

Resolved, That the State of California memorializes the Congress of the United States and the federal government to enact remedial legislation designed to permit the exportation of new drug products that, while pending final Food and Drug Administration approval in this country, have fully complied with the health and safety laws, standards, and regulations of the country to which the products are being exported; and be it further

Resolved, That the State of California memorializes the Congress of the United States to take every precaution to ensure that countries without a testing program as sophisticated and rigorous as the testing programs that exist in the United States be fully protected from unsafe or nonefficacious products; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 91

Senate Concurrent Resolution No. 65—Relative to alcoholic beverages.

[Filed with Secretary of State August 22, 1986]

WHEREAS, As a society, we are reexamining our attitudes and norms regarding alcohol consumption; and

WHEREAS, This reexamination is in recognition of studies that alcohol is associated with more than 200,000 deaths annually; that drunk driving is the leading cause of death among our youth; and that alcoholism and associated diseases represent the number one drug problem in our society; and

WHEREAS, As part of this growing awareness, traditional practices associated with the service and sale of alcoholic beverages have come into question both from within and outside the alcoholic beverage retail industry; and

WHEREAS, The practice of offering to sell or selling of alcoholic beverages at discounted prices, including, but not limited to, such marketing devices as two-for-one promotions, jumbo drink offerings, and contests and games involving the consumption of alcoholic beverages or giving of alcoholic beverages as an award or prize, has become of national concern, as evidenced by the action of 18 states and various other jurisdictions that have enacted laws or regulations to prohibit those promotions, together with 15 states considering that action; and

WHEREAS, Studies show that alcohol is price sensitive so people drink more if the price is less; and

WHEREAS, These practices are contrary to the National Restaurant Association's stated policy of discouraging alcohol promotions that foster the overconsumption of alcoholic beverages; and

WHEREAS, The elimination of practices which foster overconsumption of alcoholic beverages could, coupled with other laws and voluntary industry reforms, lead to more responsible behavior on the part of the individuals who consume alcoholic beverages; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in recognition of the need for government to encourage the elimination of marketing practices which promote overconsumption of alcoholic beverages, the Department of Alcoholic Beverage Control is requested to conduct public hearings relating to the elimination of those practices; and be it further

Resolved, That, after these public hearings, the Department of Alcoholic Beverage Control is requested to consider the adoption of rules to implement the prohibition of those practices which promote overconsumption of alcoholic beverages; and be it further

Resolved, That the Director of Alcoholic Beverage Control is requested to report the results of any action taken pursuant to this measure to the Legislature on or before January 1, 1988; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Department of Alcoholic Beverage Control.

## RESOLUTION CHAPTER 92

Senate Concurrent Resolution No. 75—Relative to the Ventura Freeway murals.

[Filed with Secretary of State August 22, 1986.]

WHEREAS, The Tarzana Chamber of Commerce has proposed that the six underpasses under the Ventura Freeway, in the Community of Tarzana, be painted with murals depicting the life and adventures of Tarzan; and

WHEREAS, The murals would commemorate the 75th anniversary of the first published adventures of Tarzan written by Edgar Rice Burroughs, one of the original residents of the

Community of Tarzana; and

WHEREAS, The murals would be painted, without expense to the taxpayers, by artists chosen and compensated by the Tarzana Chamber of Commerce and reviewed by the Edgar Rice Burroughs Foundation, and the project has engendered great enthusiasm in the community; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby requests the Department of Transportation to assist the Tarzana Chamber of Commerce in every way possible, without expenditure of state funds, in the painting of murals on the life and adventures of Tarzan on the Ventura Freeway underpasses in the Community of Tarzana; and be it further

Resolved, That the work shall not commence until the City of Los Angeles has entered into an agreement with the Department of Transportation to oversee the painting of the murals and to clarify responsibility for their maintenance; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

## RESOLUTION CHAPTER 93

Senate Concurrent Resolution No. 81—Relative to victims of crime.

[Filed with Secretary of State August 22, 1986.]

WHEREAS, The State Board of Control administers the California Victims of Crime Program pursuant to Section 13959 et seq. of the Government Code, and is now processing some 25,000 claims per year; and

WHEREAS, The State Board of Control is required to act on claims within 90 days: and

WHEREAS, The verification of losses is required under the Government Code, which further requires responses within 10 business days from those providers, employers, and other involved parties requested to verify losses and other information pertinent to a claim filed under the program; and

WHEREAS, The receipt of verification information within 10 business days will enable the State Board of Control to pay the claims within 90 days; and

WHEREAS, The victims of crime who apply for benefits and providers of service who render treatment will benefit from fast, accurate payment of claims; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California urges law enforcement agencies, state and federal agencies and departments, employers, medical providers, insurance companies, and attorneys, to respond to the State Board of Control's request for verification information within 10 business days as required; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the State Board of Control for distribution to all victim centers and other interested parties.

## RESOLUTION CHAPTER 94

Senate Concurrent Resolution No. 86—Relative to the General Douglas MacArthur Tunnel.

[Filed with Secretary of State August 22, 1986]

WHEREAS, The Court of Historical Review and Appeals during its 37th Session has recommended that the tunnel on Park Presidio Boulevard in the City and County of San Francisco be designated as the General Douglas MacArthur Tunnel; and

WHEREAS, The designation of the tunnel would commemorate General MacArthur's role as Supreme Commander of the Pacific Theater during World War II and his triumphant return to the United States in 1951; now, therefore; be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the tunnel on Park Presidio Boulevard in the City and County of San Francisco is hereby designated the General Douglas MacArthur Tunnel; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing the official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

*Resolved*, that the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

## **RESOLUTION CHAPTER 95**

Assembly Concurrent Resolution No. 100—Relative to the Jim Downing Memorial Plaque.

[Filed with Secretary of State August 25, 1986]

WHEREAS, On the night of March 31, 1984, Mr. Jim Downing, a 25-year-old Garden Grove resident, was killed by an intoxicated driver on State Highway Route 57 in Orange County; and

WHEREAS, The light truck in which Jim and a friend, David Vailette, were traveling was struck from behind by a limousine speeding in excess of 90 miles per hour; and

WHEREAS, Mr. David Vailette suffered a broken neck in the

accident and is now paralyzed from the neck down; and

WHEREAS, Thrown from the truck, Jim Downing died as the result of massive head and chest injuries; and

WHEREAS, Blood tests revealed that the uninjured limousine driver, moonlighting from his regular job, was driving with a blood alcohol level of 0.13 percent; and

WHEREAS, The death of Jim Downing was a heart-rending tragedy to his family, who just eight months before had endured the death of Jim's 17-year-old brother Eddie at the hands of a drunken driver in Arlington, Texas; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to lend its support and assistance to the placement of an appropriate nonreligious memorial, to be paid for by privately donated funds, commemorating the tragic death of Mr. Jim Downing, to be permanently situated on the right-of-way of State Highway Route 57 near the scene of the accident; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the surviving family of Mr. Jim Downing and to the Director of Transportation.

## RESOLUTION CHAPTER 96,

Assembly Concurrent Resolution No. 111—Relative to State Highway Route 89.

[Filed with Secretary of State August 25, 1986.]

WHEREAS, The Blue Star Memorial Highway Program was adopted by the National Council of State Garden Clubs, Inc., as a living tribute to the men and women of the nation's armed forces; and

WHEREAS, It is fitting and appropriate that further recognition be accorded the many citizens who have sacrificed for our country; and

WHEREAS, State Highway Route 89 extends from State Highway Route 395, two miles north of Topaz and three miles south of the Nevada, California state line, continues north on the west side of Lake Tahoe, crosses Interstate Highway Route 80 near Truckee, then continues north and runs jointly with State Highway Route 70 to the Greenville Wye, then continues on north on the west side of Lake Almanor to the junction of State Highway Route 36, then runs jointly with State Highway Route 36 to the south entrance of Lassen Park

and continues through the national park, then continues to the north to the junction of State Highway Route 44, and then runs jointly and continues north to the junction of Interstate Highway Route 5; and

WHEREAS, The designation of State Highway Route 89 as a Blue Star Memorial Highway is sponsored by the McCloud Garden Club, Inc., of McCloud and the California Garden Clubs, Inc., with a marker to be placed at an appropriate location now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That State Highway Route 89 be designated as a Blue Star Memorial Highway; and be it further

Resolved, That the Department of Transportation accept the marker to be placed by the McCloud Garden Club, Inc., at an appropriate location on Route 89 as an official marker; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation, the Secretary of the Business, Transportation and Housing Agency, the McCloud Garden Club, Inc., of McCloud, and the California Garden Clubs, Inc.

# RESOLUTION CHAPTER 97

Assembly Concurrent Resolution No. 112—Relative to the Frank F. Momyer Bypass.

[Filed with Secretary of State August 25, 1986]

WHEREAS, Frank F. Momyer has been a resident of Tuolumne County since 1937 when the Pickering Lumber Corporation transferred him to Sonora from Kansas City, Missouri; and

WHEREAS, Frank F. Momyer's long and productive career with that company ended with his retirement in 1973; and

WHEREAS, Frank F. Momyer has devoted considerable time and effort to a variety of community activities, including leadership roles in the Tuolumne County Chamber of Commerce of which he was President in 1959, Tuolumne County Planning Commission, Sonora Lions Club, Mother Lode Gun Club, Tuolumne County Sportsmen, Boy Scouts, Golden Chain Council, the Local Transportation Commission, and the State Chamber of Commerce's Highway Committee: and

WHEREAS, Frank F. Momyer's most enduring contribution to the quality of life in Tuolumne County came as a result of his membership on the Tuolumne County Chamber of Commerce's Highway Committee; and

WHEREAS, Through Frank F. Momyer's determination, persistence, dedication, and organizational abilities, the Tuolumne County Chamber of Commerce's Highway Committee worked for over 20 years to secure construction of the portion of State Highway

Route 108 known as the Sonora Bypass; and

WHEREAS, From 1963 to 1982, when the Sonora Bypass was given its final approval by the Department of Transportation, Frank F. Momyer led the widely supported and extensive public effort to secure construction of the Sonora Bypass which will improve public safety, provide the traveling public with more expeditious east-west travel in Tuolumne County, and lower noise and air pollution levels in the downtown section of the City of Sonora; and

WHEREAS, Frank F. Momyer attended countless meetings in Tuolumne County and elsewhere in California, wrote many letters, spoke to a variety of local and state boards and commissions about the need for the Sonora Bypass, worked with local, state, and even federal governmental officials on the Sonora Bypass, read and reviewed hundreds of pages of reports, maps, and studies and kept the most extensive files on the Sonora Bypass; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 108 known as the Sonora Bypass be officially designated the "Frank F. Momyer Bypass"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation; and be it further Resolved, That the Chief Clerk of the Assembly transmit a suitably

prepared copy of this resolution to Frank F. Momyer.

#### **RESOLUTION CHAPTER 98**

Assembly Concurrent Resolution No. 120—Relative to merit awards.

[Filed with Secretary of State August 25, 1986]

WHEREAS, Section 19823 of the Government Code provides that awards may be made to state employees in excess of three thousand dollars (\$3,000) when the awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of two thousand nine hundred ninety-six dollars (\$2,996), divided equally, has already been made to Vickie Chavez, Leslie Farinias, Marci Goorabian, Ruth Knowlton, Debi Perales, Susan Thomas, and Staci Weber, Department of Consumer Affairs, for a suggestion which resulted in increased revenue of thirty-nine thousand three hundred thirty-six dollars (\$39,336) by recommending the Contractors' State License Board discontinue a policy which permitted an applicant to request rescheduling of an examination without a \$50 rescheduling fee provided the request was received within two weeks from the mailing date of the notice to appear; and

WHEREAS, An award of three thousand dollars (\$3,000), divided

equally, has already been made to John B. Adamo and John D. Albu, Board of Equalization, for a suggestion which resulted in one-time and ongoing increased revenue of two hundred sixty-six thousand sixty-two dollars (\$266,062) by proposing a procedure to enable the Board of Equalization to collect applicable sales and use tax on transactions involving controlled substances and contraband; and

WHEREAS, An award of three thousand dollars (\$3,000) has already been made to Tamzia L. Marple, Franchise Tax Board, for a suggestion which resulted in increased revenue of one hundred ninety-five thousand nine hundred twenty-eight dollars (\$195,928) by recommending that the Notices of Proposed Assessments issued to single taxpayers be based on computations of tax and renters' credit for the single filing status (\$77) rather than the married, filing separate rate (\$68.50); and

WHEREAS, An award of three thousand dollars (\$3,000) has already been made to Kimi Langley, Department of Motor Vehicles, for a suggestion which resulted in annual savings of thirty-nine thousand seven hundred fifty dollars (\$39,750) by recommending that applications for environmental license plate reassignment be routed to Data Entry for processing and electronic counting as normal items instead of being sent to headquarters as suspense items and manually counted; and

WHEREAS, An award of five thousand five hundred eighty-six dollars (\$5,586) has already been made to Robert Cullen, Department of Transportation, for a suggestion which resulted in one-time savings of one hundred ninety-six thousand one hundred sixty-eight dollars (\$196,168) by recommending a service agreement with Tetra Tech Services, Inc., for maintenance on equipment installed at state toll bridges be terminated, with maintenance to be performed by Caltrans employees or, when necessary, calling in a contractor on an unscheduled basis; and

WHEREAS, An award of three thousand dollars (\$3,000) has already been made to Merle O. Nicks, Department of Transportation, for a suggestion which resulted in one-time savings of one hundred sixteen thousand one hundred twenty-five dollars (\$116,125) by recommending that dual capability ramp metering software be installed at certain test locations in the field instead of using manual methods to conduct traffic studies in those areas; and

WHEREAS, An award of three thousand dollars (\$3,000) has already been made to Richard Petrie, Department of Transportation, for a suggestion which resulted in one-time savings of three hundred thousand seven hundred thirty-one dollars (\$300,731) by recommending certain procedures be followed when entering into a cooperative agreement with local governments which would ensure proper application of matching state, local, and federal funds; and

WHEREAS, An award of three thousand dollars (\$3,000) has already been made to Martin S. Stevens, Department of Transportation, for a suggestion which resulted in one-time savings

of one million two hundred eighty-one thousand three hundred forty-nine dollars (\$1,281,349) by recommending installation of a surge protector as an alternative to isolating the communication cable in a separate conduit from the secondary power conductor; and

WHEREAS, The suggestions of these employees have resulted in annually recurring savings, one-time savings and increased revenue amounting to two million four hundred thirty-five thousand four hundred forty-nine dollars (\$2,435,449); and

WHEREAS, As a result of these savings and increased revenue, it is unnecessary to appropriate additional funds for payment of these awards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof, concurring, That the following awards, which have been authorized by the Department of Personnel Administration, are hereby authorized to the employees named:

Vickie Chavez, one hundred thirty-four dollars (\$134)

Leslie Farinias, one hundred thirty-four dollars (\$134)

Marci Goorabian, one hundred thirty-four dollars (\$134)

Ruth Knowlton, one hundred thirty-four dollars (\$134)

Debi Perales, one hundred thirty-four dollars (\$134)

Susan Thomas, one hundred thirty-four dollars (\$134)

Staci Weber, one hundred thirty-four dollars (\$134)

John B. Adamo, seven thousand five hundred seventy-seven dollars (\$7,577)

John D. Albu, seven thousand five hundred seventy-seven dollars (\$7,577)

Tamzia L. Marple, six thousand seven hundred ninety-six dollars (\$6,796)

Kimi Langley, nine hundred seventy-five dollars (\$975)

Robert Cullen, four thousand two hundred twenty-three dollars (\$4,223)

Merle O. Nicks, two thousand eight hundred six dollars (\$2,806) Richard Petrie, twelve thousand thirty-seven dollars (\$12,037)

Martin S. Stevens, sixty-one thousand sixty-seven dollars (\$61,067); and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the Department of Personnel Administration and to the Controller.

#### RESOLUTION CHAPTER 99

Assembly Concurrent Resolution No. 155—Relative to merit awards.

[Filed with Secretary of State August 25, 1986.]

WHEREAS, The Merit Awards Program, in existence since 1949, provides monetary awards calculated on the basis of projected savings to state employees who submit ideas that reduce state expenditures or improve the operation of state government, or both; and

WHEREAS, Participation by state employees over the years has assisted the state in reducing the cost of state government and increasing its efficiency, in keeping with the intent of the program; and

WHEREAS, Since the inception of the program, over \$25 million in first-year savings for the state have been created by implementing various ideas of state employees, including ideas to increase revenues, reduce service costs, save time and labor, eliminate safety hazards, reduce damages, and reduce energy costs, among others; and

WHEREAS, Under the Merit Awards Program, an honorary commendation, known as "The Special Act," may be awarded in recognition of acts of heroism performed by state employees, for risking life and limb in saving the life of another person, and since 1959, 150 employees have been so honored; and

WHEREAS, Under the program, a "Superior Accomplishment Award" may be awarded by department and agency heads to recognize extraordinary achievements by their employees; and

WHEREAS, The 1985–86 fiscal year has been one of the most successful in the history of the program: as of May 6, 1986, 355 ideas have been adopted which have saved the state \$4,771,857; the awards paid total \$384,694; the Legislature approved the largest awards in the history of the program for two adopted suggestions which netted two employees awards of \$107,281 and \$106,555, respectively; also, the receipt of suggestions is up 30 percent over the same period of the last fiscal year; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That all participating state employees, past and present, whose ideas and suggestions have been considered or adopted over the past 37 years under the State's Merit Awards Program are hereby recognized and commended for their contributions to the economy and efficiency of California's state government; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, and the Director of the Department of Personnel Administration.

Assembly Concurrent Resolution No. 157—Relative to California Senior Legislature Week.

[Filed with Secretary of State August 25, 1986]

WHEREAS, The older people of California, aware of the state's economic conditions and knowledgeable about their own situation, deserve the opportunity to speak with a unified voice to the California Legislature on their own behalf; and

WHEREAS, The California Senior Legislature (CSL) was created by state law in 1981; and

WHEREAS, Consisting of 120 legislators representing 80 assembly districts and 40 senate districts, the members of the CSL are elected throughout the state by their peers 60 years of age and older in elections conducted by the local area agencies on aging; and

WHEREAS, The CSL meets every fall in Sacramento to consider legislative proposals which originate from constituents in their districts and to give priorities to the legislative concerns of the almost four million seniors of California; and

WHEREAS, Only a small portion of CSL activities are supported by public funds, and most of their activities are supported by the voluntary contributions made by California taxpayers who donate through a checkoff provision on their state income tax forms; and

WHEREAS, The CSL members work throughout the year with the official state legislators for the adoption of senior priority legislation adopted at annual CSL sessions; and

WHEREAS, The CSL has been extremely successful to have many of its priorities enacted into law; and

WHEREAS, Of 25 bills sponsored by the CSL in 1985 on subjects ranging from senior housing financing to improved nursing home care, 17 were passed and signed into law; and

WHEREAS, The CSL members conduct their duties with dignity, respect, and honor, performing a vital function for the citizens of the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members take great pride and pleasure in extending their highest commendations to the California Senior Legislature and applaud its members for the vital role which they have played in identifying the needs of all of California's citizens, especially seniors; and be it further

Resolved, That the Members declare the first week of October as "California Senior Legislature Week," and extend to the California Senior Legislature full use of the chambers and committee hearing rooms of the California Senate and Assembly during that time.

Senate Joint Resolution No. 43—Relative to home audio recording.

[Filed with Secretary of State August 28, 1986]

WHEREAS, California is recognized as the entertainment capital of the world through its motion picture, television, and recording industries; and

WHEREAS, These entertainment industries are a vital part of California's cultural, social, and economic vitality; and

WHEREAS, California, through its economic development policies, continues to possess the largest economy based on creative intellectual property generated by the entertainment industry; and

WHEREAS, Protection of these artistic creations is afforded through federal copyright laws; and

WHEREAS, Copyright protection is based on the proposition that the welfare of the public will be served and progress of science and useful arts will be promoted by securing to the creators the exclusive rights to their creations; and

WHEREAS, The business environment and industry in California are adversely affected by unauthorized reproduction of copyrighted "sound recordings," with recording industry estimates of lost revenue at 1.5 billion dollars per year due to this practice; and

WHEREAS, The United States Congress is currently considering legislation to remedy this situation by amending the Copyright Act with H.R. 2911 and S. 1739, known as the "Home Audio Recording Act"; and

WHEREAS, These bipartisan bills would exempt home taping from copyright infringement liability and require manufacturers and importers of blank audio tape and taping equipment to pay a reasonable royalty fee to compensate the rights owners and creators of the music that is taped; now, therefore, be it

Resolved by the Senate and Assembly of the State of California jointly, That the Legislature of the State of California hereby respectfully memorializes the Congress and President of the United States to enact H.R. 2911 and S. 1739 in a form which would justly compensate artists and rights owners for the unauthorized rerecording of their creations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

Senate Joint Resolution No. 46—Relative to missing children.

[Filed with Secretary of State August 28, 1986.]

WHEREAS, House Resolution No. 604 and Senate Bill No. 1174 of the 99th Congress would provide states with assistance to establish or expand clearinghouses to locate missing children; and

WHEREAS, House Resolution No. 604 and Senate Bill No. 1174 would provide matching funds to state law enforcement departments to establish state clearinghouses for missing children; and

WHEREAS, Passage of this legislation is especially important due to the need to establish a link between all levels of government; and

WHEREAS, In order to meet demands created whenever cases involving missing children arise, local law enforcement agencies require trained experts capable of handling these crises in addition to proper telecommunications systems and trained personnel; and

WHEREAS, State clearinghouses are capable of working closely with private organizations, public agencies, and parents to develop a comprehensive and uniform educational program designed to instruct parents and children of possible dangers related to child abduction; and

WHEREAS, State clearinghouses are vital in combating the problem of missing children and should be implemented in each state; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact House Resolution No. 604 and Senate Bill No. 1174 of the 99th Congress; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## **RESOLUTION CHAPTER 103**

Senate Joint Resolution No. 67—Relative to California State University, Long Beach.

[Filed with Secretary of State August 28, 1986]

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California approves the corporate existence of the nonprofit California corporation known as

the Forty-Niner Shops, Inc., an auxiliary organization of California State University, Long Beach; and be it further

Resolved, That the form of the obligations to be issued by the Forty-Niner Shops, Inc., for the renovation of its campus food service facilities are approved, provided that this resolution does not constitute or give rise to any obligation of the State of California; the Board of Trustees of the California State University; California State University, Long Beach; or any officers or employees of any of these entities; and no lending or pledging of the credit of any of these entities is intended or accomplished by this resolution; and be it further

Resolved, That the State of California will accept the renovations to the Forty-Niner Shops, Inc., campus food service facilities as a gift when they are in place; and be it further

Resolved, That the Chancellor of the California State University is authorized to execute any necessary documents to implement this resolution.

## RESOLUTION CHAPTER 104

Senate Concurrent Resolution No. 84—Relative to electric rates for agricultural customers.

[Filed with Secretary of State August 28, 1986]

WHEREAS, During the 1970s, electric rates for agricultural customers were based on a "block rate system" that provided fair and manageable charges for electric power; and

WHEREAS, California agriculture was developed based on this system and for years was encouraged by electric utility companies to install single meters for a series of high horsepower pumps and other electric equipment because of the cost savings that could result from volume usage; and

WHEREAS, In the late 1970s, the Public Utilities Commission changed the methods used by electric utilities for charging for electricity furnished to industrial, commercial, agricultural, and residential customers; and

WHEREAS, Since that time, farm income has been level or declining while operational expenses have continued to increase, and neither of these factors is entirely within the farmer's control; and

WHEREAS, The farmer and rancher remains at the mercy of fluctuating market prices for perishable goods, acts of nature, and suppliers who independently control their prices and costs; and

WHEREAS, Because of these and other factors affecting agriculture today, farmers and ranchers and related businesses are having difficult times coping with the costs of electric power; and

WHEREAS, Agriculture, as California's number one industry, controls many rural economies and also affects supporting industries within cities which depend on a healthy farm economy for providing jobs, retail sales, and a supportive tax base; and

WHEREAS, Electric utility companies continue to petition the Public Utilities Commission for rate increases, which, if granted, will force many California farmers and ranchers out of business, which will have an adverse impact on agriculture-related businesses and rural cities and towns; and

WHEREAS, Contrary to other classes of electric customers, agricultural customers have, through technology, conservation, and other means, during the past 10 years, reduced the amount of power consumed in the production of agriculture; and

WHEREAS, Agricultural customers have not contributed to the need for the development, design, and construction of additional new electric power sources; and

WHEREAS, Agricultural electric rates have steadily increased during the past 10 years, without regard to the increased efficiency and reduced level of consumption by these customers; and

WHEREAS, The continued escalation of electric costs to agricultural customers is motivating them to seek alternative electric power supplies which afford them more cost control but which would, at the same time, reduce the overall customer base, thereby increasing costs for all other classes of electric customers; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission is hereby requested, when considering increases in electric rates affecting agricultural customers, to also consider, in light of previous increases approved by the commission, the increased efficiency of agricultural electric power consumption as well as the decreased demand for power by agricultural customers; and be it further

Resolved, That the commission is hereby requested to immediately consider the importance of implementing rate reductions during the growing season as opposed to during or after harvest season so that any rate reduction would occur at a time when agriculture could derive the greatest benefit from the rate reduction; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

## RESOLUTION CHAPTER 105

Senate Concurrent Resolution No. 95—Relative to the Los Angeles Central Library.

[Filed with Secretary of State August 28, 1986]

WHEREAS, The Central Library of the Los Angeles Public Library System, founded in 1872, is the largest public library in the Western United States; and

WHEREAS, The Los Angeles Central Library offers access to research, reference, and circulation for over 2,200,000 materials, including rare books and specialized collections as well as the business and patent libraries; and

WHEREAS, The Los Angeles Central Library possesses the largest foreign language collection in the Western United States, with books in 30 languages; and

WHEREAS, The various collections of the Central Library cumulatively recorded a general circulation of 900,000 from July 1984 through June 1985; and

WHEREAS, For 60 years, the Los Angeles Central Library has been housed in a building which was termed "an allegory to the pursuit of knowledge" by its architect, Bertram Grovsenor Goodhue; and

WHEREAS, The Central Library Building was dedicated on July 15, 1926, was designated an historic landmark by the Los Angeles Cultural Heritage Board in 1967, and is listed in the National Register of Historic Places; and

WHEREAS, The fate of the deteriorating Central Library Building has been in question in recent years, and the Los Angeles Community Redevelopment Agency proposed a \$144,000,000 plan in 1984 to renovate and expand the Central Library Building and to incorporate the historic structure, which represents the symbolic heart of Los Angeles, into an innovative business and commerce complex; and

WHEREAS, On Tuesday, April 29, 1986, a fire engulfed the historic building, severely damaging the massive collection of library materials and forcing the temporary closure of the Los Angeles Central Library; and

WHEREAS, Facing intense personal hazards, over 250 firefighters battled the Central Library fire, which, with temperatures of approximately 2,000 degrees Fahrenheit, was the most difficult structure fire in the city's history; and

WHEREAS, The heroic firefighters managed to cover the books and to lift precious documents off the floor in an attempt to protect them from water damage; and

WHEREAS, The fire caused injury to 46 firefighters and one civilian; and

WHEREAS, Despite tireless efforts by the firefighters, 400,000 library materials were lost, and another 1,200,000 were moved offsite on Saturday, May 3, 1986, in an effort to save them through a variety of drying and cleansing processes; and

WHEREAS, Of the 1,200,000 damaged materials, 600,000 were placed in wet storage to be freeze-dried through a delicate process,

and the remaining 600,000 were placed in dry storage to await mending and cleaning from smoke and dust damage; and

WHEREAS, Between 400,000 and 500,000 books remain in the building with no moisture damage and only minor cleaning needs; and

WHEREAS, The Los Angeles City Council has allocated \$500,000 to assist in the task of removing and salvaging the damp materials, though this will only cover the initial costs; and

WHEREAS, The Los Angeles Central Library is now seeking a temporary building with at least 250,000 square feet, with floors capable of withstanding a weight load of 150 pounds per square inch; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature expresses its regret at the loss of the library materials and the damage to the historic Los Angeles Central Library Building, which are losses to all Californians; and be it further

Resolved, That the Legislature commends and thanks all of the courageous firefighters who set aside their personal well-being in order to prevent the total destruction of this essential part of California's cultural heritage; and be it further

Resolved, That the Legislature pledges its support for, and urges all Californians to join in, the efforts to replace the lost library materials and to ensure that temporary and permanent quarters for the Los Angeles Central Library are secured; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, to the Mayor of Los Angeles, to the State Librarian, to the State Fire Marshal, to the Director of Forestry, to the Director of the Los Angeles Public Library, and to the Fire Chief of the City of Los Angeles.

## RESOLUTION CHAPTER 106

Senate Concurrent Resolution No. 104—Relative to the Joint Rules.

[Filed with Secretary of State September 3, 1986]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That notwithstanding any other Joint Rule of the Senate and the Assembly for the 1985–86 Regular Session, the Legislature shall be in final recess on August 31, 1986, until adjournment sine die on November 30, 1986.

#### RESOLUTION CHAPTER 107

Assembly Joint Resolution No. 87—Relative to the national maximum speed limit.

[Filed with Secretary of State September 3, 1986.]

WHEREAS, The 55 miles-per-hour National Maximum Speed Limit (NMSL), as originally enacted 12 years ago, was a temporary fuel conservation measure which has become permanent law due to the safety benefits derived from reduced speed; and

WHEREAS, Federal standards were established in 1979 that mandated minimum state compliance levels with the 55 mph NMSL and imposed sanctions on those states, whose noncompliance levels were above 50 percent for motorists exceeding the 55 mph NMSL, by withholding up to 10 percent of the state's federal aid primary, secondary, and urban highway funds; and

WHEREAS, This state's noncompliance level has consistently increased to its 1985 level of 49.7 percent, up from 45.4 percent in 1984; and

WHEREAS, This state could be penalized up to \$30,000,000 per year if the 55 mph NMSL noncompliance level rises above 50 percent, which is likely for 1986; and

WHEREAS, The gathering and reporting of speed data to determine a state's noncompliance level with the 55 mph NMSL, although governed by federal monitoring guidelines, varies sufficiently between states due to (1) variations in what speeds are reported as exceeding 55 mph, and (2) lack of consistency in the calibration of speed measuring equipment, to warrant a revision of the federal 55 mph NMSL compliance testing and reporting process; and

WHEREAS, California motorists continue to exceed the 55 mph NMSL in increasing numbers each year despite active law enforcement efforts (over 1,000,000 citations for exceeding the 55 mph NMSL issued per year) and extensive public information on the legal consequences of exceeding, and safety benefits derived from complying with, the 55 mph NMSL; and

WHEREAS, A motorist is more likely to comply with speed limits that he or she feels are realistic for the particular type of highway on which the motorist is driving, particularly on major rural freeways, and public opinion surveys show that the public expects a 5 to 10 mph tolerance before the 55 mph NMSL is enforced; and

WHEREAS, Law enforcement agencies and the public are in agreement that legislation which reduces fines and penalties for exceeding the 55 mph NMSL should be opposed because it would encourage motorists to consistently exceed the 55 mph NMSL without fear of serious punishment; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby

respectfully memorializes the President and Congress of the United States to revise the federal 55 miles-per-hour National Maximum Speed Limit compliance testing and reporting process to better reflect safety priorities by assigning greater significance to high-speed violations occurring on less-safe roads and to exempt safety projects from sanctions; and be it further

Resolved, That California be authorized to selectively increase speed limits on rural freeways in the National System of Interstate and Defense Highways; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation.

#### - RESOLUTION CHAPTER 108

Assembly Joint Resolution No. 94—Relative to commercial fishing vessels.

[Filed with Secretary of State September 3, 1986]

WHEREAS, Federal law applies to persons injured in the course of maritime employment; and

WHEREAS, Applicable legislation appears to be mutually exclusive, in that workers covered under the Jones Act do not have access to the remedies available under any other federal act; and

WHEREAS, Rising insurance rates for commercial fishing vessels which are subject to the Jones Act have increased costs and slowed expansion in this vital industry; and

WHEREAS, The Jones Act has no provision rendering inoperative state laws which create parallel remedies such as workers' compensation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to amend the Jones Act to allow commercial fishermen the option of coverage by the state workers' compensation program or other remedies which may resolve the problem of rising insurance rates for commercial fishing vessels: and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 121—Relative to the Aquatic Habitat Institute.

[Filed with Secretary of State September 3, 1986]

WHEREAS, San Francisco Bay and its aquatic habitat is one of the most valuable assets of the State of California; and

WHEREAS, Man's activities, including urban and water development and agricultural uses, have changed the character of the San Francisco Bay and Sacramento-San Joaquin Delta estuarine system; and

WHEREAS, Major efforts have been undertaken to reduce the impact of these activities, including the investment of over two billion dollars in waste treatment facilities and the release of fresh water from reservoirs to provide for maintenance of instream salinity standards as required by the State Water Resources Control Board which also results in outflow to the bay; and

WHEREAS, Despite these efforts, recent San Francisco Bay studies have shown a decline in the number of striped bass, abnormalities and accumulation of toxic substances in certain fish species, and other existing and potential factors that are cause for serious concern; and

WHEREAS, Despite the huge investment to mitigate the impacts of the eight million people in the Central Valley and San Francisco Bay drainage basin, very little has been spent to analyze, on a continuous basis, the impacts of these activities; and

WHEREAS, Local, state, and federal research and planning activities beginning in the 1950's and 1960's have generally been uncoordinated, limited in scope, based on inconsistent data-gathering standards, and with insufficient scientific depth to provide the necessary information from which to support further cleanup and abatement efforts; and

WHEREAS, Recognizing a need in the late 1970's and early 1980's, the State Water Resources Control Board invested more than two million dollars in developing a San Francisco Bay aquatic habitat program; and

WHEREAS, This program included the creation of a nonprofit corporation, the Aquatic Habitat Institute, to provide permanent coordination and direction to research and information-gathering regarding the health of San Francisco Bay; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes the vital function served by the Aquatic Habitat Institute, and urges state, federal, and local agencies and private industries and individuals to support its work; and be it further

Resolved, That the Legislature urges state agencies, including the State Water Resources Control Board, to utilize the services of the

institute to supplement ongoing efforts and to reduce overlapping and redundant activities; and be it further

Resolved, That the Legislature encourages appropriate state agencies to develop a relationship with the institute patterned after the relationship between the National Academy of Sciences and the federal government; and be it further

Resolved, That the Legislature recognizes the institute as the coordinator of research and long-term archives of data for San Francisco Bay, subject to the following:

- 1. The board of directors shall broadly represent all parties with significant interests in the health and uses of the San Francisco Bay Aquatic Habitat, and shall be constituted to ensure a reasonable balance among any conflicting interests.
- 2. The institute shall develop the necessary funds to operate, based on a program which includes grants, local funding, and private sources, and shall report to the Legislature on the subject within 270 days after adoption of this resolution.
- 3. The institute shall recognize the numerous public and private organizations with special interest and expertise concerning San Francisco Bay, and shall actively solicit a public exchange of views on bay research to assure maximum technical input and citizen understanding; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Chairman of the State Water Resources Control Board and the Aquatic Habitat Institute.

# RESOLUTION CHAPTER 110

Assembly Concurrent Resolution No. 139—Relative to oil well abandonment.

[Filed with Secretary of State September 3, 1986.] -

WHEREAS, A "stripper well" is an oil well which has already produced the bulk of its existing oil deposit; and

WHEREAS, 50 percent or 25,000 of the 50,000 producing oil wells in California are stripper wells that produce less than 10 barrels of oil per day, and

WHEREAS, Most of the stripper wells produce heavy crude oil that is difficult and expensive to bring to the surface; and

WHEREAS, The selling price of a barrel of crude oil in California dropped more than 60 percent in the first three months of 1986; and WHEREAS, The cost of operating many stripper wells is more than the value of the oil they produce; and

WHEREAS, Nearly one-third of the stripper wells in California have been shut down since oil prices began their decline; and

WHEREAS, Some local governments require the abandonment of

wells within their jurisdiction that have been shut down for certain periods of time; and

WHEREAS, The wells that have been shut down because of the price decline could be returned to production when the value of oil again equals or exceeds the cost of producing the oil; and

WHEREAS, The oil remaining in the ground can eventually be recovered from wells that have been shut down but would almost certainly never be recovered from wells that have been abandoned; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature urges local governments to refrain from requiring the abandonment of oil wells which have been shut down due to depressed oil prices unless it can be definitely established that no future oil production will be lost; and be it further

Resolved, That requirements by local governments to abandon shutdown wells be suspended until that time when oil prices reach a level where production of these wells again becomes economically feasible; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to each chairman of the board of supervisors in the 30 counties listed below where stripper wells are located and to each mayor of the cities in those counties, as follows:

- (1) Alameda.
- (2) Butte.
- (3) Colusa.
- (4) Contra Costa.
- (5) Fresno.
- (6) Glenn.
- (7) Humboldt.
- (8) Kern.
- (9) Kings.
- (10) Los Angeles.
- (11) Madera.
- (12) Merced.
- (13) Monterey.
- (14) Orange.
- (15) Riverside.
- (16) Sacramento.
- (17) San Benito.
- (18) San Bernardino.
- (19) San Joaquin.
- (20) San Luis Obispo.
- (21) San Mateo.
- (22) Santa Barbara.
- (23) Santa Clara.
- (24) Solano.
- (25) Sonoma.
- (26) Sutter.
- (27) Tehama.

- (28) Tulare.
- (29) Ventura.
- (30) Yolo.

# RESOLUTION CHAPTER 111

Assembly Concurrent Resolution No. 171—Relative to the Joint Rules.

[Filed with Secretary of State September 3, 1986]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That notwithstanding any other Joint Rule of the Senate and the Assembly for the 1985–86 Regular Session, the Legislature shall be in final recess on September 16, 1986, until adjournment sine die on November 30, 1986.

#### RESOLUTION CHAPTER 112

Assembly Concurrent Resolution No. 82—Relative to international studies.

[Filed with Secretary of State September 5, 1986]

WHEREAS, The area known as the Pacific Rim, including all those states and nations bordering on both sides of the Pacific Ocean, comprises 60 percent of the world's population and has a combined economy of greater than three trillion dollars (\$3,000,000,000,000), which is growing by three billion dollars (\$3,000,000,000) a week; and

WHEREAS, Economic trade between California and other countries in the Pacific Rim totaled over sixty-seven billion dollars (\$67,000,000,000) in 1984 and is expected to continue to grow into the forseeable future; and

WHEREAS, Four out of every five new American jobs depend on exports, and in California, one in 10 jobs is in the import/export business, and this figure is even higher in the technology-based industries; and

WHEREAS, California is situated by virtue of its geography, economy, history, and character on this rim of opportunity and is in a position to provide economic and technological leadership in this dynamic region; and

WHEREAS, California currently receives some 30 percent of the immigrants from Pacific Basin countries leading to the increased internationalization of California, which will create new challenges for the educational and economic system; and

WHEREAS, Continued economic growth depends upon an

educated work force and business, political, and community leaders attuned to the realities of other Pacific Rim countries; and

WHEREAS, For California to prepare for the future within an internationalized economy, it is possible that more students will need to be educated in the business, political science, sociology, history, language, religion, economics, and culture of other Pacific Rim countries: and

WHEREAS, The three public segments of postsecondary education in California provide a broad spectrum of distinguished research and educational offerings and exchange programs pertaining to the Pacific Rim countries and regions within the Pacific Rim; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Regents of the University of California, the Trustees of the California State University and the Board of Governors of the California Community Colleges are each requested to conduct a study of the role of the respective institutions and particular campuses in meeting the needs of the state in furthering its economic position and leadership within the Pacific Rim region and in carrying out its responsibilities to immigrants of Pacific Rim countries, including, but not limited to, an assessment of the need for all of the following:

- (1) Pacific Rim specialists.
- (2) Increased interchange among scholars in countries of the Pacific Rim.
- (3) Changes in current educational program offerings and exchange programs bearing on Pacific Rim studies.
- (4) Enhancing the exchange of information and ideas through improved computer communication systems between University of California, California State University, and community college campuses and university and college campuses in other Pacific Rim countries.
- (5) Establishment of a Center for Pacific Rim Studies, to fulfill research and public service functions pertaining to the Pacific Rim area; and be it further

Resolved, That the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are requested to report to the California Postsecondary Education Commission on or before March 1, 1987, on the above-mentioned requests; and be it further

Resolved, That the California Postsecondary Education Commission is requested to review these reports, compile them, and make recommendations to the Legislature and Governor not later than July 1, 1987; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President of, and the Regents of, the University of California, the Chancellor of, and the Trustees of, the California State University, and the Chancellor of, and the Board of Governors of, the California Community Colleges.

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#### RESOLUTION CHAPTER 113

Assembly Concurrent Resolution No. 89—Relative to economic development.

[Filed with Secretary of State September 5, 1986]

WHEREAS, The United States has lost its historic preeminence in basic experimental research in high energy physics because other nations have more sophisticated and powerful particle accelerators to study the basic nature of matter; and

WHÉREAS, The federal government is considering building the Superconducting Super Collider (SSC) which would be 20 times more powerful than existing accelerators and which would allow the United States to recapture its scientific lead in this important field; and

WHEREAS, The state which becomes the site for the SSC will receive enormous benefits including an estimated \$1 billion in direct construction expenditures, at least 2,000 permanent new jobs, improved prestige for its universities, and numerous spinoffs of high technology companies; and

WHEREAS, Other states are actively competing to attract the SSC, with Illinois offering to use the existing Fermilab and Texas offering to donate land and construction costs; and

WHEREAS, The Governor and the Legislature of the State of California met this competitive challenge in 1985 by appropriating \$500,000 to the University of California to organize a site committee in conjunction with Stanford University and the California Institute of Technology, which are all leaders in particle physics research; and

WHEREAS, The Governor and the Legislature of the State of California provided an additional \$1,000,000 appropriation to the University of California in 1986 to bolster its efforts in attracting the SSC; and

WHEREAS, The Governor has assigned key agencies of the State of California to work with the University of California on this project; and

WHEREAS, The Senators and Representatives from California in the Congress of the United States have taken a strong lead in organizing California's efforts to attract the SSC by forming a bipartisan committee of six representatives to work together on this important project; and

WHEREAS, The Legislature has formed a similar task force comprised of 22 legislators from both parties and both houses; and WHEREAS, There is a need for all of California's political leaders, agencies, universities, private businesses, and labor groups to work

together in a coordinated and organized fashion to successfully compete for the SSC; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there be established the State Executive Steering Committee on the Superconducting Super Collider to advise the Committee on Economic Development and New Technologies, the Joint Committee on Science and Technology, the Governor, and each Senator and Representative from California in the Congress of the United States regarding the effort to attract the Superconducting Super Collider to California.

- (a) It is the intent of the Legislature that the State Executive Steering Committee consist originally of 19 members, as follows:
- (1) Two persons from the University of California appointed by the President of the University of California.
- (2) Two persons from California's delegation in the United States House of Representatives appointed by the senior member of each party.
- (3) The two Senators from California in the Congress of the United States, to serve as ex officio members.
- (4) Six Members of the Legislature of the State of California. The Speaker of the Assembly shall appoint three Assembly Members, and the Senate Committee on Rules shall appoint three Senators.
- (5) The Governor, the Lieutenant Governor, and the Treasurer, as ex officio members.
- (6) The Secretary of the Business, Housing and Transportation Agency.
  - (7) One member, appointed by the Governor.
  - (8) One member, appointed by the Lieutenant Governor.
  - (9) One member, appointed by the Treasurer.
- (b) It is the intent of the Legislature that the original committee appoint the following members to the committee:
  - (1) Two persons representing local governments.
- (2) One person from the site committee appointed by the committee.
  - (3) At least one person representing labor unions.
  - (4) At least one person from the private business sector.
  - (5) Additional members at the discretion of the committee.
- (c) It is the intent of the Legislature that the chairman of the committee be appointed by the President of the University of California; and be it further

Resolved, That it is the intent of the Legislature that all relevant state agencies provide all assistance necessary to the State Executive Steering Committee in order that the people of California can enjoy the economic and scientific benefits which will result from attracting the SSC to the state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor of the State of California, to each Senator and Representative from California in the Congress of the United States, and to the members of the State Executive Steering Committee on the Superconducting Super Collider.

## RESOLUTION CHAPTER 114

Assembly Concurrent Resolution No. 113—Relative to the Public Utilities Commission.

[Filed with Secretary of State September 5, 1986.]

WHEREAS, The Public Utilities Commission has plenary authority to prescribe books of account for public utilities operating in California; and

WHEREAS, Public utilities operating in California are required to maintain their accounts, books, and records in a manner prescribed by the Public Utilities Commission; and

WHEREAS, In recent years public utilities in California have established subsidiary and affiliated companies which are proliferating; and

WHEREAS, The proliferation of utility-related companies has not been accompanied by the Public Utilities Commission's prescription of accounting systems for handling accounting for transactions between utilities and affiliates; and

WHEREAS, The Public Staff Division of the Public Utilities Commission has stated that it is unable to perform adequate audits of these companies on a case-by-case basis; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Public Utilities Commission is requested to immediately investigate public utility accounting practices, including accounting practices for transactions between public utilities and affiliates; and be it further

Resolved, That the Public Utilities Commission is requested to submit a report to the Legislature on or before January 1, 1987, concerning accounting procedures for public utilities and for transactions between public utilities and affiliates; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Public Utilities Commission.

#### **RESOLUTION CHAPTER 115**

Assembly Concurrent Resolution No. 141—Relative to the study of talent development approaches for improving higher education in California.

[Filed with Secretary of State September 5, 1986.]

WHEREAS, The primary goal of every educational institution should be to improve and add to the intellectual and personal development of each student; and

WHEREAS, The ultimate measure of the effectiveness of an educational institution is the success of its students in acquiring knowledge, competencies, and skills in learning their meaningful application; in forming reasoned attitudes and in examining and adopting values; and in developing the capacity for further learning; and

WHEREAS, Educational institutions should have the capacity to create educational environments, teaching practices, and evaluative procedures which enable, stimulate, and encourage significant learning for students served; and

WHEREAS, The measures of quality in most colleges and universities often fail to evaluate the impact of the institution on the improvement of the individual students from entrance to graduation; and

WHEREAS, The State of California spends nearly five billion dollars annually on its system of higher education, but the budget formulas tend to be based more on enrollments and physical space needs rather than on rewarding institutions for improvement of student learning; and

WHEREAS, While every student has a certain amount of underdeveloped educational potential, California students appear to fall short of meeting their potential as evidenced by the need for a high number of remedial course offerings and inadequate student retention rates; and

WHEREAS, Many colleges and universities across the country are considering experimenting with "value-added" or "talent development" approaches to measure student growth and with budget formulas which recognize and reward institutional performance in these areas; and

WHEREAS, Future success in coping with California's critical problems through higher education will depend on the development of new partnerships and a more cooperative approach to common issues, such as transfer and minority student access and retention efforts, on the part of all segments of education, kindergarten through the university; and

WHEREAS, The public at large would benefit greatly and be well served by maximizing educational potentials and improving student performances; and

WHEREAS, California's Master Plan for Higher Education, which is currently under review and revision, creates a framework for discussing large-scale educational policy objectives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby directs the California Postsecondary Education Commission to survey other states, analyze relevant data, and make recommendations relative to talent development, value-added, and performance-based budgeting approaches to measuring and improving the quality of education; and be it further

Resolved, That the California Postsecondary Education Commission shall appoint and call on the assistance of a Task Force on Value-Added Approaches to Higher Education, which shall be composed of, but not limited to, a representative from the Higher Education Research Institute, and student, faculty, and administrative representatives from the University of California, California State University, the California Community Colleges, the California Maritime Academy, the Hastings College of the Law, and Scripps Institute, and shall extend an invitation to participate to private colleges and universities; and be it further

Resolved, That the California Postsecondary Education Commission shall submit a report on its findings and conclusions, and, if appropriate, the California Postsecondary Education Commission shall submit options for developing, implementing and measuring talent development, or value-added approaches to higher education, and performance-based budgeting incentives for encouraging the adoption of these approaches by public higher education institutions: and be it further

Resolved, That the California Postsecondary Education Commission shall submit this report to the Commission for the Review of the Master Plan for Higher Education, the Joint Legislative Committee for the Review of the Master Plan for Higher Education, the Regents of the University of California, the Trustees of California State University, and the Board of Governors of the California Community Colleges, not later than March 1, 1987.

#### RESOLUTION CHAPTER 116

Assembly Concurrent Resolution No. 143—Relative to criminal justice.

[Filed with Secretary of State September 5, 1986]

WHEREAS, The state's share of criminal justice system expenditures in the 1983 fiscal year ranked last among all other states, comprising only 22 percent of the total direct cost of operating the state and local criminal justice system; and

WHEREAS, The county share of criminal justice system expenditures ranks second among all other states, comprising 44 percent of the direct costs of the state and local justice systems; and

WHEREAS, County expenditures for corrections are 14 percent of the total direct state and local justice system expenditures, in comparison to the national average among the states of 7 percent; and WHEREAS, County expenditures for judicial activities amount to 17 percent of the total direct state and local justice system expenditures, in comparison to the national average among the states of 9 percent; and

WHEREAS, County expenditures for law enforcement are 13 percent of the total direct state and local justice system expenditures, in comparison to the national average among the states of 10 percent; and

WHEREAS, Counties spend 17 times the amount the state expends for judicial activities; and

WHEREAS, Counties spend more than twice as much as the state for police activities; and

WHEREAS, Counties spend more for corrections than does the state; and

WHEREAS, There is a need for the state to recognize these disparities and to pay for a greater share of the total state and local justice system costs; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That an advisory committee comprised of two Members of the Assembly appointed by the Assembly Rules Committee, two Members of the Senate appointed by the Senate Rules Committee, two Members appointed by the County Supervisors Association of California, one member appointed by the California District Attorneys Association, one member appointed by the California Public Defenders Association, one member who is a private attorney performing contract defender services for a county to be appointed by the California Attorneys for Criminal Justice, one member appointed by the Chief Probation Officers Association of California, one member appointed by the California State Sheriffs' Association, one member appointed by the Attorney General, and one member appointed by the State Public Defender, be appointed for purposes of reviewing the current state and county share of the costs of the state and local criminal justice system; and be it further

Resolved, That the advisory committee submit a report on the results of its review to the Legislature on or before March 30, 1987.

#### RESOLUTION CHAPTER 117

Assembly Concurrent Resolution No. 149—Relative to rural health facilities.

[Filed with Secretary of State September 5, 1986.]

WHEREAS, In certain remote or rural areas, rural hospitals are in imminent danger of closure; and

WHEREAS, These hospitals serve to attract and retain physicians, nurses, and other primary care providers; and

WHEREAS, The closure of these hospitals is followed by the departure of primary care providers and loss of emergency medical services; and

WHEREAS, Remote and rural areas have a chronic shortage of skilled nursing facility care; and

WHEREAS, It is the intent of the Legislature to create a new and more cost-effective facility that addresses the needs of people in remote or rural areas; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Health Services is requested to inform the Legislature, no later than February 1, 1987, of the feasibility of creating a new health facility classification for isolated rural areas incorporating all of the following features:

- (a) Provision of service beds on a 24-hour or longer basis.
- (b) Provision for distinct part skilled nursing care.
- (c) Provision for emergency medical services.
- (d) Regulations necessary to convert existing acute care hospitals to the new classification using the existing hospital site, plant, and equipment.
- (e) Provision for reimbursement of costs for skilled nursing care at distinct part rates; and be it further

Resolved, That if the State Department of Health Services does not find the creation of a new health facility classification to be feasible, the state department is requested to inform the Legislature, no later than February 1, 1987, on plans for the support of isolated rural hospitals consistent with the "Rural Renaissance Initiative," as proposed in the Governor's 1986–87 Budget, which does not require a new license classification.

## RESOLUTION CHAPTER 118

Assembly Concurrent Resolution No. 163—Relative to commending Greg LeMond.

[Filed with Secretary of State September 5, 1986]

WHEREAS, On July 27, 1986, Gregory James ("Greg") LeMond of Rancho Murieta, California won the 73rd Tour de France, and he became the first American to win this most prestigious bicycle road race in the world; and

WHEREAS, Mr. LeMond finished the 2,543-mile race with a margin of three minutes and ten seconds over the second-place finisher, Bernard Hinault, his teammate on the La Vie Claire team and a five-time winner of the Tour de France; and

WHEREAS, Born on June 26, 1961, Greg LeMond took up cycling when he was 14 years old, and, inspired by the film Breaking Away, he bought his first racing bike when he was 16; and

WHEREAS, A member of the United States Olympic cycling team in 1980, he turned professional after the United States boycotted the Olympics that year; and

WHEREAS, Mr. LeMond soon became a rising star in the European cycling community, and he won the world road racing championship in 1983 in Switzerland; and

WHEREAS, He has been a dominant performer in the three times he has competed in the Tour de France, finishing third overall in 1984 and second overall in 1985 before taking home championship honors this year; and

WHEREAS. The victory of Greg LeMond in the Tour de France is a milestone in the history of that event and should do much to stimulate interest in cycling throughout the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California commends Greg LeMond for his victory in the 73rd Tour de France and for his numerous other accomplishments in the sport of cycling, and conveys best wishes for his continued success; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to Greg LeMond.

# **RESOLUTION CHAPTER 119**

Assembly Joint Resolution No. 91—Relative to a marine sanctuary.

[Filed with Secretary of State September 5, 1986]

WHEREAS, The coast of California is a place of rare beauty and incalculable value to the spirit of humankind as well as for its economic well-being, and it is a national treasure admired and loved by all who have been refreshed by it; and

WHEREAS, The oil industry intends to drill for oil off this spectacular coast, which will result in a new and noxious chemical odor in the air that will never leave; the potential destruction of seabirds and marine life; possible contamination of the food chain, including seafood shipped throughout California; large-scale air and water pollution from tankers, rigs, drill ships, trucks, and refineries; added pressure on highways, already badly in need of repair, as well as on other local services and resources; and

WHEREAS, The plan to drill the north coast of California is related not to the real energy needs of Americans, but rather to federal decisions that discarded regulations regarding fuel-efficient cars, threw out government funding of alternative energy research, ended tax incentives for conservation and alternative energy use, and scrapped the once highly touted Synfuels program; and

WHEREAS, Despite the Department of the Interior's contention

that California is not supplying its fair share of the nation's energy, this state is in reality a net energy exporter, producing far more energy than it consumes, and leading the nation in the development of alternative energy and conservation methods; and

WHEREAS, The drilling for oil off of the north coast of California will not result in an increase in local employment or an improvement in the local economy as has been cynically promised, but will actually threaten the few remaining economic bases of the north coast, such as the commercial fishing and tourism industries, all for about one week's worth of energy for the nation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation creating a zone of permanent protection for the northern California coast, from Point Buchon to the Oregon border, from 200 miles offshore to the tide and submerged lands of the State of California, and that this zone be set aside as a marine sanctuary, where extraction of fossil fuels, minerals, and other nonrenewable materials, and the dumping or burning of toxic wastes, are forbidden and the protection of the marine environment and the needs of the commercial and sports fisheries are assured forever; and be it further

Resolved, That the Legislature respectfully requests that, as part of the establishment of this zone of permanent protection, recommendations be developed and submitted to California for the establishment of compatible zones in adjacent state waters; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

#### RESOLUTION CHAPTER 120

Senate Concurrent Resolution No. 53—Relative to penalty assessments.

[Filed with Secretary of State September 5, 1986]

WHEREAS, The original purpose of penalty assessments on traffic infractions was to finance public school driver education programs; and

WHEREAS, The majority of current penalty assessment moneys are diverted to programs that do not have a logical relationship to traffic infractions; and

WHEREAS, Penalty assessments may comprise up to an additional 80 percent of the fine, with less than 15 percent of the penalty

assessment dedicated to driver training; and

WHEREAS, The assessments on traffic violations bring in far more revenue than those penalties assessed on criminal and violent crimes, yet penalty assessments support courthouse construction, juvenile justice facilities, fish and game preservation, correctional officer training, peace officer training, and restitution funding; and

WHEREAS, The above-cited programs are vital to the state's well-being; and

WHEREAS, It is desired that these various programs be provided a stable and predictable source of funding; and

WHEREAS, Traffic fines should be levied to deter unlawful conduct rather than as a means of generating revenue; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislative Analyst shall study penalty assessments and compare the sources of contribution to the benefits gained and recommend other stable revenue sources from which various penalty assessment programs may be funded; and be it further

Resolved, That the Legislative Analyst shall establish, and appoint the membership of, an advisory committee, which shall advise the Legislative Analyst while he or she prepares the study required by this resolution; and be it further

Resolved, That the advisory committee shall include representatives of local government, law enforcement, court personnel, motor clubs, and other appropriate user groups; and be it further

Resolved, That the members of the advisory committee shall serve without compensation, except that, pursuant to Joint Rule 37, the Chairperson of the Joint Legislative Budget Committee shall be authorized to reimburse, at legislative staff rates, members of the advisory committee for travel and living expenses they incur pursuant to this resolution; and be it further

Resolved, That the Legislative Analyst shall report his or her findings and recommendations to the Chairperson of the Senate Judiciary Committee and the Chairperson of the Assembly Public Safety Committee not later than December 31, 1987; and be it further

Resolved, That, as of December 31, 1987, the advisory committee shall cease to exist.

## **RESOLUTION CHAPTER 121**

Senate Joint Resolution No. 57—Relative to the motor carrier industry.

[Filed with Secretary of State September 5, 1986.]

WHEREAS, The motor carrier industry lacks adequate representation with the United States Department of Transportation because there is no motor carrier administration with an administrator, such as exists for the Federal Railroad Administration and Federal Aviation Administration; and

WHEREAS, The motor carrier industry employs more people and pays higher income taxes than any other transportation industry; and

WHEREAS, The United States Department of Transportation activities, as they affect the motor carrier industry, go far beyond the scope of activities of the present Federal Highway Administration, and include general transportation policy questions, allocations of research and planning resources, and other activities; and

WHEREAS, The establishment of a motor carrier administration would increase visibility of the motor carrier safety program, allow more effective oversight of truck programs by the Secretary of Transportation, foster more coordinated programs and policies, as well as provide a single point of focus for consumer, labor, and business interests and state and local governments; and

WHEREAS, The creation of a motor carrier administration within the United States Department of Transportation would recognize the vital role of the motor carrier industry to the nation's economy and to the safety, health, and well-being of its citizens; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Secretary of Transportation to support legislation which would establish a motor carrier administration that would bring motor carrier matters under the jurisdiction of the Department of Transportation affecting commercial motor transportation within a single administration; and be it further

*Resolved*, That the Secretary of the Senate transmit a copy of this resolution to the Secretary of Transportation.

# **RESOLUTION CHAPTER 122**

Senate Concurrent Resolution No. 74—Relative to small businesses.

[Filed with Secretary of State September 5, 1986]

WHEREAS, There have been recent proposals to eliminate the federal Small Business Administration; and

WHEREAS, The loan guarantees and other programs of the Small Business Administration are of great assistance to the 95 percent of businesses in this state which are small businesses; and WHEREAS, Discontinuance of the activities of the Small Business Administration would, therefore, have a negative impact on the California economy; and

WHEREAS, If the federal government eliminates this vital program, the state may be able to assume these functions; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Commerce is requested to appoint and coordinate a task force representing concerned agencies to conduct a study of, and prepare a plan for, transfer of the essential in-state functions of the federal Small Business Administration to a state agency or authority in the event the Small Business Administration or its essential functions are terminated; and be it further

Resolved, That the Department of Commerce is requested to transmit a report on the study and plan prepared pursuant to this measure to the Legislature on or before January 1, 1988, and that the costs incurred by the department with respect to this study and plan be paid from funds available in the department's existing budget.

#### **RESOLUTION CHAPTER 123**

Senate Concurrent Resolution No. 85—Relative to the California National Guard in Honduras.

[Filed with Secretary of State September 5, 1986.]

WHEREAS, The Governor has sent men and women of the California National Guard to Honduras and declined to rule out sending more; and

WHEREAS, Honduras is situated between Central America's most war-torn nations, Nicaragua and El Salvador, is a haven for refugees from both countries, and could become the scene of fighting related to either or both of these nations; and

WHEREAS, Sending the men and women of the California National Guard into the Honduran situation endangers their lives; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature respectfully urges the Governor to reverse his decision forthwith, and to join with the governors of other states in declining to send members of the National Guard to Honduras; and, be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Governor of the State of California.

### **RESOLUTION CHAPTER 124**

Senate Concurrent Resolution No. 101—Relative to the Van Nuys Administrative Center.

[Filed with Secretary of State September 5, 1986.]

WHEREAS, The Van Nuys Administrative Center is a state office building in Van Nuys which does not contain any child care facility; and

WHEREAS, There are many state, federal, county, and city employees who work in the vicinity of the center who have child care needs; and

WHEREAS, The establishment of a child care facility in the center would require the removal of some state agencies within the center to a leased building away from the center, and there is no available state-owned site around the center to establish an outdoor play area for any proposed child care facility within the center; and

WHEREAS, It has been proposed that the state acquire land adjacent to the Van Nuys Administrative Center for the purpose of constructing an annex to the center which would include a child care facility; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby requests the Department of General Services to undertake needs assessment and planning for an annex to the Van Nuys Administrative Center which would include a child care facility for the children of government employees and other parents in the immediate area; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of General Services.

#### RESOLUTION CHAPTER 125

Senate Concurrent Resolution No. 103—Relative to Air/Space America.

[Filed with Secretary of State September 5, 1986.]

WHEREAS, Air/Space America, a biennial technology trade exposition, will open in May 1988 in San Diego to highlight the United States aerospace industry's contribution to worldwide technological and industrial advances; and

WHEREAS, Air/Space America will establish an international marketplace at a time when foreign competition is eroding United States supremacy; and

WHEREAS, Air/Space America will bring an estimated 300,000 visitors every two years to the State of California with estimated dollar turnover of millions biennially; and

WHEREAS, Air/Space America will enhance California's economy by bringing new jobs and development to the state's aerospace industry; and

WHEREAS, California, the recognized leader of aviation in the world today, is the most appropriate host of Air/Space America; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members take great pride in welcoming Air/Space America to the State of California, proclaim the month of May 1988 as Air/Space America Month in California, and invite the several states and foreign countries to participate in Air/Space America Month.

# RESOLUTION CHAPTER 126

Assembly Concurrent Resolution No. 144—Relative to health insurance.

[Filed with Secretary of State September 10, 1986]

WHEREAS, The cost of health care has become far greater than many California individuals or families can afford, at least 15 percent or more of Californians are not covered by any health insurance plan whatsoever, and many others are seriously underinsured; and,

WHEREAS, Illness and accident are unpredictable hazards to all persons and the financial cost of needed medical and hospital treatment may become a hardship upon any person and prevent his or her access to needed treatment; and,

WHEREAS, This situation inflicts hardship on all segments of society, including people of all ages, sexes, and ethnic origins, and most especially on our senior citizens, who by their great contributions to our country and state should be free from fear concerning the affordability and availability of any needed medical treatment; and,

WHEREAS, Attempts to create a national health insurance plan by the Congress have been unsuccessful; and,

WHEREAS, California has often led the way to meaningful national reform in many areas of general public need; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Office of Statewide Health Planning and Development be strongly requested to undertake a study of various existing models of health plans throughout the world, and that the office form the Hauser Health Plan Commission, not to exceed 15 members, representing the medical community, the insurance industry, the hospital and health maintenance organization industry, organized labor, employer organizations, the

California Senior Legislature, the Commission on Aging, and other uninsured or underinsured user groups, to aid the office in the completion of the study, actively soliciting public input for that purpose; and be it further

Resolved, That the commission shall make recommendations to the Legislature by January 31, 1988, as to the best means of meeting

unmet health needs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of the resolution to the Office of Statewide Health Planning and Development.

# RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 148—Relative to reasonable doubt.

[Filed with Secretary of State September 10, 1986.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Committee on Jury Instructions of the Los Angeles Superior Court is requested to study alternatives to the definition of "reasonable doubt" set forth in Section 1096 of the Penal Code, and to report its findings and recommendations to the Legislature on or before March 1, 1987; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Committee on Jury Instructions of the Los Angeles Superior Court.

# RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 150—Relative to the Fernald School at the University of California, Los Angeles.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The Fernald School at the University of California, Los Angeles, a clinic which studies and treats childhood behavioral disorders and learning disabilities has served the university and the community in an exemplary manner since 1921; and

WHEREAS, The Fernald School is a laboratory and clinic which offers a wide variety of services to attract clientele to participate in research and training activities and such clientele has contributed significantly to research, graduate, and undergraduate instruction at the University of California, Los Angeles; and

WHEREAS, The Fernald School is unique in its ability to develop and study comprehensive and innovative intervention approaches designed to revolutionize the ways individuals with learning problems are assessed and taught; and

WHEREAS, The Fernald School, with its outstanding contributions of learning enhancement and well-being to the individuals involved, and their parents and friends, and for the research and training benefits for university students and the community as a whole, is scheduled to end its operation and services June 30, 1986; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Chancellor of the University of California, Los Angeles, the President of the University of California, and the Regents of the University of California review its decision to close the Fernald School; and be it further

Resolved, That if the determination for closure is irreversible, the President of the University of California and the Chancellor of the University of California, Los Angeles are requested to develop plans to strengthen and expand the research, teaching, and public service contributions of the University of California, Los Angeles, in the field of childhood learning disorders. It is further requested that these plans include, but not be limited to, the following:

- (1) "Developmental psychopathology," or the study of childhood behavior and learning disorders as they are manifest throughout the early years of development.
- (2) Emotional and social disturbances in young children and research aimed at identifying in the early years of life risk factors for subsequent childhood disorders.
  - (3) Cultural and ethnic influences in child behavior disorders.
- (4) Provision of services (e.g. assessment, short-term child intervention, parent training).

Resolved, That the President of the University of California shall submit a report to the educational policy and fiscal committees of the Legislature, by December 1, 1986, on the following information:

- (a) The efforts taken by the chancellor, and the president or regents, or both, to review the decision to close the Fernald School as requested in this resolution.
- (b) The plans for future research, teaching, and public service in the field of childhood learning disorders referred to above; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Regents of the University of California, to the President of the University of California, and to the Chancellor of the University of California, Los Angeles.

## **RESOLUTION CHAPTER 129**

Assembly Concurrent Resolution No. 153—Relative to literacy.

[Filed with Secretary of State September 10, 1986]

WHEREAS, A literate population is essential to democratic citizenship and a growing economy; and

WHEREAS, At least two million adults in California lack basic literacy skills; and

WHEREAS, At least four million, and perhaps as many as seven million, adults in California are functionally illiterate; and

WHEREAS, The Legislature, for the purposes of this resolution, defines illiteracy as that condition of a person who is over 16 years of age and has a reading ability below the ninth grade level.

WHEREAS, Illiteracy affects all sectors within the state; and WHEREAS, Illiteracy impairs the full realization of an individual's economic potential and his or her rights of citizenship; and

WHEREAS, At least six billion dollars are spent annually in the United States on welfare and unemployment compensation due to illiteracy; and

WHEREAS, It is the intent of the Legislature in enacting this resolution to collect adequate information on the nature and scope of efforts by state agencies to address the problems of illiteracy; and

WHEREAS, It is the intent of the Legislature in enacting this resolution to encourage the delivery of literacy instruction by the largest variety of community-based organizations; now, therefore be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Education, the California Community Colleges, the California State University, the University of California, the State Library, the Health and Welfare Agency, the Youth and Adult Correctional Agency, the California Conservation Corps, and the Department of Industrial Relations are hereby requested to report to the Assembly Office of Research, on or before December 1, 1986, on the nature and extent of their efforts to deliver literacy instruction and instructional referrals to persons sixteen years of age and older from August 1, 1986 to October 31, 1986, and that this report include, but not be limited to, all of the following information, to the extent the information is readily available:

- (1) The number of persons receiving basic literacy instruction.
- (2) The age, sex, nationality, ethnic origin, county of residence, marital status, occupational status, primary languages of, and levels of educational attainment of persons receiving literacy instruction.
  - (3) The type of instruction provided.
  - (4) The duration of the instruction provided.
- (5) The number of persons referred to literacy programs, and the programs or agencies, both public and private, that these persons are

referred.

- (6) The age, sex, nationality, ethnic origin, primary languages of, county of residence, marital status, occupational status, and levels of educational attainment of persons that are referred to literacy programs.
- (7) The number of persons who have successfully increased their literacy skills and the standards used to measure these successes.

(8) The definitions of literacy, functional illiteracy, and literacy instruction, as applied by each agency; and be it further

Resolved, That the Assembly Office of Research shall compile the information it receives from the agencies and submit a report, complete with comments and recommendations, to the educational policy committees of the Assembly and the Senate by February 15, 1987; and be it further

Resolved, That the Legislature hereby commends the California Alliance for Literacy and encourages the Alliance to continue to examine and address the needs of every portion of the illiterate population of California, including the following:

- (1) Persons who have left school prior to graduation from high school and are not enrolled in any educational program.
  - (2) Persons whose first language is a language other than English.
- (3) Economically disadvantaged persons most in need of, but yet least likely to have access to, literacy instruction services.
- (4) Persons sixteen years of age and older who lack a third-grade level of reading proficiency in English; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Department of Education, the California Community Colleges, the California State University, the University of California, the State Library, the Health and Welfare Agency, the Youth and Adult Correctional Agency, the California Conservation Corps, and the Department of Industrial Relations.

## RESOLUTION CHAPTER 130

Assembly Concurrent Resolution No. 159—Relative to horseracing.

[Filed with Secretary of State September 10, 1986]

WHEREAS, The economy of California is significantly benefited by the over \$100,000,000 annual expenditure of California's over 3,000 horse breeders; and

WHEREAS, Over one billion dollars has been invested in California horse breeding facilities where over 5,000 new racing foals are born annually; and

WHEREAS, The profitability of the horse breeding industry and the success of its participants is directly related to the opportunities in racing provided for horses born, bred, and raced in California; and WHEREAS, The encouragement of agriculture and the breeding of horses for California racing was the stated primary objective of legislation enacted in 1933 which authorized parimutuel horseracing in California; and

WHEREAS, Section 19568 of the Business and Professions Code states "Every licensee conducting a horseracing meeting shall each racing day provide for the running of at least one race limited to California-bred horses, to be known as the "California-bred race"; and

WHEREAS, California-bred races have not occurred on an average of one race each racing day; and

WHEREAS, The purses for California-bred races are generally lower than those of other races on the racing program; and

WHEREAS, These problems threaten the economic viability of this important California industry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Horse Racing Board act to ensure that the California-bred race requirements are timely and effectively fulfilled by directing licensees to run at least one California-bred race for each racing day and to work with horsemen to ensure that these races are of as high a caliber as is attainable; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of the California Horse Racing Board.

### RESOLUTION CHAPTER 131

Assembly Concurrent Resolution No. 160—Relative to marine resources.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The effectiveness, duties, and duty locations of the law enforcement operations and equipment of the Department of Fish and Game are of significant importance to the protection and propagation of fish and game; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Fish and Game is requested to evaluate the status and effectiveness of their marine resource oriented law enforcement operations and equipment, and submit a comprehensive report of its evaluation to the Legislature on or before July 1, 1987; and be it further

*Resolved*, That the study include, but not be limited to, a detailed review of all of the following:

(a) The positions and duty locations of all marine enforcement personnel of the department.

- (b) The per capita ratio of the number of persons in a geographical area to the number of department wardens in the area.
- (c) The enforcement effort and the number of citations issued and the conviction rates by enforcement category and user group.
- (d) The condition, age, or serviceability of support equipment, including radios, computers, weapons, vehicles, and boats or vessels.
- (e) The amount of time spent on assistance to allied agencies on bookings and narcotic, misdemeanor, and felony enforcement.
- (f) Recommendations for needed changes in the number or deployment of marine enforcement personnel of the department.
- (g) The impact of current line and staff administrative practices of the department upon enforcement activities.
  - (h) The current department training programs.
- (i) The proportion of time spent on pollution control enforcement; and be it further

Resolved, That the wardens, lieutenants, and captains of the department be contacted regarding the above issues, and their input be included in the report to the Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Resources Agency, the President of the Fish and Game Commission, and the Director of Fish and Game.

# **RESOLUTION CHAPTER 132**

Assembly Concurrent Resolution No. 161—Relative to Father Junipero Serra.

[Filed with Secretary of State September 10, 1986]

WHEREAS. Father Serra was born Miguel Jose Serra on November 24, 1713, in the village of Petra on the Isle of Mallorca, Spain; and

WHEREAS, In 1724 he entered the Franciscan Order, a Monastic Order of the Catholic Church, and was ordained to the priesthood as Padre Serra in Palma, Mallorca; and

WHEREAS, He received a Doctorate in Sacred Theology and occupied the Chair of Divinity at the National University of Blessed Raymond Lull in Palma, had a distinguished career as a professor, and was considered an eloquent orator; and

WHEREAS, In 1749, at the age of 36, he gave this way of life up in order to go as a missionary to the New World, where he labored in the Sierra Gorda, Central Mexico, for 20 years as a missionary and preacher to the native peoples; and

WHEREAS, In 1769, he was appointed Padre Presidente of the newly proposed missions to be located in Alta California by the Franciscan Order, and, between 1769 and 1782, he founded the first nine missions in the chain of 21 missions along the California coastline:

San Diego de Alcalá—July 16, 1769.

San Carlos Borroméo de Carmelo-June 3, 1770.

San Antonio de Padua—July 14, 1771.

San Gabriel Arcángel—September 8, 1771.

San Luis Obispo de Tolosa—September 1, 1772.

San Francisco de Asís—August 1, 1776.

San Juan Capistrano-November 1, 1776.

Santa Clara de Asís—January 12, 1777.

San Buenaventura-March 31, 1782; and

WHEREAS, Between 1769 and 1784, the year of his death, he labored long and with dedication to bring Christianity to Alta California, and he not only accomplished his task as a missionary but also laid the foundation for future generations of Californians; and

WHEREAS, Being a man of great vision, he dreamed of expanding the El Camino Real all the way from San Diego northward to Alaska; and

WHEREAS, Father Serra was a dedicated defender of Indian rights, and in 1773 he walked from Monterey to Mexico City to successfully petition the Spanish Viceroy with a document which is currently known as the "Indian Bill of Rights"; and

WHEREAS, Although he was elderly, frail, and lame during his years in California, Father Serra was the outstanding pathfinder of the Western United States—driven by an indomitable and seemingly supernatural spirit, he made many lengthy treks on foot; and

WHEREAS, Through the missions he established, Father Serra introduced agriculture and animal husbandry to California; and

WHEREAS, In 1784, Father Serra died at his beloved Mission San Carlos in Carmel, and, at his own request, he is buried in the sanctuary there; and

WHEREAS, Father Serra's life is exemplary and admired, not only for all that he accomplished in the short span of 15 years in California, but also for his endurance of the hardships under which he labored as a soldier and mediator of Indian troubles, explored the rough California terrain, and dealt with the colonial government; and

WHEREAS, Because of the extraordinary achievements of Father Serra's life of Christian service, the Roman Catholic Church is currently giving serious consideration to recognizing him as a saint; and

WHEREAS, The Legislature has learned that His Holiness Pope John Paul II may visit California soon and may honor Father Serra during such a visit; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California honors the accomplishments and the memory of Father Junipero Serra, a giant in the annals of California history and a benefactor of all subsequent generations of Californians; and be it further

Resolved, In view of the significance of Father Serra in California

history, the Legislature hereby extends to His Holiness an invitation to visit California and its missions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to His Holiness Pope John Paul II and to His Excellency the Bishop of the Diocese of Monterey.

## **RESOLUTION CHAPTER 133**

Assembly Concurrent Resolution No. 162—Relative to transportation.

[Filed with Secretary of State September 10, 1986]

WHEREAS, The transportation planning agencies, in cooperation with transit operators and local governments, are responsible for preparing regional transit financial plans; and

WHEREAS, Transit operators are required, as a condition of eligibility for federal funds, to provide special transit fare discounts to various types of riders, and many operators provide discounts beyond those required by law; and

WHEREAS, State and federal transit operating assistance has decreased substantially since 1983; and

WHEREAS, The state transit assistance program appropriation has been completely eliminated in the 1986–87 Budget Act; and

WHEREAS, With reduced transit operating assistance, transit districts must fund special fare discounts by either raising the fares of regular transit riders or reducing services; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That a committee be formed consisting of a representative from the Metropolitan Transportation Commission who shall be the chairperson, and one representative each from the Sacramento Area Council of Governments, the San Diego Association of Governments, and the Southern California Association of Governments to collect from, and coordinate with, all of the transportation planning agencies (TPA's) the data from which the committee can estimate the amount of transit fare revenue foregone by fixed-route transit operators in each TPA as a result of providing special fare discounts; and be it further

Resolved, That the estimate also consider the impact of foregone fare revenues resulting from special discounts on transit operators' ability to meet legislatively mandated farebox requirements; and be it further

Resolved, That the committee, in cooperation with the TPA's, transit operators, and local governments, recommend alternatives for funding special fare discounts, including a user subsidy program; and be it further

Resolved, That the committee submit to the Legislature, not later

than March 1, 1987, its estimate of foregone fare revenues, analysis of the impact on farebox requirements, and recommendations for financing special fare transit discounts; and be it further

Resolved. That this activity take place within the existing resources of each TPA: and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each of the transportation planning agencies.

#### RESOLUTION CHAPTER 134

Assembly Concurrent Resolution No. 166—Relative to "Coast Week" and "California Coastal Clean-Up Day."

[Filed with Secretary of State September 10, 1986]

WHEREAS, The State of California has a varied coastline of sandy beaches, rocky shores, productive estuaries, marshes, tidal flats, urban areas, and harbors; and

WHEREAS, The coast provides a rich scenic, recreational, cultural, and historical heritage; and

WHEREAS, The natural resources of the coastal zone are among California's most important economic resources; and

WHEREAS, The marine environment is one of the most valuable resources for recreation, tourism, fishing, and other coastal industries: and

WHEREAS, The Legislature of the State of California is strongly committed to the wise management of the coastline to ensure that the environmental and economic value of the coastal zone will be sustained; and

WHEREAS, Preserving the productivity and quality of coastal resources requires public awareness and support and an understanding that protection of the coast is a responsibility shared by individual citizens, the business community, and public institutions; and

WHEREAS, September 29, 1986, marks the 10th anniversary of the enactment of the California Coastal Act which has been instrumental in the preservation and management of the California coastline; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares that the period of September 20 through 29, 1986, be proclaimed as "Coast Week" and the day of September 20, 1986, be proclaimed as "California Coastal Clean-Up Day;" and be it further

Resolved, That individual citizens, businesses, groups, and public institutions are encouraged to observe this event and to participate in appropriate activities designed to promote a healthy and productive coastal environment for the benefit of the people of

California and the nation; and be it further

Resolved, That copies of this resolution be transmitted by the Chief Clerk of the Assembly to the California Coastal Commission, which shall transmit copies to all local governments in the coastal zone, to the State Coastal Conservancy, the Resources Agency, the San Francisco Bay Conservation and Development Commission, the Department of Fish and Game, the California Waste Management Board, and the Department of Boating and Waterways.

#### RESOLUTION CHAPTER 135

Assembly Concurrent Resolution No. 167—Relative to the Governor Edmund G. "Pat" Brown Building.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Governor Edmund G. "Pat" Brown, a third generation Californian, was born and educated in the city of San Francisco; and

WHEREAS, Governor Brown has had a distinguished career as an elected official, serving as District Attorney of San Francisco from 1943 to 1950, Attorney General from 1950 to 1958, and Governor of California from 1958 to 1966; and

WHEREAS, Governor Brown, played a significant role in the creation of the California Water Project which was, at the time, the largest public works project of its type undertaken, to bring a more equal distribution of water throughout the state; and

WHEREAS, He participated in the development of the Master Plan for Higher Education to assure equality of education and economy of operation by creating three new campuses of the University of California and six new state university campuses; and

WHEREAS, Governor Brown signed into law many significant measures including the Rumford Fair Housing Act, bills which increased aid to the aged, needy, and self-supporting blind as well as legislation increasing unemployment benefits to the highest level in the nation; and

WHEREAS, Governor Brown's administration was responsible for the creation of the Fair Employment Practices Commission, the Consumer Council (to stop unethical practices among small groups of business people) and the Mental Retardation Study Commission which increased the state's contribution to programs to educate severely mentally retarded children; and

WHEREAS, He participated in the enactment of various other programs involving medical care for the aged, educationally handicapped minors, financial support for local public libraries, smog control on automobile exhausts, consumer protection, and aid to children of unemployed fathers and the totally disabled; and

WHEREAS, Governor Brown has held several appointed positions, including Ambassador Extraordinary for Presidents Kennedy and Johnson, Chairman of the National Commission of the Reform of the Federal Criminal Laws, and member of the President's Commission on Income Maintenance, and he is an active member of the Franklin D. Roosevelt Memorial Commission; and

WHEREAS, Since the completion of his term as Governor, Governor Brown has maintained a keen interest in the law, social welfare, and education and has been involved with many initiatives affecting the citizens of the state and has chaired a number of special projects of state interest; and

WHEREAS, He is the honorary Chairman of the Edmund G. "Pat" Brown Institute of Government Affairs, a nonprofit research and educational institute dedicated to furthering projects of benefit to California: and

WHEREAS, Governor Brown has made an important and lasting contribution to the improvement and development of California and the welfare of its citizens over the past 40 years; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in recognition of Governor Edmund G. "Pat" Brown's distinguished service to the state of California, the state building located at 505 Van Ness Avenue, San Francisco, shall henceforth be known as the Governor Edmund G. "Pat" Brown Building; and be it further

Resolved, That the Secretary of the Assembly transmit a suitably prepared copy of this resolution to Governor Edmund G. "Pat" Brown and copies to the State Department of General Services.

## RESOLUTION CHAPTER 136

Assembly Concurrent Resolution No. 169—Relating to the California Community Colleges.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, A healthy community college system is essential for the continued healthy social and economic development of California; and

WHEREAS, The Commission for the Review of the Master Plan for Higher Education has completed its reassessment study of the California Community Colleges; and

WHEREAS, The Legislature's Joint Committee for the Review of the Master Plan for Higher Education has conducted its review of the commission's recommendations; and

WHEREAS, The Legislature expects to move a comprehensive package of community college reform legislation in the next session

of the Legislature; and

WHEREAS, The Office of the Chancellor of the California Community Colleges will play a pivotal leadership role in the reform of the community college system; now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislative Analyst in conjunction with the California Postsecondary Education Commission, the Director of Finance, and the Office of the Chancellor of the California Community Colleges, shall report to the Legislature concerning the required resources and authority, the necessary staffing, Education Code revisions, and other matters required for the office of the chancellor to successfully provide leadership for the California Community College system. This report shall be delivered no later than December 1, 1986; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the Legislative Analyst, the California Postsecondary Education Commission, the Director of Finance, and the Office of the Chancellor of the California Community Colleges.

### **RESOLUTION CHAPTER 137**

Assembly Joint Resolution No. 81—Relative to radioactive waste shipments.

[Filed with Secretary of State September 10, 1986]

WHEREAS, On January 17, 1986, the Port of Long Beach was unexpectedly approached by the United States Department of Energy regarding the shipment of spent radioactive fuel rods through the port; and

WHEREAS, The Port of Long Beach has an obligation to maintain commerce and to also take an active position to assure the health, safety, and the environmental well-being of the citizens of the City of Long Beach; and

WHEREAS, After careful consideration, the administrators of the Port of Long Beach have reached the decision to decline the shipment of the spent radioactive fuel rods through the port; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature hereby opposes the shipment of spent radioactive fuel rods through California ports and harbors; and be it further

Resolved, That the Legislature supports and applauds the decision of the City of Long Beach and the Port of Long Beach to put the health and safety of their community first by refusing to accept the radioactive waste shipments; and be it further

Resolved, That the Legislature respectfully memorializes the

Department of Energy to adopt a more direct ocean route to a seaport on the eastern seaboard of the United States near the destination of the radioactive waste; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Energy, to the City of Long Beach, and to the Port of Long Beach.

# **RESOLUTION CHAPTER 138**

Assembly Joint Resolution No. 96—Relative to the United States Small Business Administration.

[Filed with Secretary of State September 10, 1986]

WHEREAS, The United States Small Business Administration was established to foster the American spirit of entrepreneurship for individuals gifted with initiative and talent but who lack financial means to achieve their business objectives; and

WHEREAS, The United States Small Business Administration has provided new entrepreneurs with counsel, expertise, and technical support to compete in the business community in an economically significant manner; and

WHEREAS, The State of California recognizes that the programs of the United States Small Business Administration have strengthened the state's economic growth and welfare by developing businesses that generate state revenue, stimulating private investment and employment; and

WHEREAS, The State of California recognizes that federal appropriations to the Small Business Administration are an investment in future business developments and innovations that will keep this country competitive with other industrial nations; and

WHEREAS, The State of California recognizes that private entrepreneurs with the help of the Small Business Administration have stimulated the development of new products, technology, services, marketing ideas, and employment opportunities which have placed California in the forefront of business developments; and

WHEREAS, The State of California recognizes that the Small Business Administration has played an important role in assisting minority business people to start their own businesses and participate in government procurement programs; and

WHEREAS, The State of California's businesses are in greater need today than ever before of the services of the United States Small Business Administration as a result of the fact that they are:

(a) Experiencing severe economic problems caused by escalating

insurance costs and commercial rents.

- (b) Increasing competition from large chains.
- (c) Often subjected to greater regulation by all levels of government which requires greater knowledge and technical expertise.
- (d) Subject to greater interest rates and loan fees for capital than competing larger businesses and often entrepreneurs have difficulty obtaining private financing for startup costs, maintenance, and expansion; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urge the President and Congress of the United States to keep the United States Small Business Administration as an independent agency with adequate funding for assisting the development of new small businesses and preservation of existing ones; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the United States Small Business Administration.

## RESOLUTION CHAPTER 139

Assembly Joint Resolution No. 100—Relative to the labor dispute of the Independent Federation of Flight Attendants and Trans World Airlines.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The right of working people to fair treatment by their employers is fundamental to the proper functioning of both our American democracy and our economy; and

WHEREAS, Being out of work is a dehumanizing experience, and Americans do not go on strike for frivolous reasons; and

WHEREAS, On March 7, 1986, the 6,000 members of the Independent Federation of Flight Attendants (IFFA) went on strike against Trans World Airlines (TWA) after contract negotiations reached a total impasse; and

WHEREAS, The IFFA has bargained in good faith by offering to accept the same pay and benefit reductions as other TWA unions; and \$5,000 per IFFA member per year over three years; and

WHEREAS, TWA rejected this offer, demanding salary, benefit, and work rule concessions from IFFA members three times greater than those accepted by other TWA employees (i.e., mechanics, pilots, ground employees, nonunion personnel, and management employees); and

WHEREAS, TWA seeks a substantially greater reduction in the total wage-benefit-work rule package from the IFFA; and

WHEREAS, All union employees regardless of gender have the same economic need to support themselves and their families, thus requiring that due consideration for equal treatment be assured in labor negotiations and settlements for both male and female dominated unions; and

WHEREAS, TWA management's present course of using inexperienced, nonunion personnel to fill the strikers' positions is causing a reduction in service; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California expresses its support for a prompt and equitable settlement of the labor dispute between the Independent Federation of Flight Attendants and Trans World Airlines; and be it further

Resolved, That, recognizing that the regulation of interstate air traffic is a federal responsibility, the Legislature urges the President of the United States, the Secretaries of the United States Departments of Labor and Transportation, and the Congress of the United States to take all appropriate steps to bring about a prompt and equitable settlement of the labor dispute between the Independent Federation of Flight Attendants and Trans World Airlines; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretaries of the United States Departments of Labor and Transportation, the Speaker of the House of Representatives of the United States, each Senator and Representative from California in the Congress of the United States, the Independent Federation of Flight Attendants, and Trans World Airlines.

#### **RESOLUTION CHAPTER 140**

Assembly Joint Resolution No. 102—Relative to foreign trade.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Agriculture is the leading industry in California accounting for more than 14 billion dollars in gross receipts from the production of nearly 250 different crops and livestock; and

WHEREAS, California's agricultural economy is heavily dependent on foreign markets which account for 25 percent of California agricultural sales; and

WHEREAS, The value of California's agricultural exports has declined from a high of 4.2 billion dollars in 1981 to 2.9 billion dollars in 1984 largely due to tariff and nontariff barriers facing our agricultural exports and to the competition from emerging foreign

producers; and

WHEREAS, Spain and Portugal have entered into full membership in the European Economic Community which will further decrease our agricultural export trade; and

WHEREAS, The preservation and development of foreign markets are essential to the economic well-being of California agriculture; and

WHEREAS, The next round of tariff negotiations under the General Agreement on Tariffs and Trade (GATT) is scheduled to take place in September 1986; and

WHEREAS, United States agriculture in general, and California agriculture in particular, have historically been relegated to a low priority in the GATT negotiations and have received little benefit, frequently being offered as the sacrificial lamb to achieve nonagricultural concessions; and

WHEREAS, Those few gains which agriculture has achieved through these negotiations are of little, if any, value due to flagrant violations of the GATT rules by foreign countries; and

WHEREAS, It has become abundantly clear that the United States must make an unequivocal strong stand at the GATT negotiations to protect our rightful position in world trade and to ensure that agriculture maintains a priority status; and

WHEREAS, The California State World Trade Commission has appointed a Special Trade Representative who is housed in the Governor's Washington D.C. Office and who is intimately familiar with California agriculture and the significant importance of maintaining present and developing new export markets for California's agricultural commodities; and

WHEREAS, This is a prime opportunity for the Governor and the commission's special trade representative to protect and enhance the position of California agriculture through forceful, constructive, and determined participation in the GATT negotiations; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to protect California agricultural interests in the forthcoming General Agreement on Tariffs and Trade (GATT) negotiations; and be it further

Resolved, That the California State World Trade Commission is requested to direct its special trade representative in Washington, D.C., to take an active role in the forthcoming GATT negotiations and ensure that the United States negotiators recognize California agriculture's rightful position in world trade; and be it further

Resolved, The special trade representative be requested to keep the Governor and the Legislature abreast of international trade developments, especially any proposal that might be considered by the United States negotiating team so the state will have an opportunity to analyze and present meaningful and timely input to the United States negotiators; and be it further

Resolved, That United States negotiators be requested to obtain agreement from all GATT participants that violations of GATT rules will cease; and be it further

Resolved, That the Clerk of the Assembly transmit copies of this resolution to the Governor, to the Director of the California Department of Food and Agriculture, to the California State World Trade Commission and its Special Trade Representative, to the President and Vice President of the United States, to the President pro Tempore of the United States Senate, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Secretary of Agriculture, and to the United States Trade Representative.

### **RESOLUTION CHAPTER 141**

Assembly Joint Resolution No. 104—Relative to commercial vehicle operator's licenses.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, Current statistics of the Department of the California Highway Patrol relating to accidents involving commercial vehicles, show that the leading cause of those accidents is speeding, which is a problem attributable to the driver; and

WHEREAS, Many of the drivers of commercial vehicles in California are licensed by other states to drive those vehicles; and

WHEREAS, California can only effectively deal with drivers licensed in this state by suspension or revocation of the driving privilege of negligent operators; and

WHEREAS, When that action is taken, some drivers, because of interstate operation, are able to secure a driver's license in another state: and

WHEREAS, Some commercial vehicle operators carry more than one driver's license to prevent the loss of any one license by splitting the traffic violations between those licenses; and

WHEREAS, The Congress of the United States is currently considering legislation involving the licensing of drivers of commercial vehicles; and

WHEREAS, It is important that national standards be developed to assure improvement in the quality of drivers of commercial vehicles on any federal or state highway; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the Congress of the United States to enact legislation which would require the Department of Transportation to provide for state

administration of national uniform standards for licensing of drivers of commercial vehicles. The standards should include all of the following:

- (a) A definition of "commercial motor vehicle operator" as applied to vehicles of over 26,000 pounds gross vehicle weight and for-hire passenger buses.
- (b) One license issued only by the state of residence of each commercial motor vehicle operator. Each state shall fully recognize the license issued by the state of residence.
- (c) A single driver record for each commercial motor vehicle operator maintained by the state of license issuance.
- (d) Exchange of commercial motor vehicle operator records from one state to another, when the state of residence is changed.
- (e) Information to be included on commercial motor vehicle operator driver records.
- (f) Classified licensing system based on weight and type of truck or bus to be operated.
- (g) Testing of commercial motor vehicle operators in the type of vehicle they intend to drive.
- (h) A requirement that, prior to issuing a commercial vehicle operator's license, the state of issuance determine if the operator holds a commercial motor vehicle operator's license in another jurisdiction.
- (i) A requirement that applicants for a commercial motor vehicle operator's license be required to provide a thumbprint or fingerprints with the application.
- (j) Any other matters the Secretary of Transportation deems appropriate, including estimates of costs to implement the national standards, and possible funding sources; and be it further

Resolved, In order to ensure the highest standard of commercial vehicle operator safety, the national uniform standards for licensing of commercial vehicle operators shall not be less stringent than the standards of the State of California or preempt the authority of a state to adopt more stringent commercial vehicle operator license standards; and be it further

Resolved, That legislation enacted by Congress also provide for a national commercial vehicle operator identifier file which would contain the thumbprint or fingerprints of commercial vehicle operators licensed in each state in order to identify those commercial vehicle operators with more than one license and to enable states to combine the conviction records of multiple licensed drivers to determine whether or not action to suspend or revoke the commercial vehicle operator's license should be taken; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States Senate, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States and the Secretary of the Department of Transportation.

### **RESOLUTION CHAPTER 142**

Assembly Joint Resolution No. 105—Relative to increasing the availability of organs for potential transplant recipients.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, Advancing medical technology in the area of organ transplantation has brought enhanced health to thousands of people while increasing both the need and demand for transplant operations; and

WHEREAS, The public has seen an increasing number of dramatic appeals for organ donors to help a particular patient in need of a heart, liver, or other organ transplant; and

WHEREAS, The federal Task Force on Organ Procurement and Transplantation is a congressionally mandated body representing physicians and scientists involved in transplantation, organ procurement specialists, hospitals, third-party payers, members of the general public, ethicists, attorneys, and representatives of the federal government; and

WHEREAS, The task force has spent the last 18 months studying transplant policy in this country; and

WHEREAS, The task force has recently released an extensive report on its findings; and

WHEREAS, The American Council on Transplantation (ACT) is a private sector organization formed in 1983 and dedicated to increasing the availability and transplantation of organs and tissues to save and improve the lives of others. ACT is a nonprofit organization of over 700 individuals and over 80 national, regional, and local organizations representing a range of interests in organ and tissue transplantation; and

WHEREAS, The American Council on Transplantation has officially endorsed in principle the work and report of the task force; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California endorses in principle the work and the findings of the federal Task Force on Organ Transplantation; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States and Congress to carry out the specific task force recommendation that a national organ procurement and transplantation network be established to coordinate efforts to locate potential donor organs, and that this network shall have the power to set guidelines for obtaining and using organs for the purpose of transplantation; and be it further

Resolved, That the Chief Clerk of the Assembly send copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Health and Human Services, to the Executive Director of the American Council on Transplantation, and to the Executive Director of the Task Force on Organ Procurement and Transplantation.

### **RESOLUTION CHAPTER 143**

Assembly Joint Resolution No. 106—Relative to federal income taxation.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Under proposed legislation to reform the federal income tax laws, which includes revising Section 415 of the Internal Revenue Code, if only one public employee's pension benefit would exceed the maximum allowable pension, the entire public pension plan would lose tax exempt status; and

WHEREAS, California public pension plans are extremely limited in their ability to revise the benefits available to their members since under California statute and case law, present benefit levels are vested rights protected under the Contract Clause of the United States and California Constitutions; and

WHEREAS, The effect of the loss of tax exempt status would include the requirement that California's public employees would have to pay federal taxes on employer contributions to their pension plans; and

WHEREAS, An additional result of the loss of tax exempt status would be that earnings from the investments of California public pension plans would no longer be tax exempt, thereby destroying the fiscal integrity of those plans; and

WHEREAS, Notwithstanding the impact on public pension plans by this proposal, no new revenues for the federal government have been attributed to the inclusion of public pension plans in the federal tax reform legislation; and now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to exempt public pension plans from the proposed revision to Section 415 of the Internal Revenue Code; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States, and to each congressional member of the House-Senate Conference Committee considering the tax reform bill.

### RESOLUTION CHAPTER 144

Assembly Joint Resolution No. 108—Relative to the United States Travel and Tourism Administration.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The United States Senate Budget Resolution eliminates the United States Travel and Tourism Administration (USTTA), the only official organization that coordinates international tourism policy for the United States worldwide; and

WHEREAS, Tourism is the second largest private employer in the nation and generates more than \$46 billion a year in salaries and wages while serving as the first, second, or third largest employer in 40 states: and

WHEREAS, USTTA provides state and city tourism agencies with a worldwide network of offices and services which promote the United States as a destination of travel in general and aid in marketing those states and cities in particular; and

WHEREAS, The average funding among competitive countries for equivalent agencies is nearly four times greater than federal

funding for USTTA; and

WHEREAS, The preservation of the profit-generating USTTA would lessen the United States balance-of-trade deficit by increasing the United States' share of tourism receipts thereby increasing our nation's real earnings; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to take all measures necessary to retain the United States Travel and Tourism Administration at current or higher funding levels; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the National Conference of State Legislatures.

### **RESOLUTION CHAPTER 145**

Assembly Joint Resolution No. 109—Relative to television licensing.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Spanish International Communications Corporation through KMEX-TV has provided Spanish language broadcasts, news, information, and entertainment to the Hispanic community of Southern California; and

WHEREAS, Hispanics currently constitute 22 percent of the California population; and

WHEREAS, Greater participation of Hispanics in all aspects of business is desirable; and

WHEREAS, Continued Hispanic ownership of TV stations ensures services and information to the Hispanic community; and

WHEREAS, The planned sale of stations here and across the county could potentially reduce Hispanic ownership and deprive the community of an important source of information needed for full participation in this society; and

WHEREAS, Hispanic investment groups, in response to the needs of the Hispanic community, have shown the ability and willingness to finance such ventures; and

WHEREAS, The Los Angeles City Council and Board of Supervisors have communicated to the Federal Communications Commission their support for continued Hispanic ownership of KMEX-TV; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Federal Communications Commission (FCC) is hereby requested to give consideration to Hispanic applicants for the ownership of KMEX-TV and four other television stations owned by Spanish International Communications Corporation so that the Hispanic community will be assured of Spanish language stations which allow them greater participation in local, state, and national affairs; and be it further

Resolved. That the Chief Clerk of the Assembly transmit copies of this resolution to members of the Federal Communications Commission (FCC).

### RESOLUTION CHAPTER 146

Assembly Joint Resolution No. 110—Relative to the recent air disaster in Cerritos.

[Filed with Secretary of State September 10, 1986]

WHEREAS, The Legislature of the State of California mourns the tragic midair collision between an AeroMexico airliner and a private airplane over Cerritos on August 31, 1986; and

WHEREAS, The Legislature sends its heartfelt condolences and sympathy to the victims' families and to the residents of Cerritos who endured the disaster; and WHEREAS, The Legislature recalls a similar midair collision in San Diego on September 25, 1978, and finds that the response of the Federal Aviation Administration to the San Diego collision was inadequate to prevent further midair collisions; and

WHEREAS, The Legislature understands that electronic devices can be installed on all aircraft to help prevent midair collisions; and

WHEREAS, The Legislature recognizes the importance of air safety to aircraft passengers and to the public on the ground; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California urges the Federal Aviation Administration to thoroughly investigate the cause of the midair collision on August 31, 1986, and to take the steps which are necessary to protect the public safety from the recurrence of such a disaster; and be it further

Resolved, That the Legislature further urges the Congress of the United States to enact legislation requiring collision avoidance systems on all commercial and private aircraft entering controlled airspace in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Administrator of the Federal Aviation Administration, the Speaker of the United States House of Representatives, and each Senator and Representative from California in the Congress of the United States.

### **RESOLUTION CHAPTER 147**

Senate Joint Resolution No. 49—Relative to national forest revenues.

[Filed with Secretary of State September 10, 1986]

WHEREAS, States and local governments are burdened by the presence of national forest lands which generate development pressures which, in turn, cause increased demands for transportation, education, police and fire protection, and other public services; and

WHEREAS, Since 1908, Congress has provided counties containing national forests with 25 percent of the funds derived from national forest timber production and user fees for schools and roads as partial compensation for public service burdens and tax immunity associated with national forest lands; and

WHEREAS, Counties currently receive a 25 percent share of gross national forest revenues, with credits provided to timber purchasers for road construction and reforestation deducted only from the federal government's portion of the revenues; and

WHEREAS, In the 1984 federal fiscal year, California received \$44.1 million of national forest revenues, in the 1985 federal fiscal year, California received \$35.6 million of national forest revenues, and it is projected that California will receive \$30 million in national forest revenues in the 1986 federal fiscal year; and

WHEREAS, California contains over 19 million acres of national forests, and many of the state's timber counties depend heavily on their due share of national forest service revenues to provide adequate education and transportation services; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States not to take any legislative actions which would reduce the national forest revenues due to the states, including, but not limited to, legislation that causes credits for timber purchasers for road construction and reforestation to be deducted from the gross national forest revenues rather than from only the federal government's share; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, to the Chief of the Forest Service, and to each Senator and Representative from California in the Congress of the United States.

### RESOLUTION CHAPTER 148

Senate Joint Resolution No.54—Relative to nuclear facilities liability limitations.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Congress enacted the Price-Anderson Act with the dual purposes of protecting the public and encouraging the development of the atomic energy industry; and

WHEREAS, The dual purposes of the Price-Anderson Act were to be accomplished by limiting the liability of nuclear facility operators for damage to the public from a nuclear accident and by providing federal government indemnification for additional amounts of liability; and

WHEREAS, A federal court decision stated that a major accident involving a core melt at a nuclear power reactor "can reasonably be expected to produce hundreds or thousands of fatalities, numerous illnesses, genetic effects of unpredictable degree and nature for succeeding generations, thyroid ailments and cancers in numerous people, damage to other life and widespread damage to property," and might contaminate and require evacuation of areas as large as

several thousand square miles; and

WHEREAS, The California Energy Resources Conservation and Development Commission's study of the need for undergrounding of nuclear powerplants estimated that the consequences of a core melt accident at realistic reactor locations in California could include tens to hundreds of immediate deaths, thousands of latent cancer deaths, hundreds of early illnesses, and thousands of long-term thyroid cancers under average meteorological conditions and which would be multiplied many times over for worst-case conditions, and that economic consequences could range from several hundred million dollars to \$35 billion depending on meteorological conditions; and

WHEREAS, Even under the Federal Reactor Safety Study, the potential consequences of the study's worst case meltdown could include 3,300 fatalities and 45,000 radiation injuries within 1 year, 45,000 delayed cancer fatalities, 240,000 delayed thyroid injuries, 5,100 inherited disorders in offspring of the irradiated population, and damage to property amounting to \$14 billion; and

WHEREAS, The Price-Anderson Act currently limits the aggregate liability for any nuclear incident to an arbitrary amount of \$650 million which is unrelated to the actual harm to public health and safety and damage to property that might result from a nuclear incident; and

WHEREAS, The reasonable value of the personal injuries and property damage of a major nuclear facility incident would vastly exceed the arbitrary limits established by the Price-Anderson Act; and

WHEREAS, The arbitrary limit on the aggregate liability in the event of a nuclear facility incident takes no account of the effect of inflation on the value of the economic losses that might result from such an incident; and

WHEREAS, The United States Supreme Court upheld the constitutionality of the Price-Anderson Act's liability limitations, based partly on assurances from Congress and the Nuclear Regulatory Commission that the risks to public health, safety, and property from a potential nuclear facility incident are vanishingly small; and

WHEREAS, On January 18, 1979, the Nuclear Regulatory Commission, after extensive review of its Reactor Safety Study stated that it does not regard as reliable the Reactor Safety Study's numerical estimate of the overall risks to the public of a reactor accident: and

WHEREAS, The actual experience with the nuclear reactor accident in the Soviet Union confirms the unreliability of previous assurances about the risks to the public from nuclear incidents; and

WHEREAS, The financial burdens of compensating victims of a nuclear accident would be divided unequitably between ratepayers, taxpayers, and shareholders; and

WHEREAS, The Price-Anderson Act has failed in one of its primary purposes which was to provide assurances of protection to

the public from harm to their health, safety, and property that might result from a nuclear incident; and

WHEREAS, The Congress has an overriding responsibility to guarantee that personal and property damages that may be suffered by the public as a result of a major nuclear facility incident will be fully and adequately compensated; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to replace the existing liability limits of the Price-Anderson Act, as they relate to activities of nuclear facilities licensed by the Nuclear Regulatory Commission, with more realistic provisions and, to the extent liability limits are imposed, require the federal government to assume all residual liability above those limits; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the Senate, Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

### **RESOLUTION CHAPTER 149**

Senate Joint Resolution No. 55-Relative to timber harvests.

[Filed with Secretary of State September 10, 1986]

WHEREAS, States and local governments are burdened by the presence of national forest lands which generate development pressures which, in turn, cause increased demands for transportation, education, police and fire protection, and other public services; and

WHEREAS, Since 1908, Congress has provided counties containing national forests with 25 percent of the funds derived from national forest timber production and user fees for schools and roads as partial compensation for public service burdens and tax immunity associated with national forest lands; and

WHEREAS, Counties currently receive a 25 percent share of gross national forest revenues, with credits provided to timber purchasers for road construction and reforestation deducted only from the federal government's portion of the revenues; and

WHEREAS, In the 1984 federal fiscal year, California counties received \$44.1 million of national forest revenues, in the 1985 federal fiscal year, California counties received \$35.6 million of national forest revenues, and it is projected that California counties will receive \$30 million in national forest revenues in the 1986 federal fiscal year; and

WHEREAS, California contains over 19 million acres of national forests, and many of the state's timber counties depend heavily on

their due share of national forest service revenues to provide adequate education and transportation services; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States, the Secretary of Agriculture, and the Chief of the Forest Service to consider the economic impact on the forest products industry and northern California by expanding acreage set aside for spotted owl habitat or by designating additional roadless areas; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, to the Chief of the Forest Service, and to each Senator and Representative from California in the Congress of the United States.

### **RESOLUTION CHAPTER 150**

Senate Joint Resolution No. 58—Relative to irradiation of food.

[Filed with Secretary of State September 10, 1986]

WHEREAS, The research on the consumption of irradiated foods and food components contains examples of serious and adverse effects on health; and

WHEREAS, Research results on the health effects of consumption of irradiated foods and food components are inconsistent, ambiguous, and therefore unreliable; and

WHEREAS, Irradiation of foods can affect vitamin content and nutrient profile and can create potentially harmful chemical compounds not found originally in the unirradiated foods; and

WHEREAS, Irradiation facilities contain significant quantities of radioactive materials and would be located in and around food producing and processing areas and close to population centers; and

WHEREAS, Extensive and regular transport of great quantities of highly radioactive material over the state's roads and highways would greatly increase the risks and likelihood of nuclear accidents and exposure to radioactivity from spills, accidents, and leaks; and

WHEREAS, Individuals employed in facilities in which irradiation is conducted may risk adverse health effects due to exposure to radiation; and

WHEREAS, These facilities should have emergency medical plans for radiation accidents or emergencies, safety requirements in effect in the facilities, and employee training in safe irradiation procedures; and

WHEREAS, There should be proven and reliable technology for

cleaning the facilities in the case of an accidental release within the facility, methods for the evacuation of those areas in the case of a release, emergency response systems and an identification of persons responsible for cleaning the facilities, and personal liability for accidental releases; and

WHEREAS, The federal government has issued regulations which permit the irradiation of pork and other foods; and

WHEREAS, The people of California deserve an exhaustive study of the potential dangers of irradiation to health and the environment before permitting the irradiation of food and the expansion of this nuclear industry; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California requests the Secretary of Health and Human Services to arrange for an extensive study of the risk to human health and the environment presented by the irradiation of food; and be it further

Resolved, That the Legislature requests that no new regulations be proposed for promulgation which have the same legal effect as existing regulations related to irradiation of food until the Congress and the people have had an opportunity to review results of an extensive study of the potential dangers of irradiation of food and the development of a food irradiation industry; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Health and Human Services, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

### RESOLUTION CHAPTER 151

Senate Joint Resolution No. 61—Relative to the San Fernando Valley groundwater basin.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Studies conducted in 1980 showed that the San Fernando Valley groundwater water basin suffers from toxic contamination, resulting in the closure of 20 wells; and

WHEREAS, Water from 40 other wells in the San Fernando Valley groundwater basin must be blended with unpolluted water to bring the solvent levels within the state's health standards; and

WHEREAS, As a result of this contamination, the Environmental Protection Agency has placed the San Fernando Valley groundwater basin on the "National Priorities List," thus making the San Fernando Valley groundwater basin eligible for federal cleanup funds under the Comprehensive Environmental Reponse, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq),

which is otherwise known as the federal Superfund; and

WHEREAS, Although the site is eligible for funding, no funds have yet been appropriated for this cleanup; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation appropriating sufficient funds to conduct a removal and remedial action to the San Fernando Valley groundwater basin to remove the solvents from the water; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

### **RESOLUTION CHAPTER 152**

Senate Joint Resolution No. 68—Relative to taxation of out-of-state mail-order sales.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The 1967 decision of the United States Supreme Court in National Bellas Hess v. Illinois Department of Revenue, 18 L. ed. 2d 505, restricted the ability of states to require the collection and remission of use taxes by out-of-state mail-order sellers on sales made to customers within their states unless the sellers had an adequate nexus with the taxing state; and

WHEREAS, This decision has resulted in a substantial loss of potential sales and use tax revenues to many states and local governments; and

WHEREAS, The Advisory Commission on Intergovernmental Relations has estimated that these uncollected revenues amount to

approximately \$1.5 billion annually; and

WHEREAS, The significance of this loss of potential tax revenues will be increased if certain current federal tax reform proposals which would also adversely affect state tax systems are adopted, including the reduction or elimination of federal income tax deductions for state taxes and the revision of federal income tax treatment of tax-exempt financing; and

WHEREAS, Two bills, H.R. 5021 and S. 1510, have been introduced in Congress to allow states to collect properly due sales and use taxes that result from out-of-state mail-order purchases; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California endorses the concept embodied in H.R. 5021 and S. 1510 and urges the Congress

of the United States to enact legislation expanding the ability of states to collect sales and use taxes on out-of-state mail-order sales to customers within their jurisdictions; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

### RESOLUTION CHAPTER 153

Senate Joint Resolution No. 69—Relative to the Chernobyl nuclear power station.

[Filed with Secretary of State September 10, 1986]

WHEREAS, A major accident occurred at the nuclear power facility in Chernobyl, U.S.S.R., on April 26, 1986; and

WHEREAS, Twenty-seven people have died as a direct consequence of the accident and an estimated 100,000 to 200,000 individuals have received a substantial dose of radiation that may be of long-term health concern; and

WHEREAS, Individuals from the United States have provided leadership for international medical efforts aimed at people exposed to radiation at Chernobyl, including development of new techniques for measuring and monitoring the human health effects of radiation exposure; and

WHEREAS, Analysis of medical and scientific data from the Chernobyl accident would provide valuable information on the human health effects of radiation resulting from a nuclear powerplant accident; and

WHEREAS, The United States has 100 commercially operating nuclear power sites, four of them in California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to work with the National Academy of Sciences, Institute of Medicine, the National Institutes of Health, the International Atomic Energy Agency, and other appropriate national and international scientific and medical institutions, for the purpose of collecting and analyzing data on the long-term health status of the individuals living or working in the Chernobyl area who received substantial doses of radiation as a result of the April 26, 1986, accident; and be it further

Resolved, That the medical information derived from this data analysis be communicated to the Director of the California Department of Health Services to permit the department to assist the California Office of Emergency Services in reviewing its Nuclear Power Plant Emergency Response Plan; and be it further

Resolved, That the medical information communicated to the California Department of Health Services also be communicated to other like agencies in other states so that those agencies may participate in reviewing their state's nuclear powerplant emergency response plans; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Director of the National Academy of Sciences, to the Director of the National Institutes of Health, and to the Secretary General of the International Atomic Energy Agency.

### RESOLUTION CHAPTER 154

Senate Joint Resolution No. 70—Relative to Filipino veterans of World War II.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Certain Philippine nationals served in the United States armed forces during World War II with great distinction; and WHEREAS, The prospect of United States citizenship was held out to these Filipino veterans who served the United States so ably; and WHEREAS, Due to mistakes and misunderstandings, some of

WHEREAS, Due to mistakes and misunderstandings, some of these veterans did not file their petitions for naturalization before January 1, 1947, thereby rendering their applications invalid by this technicality; and

WHEREAS, These veterans are, in all other respects, deserving of the United States citizenship thus denied them, and this injustice has continued for nearly 40 years; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress of the United States are hereby respectfully memorialized to support and enact legislation extending United States citizenship to those Filipino veterans of World War II who failed to make application therefor before January 1, 1947; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

### **RESOLUTION CHAPTER 155**

Senate Concurrent Resolution No. 55—Relative to education at the University of California.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The Commission for the Review of the Master Plan for Higher Education and the Joint Legislative Committee for the Review of the Master Plan for Higher Education are charged with examining the educational offerings at the University of California; and

WHEREAS, There is no formal ranking of the quality of its instruction; and

WHEREAS, It appears that staffing configurations and the large class size of lower division courses at some campuses of the University of California may act to impede course access and instructional quality; and

WHEREAS, The number of hours devoted to instructional activities by faculty has decreased from 29 to 26 (11 percent) over the last three years; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby requests the Regents of the University of California to report to the Legislature by March 1, 1987, the following information:

- (1) The elements necessary for a quality undergraduate educational experience in a university with the multiple missions of teaching, research, and public service. The report should pay particular attention to the following:
  - (a) The intellectual breadth of the curriculum.
- (b) The acquisition of advanced general writing and language skills.
  - (c) The development of analytical and critical capabilities.
  - (d) The in-depth knowledge requirements of a major.
- (e) The relevance of knowledge of contemporary state, national, and world problems.
- (2) An assessment of the existing undergraduate experience on each of the University of California campuses with respect to these elements, with particular emphasis on the ability of students to gain access to the courses they need in order to obtain a quality undergraduate education. As part of this review, the report shall include the following information:
- (a) The number of lower and upper division student credit units that are taught by ladder-ranked faculty and temporary faculty personnel, by rank, by campus, and by departments within campuses.
- (b) The distribution of lower division and upper division classes by class size.
  - (c) Measured in student credit units, the fraction of the lower

division and upper division workload that is handled by ladder-ranked faculty and by temporary faculty personnel.

- (d) An assessment of the appropriateness of the class sizes and teaching assignments and a description of the campuses' procedures for monitoring these class sizes and teaching assignments over time.
- (3) The specific steps that are being taken to provide teacher assistant training, to include, but not be limited to, English language skills and instructional skills, on each campus. In summary form, what student course evaluations reveal about the quality of teacher assistant instruction. The steps that are being taken to maintain and improve teacher assistant instruction.
- (4) A description of the procedures and methodology used to distribute instructional funds to colleges and within colleges for each campus.
- (5) A description of the policies and procedures used for the hiring, retention, tenure, and promotion of faculty, with particular attention to the role of teaching, research, and public service.

The report shall also include recommendations for correcting or bridging any observed gaps between the recommended undergraduate experience and the existing situation on the University of California campuses; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Regents of the University of California.

### **RESOLUTION CHAPTER 156**

Senate Concurrent Resolution No. 61—Relative to the Taiwan Sister State Legislative Task Force.

[Filed with Secretary of State September 10, 1986]

WHEREAS, The Legislature, in Resolution Chapter 120 of the Statutes of 1983 (Senate Concurrent Resolution No. 40—Montoya) extended to Taiwan (the Republic of China), an invitation to join the State of California as a sister state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, effective on the adoption of this measure, the Taiwan Sister State Legislative Task Force shall be established, consisting of 21 members, and this task force shall be composed of diverse ethnic backgrounds reflecting the population of the State of California; and be it further

Resolved, That the Taiwan Sister State Legislative Task Force shall include nine members of the public, to be appointed by the Senate Committee on Rules, and nine members of the public, to be appointed by the Speaker of the Assembly. These 18 public members shall include persons involved in promoting the sister-state relationship between the people of Taiwan and the people of

California, and two of these 18 public members shall have scholarly or academic ties with the culture and people of Taiwan. The remaining three members of the task force shall be the President pro Tempore of the Senate, the Speaker of the Assembly, and the author of the resolution establishing the sister-state relationship, or their designees; and be it further

Resolved, That the Taiwan Sister State Legislative Task Force shall study ways of conducting mutually benefical social, economic, educational, and cultural programs, in order to strengthen international understanding and good will, and shall report its findings and recommendations to the Legislature.

### RESOLUTION CHAPTER 157

Senate Concurrent Resolution No. 66—Relative to fire hazards.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The traditional method of extinguishing fires with water can be extremely hazardous when dealing with some chemical agents; and

WHEREAS, It is known that various chemical agents react violently to water causing explosions which result in hampering fire fighting activities; and

WHEREAS, There are some special fire protection systems that may be effective in extinguishing fires involving water-reactive chemicals; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Fire Marshal and the State Board of Fire Services are requested to study the hazards caused by water-reactive chemicals and the feasibility of requiring businesses to provide fire protection systems compatible with water-reactive chemicals or other protective chemicals and to report their findings and recommendations to the Legislature by no later than January 1, 1987; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the State Fire Marshal and the State Board of Fire Services.

### **RESOLUTION CHAPTER 158**

Senate Concurrent Resolution No. 76—Relative to State Highway Route 74.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, That portion of State Highway Route 74 known as the Ortega Highway is a unique highway, characterized by numerous curves as it crosses mountainous terrain; and

WHEREAS, Excessive speeding and the unusual characteristics of the highway have resulted in a high accident rate on that route, claiming several lives annually; and

WHEREAS, Members of the Legislature from the area and the Orange County Board of Supervisors have received numerous letters and phone calls expressing concern about the safety of the highway; and

WHEREAS, Community concern is so significant that several community organizations have been established to work with local law enforcement officials to find ways of enhancing safety along the highway; and

WHEREAS, Department of California Highway Patrol studies indicate that the use of radar for traffic enforcement has proven to be a successful method of reducing driving speed; and

WHEREAS, Law enforcement officials believe that radar may be an effective tool when combined with planned road improvements in reducing the accident rate on the highway; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That until January 1, 1988, the Department of the California Highway Patrol is hereby authorized to implement the use of radar equipment provided by local agencies for traffic enforcement purposes on that portion of State Highway Route 74 known as the Ortega Highway; and be it further

RESOLVED, That the Department of the California Highway Patrol submit a report to the Legislature on or before February 1, 1988, on the effectiveness of the use of radar equipment in reducing traffic accidents, violations, and toxic materials spills on State Highway Route 74, and on State Highway Route 126 where radar equipment is presently in use, and that the report include a comparison of traffic accident rates on those highways before and after radar equipment was in use; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Commissioner of the California Highway Patrol.

### RESOLUTION CHAPTER 159

Senate Concurrent Resolution No. 80—Relative to aviation and airports.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Despite the continual increase in air traffic, airports in California have been closing at a rate of 3 per year since 1945; and

WHEREAS, In order to enhance the quality of general aviation and to serve the various needs of the public, the aviation industry, and growing aeronautic interests, it is essential to preserve existing airports and related facilities in California as viable public assets and to guarantee use of air space; and

WHEREAS, Due to a lack of adequate funding, many of the remaining small and medium sized airports have either fallen into disrepair or face project upgrades at a significant financial cost; and

WHEREAS, Airport land use planning, environmental impact issues, and policies affecting the funding mechanisms for the Division of Aeronautics and other aviation-related agencies or facilities are of great concern to all factions of the aviation and aeronautics industry and to the State of California; and

WHEREAS, Air travel, aviation, and airport related issues are among the most important in California today; and

WHEREAS, In order to protect the health and safety of the public, the Legislature must become familiar with the relevant issues surrounding the aviation industry in this state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That there be established to advise the Legislature the California Commission on Aviation and Airports; and be it further

Resolved, That the commission be composed of 17 members, as follows:

- (a) The Senate Committee on Rules shall appoint the following eight members:
- (1) A manager of an international airport or the general manager of a major municipal airport department.
  - (2) A manager of an airport serving general aviation.
- (3) A representative of a major airline with service to and from California.
  - (4) A licensed general aviation pilot.
  - (5) An aircraft mechanic currently employed in the trade.
  - (6) Two Members of the Senate.
  - (7) A public member.
- (b) The Speaker of the Assembly shall appoint the following eight members:
  - (1) A manager of an airport serving general aviation.
- (2) A representative of a national airline based in California or a representative of a third level air carrier based in California.
- (3) A licensed and active pilot flying for a major or national airline serving California.
  - (4) A representative of general aviation.
  - (5) A person currently employed as an air traffic controller.
  - (6) Two Members of the Assembly.
  - (7) A public member.
  - (c) The Chief of the Division of Aeronautics of the State

Department of Transportation.

Resolved, That the chairperson of the commission shall be appointed by the Senate Committee on Rules; and be it further

Resolved, That the Members of the Legislature appointed to the commission shall participate in the activities of the commission to the extent consistent with these legislative duties; and be it further

Resolved, That the duties of the commission shall include, but not be limited to, reviewing, monitoring, and evaluating aviation and airport safety regulations and policies in California; ways in which state tax policy can assist in maintaining a healthy commercial and general aviation industry in California; planning of expansion and future siting of airports in California to properly address the needs of both general and commercial aviation and aeronautics in the years ahead; and the various environmental impact issues relating to noise and pollution; and be it further

Resolved, That the commission shall report its findings and recommendations to the Legislature and to the appropriate federal agencies annually by January 31st of each year until January 31, 1991; and be it further

Resolved, That the commission may do all things necessary and convenient to enable it to fully exercise its powers, perform its duties, and accomplish the purposes of this resolution, including holding its first meeting on or before December 1, 1986, and at least once every other month thereafter; and be it further

Resolved, That Members of the Legislature serving as members of the commission shall be considered a joint committee of the two Houses of the Legislature constituted and acting as an investigating committee, and as such shall have the powers and duties imposed on such committees by the Joint Rules of the Senate and the Assembly; and be it further

Resolved, That the Senate Committee on Rules may make allocations from the Contingent Fund of the Senate for the expenses of the commission and its members, and that all expenditures of these funds shall be in compliance with policies of, and subject to the approval of, the Senate Committee on Rules; and be it further

Resolved, That the commission shall terminate on January 31, 1991.

### RESOLUTION CHAPTER 160

Senate Concurrent Resolution No. 92—Relative to groundwater resources.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, Groundwater supplies are a vital component of California's water supply; and

WHEREAS, The well-being of many millions of Californians is

dependent upon prudent and judicious use of groundwater basins in conjunction with surface water supplies; and

WHEREAS, Wise use of the public's resources, both natural and financial, should be the guiding principle in the development of those resources; and

WHEREAS, Urban areas are generally the primary source of revenue for the purchase and development of groundwater basins; and

WHEREAS, Technical, economic, and environmental justification of the purchase and utilization of groundwater basins is in the public interest; and

WHEREAS, Legislative hearings on the acquisition of groundwater basins, prior to purchase by the state, would ensure that the public interest is protected; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the water policy committees of the Legislature shall hold hearings on the acquisition of groundwater basins by the state prior to the purchase thereof; and be it further

Resolved, That appropriate state agencies are requested to conduct appropriate technical, economic, and environmental studies concerning the viability of a groundwater basin prior to purchase, and that plans for conjunctive use of groundwater basins with surface water supplies be based on sound criteria established prior to purchase; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Director of Water Resources, and the State Water Resources Control Board.

### RESOLUTION CHAPTER 161

Senate Concurrent Resolution No. 96—Relative to Medi-Cal.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The State of California has established the Medi-Cal program to ensure that all Californians, regardless of financial means, shall have access to adequate medical care; and

WHEREAS, The State of California recognizes its obligation to appropriately compensate providers who serve Medi-Cal patients; and

WHEREAS, Many hospitals rendering service to Medi-Cal patients contend that current levels of state compensation have failed to keep pace with inflation and the rising cost of providing medical services; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urges the executive branch of government of the State of California to initiate discussions with California hospitals for purposes of determining levels of cost, rates of return on investments, and other pertinent data in order to advise the Legislature on appropriate levels of state reimbursement for Medi-Cal services.

### RESOLUTION CHAPTER 162

Senate Concurrent Resolution No. 99—Relative to the Ralph A. Miller Bridge.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Ralph A. Miller will celebrate his 82nd birthday.on August 10, 1986; and

WHEREAS, Mr. Miller, a native Californian, a member of a pioneer Mendocino County family, a graduate of Willits High School and of the University of California, was employed for 41 years by the State of California as a civil engineer with the Division of Highways; and

WHEREAS, During his long career with the Division of Highways, Mr. Miller spent many years with the maintenance department on projects along State Highway Route 101 in Humboldt and Mendocino Counties, in particular aiding in major reconstruction after the disasterous floods of 1955–56; and

WHEREAS, The route of this highway owes much of its historic character and scenic beauty to Mr. Miller's engineering skills and abilities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Bridge No. 4-28 crossing Redwood Creek on State Highway Route 101 in Humboldt County be designated as the Ralph A. Miller Bridge; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers consistent with signing requirements for the state highway system, showing this special designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation and a suitably prepared copy to Mr. Ralph A. Miller.

### RESOLUTION CHAPTER 163

Senate Concurrent Resolution No. 100—Relative to National Temporary Services Week.

[Filed with Secretary of State September 10, 1986.]

WHEREAS, The temporary services industry is the second fastest growing business sector in terms of job creation in the United States; and

WHEREAS, The temporary services industry employed over 5,000,000 people in 600,000 jobs in 1984; and

WHEREAS, The temporary services industry payroll has increased between 1970 and 1984 from \$547,000,000 to \$6,000,000,000; and

WHEREAS, One out of every 200 nonagricultural jobs in the United States was provided through temporary services in 1984; and WHEREAS, The temporary services industry provides labor market flexibility for employers to adjust to changing economic

conditions and to meet short-term labor needs; now, therefore, be it Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the week of October 12 through October 18, 1986, as "National Temporary

Services Week"; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to the Governor and to the President of the United States.

### RESOLUTION CHAPTER 164

Senate Concurrent Resolution No. 102—Relative to the Alan S. Hart Freeway.

[Filed with Secretary of State September 10, 1986]

WHEREAS, Mr. Alan S. Hart has dedicated 42 years to the service of California as an employee with the California Department of Transportation, and is deserving of special recognition for his exemplary record of personal and professional engineering achievement; and

WHEREAS, Mr. Hart began service with the old Division of Highways in 1930 shortly after his graduation from the University of California, and thereafter began an impressive and illustrious career within the department; and

WHEREAS, Assuming his first appointment as District Engineer (Director) in the Bishop area, he subsequently served as a District Engineer in Eureka, Marysville, and eventually, San Francisco, serving in that position from 1964 until his retirement in 1972; and WHEREAS, Mr. Hart made notable contributions to the existing

state highway system, with much of the major Trans-Sierra Highway (Interstate 80 over Donner Summit in Northern California) being modernized into a full interstate freeway under his direction, and this project, which received the Civil Engineering Achievement Award of Merit, was completed in time for the 1960 Winter Olympics in Squaw Valley; and

WHEREAS, He was also responsible for the adoption of 50 miles of freeway for State Highway Route 101 through the Redwoods of Humboldt County and, while District Engineer in Marysville, he managed the planning and adoption of the freeway system through Sacramento; and

WHEREAS, He became a leader in promoting aesthetics in the design and construction of freeways and highways through the densely populated counties of the San Francisco Bay area; and

WHEREAS, Mr. Hart is a Fellow of the American Society of Civil Engineers and past president of the San Francisco section; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Interstate Route 80, from the Sacramento County line to the Nevada State line, is hereby officially designated the Alan S. Hart Freeway; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of plaques and markers, consistent with signing requirements for the state highway system, showing this designation and, upon receiving donations from private sources covering that cost, to erect the appropriate plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

### RESOLUTION CHAPTER 165

Assembly Concurrent Resolution No. 158—Relative to the Supplemental Report of the Committee of Conference on the Budget Bill.

[Filed with Secretary of State September 15, 1986.]

WHEREAS, There was submitted to the Legislature at the time that it acted to approve the Budget Act of 1986 a Supplemental Report of the Committee of Conference on the Budget Bill, which contains agreed language on statements of intent or requests for studies; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Supplemental Report of the Committee of Conference on the Budget Bill reflects the intent of both houses of the Legislature in adopting the Budget Act of 1986; and be it further Resolved, That the Supplemental Report of the Committee of Conference on the Budget Bill should be interpreted as the intent of the Legislature by the various agencies of state government affected by the statements contained in the report; and be it further

Resolved, That the Legislative Analyst shall transmit copies of the appropriate parts of the Supplemental Report of the Committee of Conference on the Budget Bill to the agencies to which the instructions, limitations, or statements of intent are directed in the report so that the agencies may be fully informed of the action of the Legislature.

# 1985–86 FIRST EXTRAORDINARY SESSION



# EXECUTIVE DEPARTMENT STATE OF CALIFORNIA



# A PROCLAMATION by the Governor of the State of California

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; how therefore.

I, GEORGE DECEMBAJIAN, Governor of the State of California, by virtue of the power and authority vested in me by Section 3 (b) of Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California, to meet in extraordinary session at Sacramento, California, on the 8th day of September, 1986, at 5:00 p.m. of said day for the following purpose and to legislate upon the following subject:

To consider and act upon legislation relative to prisons.

IH WITHESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 8th day of September 1986.

Governor of California

ATTEST:

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# STATUTES OF CALIFORNIA

1985-86

FIRST EXTRAORDINARY SESSION

1985-86 CHAPTERS



### **BILL CHAPTERS**

None.

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### CONCURRENT RESOLUTIONS

1985-86

## FIRST EXTRAORDINARY SESSION

1985-86 RESOLUTION CHAPTERS



### RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 1—Relative to the Joint Rules for the 1985-86 First Extraordinary Session.

[Filed with Secretary of State September 15, 1986]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1985–86 Regular Session are hereby adopted as the Temporary Joint Rules of the Senate and Assembly for the 1985–86 First Extraordinary Session, with the following exceptions:

- (1) That provision of Joint Rule 29.5(a) requiring that notice of a meeting of a conference committee be published in the Daily File is not adopted.
- (2) That the provisions of Joint Rule 30, requiring that the bill be in print in the form recommended by the report of the committee on conference and be noticed in the Daily File for one legislative day, is not adopted.
  - (3) Joint Rule 51 is not adopted.
  - (4) Joint Rule 54 is not adopted.
  - (5) Joint Rule 55 is not adopted.
  - (6) Joint Rule 61 is not adopted.
- (7) That provision of Joint Rule 62(a) requiring that notice of a hearing of a bill be published in the Daily File is not adopted.